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聯合國反貪腐公約 第二章 預防措施

UNCAC Chapter II. Preventive measures

說明：

以下內容若有引用「聯合國反貪腐公約」，簡稱 UNCAC；「聯合國反貪腐公約第二次國家報告」，簡稱為「第二次國家報告」；另「回應聯合國反貪腐公約首次國家報告國際審查結論性意見報告」，簡稱為「回應報告」。

If the following content mentioned the "United Nations Convention against Corruption," it will be referred to as UNCAC; "ROC's Second Report under the United Nations Convention against Corruption" will be referred to as "ROC's Second Report," "Response to the Concluding Observations from Review of the ROC's Initial Report under the United Nations Convention against Corruption" will be referred to as "Response Report."

2.1		
涉及公約條文 或結論性意見 點次	問題內容 ((原文))	中文參考翻譯
總論 (反貪腐法制 架構) 、 第 2 章 第 5 條	Who supervises, and how, the accomplishment of the measures to be adopted to comply with the UNCAC (3 years since 2015)? (ROC's Second Report, p.5)	自 2015 年《UNCAC 施行法》施行後 3 年內，各級政府機關落實推動符合公約要求之相關措施 (或法令)，其督管機關及其督管方式為何？ 【第二次國家報告第 3 頁】

中文回應：

1. 臺灣自 2015 年公布施行《UNCAC 施行法》，為切實實踐 UNCAC 建構之反貪腐法制和政策，法務部依第 7 條規定，請全國各級政府機關(含中央及地方)全面檢討所主管之法令及行政措施，有不符 UNCAC 規定者要求，於同法施行後 3 年內完成法令之制(訂)定、修正或廢止，以及行政措施之改進，檢討期間我國《刑法》新增沒收專章、《洗錢防制法》、《國際刑事司法互助法》等多部反貪腐法令陸續完成修正，惟《引渡法》尚有部分條文不足 UNCAC 強制性要求，該法修正草案已列為立法院優先審議法案。
2. 為強化自主落實 UNCAC，臺灣目前推動各級政府機關落實符合公約要求之相關措施 (或法令) 之督管作法如下：
 - (1) 臺灣依《UNCAC 施行法》第 6 條規定，自 2018 年起，每 4 年定期公布國家報告，報告撰提過程，由行政院邀集各政府機關，依 UNCAC 全文規範，全面逐條檢討落實 UNCAC 之執行現況並提出策進作為，國內專家學者及 NGO 團體共同審閱，經行政院中央廉政委員會討論通過後發布。
 - (2) 臺灣於發布國家報告後，自主舉辦國際審查，透過國際專家全面檢視我國落實 UNCAC 之執行現況，提出結論性意見，由行政院依據各點次意見核定各權責機關分工，以積極推

動各項符合公約要求之相關措施（或法令），各機關每半年定期填報辦理進度，並由法務部將歷次管考結果提報行政院中央廉政委員會議報告。

- (3) 臺灣對於國際審查委員提出之結論性意見相當重視，如於首次國家報告國際審查屆滿 2 年後，即於 2020 年發布結論性意見期中報告；於 2022 年第二次國家報告發布時，同時發布回應首次國家報告結論性意見報告。前揭報告之撰提過程，亦由行政院邀集政府機關、國內專家學者及 NGO 團體共同審閱，以持續督促各級政府機關參據結論性意見，積極落實推動符合公約要求之相關措施（或法令）。
3. 2018 年 UNCAC 首次國家報告國際審查會議，國際審查委員就臺灣落實 UNCAC 情形，提出「臺灣的反貪腐改革」計 47 點結論性意見，目前已陸續推動制訂或修訂多部反貪腐相關法規，以強化預防及打擊貪腐工作，且為持續落實 UNCAC 之內容，另就 UNCAC 任擇性條文之要求，推動各項有關反貪腐法制之立（修）法（詳參第二次國家報告表 1 內容）；2022 年再次邀請國際反貪腐專家來臺審查及指導，持續全面自主實踐 UNCAC 規範。

英文回應：

1. Since the enactment of the Act to Implement United Nations Convention against Corruption (UNCAC Act) in Taiwan in 2015, to thoroughly implement the anti-corruption laws and policies established by UNCAC, the Ministry of Justice has invited (both central and local) government agencies at all levels to conduct a comprehensive review of the laws and administrative measures under their jurisdiction in accordance with Article 7 of the Act, and to complete the formulation, amendment, repeal, or improvement of laws and administrative measures within three years after the implementation of the Act if they are not in compliance with UNCAC requirements and standards. During the review period, several anti-corruption laws were amended, including a new chapter on confiscation in the “Criminal Code,” and amendments to the “Money Laundering Control Act” and the “Mutual Legal Assistance in Criminal Matters Act.” However, certain provisions of the “Extradition Act” are still inadequate to meet the mandatory requirements of UNCAC.
2. In order to strengthen the autonomous implementation of UNCAC, Taiwan is currently promoting the implementation of relevant measures (or decrees) by government agencies at all levels to comply with the requirements of the UNCAC as follows:
 - (1) In accordance with Article 6 of UNCAC Act, Taiwan regularly publishes a national report every four years starting from 2018. The report is prepared by the Executive Yuan by inviting various government agencies to conduct a comprehensive article-by-article review of the current status of implementation of UNCAC in accordance with the full text of the UNCAC and propose measures for improvement. The report is jointly reviewed by experts, scholars, and NGOs in Taiwan, and released after being discussed and approved by the Central Integrity Committee of the Executive Yuan.
 - (2) After releasing the national report, Taiwan will hold an international review on its own, through which international experts will comprehensively review the current status of implementation of

UNCAC in Taiwan and put forward concluding observations. The Executive Yuan will approve the division of work among the competent authorities in accordance with each respective concluding observation, so as to actively promote various measures (or decrees) that ensures Taiwan shall meet the requirements of the UNCAC. Each responsible agency will regularly report progress of proposed measures every six months, and the Ministry of Justice will submit the results of the previous examinations to the Central Integrity Committee of the Executive Yuan for reporting.

- (3) Taiwan attaches great importance to the concluding observations made by the international reviewers, such as issuing an mid-term report on the concluding observations from the review of the initial national report in 2020, two years after the international review of the first national report. Taiwan also published the response to the concluding observations from review of the initial report under the UNCAC together with the second national report in 2022. During the drafting of the aforementioned reports, the Executive Yuan also invited government agencies, domestic experts and scholars, and NGO groups to review the contents in order to continuously call on government agencies at all levels to actively implement measures (or decrees) that comply with the requirements of the UNCAC based on the concluding observations.
3. At the first UNCAC international review meeting in 2018, the international reviewers made 47 concluding comments on Taiwan's implementation of UNCAC and have been promoting the formulation or amendment of several anti-corruption laws and regulations to strengthen the prevention and fight against corruption, and in order to continue to implement the contents of UNCAC, in addition to the requirements of the optional provisions of UNCAC, the international reviewers have made 47 concluding comments on “Taiwan's anti-corruption reform.” In order to continue to implement the UNCAC, we will promote various anti-corruption laws and regulations (please refer to Table 1 of ROC’s Second Report for details), invite international anti-corruption experts to Taiwan again in 2022 to review and provide guidance, and continue to broadly carry out the UNCAC standards on our own.

2.2		
涉及公約條文 或結論性意見 點次	問題內容 (原文)	中文參考翻譯
總論 、 第 2 章 第 5 條 (第 13 點)	<u>Preparation for Government Defense Integrity Index (GDI) Evaluation</u> <u>(Response Report, p.39)</u> This was indeed an achievement worthy of note also considering the context faced by Taiwan.	「政府國防廉潔指數」評鑑 考量到臺灣面臨的處境，政府國防廉 潔指數評鑑結果值得讚許，因此評鑑 結果提到需待加強的內容，是否應納 入第二次國家報告說明？ 【第二次國家報告第 20 頁】 【回應報告第 25 頁】

	The GDI Evaluation did note areas for improvement. These should be noted in the report?	
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中文回應：

4. 國際透明組織於 2021 年 11 月 16 日公布第三次「政府國防廉潔指數評鑑」評比成績，全球計有 86 個國家參與評鑑，臺灣與德國併列全球第 6 名，是亞洲地區 14 個參加評鑑國家中唯一仍維持「B」等級（低度貪腐風險）國家，顯示國軍的廉潔度受到國際重視與肯定；2022 年將邁入第四次全球評鑑時期，國防部續以透明、課責、廉潔、回應、參與等公共服務價值，辦理「國防產業」、「企業誠信」及「廉潔培訓」等議題相關活動，積極整備評鑑各問卷題項的執行成果，營造接軌國際的良善廉能治理環境，爭取國防廉潔度再獲國際肯定的掌聲。

英文回應：

4. Transparency International has released the third results of the Government Defence Integrity Index (GDI) for 2020 on November 16, 2021, which assesses defence institutions in 86 countries worldwide and ranks Taiwan sixth as well as Germany. Taiwan is the only country maintaining a “B” grade which stands for low defence corruption risk among 14 countries in Asia It shows that the integrity of the Republic of China Armed Forces is commendable and has attracted international attention. In the coming assessment in 2022, the Ministry of National Defense (MND) will continuously implement the plans of “national defense industry,” “corporate integrity” and “integrity training” with public service values, such as transparency, accountability, integrity, response, and participation. The MND stays well-prepared towards the GDI assessment, and will create an excellent conditions for the integrity governance in line with international standards, and earn applause for the integrity of national defence from international circles.

2.3		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條	<p>How does the Integrity Platform for Procurement work for citizens willing to participate in supervision? Is it of easy access? Why only 29 cases processed in the platform in 5 years (please clarify the number of cases reported, 29 vs. 1113 in 2021 according to Table 9)?</p> <p>(ROC’s Second Report, p.25,54)</p>	<p>對於有意願參與監督之公民，採購廉政平臺是如何運作的？是否具有高度可及性？</p> <p>為何近 5 年運作中的廉政平臺案件只有 29 件？（請釐清該 29 件與表 9 全民督工成果統計表所列 2021 年通報件數 1,113 件有何區別）</p> <p>【第二次國家報告第 15、31 頁】</p>

中文回應：

5. 藉由採購廉政平臺以下機制，可使有意願參與監督之公民一同加入全民監督之行列，具有高度可及性：
- (1) 行政透明：機關設置採購廉政平臺專區或網頁，將案件背景、規劃過程、辦理進度、案件釋疑及相關會議資料與紀錄等資訊對外公開，藉由平臺公開說明相關資訊，使廠商、利害關係人或公民團體皆能得知資訊，進而提出意見，避免限制競爭之質疑，也增進民眾的瞭解、監督和信賴。
 - (2) 全民監督：藉由前述行政透明機制，必要時輔以即時監控影像（CCTV）方式，讓公民團體能夠共同參與監督政府重大建設之辦理過程（例如交通部「淡江大橋廉政平臺」<https://dj.sinotech.com.tw/tw/about.aspx?classid=0107>）。
 - (3) 跨域合作、公私協力：建立採購機關與相關政府機關（如：檢察、廉政、調查、工程會、審計部等）及公民團體（如：台灣透明組織協會或相關環保團體）、專家學者、廠商與民眾間跨域溝通的管道，透過舉辦公開宣示說明會、座談會、辦理廉政民意調查、公開閱覽或受理民眾陳情等多元方式，與其他政府機關、外部專家、廠商、民間團體、以及一般民眾交流意見，並彙整相關疑義由各權管單位回應，如遇有疑義或爭議事項，另透過採購廉政平臺聯繫會議機制聚焦深入討論，共商解決之道，協助完善政府重大建設之規劃與執行。
6. 採購廉政平臺秉持「跨域合作、公私協力、行政透明、全民監督」四大內涵，為機關建立跨域溝通的管道，讓檢察署、廉政署及調查機關參與重大建設案件的辦理過程，並引入專業機關（如工程會）及外部專家學者、公民團體的參與，也秉持資訊透明公開的精神，藉此排除外部勢力的不當干預，使公務同仁安心勇於任事，國家重大建設能夠順利完成，此為具突破性之創新機制，惟因其運作需多方行政機關與公私領域之專業人士及民眾等共同參與，在有限的行政資源下，較難涵蓋全國每年數量龐大之政府採購案件，故設立初期以標的案件金額在 100 億元以上之巨額採購案件，並配合機關首長需求成立採購廉政平臺。
7. 全民督工依據《全民監督公共工程管制考核作業要點》規定，該機制之目的在於「提升各機關推動全民監督公共工程之執行績效，發揮全民監督公共工程精神（第 1 點）」，其未就標的案件金額有嚴格限制（第 2 點），且主要參與對象為工程主辦機關及一般民眾（第 3 點及第 4 點）。全民督工係結合民間力量監督政府施政，民眾可透過電話或網頁提供訊息，協助政府部門及早發現工程缺失並謀求改善。
8. 採購廉政平臺相較全民督工案件，其標的案件金額要求較高，惟辦理過程參與之對象及辦理程序更為多元，目的即在於以有限之行政資源協助國家重大建設順利完成，兩項制度各有其發揮功效之處，具互補功能，期藉此使國家重大建設及公共採購均能有完善之監督機制，提升全體國民福祉。

表 1 採購廉政平臺與全民督工比對表

	機關採購廉政平臺案件	全民督工案件
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案件標的	除政府採購之工程、財物等各類案件外，亦包能源開發、土地開發、促參案件等重大國家建設項目。	以政府採購之公共工程案件為主。
目的	協助重大建設排除不當外力干預，守護國家重大建設順利完成。	協助政府部門及早發現工程缺失並謀求改善。
參與對象	除相關領域專業人員及社會公正人士，亦包含檢廉調等司法機關。	相關領域專業人員及社會公正人士。
辦理方式不同	透過公開宣示、定期會議及資訊主動公開等方式積極對外揭露資訊	受理民眾通報並予以處理。
民眾參與方式不同	民眾除了陳情請願外，尚可透過公聽會、座談會、問卷調查等方式表達意見，藉由雙向溝通充分交流意見。	透過民眾通報，再由政府機關處理。

9. 採購廉政平臺執行迄今已獲多方肯定，2016 年至 2021 年平臺案件數已成立 32 案，其中運作中 29 案，2022 年 1 月至 7 月新成立達 20 案，可見案件數正進入快速增長時期，另法務部已於 2022 年 4 月函頒「機關採購廉政平臺分級開設原則」，藉由擴展採購廉政平臺之適用範圍，期使該制度觸及面向更廣，讓臺灣重大建設更順利推行。

英文回應：

5. By procuring the following mechanisms of the Government Procurement Integrity Platform, citizens who are willing to participate in supervision can join the ranks of public oversight with a high degree of accessibility.
- (1) Transparency in Administration: Government agencies set up a specialized government procurement integrity platform area or webpage to disclose information about the background of the case, the planning process, the progress of the process, the explanation of the case, and the relevant meeting information and records open to the public, so that contractors, stakeholders, or citizen groups can learn the information and provide their opinions to avoid the challenge of restricting competition, and to increase public understanding, supervision, and trust.
 - (2) Public Oversight: Through the aforementioned administrative transparency mechanism, supplemented by real-time video surveillance (CCTV) when necessary, citizens' groups can participate in monitoring the process of major government public works projects (e.g. Ministry of Transportation's "Tamkang Bridge Government Procurement Integrity Platform" <https://dj.sinotech.com.tw/tw/about.aspx?classid=0107>).
 - (3) Inter-Agency Collaboration and Public-private Cooperation: We establish an inter-agency communication channel between the procurement authority and relevant government agencies (e.g., prosecution agencies, government ethics, investigative agencies, PPC, National Audit Office, etc.) and citizen groups (e.g. Transparency International Chinese Taipei or relevant environmental protection groups), experts and scholars, contractors, and the public, through various means, such as holding public announcement meetings, seminars, conducting

government integrity public opinion surveys, and publicly reading or receiving public petitions, exchanging opinions with other government agencies, external experts, manufacturers, civil society organizations, and the general public, as well as compiling relevant doubts to be responded by each competent authority. In case of doubts or disputes, in-depth discussions are held through a coordination meeting mechanism of the platform to discuss solutions together to help improve the planning and implementation of major government projects.

6. The Government Procurement Integrity Platform upholds the four-pronged approach of “inter-agency collaboration, public-private cooperation, administrative transparency, and public oversight,” establishing an inter-agency communication channel for the authorities, allowing the Public Prosecutor's Offices, the AAC, and the relevant investigative agencies to participate in the process of major public works projects, and fostering the participation of professional bodies (such as the Public Construction Commission), external experts and scholars, and citizen groups. It also upholds the spirit of transparency and openness of information, so that undue interference from outside forces can be eliminated, and public servants can be confident and courageous in their work, and major national construction projects can be completed smoothly. This is a groundbreaking and innovative mechanism, but because its successful operation requires the participation of multiple administrative agencies, professionals in the public and private sectors, and citizens, it is difficult to cover the huge number of government procurement cases in the country every year with limited administrative resources. Therefore, the initial stage is to set up a Government Procurement Integrity Platform for large procurement projects with a threshold amount of over NT\$10 billion, so as to meet the needs of the head of the agency.
7. Public Oversight is handled in accordance with the "Guidelines for Public Oversight and Assessment of Public Works Control Assessment" to “enhance the performance of the authorities in promoting the implementation of public works under the supervision of the general public and to give full play to the spirit of public works under the supervision of the general public (Point 1) .” There is no strict limit on the bidding/contract amount of the case (Point 2), and the main participants are the responsible project agencies and the general public (Points 3 and 4). Public Oversight aims to harness the combined power of the public to supervise administrative governance. The public can provide feedback through telephone or websites to help government departments identify shortcomings of related projects and carry out improvement measures.
8. The Procurement Integrity Platform cases have relatively higher amount requirements than the Public Oversight cases, and their participating subjects and handling procedures are more diverse. The purpose is to focus limited administrative resources on successfully completing major national construction projects. The two systems have their functions and are complementary to each other. The goal is to create a sound supervision mechanism and improve national welfare for major national construction and public procurement cases.

Table 1 Comparison Table between the Government Procurement Integrity Platform and Public Oversight

	Government Procurement Integrity Platform Cases	Public Oversight Cases
Case Subject	In addition to the government procurement of public works projects and property, the platform also handles major national construction projects such as energy development, land development, and Private Participation in Infrastructure Projects (PPIP).	Mainly public works cases for government procurement.
Objective	Assist major construction projects to eliminate undue external interference and safeguard the successful completion of major national public works projects.	Assist government agencies to identify project deficiencies early and seek improvements.
Target Participants	In addition to professionals in related fields and impartial individuals, it also includes prosecutors, government ethics, and other government agencies.	Professionals in related fields and impartial individuals.
Various execution approaches	Proactive disclosure of information through public announcements, regular meetings and proactive disclosures.	Reports by the public will be accepted and handled.
Various forms of civil participation	In addition to petitions, the public can also express their opinions through public hearings, seminars, questionnaires, etc., and fully exchange their opinions through two-way communication.	Reporting by the public, then handled by responsible government agencies.

9. The Procurement Integrity Platform has received affirmation from many parties and established 32 cases from 2016 to 2021, with 29 cases ongoing. 20 cases were established from January to July 2022. It is apparent that the number of cases has entered a period of rapid growth, and the MOJ has also promulgated the “Government Procurement Integrity Platform Classification Establishment Principles.” The goal is to expand the scope of application for the Procurement Integrity Platform to give the system a wider range of reach and enable major construction projects in Taiwan to be implemented more smoothly.

2.4		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 1 點)	<u>Enforcing the “National Integrity Building Action Plan” (Response Report, p.29)</u>	<u>落實國家廉政建設行動方案</u>

	<p>Reference is made in the ROC's Second Report (pg 53) to a national anti-corruption development strategic objective. That is not reported on, although nine specific strategic measures are addressed.</p>	<p>第二次國家報告指出建構國家廉政發展策略目標，並提出 9 項具體策略，但未說明策略目標的內容。 【第二次國家報告第 26 頁-1(1)】 【回應報告第 19 頁】</p>
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中文回應：

10. 《國家廉政建設行動方案》之目標為：一、不願貪：型塑誠信反貪意識，健全國家廉政體制；二、不必貪：完善員工福利待遇，激勵提升服務品質；三、不能貪：強化公私部門治理，促進決策程序透明；四、不敢貪：打擊公私部門貪腐，維護社會公平正義。為實現「廉能政府、透明臺灣」，奠定廉政堅實基礎，提升國家競爭力，國家廉政建設以落實 UNCAC 要求為主軸，展現各級首長清廉執政之決心，厚植民眾對公部門之清廉信賴，同時引領私部門誠信經營，共同實踐《國家廉政建設行動方案》，爰訂定 9 項具體策略及 46 項執行措施，內容請詳參附錄 1¹。

英文回應：

10. The objectives of the “National Integrity Building Action Plan” are as follows: 1. Unwilling to commit corruption: Shape the integrity and anti-corruption awareness, and improve the national integrity system. 2. Unnecessary to commit corruption: Improve employee benefits and incentives to enhance service quality. 3. Unable to commit corruption: Strengthen public and private sector governance to promote transparency for policy procedures. 4. Not daring to commit corruption: Fight corruption in the public and private sectors and maintain social fairness and justice. The National Integrity Building aims to meet the UNCAC requirements by achieving a “clean and competent government and a transparent Taiwan,” laying a solid foundation for government integrity and strengthening national competitiveness. We have formulated 9 specific strategies and 46 enforcement measures to inspire leaders at all levels to govern with integrity, cultivate the public’s trust in the ethics of the public sector, lead the private sector to operate with integrity, and jointly implement the “National Integrity Building Action Plan.” For more information on this action plan, please refer to appendix 1².

2.5		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯

¹ <https://www.aac.moj.gov.tw/5791/5793/5809/5813/Lpsimplelist>

<p>第 2 章 第 5 條、 第 13 條</p>	<p>Were there any Round Tables on building “National Integrity System” among government (public sector), business (private sector), political parties, and civil society? (Please find an attached file for your information about the K-PACT initiative.)</p>	<p>建構「國家廉政體系」，有無邀集政府機關（公部門）、企業（私部門）、政黨、公民社會召開圓桌會議？ （可參閱韓國「反貪腐與透明協定」倡議之相關資料） 【第二次國家報告第 26、66 頁-26(2)】 【回應報告第 19 頁】</p>
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中文回應：

11. 為實踐國際透明組織倡議之「國家廉政體系」概念，健全我國之廉政制度，提升國家競爭力，我國行政院研考會（現為國家發展委員會）於 2005 年委託世新大學公共管理顧問中心（Public Management Consulting Center, SHU）進行研究（計畫主持人為台灣透明組織協會前執行長余致力教授），提出「國家廉政體系及指標之建構」報告書，在其研究過程中，以召開焦點座談會方式，邀請政府機關代表、企業經理人、資深會計師、專家學者、媒體資深工作者等共同參與討論；嗣後我國《國家廉政建設行動方案》參考「國家廉政體系」概念，以多元策略整合國家各部門的力量提升廉政，具體落實 UNCAC 之精神。
12. 《國家廉政建設行動方案》業訂定 9 項具體策略及 46 項執行措施，包含「促進公開透明防止利益衝突」、「落實公務員行為規範」、「強化企業誠信 凝聚私部門反貪腐共識」與「鼓勵社會參與 促進透明與貪腐零容忍共識」等，層面涉及公部門、私部門、個人與公民社會團體，並由各主管機關依本方案之目標、政策方向及具體作為配合推動執行，於執行實踐過程，仍須持續與私部門、公民社會合作，例如在各式社會參與反貪腐活動上，透過主管機關結合政府機關、企業、校園等各領域，持續運用多元途徑的方式，結合廉政議題，與各界交流對話，建立反貪腐夥伴關係，加強各界對廉政政策之認識與支持，提升全民貪污零容忍意識。法務部亦每年定期召開會議檢討績效指標達成情形，透過執行過程中各界反映之意見，適時修正相關內容，以更加完備「國家廉政體系」之內涵。

英文回應：

11. To put “National Integrity System” advocated by Transparency International into practice to improve integrity system and nation competitiveness in Taiwan, the “Research, Development and Evaluation Commission, Executive Yuan” (now called the “National Development Council” after the organization reform) commissioned Public Management Consulting Center, SHU to conduct a research, the principal investigator of which is Prof. Chilik Yu, the former CEO of TICT, to propose the report titled as “Development of National Integrity System and Indicators.” During the research, representatives of the government, business managers, senior accountants, experts and scholars, senior media people were invited to discuss through focus seminars. Afterwards, the “National Integrity Building Action Plan” referenced the concept of the “National Integrity System” to

integrate the strength of various national departments to improve clean government and realize the spirits of UNCAC via multiple strategies.

12. The “National Integrity Building Action Plan” includes 9 specific strategies and 46 enforcement measures, known as “facilitate openness and transparency to prevent conflicts of interest,” “put the code of conduct for civil servants into effect,” “strengthen corporate integrity and build an anti-corruption consensus in the private sector” and “encourage society to participate and facilitate a consensus regarding transparency and zero tolerance of corruption,” all of which are involved in public sectors, private sectors, individuals and civil society groups, and should be push forward together by competent authorities in accordance with its objects, policy directions and specific actions. During the implementation, it also requires ongoing collaboration between the citizens and the public and the private sector. The competent authorities collaborate with government agencies, enterprises, campuses, and other units during anti-corruption activities to focus on clean governance issues in various ways to communicate and dialogue with all sectors of society and inspire people to become anti-corruption partners. The goal is to strengthen the understanding and support of the clean government policy from all sectors of society and raise the zero-corruption tolerance awareness among the citizens.

2.6		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<p><u>Review of cases involving the property declaration and avoidance of the conflict of interest of public servants (Response Report, p.33)</u></p> <p>Impressive monitoring of the number of cases.</p> <p>1. Any thoughts on the considerable variation between years.</p> <p>2. Any reflections on trends? (eg type of issue, intervention needs)</p>	<p>公職人員財產申報及公職人員利益衝突迴避案件審議情形</p> <p>審議案件數量之多，令人敬佩。</p> <p>1. 對於各年度間數據變化與差異甚大有何想法？</p> <p>2. 對於數據趨勢有何反思？例如有哪些爭議問題、須採取的干預措施？</p> <p>【第二次國家報告第 27 頁-1(3)】</p> <p>【回應報告第 22 頁】</p>

中文回應：

13. 有關公職人員財產申報部分，公職人員財產申報查核平臺建置後，利用授權介接服務，減輕申報人負擔，提升申報正確性，申報不實案件逐步降低，加強宣導申報義務人申報注意事項，可有效減少裁罰件數，而新版公職人員財產申報系統亦於 2022 年 7 月 6 日正式上線，期使申報義務人能運用更為友善便利之系統完成申報作業，以優化行政效能，並持續宣導定期申報義務人透過授權申報財產，且持續評估擴大授權服務及授權介接財產資料之範圍，提升服務效能，俾大幅降低申報不實之情事發生。

14. 《公職人員利益衝突迴避法》(下稱利衝法)於 2018 年修正施行後，修正公職人員之範圍，將較具有利益輸送之虞之職務納入規範，並擴大公職人員之關係人範圍，將與公職人員具有財產及身分上利害關係者亦納入規範，並修正不同違法行為態樣之處罰鍰金額，俾符合比例原則。修法後經法務部及監察院持續宣導本法修正重點，或因利衝法適用範圍擴大致移送裁罰案件數稍有增加，核屬過渡期間之現象。有關裁罰金額之修正，為使裁罰效果與違法情節符合比例原則，修正降低罰鍰金額，例如違反交易行為禁止之規定，修正前應裁罰該交易行為金額 1 倍至 3 倍之罰鍰，修正後以不同交易金額區分裁罰級距，故於 2021 年間裁罰案件總金額由 6,804 萬下降為 253 萬，已有顯著下降。
15. 為使各機關公職人員熟稔利衝法規定，推動公職人員利益衝突迴避之觀念，將持續結合機關資源並視業務特性向機關人員辦理宣導法令規定，避免公職人員因不諳法令而觸法，遭受行政裁罰。

英文回應：

13. In terms of property declarations by public servants, the Verification Platform is established to provide authorization service for property declaration in order to minimize the burden of public servants and ensure the correctness of property information. Meanwhile, the occurrence of false property declarations and the punishment cases of property declaration have been gradually reduced due to the publicity on the instructions for property declaration to those public servants obliged to declare properties. The new version of Property-Declaration Platform was enabled on July 6, 2022 to provide a user-friendly interface for successful property declarations and optimized administrative efficiency. We will continue to promote the adoption of authorized intermediary information to help these declaration obligors to proceed regular declarations and will assess the feasible extension of the authorization service, so as to improve service efficiency and significantly reduce the chances of any false declaration.
14. The 2018 amendments to the “Act on Recusal of Public Servants Due to Conflicts of Interest” (“Recusal Act”) revised the scope of public officials to include duties that are more likely to transfer benefits, expanded the scope of related persons of public officials to include those who have an interest in the assets and identities of public officials, and amended the level of penalties for different types of violations to conform to the principle of proportionality. After the amendment, the Ministry of Justice and the Control Yuan have continued to publicize the key revisions and explained why the number of cases transferred for the prosecution has slightly increased due to the expansion of the scope of application by the Recusal Act was a transition period phenomenon. In order to ensure that penalty effects correspond to illegal circumstances and conform to the principle of proportionality, the level of penalties was revised and downgraded. Take prohibition of transaction acts for example. Those in violation of such articles should be imposed a penalty equivalent to one to three times of the transaction amount in the past. After the amendment, the level of penalties depends on the transaction amounts. Therefore, the total amount of penalties was significantly decreased from TWD 68,040,000 to TWD 2,530,000 during 2021.

15. The conflict of interest recusal concept has been promoted to inspire public officials in various agencies to become familiarized with the Recusal Act. We will continue to combine agency resources to publicize the statutory provisions to agency personnel in accordance with the business characteristics. The goal is to prevent public officials from breaking the law and suffering administrative penalties due to ignorance of the law.

2.7		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條、 第 7 條	<p><u>Sunshine laws – political donations</u> (ROC’s Second Report, p47)</p> <p>1. Are political donations possibly above a threshold made public? (ROC’s Second Report Page 48)</p> <p>2. Why is there such a big difference between political fines 2019 and 2020 and other years? Some comment might be useful. (ROC’s Second Report Page 57)</p>	<p><u>陽光法案-政治獻金</u></p> <p>1. 有無公開高於一定金額之政治獻金？ 【第二次國家報告第 27 頁-1(4)】</p> <p>2. 2019 年、2020 年之政治獻金案件裁罰金額為何與其他年度差距甚大？也許部分意見已有效發揮作用。 【第二次國家報告第 28 頁-1(4)c】</p>

中文回應：

16. 依《政治獻金法》第 21 條規定，政黨及擬參選人申報之政治獻金會計報告書全部內容，受理申報機關（監察院）應公開於電腦網路，即政治獻金各項收支情形皆應全部公開於監察院建置之政治獻金公開查閱平臺。政治獻金收支明細均全面公開，並無區分金額大小。
17. 配合選舉期程，政治獻金會計報告書申報期程及裁處權時效，分年度分批次查核政治獻金會計報告書收入情形，2016 年選舉申報之查核案件，均於 2018 年前完成；2019 年為總統副總統及立法委員選舉年，人力投入以《政治獻金法》宣導及輔導擬參選人申報為主，故 2019 年與 2020 年的查核件數較少，致裁罰件數較低；又因 2018 年修法調降罰鍰金額，故 2019 年與 2020 年裁罰金額相對較低。2021 年則為 2018 年選舉申報之查核案件。

英文回應：

16. According to Article 21 of the “Political Donations Act,” all the contents of the accounting report for a political party or a person planning to participate in a campaign should be publicized over the internet by the authority hearing declaration, the Control Yuan. It means that all incomes and expenditures of political donations have been made public on the Political Donations Public

Review Online System, established by the Control Yuan. Income and expenditure of political donations should be fully and publicly disclosed, regardless of the amount.

17. In order to cooperate with the election schedule, the filing schedule for political donation accounting reports, and the period of limitation with respect to the power to impose sanction, these accounting reports are inspected in batches by year. The inspection of cases from the 2016 election was completed by 2018. With the 2019 elections being for president, vice-president, and legislators, all human resources were dedicated to the promotion of the “Political Donations Act” and teaching those planning to participate in campaigns how to file reports, leading to fewer inspection cases in 2019 and 2020, along with fewer penalty cases. Furthermore, the “Political Donations Act” was amended to lower penalty amounts in 2018, leading to lower penalties in 2019 and 2020. The cases in 2021 were inspection cases concerning reports from the 2018 election.

2. 8		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 16 點)	<p><u>Continue to enhance lobbying act (Response Report, p44)</u></p> <p>1. Would be useful to know how well the lobbying act is working. Is there any difficulty with the definition of lobbying?</p> <p>2. For example what is the difference between Lobbyists</p> <p>(1) Individual, legal person, organization permitted to establishment or file for record or group consituted by special purpose with representative.</p> <p>(2) Individual or profit corporation designated for lobbying.</p> <p>(3) People or organizations address their opinion via application, petition, pleading and statement of opinion. (not lobbyists)</p> <p>3. Lobbying is an essential aspect of democratic process, despite being a challenge. Has there been any</p>	<p><u>持續強化落實《遊說法》</u></p> <p>1. 瞭解《遊說法》的運作情形會很有幫助，請問針對遊說的定義有什麼困難嗎？</p> <p>2. 例如以下類別的遊說者有什麼差異？</p> <p>(1) 個人、法人、獲准成立的組織，具有特殊目的之代表組成的團體</p> <p>(2) 被指定進行遊說的個人或指定營利公司</p> <p>人民或組織，藉由申請、請願、陳情或陳述意見等方式表達訴求 (非遊說者)</p> <p>3. 遊說行為雖然是一個挑戰，但它是民主過程中很重要的一部分。遊說法通過後對遊說行為有什麼影響？</p> <p>4. 遊說者及被遊說對象的名單是否有公開？</p> <p>【第二次國家報告第 28 頁-1(5)】</p> <p>【回應報告第 29 頁】</p>

	<p>impact on lobbying since the introduction of the bill?</p> <p>4. Is the list of lobbyists and/or who they lobby publicly available?</p>	
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中文回應：

18. 我國《遊說法》對於遊說有明確定義，依《遊說法》第 2 條第 1 項規定，遊說係指遊說者意圖影響被遊說者或其所屬機關對於法令、政策或議案之形成、制定、通過、變更或廢止，而以口頭或書面方式，直接向被遊說者或其指定之人表達意見之行為。
19. 依《遊說法》第 2 條第 2 項規定，本法所稱遊說者包含兩類，一類為進行遊說之自然人、法人、經許可設立或備案之人民團體或基於特定目的組成並設有代表人之團體，另一類為受委託進行遊說之自然人或營利法人。又為引導遊說行為專業化，本法對於後者給予較高之管理規範，即受委託進行遊說者，以經專門職業及技術人員高等考試及格領有證書目前執業中之自然人或章程中載有遊說業務之營利法人，並向主管機關備案者為限，爰受託遊說者需經主管機關備案始得受託進行遊說（《遊說法》第 4 條第 2 項）。另個人或團體藉由申請、請願、陳情或陳述意見等方式表達訴求者，因其適用之程序、提出主體及實施對象均與遊說不同，並非本法所稱之遊說。
20. 《遊說法》之立法目的係為使遊說行為遵循公開、透明之程序，防止不當利益輸送，確保民主政治之參與。透過遊說登記制度及資料公開等方式，讓遊說行為在公開、透明程序下合法進行，保障民眾表達意見之自由，也有利社會監督，避免不當利益輸送。我國《遊說法》立法施行以來，有多個民間團體長年透過遊說方式推動法案修正，例如全國教育產業總工會、全國教師工會總聯合會等。
21. 依《遊說法》第 13 條規定，遊說者應於進行遊說前向被遊說者所屬機關申請登記；第 18 條並規定，被遊說者所屬機關應將遊說者登記事項、被遊說者接受遊說後之內容，以及遊說者所申報之財務收支報表列冊保管，並公開於網路。是以，遊說者、被遊說者及其遊說事項內容均已公開於網路。

英文回應：

18. The “Lobbying Act” has a clear definition of lobbying. According to Paragraph 1, Article 2 of the “Lobbying Act,” the term lobbying refers to the behavior that lobbyist intends to affect the lobbied party or its agency about the formulation, enactment, modification or annulment of laws, government policies or legislation by any oral or written communication direction directly to the lobbied party or its designee.
19. According to Paragraph 2, Article 2 of the “Lobbying Act,” the lobbyists referred to in this Law include two categories, one is an individual, a legal person, an organization permitted to establishment or file for record or a group constituted by special purpose with representative, and the other is an individual or a profit corporation designated for lobbying, and for the latter, a higher

management standard is given in order to lead the lobbying behavior more professional. The lobbyist designated for lobbying is subject to the individual qualifying in the professional and technical special examination and profit corporation with lobbying business written in its articles of incorporation. Furthermore, the lobbyist designated for lobbying should apply to the competent authorities for recordation before lobbying (Paragraph 2, Article 4 of the “Lobbying Act”). In addition, an individual or group expressing their demand by means of an application, petition, pleading or statement of opinion is not a lobbying within the meaning of this Law, because the procedures, subjects and objects of implementation are different from lobbying.

20. The purpose of the “Lobbying Act” is to create an open and transparent procedures for lobbying to prevent from tortuosity benefits feeding and assure the democratic participation. Through the lobbying registration system and information disclosure, lobbying behavior is legally carried out under open and transparent procedures, so as to protect the freedom of the public to express opinions, and also benefit social supervision and avoid improper transmission of benefits. Since the legislation and implementation of the “Lobbying Act,” a number of civil society organizations have been lobbying for many years to promote the amendment of the bill, such as The National Federation of Teachers Unions, National Federation of Education Unions, etc.
21. According to Article 13 of the “Lobbying Act,” lobbyist shall, before lobbying, file registration with the lobbied government agency though application. Besides, in accordance with article 18, the lobbied governmental agency shall keep the registry of the lobbyists, the content of lobbying, and the financial income and expenditure statements declared by the lobbyists, all of which shall be publicized on the internet. Therefore, all lobbyists, lobbied parties and the contents of lobbying have been made public on the Internet in terms of the regulations.

2.9		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條	Which is the status of the implementation of the online lobbying registration system? (ROC’s Second Report, p.50)	請問線上遊說登記系統建置進度為何? 【第二次國家報告第 29 頁】

中文回應：

22. 內政部已建置完成線上遊說登記系統，預計於 2022 年 9 月底前上線啟用。

英文回應：

22. The Ministry of the Interior has completed the online lobbying registration system, which is expected to be launched by the end of September 2022.

2.10		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條	Which is the current status of the integrity award system? Who decides to whom are the awards going to be granted? (ROC's Second Report, p.50)	請問透明晶質獎辦理現況為何？由誰決定獲獎機關？ 【第二次國家報告第 29 頁】

中文回應：

23. 廉政署推動「透明晶質獎」，係落實 2018 年 UNCAC 結論性意見第 13 點「每年對公共機構進行廉潔評估，以激勵內部致力於追求更好的治理和建立良好的廉潔形象」，預定於 2022 年完成第 4 年試辦評獎作業，提報行政院中央廉政委員會議決定，成為行政院推動獎項。
24. 廉政署自 2019 年至 2022 年辦理試辦評獎，共 61 個中央及地方政府機關、行政法人及國營事業機構參加。本獎項之評獎方式，係由廉政署委託台灣透明組織協會辦理，由該協會組成評審小組，小組成員由專家學者及具廉政工作實務經驗人員共同組成，先就參獎機關之參獎申請書進行書面審查，再至各機關實地評核，透過兩階段成績計算，並經由評審小組召開決審會議，決議各年度之特優機關。

英文回應：

23. To implement the contents of Point 13 of the concluding remarks, “Conducting, annually, the Integrity Assessment on public institutions to encourage internal efforts for better governance and integrity,” the AAC has promoted the pilot implementation of “Integrity Awards.” The fourth year of trial assessments will be completed in 2022 and the evaluation will be submitted to the Central Integrity Committee of the Executive Yuan for the final resolution as its official award.
24. The AAC promoted the Integrity Award trial from 2019 to 2021, and 61 central and local government agencies, non-departmental public bodies and subordinate state-owned enterprises participated in these events. The awarding method is as follows: the AAC commissioned the Transparency International Chinese Taipei to compose a review group, with experts, scholars and personnel owning practical experience of integrity matters as its members. After the review group has reviewed the written award applications, the judges will conduct on-site evaluations for the participating organizations and then reach a consensus via two-phase score calculation. The group then holds a final review meeting to determine the most outstanding organizations.

2.11

涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 13 點)	<p><u>Reporting quantitative indicators for integrity evaluation</u> (Response Report,p38)</p> <p>it seems thorough, and the categories seem appropriate.</p> <p>Is there any inclusion in the measures of the experience of service users and/or including complaints?</p>	<p>填報廉政評鑑量化指標數據資料</p> <p>廉政評鑑量化指標數據資料看起來很完整，而且類別項目是適當的。請問填報系統的使用者經驗或投訴是否包含在衡量標準項目中？</p> <p>【第二次國家報告第 29 頁-2(1)】 【回應報告第 25 頁】</p>

中文回應：

25. 臺灣「廉政評鑑量化指標數據資料」衡量標準分為 4 大項目（11 個構面，35 個效標），分別為「機關廉政投入與首長支持度」、「機關透明度」、「機關課責與內控機制完備度」及「機關廉政成效」。
26. 民眾對機關服務或施政所提供之經驗反饋及投訴，雖無直接列為效標之一，惟有請機關自我審視列舉較易引起民怨或官怨之項目，並評估擬定相關可行性應對措施，間接透過機關自我評估，瞭解民眾之想法。全國各機關得視情況定期及不定期辦理民意調查之研究，透過研究以瞭解民眾對其提供之各項服務滿意度。感謝委員的意見，後續將適時評估納入廉政評鑑量化指標之內容。

英文回應：

25. Taiwan's "Integrity Assessment Quantitative Index Data" measurement standard is divided into four major items (11 dimensions, 35 performance criteria): "organizational integrity embeddedness and organization head support levels," "organizational transparency," "organizational accountability and completeness of internal control mechanism," and "organizational integrity effectiveness."
26. Since the public feedback and complaints about agency services or administration are not performance criteria, the agencies have to self-review the matters bringing about public discontent or official resentment and to draw up feasible measures. Through the self-evaluation, the agencies are able to gather the public opinions indirectly. All agencies may conduct regular and irregular integrity opinion survey to grasp public satisfaction of their services. We deeply appreciated the opinions and will evaluate the feasibility of the incorporation of quantitative indicators of integrity assessments.

2.12		
涉及公約條文或結	問題內容 ((原文)	中文參考翻譯

論性意見 點次		
<p>第 2 章 第 5 條 (第 3 點)</p>	<p><u>Enhanced actions relating to government procurement: Establishing the integrity platform</u> (Response Report, p31)</p> <p>The details provided on the Integrity Platform for Institutional Procurement in the ROC's second Report (pages 51 and 59) indicate that there have been extensive efforts to establish and improve the government procurement integrity platform, including integrity platforms and transparency of public construction projects.</p> <ol style="list-style-type: none"> 1. What are the principles behind a government procurement integrity platform? 2. Have those principles been reviewed, eg against the OECD principles for enhancing integrity in public procurement² and the OECD 2015 Principle³. 3. It seems from an outside view that responsibility for government procurement regulations, and also for public procurement transparency sit at the agency level, rather than in a common portal. Is this voluntary? 4. Is there a single common tendering and/or procurement platform for all public sector government agencies (local and central) to use? 5. How are members of the public and media able to easily track government procurement? 	<p><u>與政府採購有關之強化作為-開設廉政平臺</u></p> <p>第二次國家報告說明推動機關採購廉政平臺，並詳細闡述為建置及精進廉政平臺(包含設立廉政平臺與提高公共工程案件之透明度)所付出的努力。</p> <ol style="list-style-type: none"> 1. 請問機關採購廉政平臺遵循的原則為何？ 2. 有無依據經濟合作暨發展組織(OECD)「促進公共採購廉潔原則」及 2015 年 OECD「公共採購原則」來審查機關採購廉政平臺所遵循的原則？ 3. 客觀而言，落實政府採購法規及公共採購透明度之義務，僅在於執行機構層級，而未有共同門檻。請問是否依各機關意願而為之？ 4. 有無設置一個可供所有公部門政府機關(含地方及中央)共同使用的招標及/或採購平臺？ 5. 公眾及媒體如何輕易追蹤政府採購辦理情形？ 6. 是否主動公開有用的採購案資料？ 7. 案件決標後對外公告的內容為何(例如得標廠商、決標金額或級距、契約影本)？ 8. 有無制定採購案(廉政平臺)的指引(可對政府採購法加以註釋？ 9. 最近一次審查中央機關未達/逾公告金額採購招標規定的時間為何？(工程會)

² <https://www.oecd.org/gov/ethics/48994520.pdf>

³ <https://www.oecd.org/gov/public-procurement/recommendation/>

	<p>6. Is there any proactive release of useful procurement data?</p> <p>7. What detail is provided in award notifications? (Eg successful contractor, amount or range of award, copy of contract?)</p> <p>8. Are there government procurement guidelines (noting the Government Procurement Act)</p> <p>9. When was the last review of the Tendering Regulations of Central Government Entities below and above the Threshold for Publication?</p> <p>10. What percentage of government spending is covered by the 32 projects mentioned on page 59.</p> <p>11. Is there a community of practice in the area of public procurement (eg CPIS) and engagement around ethical practice and anti corruption measures in procurement.</p> <p>12. What anti corruption risk assessment/due diligence is included in procurement projects?</p>	<p>10. 第二次國家報告指出 32 案總金額，請說明佔政府支出的百分比為何？</p> <p>11. 有無在公共採購領域參與實行、參與採購中道德實踐及採購反貪腐措施的社群團體？例如 CPIS 英國皇家採購與供應學會。</p> <p>12. 重大採購廉政平臺案件適用之反貪腐風險評估/採購廠商盡職調查的措施為何？</p> <p>【第二次國家報告第 29 頁-2(2)】 【回應報告第 20 頁】</p>
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中文回應：

27. 2. 12-1 回應內容

為守護我國重要公共建設品質，提供人民優質的生活環境與提升國家競爭力，行政院責成法務部於 2016 年函頒「機關採購廉政平臺實施計畫」，要求廉政署以有限的人力，配合機關首長需求，針對國家重大建設、重要採購案，成立機關採購廉政平臺（以下簡稱採購廉政平臺），透過「跨域合作、公私協力、行政透明、全民監督」四大內涵，為機關建立跨域溝通的管道，讓檢察署、廉政署及調查機關參與重大建設案件的辦理過程，並引入專業機關（如工程會）及外部專家學者、公民團體的參與，也秉持資訊公開透明的精神，藉此排除外部勢力的不當干預，讓公務同仁安心勇於任事，國家重大建設能夠順利完成，而全民也獲得優質政府服務。

28. 2. 12-2 回應內容

採購廉政平臺制度之緣起，係為提升重大公共建設施工品質，強化採購人員保障機制，消弭採購人員對採購最有利標遭檢舉、偵查之恐懼，行政院交法務部責由廉政署研擬「機關

採購廉政平臺實施計畫」，視機關首長需求，由各政風機構協調成立「機關採購廉政平臺」，建立跨域溝通管道，促進行政與司法積極合作，藉由對外宣示、資訊公開、定期集會、提供意見等作為，強化政府監督機制並維護廠商合理權益，營造使公務同仁能勇於任事之工作環境，讓全民獲得優質公共建設。依前所述，採購廉政平臺並非完全參考 OECD「促進公共採購廉潔原則」及 2015 年 OECD「公共採購原則」來審查該平臺所遵循的原則訂定。惟採購廉政平臺「跨域合作、公私協力、行政透明、全民監督」四大內涵，與前開 OECD 揭示之原則有異曲同工之妙，簡述如下：

- (1) OECD 建議「遵守者建立監督與控制機制，以便在公共採購週期中落實課責」及「確保內部控制與外部控制及審計的協調進行，有充足的資源且相互整合」，採購廉政平臺「跨域合作、公私協力及全民監督」之內涵與其相得。
- (2) OECD 建議「遵守者確保公共採購在採購週期各階段都具備充分的透明度」、「遵守者通過一般性標準及針對特定採購之保障措施來維持公共採購之廉潔」、「遵守者提升利害關係人參與的透明度與有效性」，採購廉政平臺亦強調「行政透明」。
- (3) OECD 建議「遵守者將風險管理策略融入整個公共採購週期之中」，採購廉政平臺設立之目的即在控管風險，杜絕不當外力介入，例如平臺成立前透過個別案件風險查檢，盤點案件辦理過程中可能面臨之各項風險，並提出既有措施以外新增對策，強化風險管理；案件進行中就相關釋疑、民眾疑義陳情等妥處及因應，避免影響採購作業公平及公正性，與該建議事項相符。

29. 2.12-3 回應內容

機關首長的承諾與支持度係採購廉政平臺成敗與否之關鍵因素，採購廉政平臺的成立必須配合機關首長的需求進行，政風單位站在協助的立場、提供資訊透明管道，建立民眾、廠商、公務員與相關政府機關（檢察、廉政等）的跨域溝通管道、促進行政與司法積極合作，並藉由對外宣示、資訊公開、開會研商、提供建議等作為，維護廠商合理權益，使公務同仁能勇於任事，公共建設得以順利完成。

30. 2.12-4 回應內容

採購廉政平臺主要在於協助個別案件風險控管，不同標案具不同程序及進度，需針對各採購案獨特性進行後續聯繫會議，由專業人士及利害關係人交換意見，故不同案件集中於一個採購廉政平臺反而無法使議題聚焦，故採購廉政平臺均係針對特定重大建設個案分別開設。另行政院公共工程委員會之「政府電子採購網」係將全國標案之招標、決標資料放置於該網站供查閱；採購廉政平臺則是透過廉政署「機關採購廉政平臺單一入口網站」及各案件辦理機關之採購廉政平臺專區等，就個別案件之資料予以公開，後者之資料相較前者較為詳細，方便民眾瞭解標案訊息及進度。

31. 2.12-5 回應內容

機關透過設置採購廉政平臺專區或網頁，將案件背景、規劃過程、辦理進度、案件釋疑及相關會議資料與紀錄等資訊對外公開，必要時輔以即時監控影像（CCTV）方式，讓公民團體能夠共同參與監督政府重大建設之辦理過程，藉由平臺公開說明相關資訊，使廠商、利害關係人或公民團體皆能得知資訊，進而提出意見，避免限制競爭之質疑，也增進民眾的瞭解、監督和信賴。

32. 2. 12-6 回應內容

採購廉政平臺對外可提供多種有用資料，例如案件背景、規劃過程及辦理進度等，前述提供標的案件之即時影像（CCTV）可使民眾清楚瞭解案件執行現況；案件釋疑可以使外界知悉本案面臨之爭議及相關處理情形。

33. 2. 12-7 回應內容

採購廉政平臺藉由機關設置廉政平臺專區或網頁，將例如案件背景、案件釋疑或相關會議資料與紀錄等資訊對外公開，透過公開說明相關資訊，使外界能得知資訊，進而提出意見，避免限制競爭之質疑，也增進民眾的瞭解、監督和信賴。

34. 2. 12-8 回應內容

法務部 2016 年函頒「機關採購廉政平臺實施計畫」，作為採購廉政平臺辦理之依據，廉政署並於 2021 年 12 月研編「機關採購廉政平臺指引手冊」，提供作業要領、關鍵因素、標竿案例等予各級政風機構參考。

35. 2. 12-9 回應內容

《政府採購法》最近一次修正公布日期為 2019 年 5 月 22 日，《中央機關未達公告金額採購招標辦法》最近一次修正發布日期為 2018 年 3 月 8 日。

36. 2. 12-10 回應內容

報告中所提 32 案總金額係個別採購廉政平臺成立後歷年累計之總金額，亦即標的案件金額具跨年度累積性質，且採購廉政平臺案件包含能源開發、土地開發、促參案件等各種國家重大建設，常涉及民間招商或公私協力出資合辦等複合領域，較不易與政府個別年度支出進行百分比分析，以下列出各年度採購廉政平臺案件金額供參。

表 2 2017 年至 2022 年採購廉政平臺案件金額

年度	採購廉政平臺金額(元)
2017	1,703 億
2018	1,155.81 億
2019	767.25 億
2020	1,247.3 億
2021	2,867.81 億
2022	4,398.39 億

37. 2. 12-11 回應內容

我國關注反貪腐措施的社群團體主要為台灣透明組織協會，尚無專就採購面向參與之社群團體。

38. 2. 12-12 回應內容

各機關規劃採購廉政平臺計畫草擬階段，會針對個案進行廉政風險查檢，就案件辦理過程中可能遭遇之風險因子進行通盤查檢，並於平臺成立後，視情形滾動式檢討修正。如遇有疑義或爭議情形，則透過採購廉政平臺聯繫會議邀集檢察、調查、廉政及工程會等機關共同討論，提出妥適之解決方案。另標的案件於執行中如有未依契約規定履約情事，將依三級品管制度檢視、查核及管考；如遇有犯罪不法情事，移請司法機關處理，即時排除標的案件執行過程中遇到之不當外力干預。

英文回應：

27. Response to 2.12-1

The Executive Yuan instructed the Ministry of Justice (MOJ) to promulgate the “Government Procurement Integrity Platform Implementation Plan” in 2016 to protect the quality of critical public constructions in our nation, provide people with a high-quality living environment, and enhance national competitiveness. The goal was to require the AAC to use its limited manpower to cooperate with the needs of heads of agencies and establish a Government Procurement Integrity Platform for major national construction and important procurement cases. The Procurement Integrity Platform adheres to the principles of “cross-domain cooperation, public-private cooperation, administrative transparency, and citizen supervision.” The goal is to establish cross-domain communication channels for agencies; allow the Prosecutors Office, AAC, and investigation agencies to participate in major construction cases; and introduce the participation of professional agencies (i.e. Public Construction Commission), external experts, scholars, and civic groups. We shall adhere to the spirit of information transparency and openness, eliminate improper interference by external forces so public servants can bravely do their jobs without worries to complete major national construction successfully, and provide high-quality government services to the citizens.

28. Response to 2.12-2

The Procurement Integrity Platform aims to improve the construction quality for major public buildings, strengthen the protection mechanism for procurement personnel, and eliminate the fear of procurement personnel being reported or investigated for selecting the most favorable projects. The Executive Yuan has entrusted the MOJ to assign the AAC to formulate the “Government Procurement Integrity Platform Implementation Plan.” The various Government Employee Ethics Units shall collaborate to establish the “Government Procurement Integrity Platform” as deemed necessary by the agency head to establish cross-domain communication channels and promote active cooperation between the administration and the judiciary units. The goal is to strengthen the government supervision mechanism and safeguard manufacturers’ reasonable rights and interests via external announcements, information disclosure, regular meetings, providing opinions, etc., and create a working environment where public servants can bravely do their job without worries to complete high-quality public construction works for the people. As mentioned above, the Procurement Integrity Platform did not fully refer to the OECD “Public Procurement Integrity Promotion Principles” and the 2015 “Public Procurement Principles” to review the principles set for the platform. However, the four major connotations adopted for the Procurement Integrity Platform (cross-domain cooperation, public-private cooperation, administrative transparency, and national supervision) are similar to the principles revealed by the OECD described above, which are briefly described as follows:

- (1) The OECD recommendations include “establishing monitoring and control mechanisms for accountability in the public procurement cycle” to “ensure that internal controls are coordinated, adequately resourced, and integrated with external controls and audits.” These principles are similar to the “cross-domain cooperation, public-private cooperation, and national supervision” concepts on the Procurement Integrity Platform.
- (2) The OECD recommends “ensuring full transparency in public procurement at all stages of the procurement cycle,” “maintaining the integrity of public procurement via general standards and procurement-specific safeguards,” and “improving the transparency and efficacy of stakeholder engagement.” The Procurement Integrity Platform emphasizes “Administrative transparency.”
- (3) The OECD recommends “integrating risk management strategies throughout the public procurement cycle.” The Procurement Integrity Platform is established to control risks and prevent improper external intervention, which conforms to the OECD recommendations. For example, case risk inspections prior to the establishment of the platform can help to check the potential risks during the handling process and devise other new countermeasures so as to enhance the risk management, and proper resolution of relevant doubts and response to public complaints during the cases can avoid the effect on the equity and impartiality of procurement procedures.

29. Response to 2.12-3

The commitment and support of the agency heads are critical to the success of the Procurement Integrity Platform. The establishment of the platform should be in coordination with the demand of the agency heads. The government ethics units offer assistance and provide transparent information channels; establish cross-domain communication channels between the public, manufacturers, civil servants, and relevant government agencies (procuratorial, government integrity, etc.), and promote active cooperation between the administrative and judicial branches; and provide information disclosure, research meetings, suggestions, etc., through external announcements. The goal is to safeguard manufacturers’ reasonable rights and interests so civil servants can bravely fulfill their public service duties without worries and complete public construction projects.

30. Response to 2.12-4

The Procurement Integrity Platform mainly provides risk control assistance for specific projects. Different tenders have different procedures and progress, and follow-up contact meetings must be held in accordance with the uniqueness of each procurement case so professionals and stakeholders can exchange opinions. Therefore, the issues cannot be properly focused on if different cases are concentrated on one procurement integrity platform. Thus, a Procurement Integrity Platform is set up separately for a major construction case. Further, The Public Construction Commission of the Executive Yuan has built the Government e-Procurement System for disclosure of tender documentation and tender awarding for public viewing, while the AAC has listed “Projects Incorporating the Government Procurement Integrity Platforms “ and relevant

agencies have established “Procurement Integrity Platform Section” on their official sites both for publication of specific projects with more details, so as to show the project information and progress to the general public.

31. Response to 2.12-5

The agency has established a special area or webpage for the Procurement Integrity Platform to disclose information such as case backgrounds, planning status, handling status, case clarifications, and relevant meeting materials and records. When necessary, the CCTV method is adopted to enable citizen groups to join in the supervision and handling process for major government construction cases. Manufacturers, stakeholders, and citizen groups can gain access, post opinions, and avoid restrictive competition accusations by disclosing the relevant information using this public platform. The system can also enhance public understanding, supervision, and trust.

32. Response to 2.12-6

The Procurement Integrity Platform may provide various kinds of useful information such as the background of the case, the planning process, the progress. Moreover, CCTV videos of specific projects are provided for the general public to grasp the project progress, doubt resolution of specific projects for public understanding of disputes and settlements.

33. Response to 2.12-7

The agency has established a special area or webpage for the Procurement Integrity Platform to disclose information such as case backgrounds, case clarifications, and relevant meeting materials and records. The general public can gain access, post opinions, and avoid restrictive competition accusations by disclosing the relevant information. The system can also enhance public understanding, supervision, and trust.

34. Response to 2.12-8

The “Government Procurement Integrity Platform Implementation Plan” promulgated by the Ministry of Justice (MOJ) in 2016 is used as the basis for implementing the Procurement Integrity Platform. The AAC formulated the “Government Procurement Integrity Platform Guidebook” in December 2021 to provide the work essentials, key factors, benchmarking cases, etc., for reference by the Government Employee Ethics Units’ personnel at all levels.

35. Response to 2.12-9

The “Government Procurement Act” was last amended and promulgated on May 22, 2019, and “Tendering Regulations of Central Government Entities for Procurement of a Value Not Reaching the Threshold for Publication” was last amended and promulgated on March 8, 2018.

36. Response to 2.12-10

The total amount of the 32 cases mentioned in the report is accumulated over the years after the Procurement Integrity Platform was established. That is, the amounts from the underlying cases are cumulative across years, and it is difficult to make a percentage analysis with the government’s varying annual expenditures due to the fact that those cases, including major

national constructions such as energy development, land development and promotion of private participation, involves a composite area of private tender as well as public-private collaboration of investment and operation. The amounts of projects incorporating the Government Procurement Integrity Platforms for each year are listed below for reference.

Table 2 The amounts of projects incorporating the Government Procurement Integrity Platforms from 2017 to 2022

Year	Projects Amount (TWD)
2017	1,703 billions
2018	1155.81 billions
2019	767.25 billions
2020	1247.3 billions
2021	2,867.81 billions
2022	4,398.39 billions

37. Response to 2.12-11

The main social group concerned with anti-corruption measures in our nation is Transparency International Chinese Taipei (TI-CT). There is no community group specifically geared towards procurement oversight.

38. Response to 2.12-12

An integrity risk inspection is implemented case-by-case during the Procurement Integrity Platform plan drafting phase for agencies. The goal is to conduct a comprehensive inspection of the risk factors encountered during the case handling process and review and revise the plan on a rolling basis in accordance with the situation after the platform has been established. In case of a debate or dispute, the prosecutor, investigator, integrity, and public construction commissions are invited via the Procurement Integrity Platform to jointly discuss and propose appropriate solutions. In addition, review, audit, management and control according to the three-tier quality control system will be applied and enforced when the suppliers act in violation of the contract during the procurement process. In case of illegal cases, the judicial organs will take over the management to instantaneously eliminate any improper interference during the case handling process.

2.13		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條	It is very good to note the implementation of Taiwan's first National Action Plan. 1. Has the AAC used OGP principles to develop and implement the anti-	報告提出臺灣開放政府國家行動方案之執行情形，殊值肯定。 1. 廉政署有無運用「開放政府夥伴關係聯盟」(OGP)原則來開展及

	<p>corruption commitments from the OGP NAP?</p> <p>2. Regarding NAP is there are multi stakeholder group operating to review progress on the plan?</p>	<p>落實開放政府國家行動方案 (NAP) 之反貪腐承諾?</p> <p>2. 有關開放政府國家行動方案 (NAP), 有無多方利害關係人團體審查該方案的執行進度?</p> <p>【第二次國家報告第 30 頁-2(3)】</p>
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中文回應：

39. 臺灣首部《開放政府國家行動方案》於 2021 年正式施行，主管機關為國發會，提出「推動資料開放與資訊公開」、「擴大公共參與機制」、「增加性別及族群包容性對話」、「落實清廉施政」及「執行洗錢防制」等 5 大範疇承諾事項，勾勒未來推動開放政府的政策方向，並秉持「開放政府夥伴關係聯盟」(OGP) 倡議之核心價值「透明」、「課責」、「參與」及「涵容」，與公民社會共同探索開放政府在政策實踐上的各種可能。在落實清廉施政部分，法務部(廉政署)提出下列 2 項承諾事項：

- (1) 「建置與精進機關採購廉政平臺」：機關採購廉政平臺 2022 年 1 月至 7 月已成立 20 案，金額達 4,398.39 億元，並請各採購廉政平臺主辦機關進行網站優化，及加強行銷採購廉政平臺典範案例，2022 年 1 月至 7 月已辦理公開宣誓儀式 (13 案)、參與聯繫會議 (15 次)，並依據各承諾事項預定辦理期程執行，同時廉政署並運用透明、參與、課責等 OGP 核心精神，持續深化「機關採購廉政平臺」跨域合作、公私協力、行政透明、全民監督等 4 大內涵，承諾事項具體內容計有 5 項：
 - I. 建立與精進跨域合作的參與機制：配合機關首長需求，由法務部(廉政署)督導政風機構協助機關成立廉政平臺，建立與相關政府機關、民間團體及廠商、民眾等多元利害關係人跨域溝通的管道，透過平臺會議將採購過程遭遇問題提出討論，公私協力尋求最適解決方案。另定期蒐集反饋意見，持續精進及滾動修正廉政平臺做法。
 - II. 設置與優化廉政平臺專區或網頁：廉政平臺成立後，由機關設置廉政平臺專區或網頁，將案件背景、規劃過程、辦理進度、案件釋疑及相關會議資料與紀錄等資訊對外公開。另持續檢視公開內容是否對增進民眾對重大建設之瞭解、信賴與監督有所助益，隨時更新及優化專區或網頁內容。
 - III. 建置「廉政平臺單一入口網站」：連結各機關廉政平臺專區或網頁，視覺化呈現平臺相關資訊及數據，提升資料取得的便利性。
 - IV. 研擬廉政平臺公開資料統一架構及格式：參考國際開放資料及開放採購應用實例，徵詢內部顧客及外部專家意見，研擬廉政平臺公開資料統一架構及格式，建議機關試行辦理，提升平臺資料可利用性，便利未來加值應用，發揮資料最大效益。
 - V. 加強行銷廉政平臺典範案例：整合聚焦廉政平臺成果效益，以國際語言及容易理解方式呈現典範案例做法特色，加強向國內外行銷廉政平臺帶來助益，鼓勵機關首長成立廉政平臺。
- (2) 「推動揭弊者保護法立法」：該草案研擬階段已自主落實民眾參與，先後辦理委託研究案 (3 案)、法制化會議 (11 場)、圓桌小組會議 (6 次)，邀請產、官、學等專家及民眾

參與學術座談會（3場），及公開徵詢民眾建議等。並召開分組工作會議，邀集專家學者及民間委員共同參與審查執行進度，並參採民間委員建議，於廉政署網頁設置「揭弊者保護專區」，提升資訊透明度，並增加公開資料供公眾閱覽。

40. 為推動《臺灣開放政府國家行動方案》之規劃、協調與執行，行政院於2020年8月，邀集關注與熟悉 OGP 國際組織運作之專家學者及民間團體代表，公私協力組成開放政府國家行動方案推動小組。為檢視行動方案執行進度，推動小組原則每4個月召開1次會議，由各承諾事項權責機關報告承諾事項執行進度，有關2021年承諾事項執行情形（包含公私部門參與人員、年度衡量指標及具體績效）已於國發會網站公告⁴。

英文回應：

39. The first “Taiwan Open Government National Action Plan,” officially implemented in 2021 by the National Development Council, promotes commitments in 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” and outlines policy directions of future promotion of government open data. By adhering to the core values of Open Government Partnership (OGP) including “transparency,” “accountability,” “participation” and “tolerance,” the NDC and civil society jointly discover the possibilities of policy implementations for the open government. In terms of enhancing integrity policies, the AAC has proposed the following 2 commitments:
- (1) “Establish and Refine the Government Procurement Integrity Platform:” We are actively promoting the integrity platform for institutional procurement, and there are 20 projects during January to July in 2022 with a total project amount of TWD 4,398.39 billion. Furthermore, we encourage the competent authorities to realize the optimization of their websites and to strength marketing and promotion of model cases of the Government Procurement Integrity Platforms. During January to June in 2022, the relevant agencies held 13 public oath ceremonies, participated in 15 business liaison meetings and ensured that projects were executed in accordance with the various schedules committed. The ACC shall continue to refine the “Government Procurement Integrity Platform” by deepening the cross-domain cooperation, public-private cooperation, administrative transparency, and national supervision connotations under the core Open Government Partnership (OGP) spirit of transparency, participation, and responsibility, with 5 commitments stated specifically as below:
- I. Establish and intensify the mechanism of cross-field cooperation: To meet the needs of the officials of the agencies, the AAC will ask the government ethics departments to assist the agencies in setting up integrity platforms as channels for communication with relevant agencies, NGOs, vendors, citizens and other stakeholders. The issues in the procurement process will be

⁴ Performance of Taiwan Open Government National Action Plan in 2021
(<https://ws.ndc.gov.tw/Download.ashx?u=LzAwMS9hZG1pbmlzdHJhdG9yLzExL3JlbGZpbGUvMC8xMzY5My9lMDQxODViYy1hZTM4LTQ2ODUtYTtkzYy1kNjYxNjllYWZiOTUucGRm&n=UGVyZm9ybWFuY2Ugb2YgVGFpd2FuIE9wZW4gR292ZXJubWVudCBOYXRpb25hbCBBY3Rpb24gUGxhbiBpbiAyMDIxLnBkZg%3d%3d&icon=..pdf>)

discussed in platform meetings, and the public and private sectors will work together to seek the best solutions. In addition, we will regularly collect feedback and continue to revise the practices of the platform.

- II. Set up and optimize the integrity section or website: After the establishment of the integrity platform, the agency will set up an anti-corruption section or website to make public the background of the case, the planning process, the progress, the FAQs of the case, and the meeting records. In addition, we will continue to check whether the published content enhances the public's understanding, trust and supervision of major construction projects, and update the contents at any time.
 - III. Establish a single portal website of the integrity platform: We will link the integrity sections or websites and visualize the relevant information and data on the platform to make them more accessible.
 - IV. Develop a unified framework and format for the disclosure of information on the platform: We will develop the unified framework and format of the open data of the platform by referring to open data and open procurement practices of other countries and consulting customers and experts. It is also suggested that the agencies try out the unified framework and format to enhance the availability of data on the platform, facilitate future applications to make the most of the data.
 - V. Market integrity platform with model cases: We will collate the achievements of the integrity platform, present it in English and an easy-to-understand manner, market the platform to domestic and international audiences, and encourage government officials to set up the integrity platform.
- (2) “Legislation of the Whistleblower Protection Act:” Public participation has been implemented during the drafting phase. Three entrusted research cases, 11 legalization conferences, and 6 roundtable group meetings attended by industry, government, and academia experts were held, and the public was openly solicited for suggestions. Hold group operation meetings; invite experts, scholars, and non-governmental members to review the implementation progress; and follow non-governmental members’ suggestions to set up a “Whistleblowers Protection Area” on the AAC website. The goal is to improve information transparency and increase public access to information.
40. To promote the plan, coordination and enforcement of “Taiwan Open Government National Action Plan,” the Executive Yuan invited expert, scholars and representatives of civil organizations who pay close attention to and have acquaintance in operations of OGP international organizations to establish Open Government National Action Plan Taskforce through public-private cooperation. To review the implementation progress of the Action Plan, the Taskforce convened a meeting every four month in principle and the competent authorities responsible for each commitment reported the current progress. The implementation of all commitments, including participants from public

and private sectors, annual measurement indicators and specific performances) in 2021 was published on the official website of the NDC.

2.14		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<p><u>Transparency of Companies</u> <u>(Response Report, p.32)</u></p> <p>Why no comment on the Corporate Governance Roadmap mentioned in Page 60 of the ROC’s Second Report. This progressive development including the establishment of independent directors, audit committees, and other integrity matters seems a very important piece of work to build corporate integrity in Taiwan.</p>	<p><u>法人透明度</u></p> <p>報告對於「公司治理藍圖」未深入論述之原因為何？這項革新發展包含設置獨立董事、設置審計委員會及推動其他廉潔作為，似為臺灣打造企業誠信的重要工作。</p> <p>【第二次國家報告第 30 頁-2(4)】 【回應報告第 21 頁】</p>

中文回應：

41. 行政院 2003 年成立改革公司治理專案小組將公司治理法制化以來，企業開始重視公司治理及投資人權益之保護，金管會為讓上市(櫃)公司之公司治理運作與時俱進與國際接軌，分別於 2013 年發布 5 年期《強化我國公司治理藍圖》、2018 年發布 3 年期《新版公司治理藍圖》及 2020 年發布 3 年期《公司治理 3.0-永續發展藍圖》(以下簡稱公司治理 3.0)。
42. 公司治理係我國長期推動之政策目標，其中刻正推動之公司治理 3.0 以強化董事會職能、提高資訊透明度、強化利害關係人溝通、引導盡職治理及深化公司永續治理文化 5 大主軸、共計 39 項具體措施:包含推動獨立董事席次不得少於董事席次三分之一，及公司半數以上獨立董事連續任期不得逾三屆，以進一步強化董事會之監督功能及獨立性，另鑒於企業經營所面臨之風險日益複雜，將逐步協助上市櫃公司導入企業風險管理機制，並由董事會之功能性委員會如審計委員會或風險管理委員會督導，以協助我國企業辨識未來可能之挑戰並適當因應等多項具體措施。
43. 另公司治理藍圖內容可參見報告附註 21 之網頁連結。

英文回應：

41. Since the Executive Yuan established the Corporate Governance Reform Taskforce in 2003 to codify a legislative framework to govern corporate governance, enterprises have begun to attach importance to corporate governance and the protection of investors' rights and interests. The five-year “Roadmap for Strengthening Taiwan’s Corporate Governance” was released in 2013, the

three-year “New Corporate Governance Roadmap” was then released in 2018, and the “Corporate Governance 3.0- Sustainable Development Roadmap” (hereafter referred to as “Corporate Governance 3.0”) was released in 2020 .

42. Corporate Governance 3.0 is currently being promoted to strengthen the functions of the board of directors, improve information transparency, strengthen communication with stakeholders, encourage proper stewardship and work for a more deeply rooted corporate culture of sustainable governance by pursuing five major action plans, which set out a total of 39 specific measures: including ensuring that the number of independent directors which constitute the whole board of directors shall be not less than one-third of the board seats, so as to further strengthen the supervisory function of the board of directors. In view of the increasingly complex risks faced by corporate operations and in order to assist Taiwanese enterprises in identifying potential upcoming challenges and responding appropriately, the measures gradually assist listed companies in introducing corporate risk management mechanisms under the supervision of functional committees of their board such as audit committees and risk management committees.
43. For the content of the corporate governance roadmap, please refer to the website link in Note 21 on page 53 of the report.

2. 15		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<p><u>Auditing government procurement projects and the quality of public construction projects</u> <u>(Response Report, p31)</u></p> <p>Very good to see the number of audits undertaken by the PCC and that there is referral to prosecution and investigation authorities, and findings around defects with action to follow.</p> <p>1. Does the Public Construction Commission issue general guidance based on the findings of its audits and reviews?</p> <p>2. On page 54 of the ROC’s second report, an Information System for Oversight of Public Construction by the People is mentioned. I could not find that in simple search,</p>	<p>政府採購稽核及公共工程施工品質查核</p> <p>報告呈現公共工程委員會(下稱工程會, PCC) 辦理稽核件數, 並提供起訴與偵查機關、所見缺失及相應改善作為等參考資料, 殊值肯定。</p> <p>1. 工程會有無依其稽核與審查結果發布共通性指引?</p> <p>2. 第二次國家報告第 31 頁提到的「全民監督公共工程資訊系統」, 無法經由簡易搜尋查得該系統, 也無法從工程會網站首頁連結到。</p> <p>3. 在工程案件生命週期的初期, 有無適用之貪腐風險評估方法? 【第二次國家報告第 31 頁】 【回應報告第 21 頁】</p>

	<p>nor accessible from the front page of the Public Construction Commission⁵.</p> <p>3. Is there a corruption risk assessment approach early in the construction project life cycle?</p>	
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中文回應：

44. 工程會已制定「各類採購契約範本」及「採購業務標準化作業流程及控制重點」之共通性指引，並依採購稽核發現缺失，回饋作為修正共通性指引之參考。
45. 全民督工系統目前有中文網站，可經由簡易搜尋查得且亦可由工程會網站首頁連結。
(https://cmdweb.pcc.gov.tw/pccms/pwreport/ducon2_geoeng.pasin)
46. 採購各階段訂有採購業務標準化作業流程，供各機關訂定內控機制參考，包含招標、開標、審標、決標、履約管理、驗收及處理異議各階段，透過檢核表來區辨採購案件貪腐風險。另工程會 2019 年 9 月 19 日訂定「政府採購全生命週期風險管理重點及具體作法」，加強政府採購全生命週期之風險管理。

英文回應：

44. The Public Construction Commission of the Executive Yuan (hereinafter referred to PCC) has prescribed model contracts for each procurement type and “Standard Operating Procedures and Check Points for Procurement.” The findings of procurement auditing are taken as references for revising these general guidances.
45. A Chinese version website for the Public Oversight System is available now. It is easy to find this website by search engines and accessible through the PCC front page.
(https://cmdweb.pcc.gov.tw/pccms/pwreport/ducon2_geoeng.pasin)
46. The PCC has stipulated standard operating procedures for every procurement stage to provide a reference to all entities for internal control system, including invitation to tender, tender opening, tender evaluation, award of contracts, administration of contract performance, inspection and acceptance and dispute settlement. Corruption risk may be identified and assessed through checklists. In addition, the PCC stipulated “Risk Management Points and Concrete Practice over the Whole Life Cycle of Government Procurement” on September 19, 2019 to strengthen the risk management over the whole life cycle of government procurement.

2. 16		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯

⁵ <https://www.pcc.gov.tw/en/cp.aspx?n=AC4A64318B66ADCA>

第 2 章 第 5 條	How does the external supervision of volunteers in infrastructure projects work? (ROC's Second Report, p.55)	請問廉政志工對於公共建設計畫工作之外部監督方式為何？ 【第二次國家報告第 32 頁】
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中文回應：

47. 各主管機關政風機構成立廉政志工隊，經由招募培訓廉政志工深入瞭解公共事務及相關法令，使廉政志工能提供廉政相關志願工作服務。成立志工隊之主管機關，如有協請志工協助瞭解公共工程，得透過志工訓練課程，施以工程相關基礎知能，讓志工可以志願關心及協助反映公共工程廉政問題，志工如發現問題，皆可向政風機構等相關單位通報，並由工程主管機關釐清改善，以減少公共工程違失等情形。例如：各主管政風機關之廉政志工執行公用道路、公園巡查等全民督工、路平專案事項，如發現缺失並向業管單位通報。

英文回應：

47. The various competent authorities' Government Employee Ethics Units have established anti-corruption volunteer teams. The anti-corruption volunteers were recruited and trained to gain an in-depth understanding of public affairs-related laws and provide anti-corruption voluntary work services. If the competent authorities establishing the volunteer teams may provide education and training to impart basic engineering-related knowledge and assist the volunteers in understanding the public projects so that volunteers can learn and care about public project integrity. If the volunteers discover any problems, they may report to the Government Employee Ethics Units or other relevant units. The competent authority for public works shall clarify and improve the matters to reduce public work violations or other concerns. For instance, each competent authority's government ethics unit assembled anti-corruption volunteers to assist in public oversight and road-smoothing projects, such as public road and park patrol, and report deficiencies to respective competent authorities if any.

2.17		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 5 條 (第 8 點)	<p><u>Implementing the anti-corruption volunteer program</u> <u>(Response Report, p.36)</u></p> <p>This looks to be an extraordinary programme, and it is a credit to the people of Taiwan that there is so much eager involvement.</p>	<p><u>推動廉政志工</u></p> <p>這是一項非凡的計畫，參與的民眾數量多，也成為臺灣人民的驕傲。請問廉政志工能參與何種類型的檢舉？</p> <p>【第二次國家報告第 32 頁-2(8)】 【回應報告第 24 頁】</p>

	What kind of reporting are the volunteers able to engage in?	
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中文回應：

48. 各主管機關政風機構成立廉政志工隊，經由招募訓練，培訓廉政志工深入瞭解公共事務及相關法令，協助各機關相關廉政工作，包括：辦理廉政宣導、校園扎根教育、作業透明檢視、全民督工等，藉由民眾投入廉政志工，有效結合民間力量與資源，鼓勵公民參與反貪腐，帶動廉潔風氣，使廉政向社會各界推展（廉政志工服務成果影片載點 <https://reurl.cc/2Zx3pv>），並經由志工工作適時針對政府機關廉政相關各項施政議題反映意見，例如：政府施政是否符合相關法令、異常情資反映、道路或公共設施缺失，以及各項廉政議題等，成為廉政網絡重要的一環。

英文回應：

48. The anti-corruption volunteer teams established by the various Government Employee Ethics Units receive training after recruitment to gain an in-depth understanding of public affairs and related laws and regulations. The volunteer teams may assist the various agencies in ethical government propaganda, campus cultivation education, transparent work inspection, citizen labor supervision, and integrity-related matters. The goal is to effectively combine civil forces and resources by inviting citizens to become anti-corruption volunteers, encouraging citizens to participate in anti-corruption, promoting an ethical atmosphere, and inspiring ethical government in all sectors of society (For the video of anti-corruption volunteer service outcome, please access the download link: <https://reurl.cc/2Zx3pv>). The anti-corruption volunteers' observations and feedback on the various government agencies' ethical government issues, such as law compliance of government governance, report of extraordinary incidents, deficiencies of roads or public facilities and relevant integrity governance issues, have become an important part of the ethical government network.

2.18		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<p><u>budget settlement and reporting system</u> <u>(Response Report, p.36)</u></p> <p>Anomaly alerts and exception reporting seem a good way of managing the volume of data. This is also supported by ‘speak up’ programmes that encourage reporting of possible wrongdoing.</p> <p>Does this constitute internal auditing?</p>	<p>經費結報系統</p> <p>系統的異常警示與例外報告功能均為管理大量資料的絕佳方式。這也是在鼓勵檢舉潛在違失的程序中所支持的。</p> <p>該系統有無訂定內部稽核程序？</p> <p>【第二次國家報告第 33 頁-2(11)】 【回應報告第 24 頁】</p>

中文回應：

49. 經費結報系統係介接其他共用性系統(如電子發票平台、薪資系統、WebITR 差勤系統等)，以國內出差旅費報支項目為例，系統介接 WebITR 差勤系統擷取已核准之假單報支後，不可再重複申請，系統並同時檢核住宿費報支金額是否逾規定標準等。人事費結報作業多係介接前端薪資系統，以取得相關結報資料與清冊，並將其轉製為匯款清冊予金融機構，相關資料於系統中不可進行修改。匯款完成後，須將金融機構匯款回饋檔上傳系統，系統將自動檢核其與原始匯款清冊是否一致。

英文回應：

49. 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.). Taking domestic (business) travel expenses for example, when employees use the Expenditure Application and Verification System to apply for reimbursement of travel expenses, the system won't accept applications again once the case has been confirmed by the WebITR duty system. The Expenditure Application and Verification System interfaces with WebITR duty system, once the approved leave is retrieved from WebITR duty system, it cannot be chosen again to avoid duplicate claiming. The system also simultaneously checks whether the amount of accommodation fee exceeds the standard. For personnel expenses, the budget settlement and reporting system is mostly connected to the front-end payroll system to obtain the relevant settlement data and lists, and those will be converted into remittance lists and sent to financial institutions. The relevant data cannot be modified in the system. After the remittance is completed, the financial institution's remittance feedback file must be uploaded to the system, and the system will automatically check whether it is consistent with the original remittance list.

2.19		
涉及公約條文或結論性意見點次	問題內容(原文)	中文參考翻譯
第2章 第5條	Do you consider any possibility to appoint Ambassador(s) for anti-corruption cooperation? (South Korean government appointed Prof. Hyoung-Koo Moon, former vice-chair of TI-Korea, to the Ambassador for Anti-Corruption Cooperation of the Republic of Korea in 2020)	是否考量指派特使，以利反貪腐合作業務之推動？(例如南韓政府曾任命國際透明組織南韓分會前副主席 Hyoung-Koo Moon 博士擔任 2020 年反貪腐合作大使) 【第二次國家報告第 33 頁-3(1)】

中文回應：

50. 我國致力於反貪腐工作之國際接軌，加強反貪腐領域之國際合作乃重點工作項目，近年積極與理念相近之國內外夥伴進行反貪腐合作，透過舉辦各式論壇、平臺、獎項及會議等，搭建交流與對談的橋樑，分享我國推動公私部門反貪腐的背景及具體作法，行銷臺灣廉能治理之亮眼成果。
51. 我國過去針對外交重點推動項目，已有諸多由總統遴聘熟諳國際事務且具有崇高聲望者，並對所涉特定任務具備優越之條件者擔任無任所大使，協助我國政府於特定領域推動外交之前例，法制上亦有《中華民國無任所大使遴聘作業要點》可為依據。遴聘反貪腐無任所大使應可有助於反貪腐國際合作之推動，感謝審查委員的建議，法務部將審慎研議。然而臺灣的國際外交處境有其特殊性，很多考量不是源於臺灣本身的需求，我們很期待國際社會給予更多空間，讓臺灣參與反貪腐的國際組織，包含任命反貪腐合作大使。

英文回應：

50. Taiwan has committed to make anti-corruption matters be in line with international standards; therefore, strengthening the international cooperation in anti-corruption becomes an important task. Recently, the AAC has been actively collaborating with domestic and international partners who share the same values with us. Through hosting a number of forums, platforms, awards and conferences, we create a quality environment to share Taiwan's experience and great achievements in advocating anti-corruption and ethical governance.
51. To assist in pilot promotions of particular diplomatic missions for Taiwan’s major focus on diplomacy, many well-known personnel having acquaintance in foreign affairs and superiority in relevant missions have been chosen by the President to serve as ambassadors-at-large according to the “Directions Governing the Recruitment of Ambassadors-at-large.” We appreciated the opinions and the MOJ will carefully discuss the feasibilities of recruitments of ambassadors-at-large for anti-corruption to promote international cooperation. Whereas, many diplomatic considerations are not always based on Taiwan’s own needs due to the special international circumstances. It is much expected that Taiwan could obtain more opportunities from the international community to appoint anti-corruption ambassadors and participate in international organizations of anti-corruption.

2. 20		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<u>Promoting corruption prevention measures through both central and local government agencies</u> <u>(Response Report, p.30)</u> Great to see such a high percentage being achieved. Would be good to see	<u>在中央及地方機關全面推動反貪腐預防措施</u> 相當樂見各項措施之完成度極高。若能進一步瞭解這 6 項措施(推動社會參與、與政府採購有關之強化作為、增進透明度、落實陽光法案、召開廉政會

	something on those 6 which have not been achieved, and why.	報、其他預防性措施)尚未落實之處及其原因，將有助於精益求精。 【回應報告第 20 頁】
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中文回應：

52. 未來廉政署將賡續督導政風機構，落實推動反貪腐預防措施。在反貪面，使全民正確認識貪腐之危害，落實全民反貪教育，推動社會參與，包含倡議企業誠信、扎根校園誠信、推廣志願服務，以型塑「貪污零容忍」的社會風氣，鼓勵全民參與廉政工作，例如加強大專院校學生廉潔教育，針對工程倫理等專業倫理議題，將持續結合縣市政府、大專院校及專家學者共同簽署合作意向、於校園辦理議題論壇、公共工程觀摩、開設相關課程等方式，向大專院校園擴大推廣，建立學生倫理認知及行為規範，延伸社會參與效益。
53. 在防貪面，透過推動各項防貪措施如下：
- (1) 與政府採購有關之強化作為部分：將持續推動及精進機關採購廉政平臺，例如法務部 2022 年 4 月函頒「機關採購廉政平臺分級開設原則」，擴展採購廉政平臺適用之範圍，並請各採購廉政平臺主辦關進行網站優化，及加強行銷採購廉政平臺典範案例，使民眾能獲取更多的資訊，藉此深化「機關採購廉政平臺」跨域合作、公私協力、行政透明、全民監督等 4 大內涵。
 - (2) 增加透明度部分：藉由機關採購廉政平臺建立網站專區，針對國家重大公共建設適時提供案件辦理相關資料，另持續協助各機關推動透明措施，並透過透明晶質獎激勵機關自主檢視廉政措施。
 - (3) 落實陽光法案部分：在《公職人員財產申報法》方面，將加強宣導申報義務人申報注意事項及宣導定期申報義務人透過授權申報財產，降低申報不實之情事發生，減少裁罰件數；在《公職人員利益衝突迴避法》方面，亦將持續結合機關資源並視業務特性辦理宣導，如辦理利衝法說明會及製作多元化文宣資料等，加強公職人員對於法規範之認識，以減少違法情事發生。
 - (4) 未來亦將賡續召開廉政會報及辦理其他預防性措施，致力建構政府部門透明課責的公務環境，強化機關公務人員的廉潔觀念，降低貪腐發生的可能性，以提升民眾對政府的信任度。

英文回應：

52. In the future, the AAC will continue to supervise the Government Employee Ethics Units to implement and promote the anti-corruption preventive measures. Anti-corruption: Instill the correct understanding of corruption-related damages by holding anti-corruption education courses and promoting social participation. The efforts include business ethics in the private sector, integrity publicity on campuses, promoting voluntary services, and creating a “zero corruption tolerance” social atmosphere to encourage all people to participate in the anti-corruption work. For example, we strength integrity education for colleges and universities students, sign letters of intent for professional ethics issues like engineering ethics with local governments, colleges and

universities as well as experts and scholars, expand the promotions of ethics and codes of conduct for colleges and universities students by organizing forums, public construction observation activities and education programs, so as to enhance the efficiency of participation of society.

53. In terms of corruption prevention, the following corruption prevention measures are promoted:

- (1) For improvements of government procurement: We constantly promote and intensify the Government Procurement Integrity Platform. The “Classified Establishment Principle of the Government Procurement Integrity Platform” was issued by the MOJ on April 2022 to extend the scope of application of the platforms. To provide more information for the public, we encourage the competent authorities to realize the optimization of their websites and to strength marketing and promotion of model cases of the Government Procurement Integrity Platforms. In this way, the spirits of “Government Procurement Integrity Platform” including the cross-domain cooperation, public-private cooperation, administrative transparency, and national supervision connotations could be refined and deepened.
- (2) For enhancements of transparency: The agencies set up anti-corruption sections or websites to make public the handling of the cases for national major public constructions. We constantly assist the agencies in implements of administrative transparency measures and encourage them to self-review integrity measures by promoting “Integrity Awards.”
- (3) For implements of the sunshine laws: In terms of the “Act on Property-Declaration by Public Servants,” the occurrence of false property declarations and the punishment cases of property declaration have been gradually reduced due to the publicity on the instructions for property declaration to those public servants obliged to declare properties and the promotion of the adoption of authorized intermediary information to help these declaration obligors to proceed regular declarations; In terms of “Act on Recusal of Public Servants Due to Conflicts of Interest,” we will continue to combine agency resources to organize education classes and compose promotional materials in accordance with the business characteristics, so as to deepen the agency personnel’s knowledge of statutory provisions and reduce the occurrence of illegal acts.
- (4) We will keep conducting integrity reports and other preventive measures. The goal is to build a public service environment that ensures transparency and accountability for government departments, enhance the concept of integrity for public officials, reduce opportunities for corruption, and strengthen the public’s trust in the government.

2. 21		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 5 條 (第 3 點)	<u>Preventive actions for risks or corrupt practices (Response Report, p.34)</u>	針對風險或貪腐不法事件採取預防性作法 相當樂見臺灣已有採取預警、風險評估與專案清查等作法。

	<p>Very good to see early warning approach and risk assessment approaches and case review.</p> <p>1. Regarding the Case Review on 63 cases how is the ‘saved public expenditure’ estimated.</p> <p>2. Government Employee Ethics Units appear to be very effective in preventing corruption. Is there appropriate reward and promotion of this success?</p>	<p>1. 有關專案清查部分，請問如何計算 2021 年 63 件案件所節省之公帑。</p> <p>2. 各政風機構可有效預防貪腐。請問有無適當的獎勵或升遷措施？ 【回應報告第 22-23 頁】</p>
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中文回應：

54. 廉政署辦理專案清查之成果中，財務效益可分為「增加收入」及「節省公帑」2種，前者係以「已追回或能追回廠商所溢領或應支付之款項」，後者則以「因個案事由停止付款予廠商之款項」為計算基準，前述額度係依各政風機構將專案清查成果簽陳機關首長時所記載金額之加總。
55. 廉政署對政風人員原即訂有獎勵機制，如廉政署為表揚對廉政工作有特殊、卓著貢獻之廉政人員，以激勵工作潛能及士氣，訂有《法務部廉政署表揚模範廉政人員要點》，獲獎者由法務部長親自頒獎，並列為優先陞遷人員；又如《防貪業務獎勵案件獎度及額度參考基準》，導引政風人員加強辦理防貪業務，對積極辦理各項預防工作者，從寬進行獎勵；另辦理政風人員陞遷作業時，會綜合評比政風人員職務歷練、考績考評、獎勵積分、及工作表現，依政風人員陞遷序列表逐級、擇優陞任或遷調歷練，以拔擢及培育人才。

英文回應：

54. The AAC conducts special audits and evaluates the financial benefits in two ways, revenue increasements and public expenditures decreases. The former is the “recovery or expected recovery of overpayments or payables of the manufacturers,” while the latter is the “suspended payments to manufacturers due to specific reasons,” which are calculated according to the total amounts submitted by each ethics units to the heads of the relevant agencies for approval.
55. To recognize the government ethics officers who made extraordinary contributions to anticorruption operations, and to arouse work potential and morale, the AAC has established a reward system and developed the “AAC Model Government Ethics Officers Recognition Regulations.” Government ethics officers elected as the model ethics officers will be granted awards by the minister of the ustice. “Corruption Prevention Case Reward Amount Reference Benchmark” has also been set up to incentivize government employee ethics to intensify the corruption prevention operations. The reward will also be leniently recognized during the review for those who actively engage in prevention. When the AAC considers promotions for ethics unit

personnel, the AAC shall comprehensively evaluate the job experience, performance appraisal, rewards and points, work performance, and seniority to formulate a promotional list. The objective is to select, train, promote, and cultivate talents.

2.22		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 6 條	Do you provide the necessary financial resources for the AAC as well as human ones? If available, please provide yearly tables with data source. Please refer: Jon S.T. Quah, (2017) "Learning from Singapore's effective anti-corruption strategy: Policy recommendations for South Korea," Asian Education and Development Studies, Vol. 6 Issue: 1, p.17-29	政府有無提供廉政署必要財政及人力資源？若有請依年度列表，並提供資料來源。 請參閱柯受田教授所撰「借鏡新加坡高效反貪腐策略—提供南韓政策建議」一文（《亞洲教育與發展研究》第 6 卷問題 1，第 17 頁至第 29 頁 ⁶ 。 【第二次國家報告第 34 頁】 【回應報告第 37 頁】

中文回應：

56. 廉政署於 2011 年 7 月 20 日成立，為兼具預防性反貪及專責性肅貪之複合性機關，負國家廉政政策規劃推動、反貪、防貪及肅貪等任務，近 5 年之員額與預算如下表。

表 3 廉政署 2018 年至 2022 年職員預算數與公務預算

年度	2018	2019	2020	2021	2022
職員預算數(人)	222	222	222	222	222
公務預算(千元)	419,738	464,216	438,596	469,274	462,247

資料來源：廉政署

57. 另依《政風機構人員設置管理條例》第 2 條規定，政風機構主管機關為法務部，全國政風業務，由廉政署規劃、協調及指揮監督。在此政風一條鞭之制度設計下，將全國各政風機構政風人員視為同一機關人員，由法務部統籌規劃辦理政風人員遷調作業，彈性人力運用，落實職期輪調，使政風人員在無機關人情包袱之下獨立、超然執行職務，必要時並能統整全國各政風機構共同執行專案工作，進而提升行政效率、防止弊端發生。統計至 2022 年 5 月，政風機構計有 1,181 個（中央行政機關政風機構計有 377 個，地方機關政風機構計有 596 個，事業機構計有 208 個）；政風人員計有 3,159 人（中央行政機關政風人員 1,067 人；地方機關政風人員 1,611 人，事業機構政風人員 481 人），相較 2018 年，政風人員共增加 129 人，總員額呈現正成長趨勢。

英文回應：

⁶ <https://doi.org/10.1108/AEDS-07-2016-0058>

56. The AAC was established on July 20, 2011, to prevent and eradicate corruption. Its purpose is to plan and promote ethical government for the nation by stopping, preventing, and investigating corruption. The employees and budget of the AAC for the past 5 years are listed below.

Table 3 The employees and budget of the AAC for 2018-2022

Year	2018	2019	2020	2021	2022
Employees amount (person)	222	222	222	222	222
Official budget (TWD 1,000)	419,738	464,216	438,596	469,274	462,247

Data Source: AAC

57. Moreover, in accordance with Article 2 of the “Act of the Establishment and Management of the Government Employee Ethics Units and Officers,” the competent authority of Government Employee Ethics Units is the MOJ. The nation’s ethics affairs are planned, coordinated, commanded, and supervised by the AAC of MOJ. Under this single whip ethics system design, the Government Employee Ethics Units’ personnel nationwide are regarded as the same agency personnel. The MOJ organizes and deploys ethics unit personnel to achieve flexible job rotation. The goal is to enable ethics unit personnel to perform their duties independently and detachedly without being beholden to anyone. When necessary, the MOJ can unify the various Government Employee Ethics Units’ workforce to focus on a project to improve administrative efficiency and prevent malpractices. As of May 2022, there are 1,181 Government Employee Ethics Units, 377 of which are in central administrative agencies, 596 in local government agencies and 208 in public enterprises; while there are 3,159 Government Employee Ethics, 1,067 of which are in central administrative agencies, 1,611 in local government agencies and 481 in public enterprises. When compared with staff members in 2018, there is an increase of 129 members, with a positive growth in total number of personnel headcounts.

2. 23		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 6 條	How is the Central Integrity Committee composed and how are its members appointed? (ROC’s Second Report, p.12)	中央廉政委員會如何成立及其任命成員之方式為何？ 【第二次國家報告第 7、35 頁】

中文回應：

58. 行政院為統籌廉政政策，端正政治風氣，促進廉能政治，於 2008 年設立中央廉政委員會，由行政院院長擔任召集人並主持會議、法務部部長為執行長，針對民眾及社會大眾關心議題，提出討論案及專題報告，積極推動廉政工作。

59. 委員會成員依據《中央廉政委員會設置要點》：

- (1) 召集人：行政院院長。
- (2) 副召集人：行政院副院長。
- (3) 派兼委員 15 人：行政院政務委員、行政院秘書長、內政部部長、外交部部長、國防部部長、財政部部長、教育部部長、法務部部長（兼任本會執行長）、經濟部部長、交通部部長、行政院人事行政總處人事長、國家發展委員會主任委員、行政院公共工程委員會主任委員、金融監督管理委員會主任委員、國家通訊傳播委員會主任委員。
- (4) 聘任委員 5 人：由行政院院長聘任專家學者及社會公正人士，任期 2 年，得隨召集人異動而改聘。
- (5) 得視需要邀請監察院秘書長、考試院秘書長、銓敘部部長及其他有關機關首長列席。

英文回應：

58. The Executive Yuan, with an effort to coordinate anti-corruption policies and correct common practices in the field of politics, established a Central Integrity Committee in 2008, with the President of the Executive Yuan as the convener and the Ministry of Justice as the secretariat. Special reports and proposals related to issues of public concerns are submitted in the meetings so as to promote integrity works.

59. Committee members are designated and selected according to “Establishment Directions for the Central Integrity Committee”:

- (1) Convener: The Premier of the Executive Yuan
- (2) Deputy convener: Vice Premier of the Executive Yuan
- (3) 15 members ex officio: Ministers without Portfolio, Secretary-general of the Executive Yuan, Minister of the Interior, Minister of Foreign Affairs, Minister of National Defense, Minister of Finance, Minister of Education, Minister of Justice (who also serves as the Chief Executive of the Central Integrity Committee), Minister of Economic Affairs, Minister of Transportation and Communications, Minister of the Directorate-General of Personnel Administration, Executive Yuan, Minister of the National Development Council, Minister of the Public Construction Commission, Chairperson of the Financial Supervisory Commission, Chairperson of the National Communication Commission .
- (4) 5 appointed members: experts and scholars and social justice persons, appointed by the Premier of the Executive Yuan for a term of two (2) years; they may be replaced as the Convener changes.
- (5) The Committee may, as necessary, invite the Secretary-General of the Control Yuan, the Secretary-General of the Examination Yuan, the Minister of Civil Service, and other heads of relevant organs to attend.

2. 24		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯

<p>第 2 章 第 6 條</p>	<p>How is the ACC composed and which is the mechanism of appointment of its members?</p>	<p>請問廉政署如何成立及其任命成員之機制為何？ 【第二次國家報告第 35 頁 4.(2)】</p>
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中文回應：

60. 我國 2011 年 7 月 20 日成立廉政署，為兼具預防性反貪及專責性肅貪之複合性機關，肩負國家廉政政策規劃推動、反貪、防貪及肅貪等任務，依據《法務部廉政署組織法》及《法務部廉政署處務規程》規定，成員組成及任命機制如下：
- (1) 廉政署署長、副署長（2 人）及主任秘書由行政院核派實任司法官轉任或政風人員擔任。
 - (2) 廉政署設有 10 個組（室），各業務組人員派補，係遴調全國各政風機構具相當經驗、資歷之政風人員調（陞）任，以強化人員職務歷練。相關人事案件提報法務部政風人員甄審暨考績委員會或政風人員人事案件作業審查小組會議審議，並由法務部部長核派。
61. 廉政署為專責性肅貪機關，設有肅貪組及 3 個調查組，共 134 個肅貪人員，具司法警察官身分，廉政署成立之初，為引進其他機關具肅貪經驗優秀專業人員，並吸納多元人才、擴大整體肅貪能量，透過公開甄選方式，進用具肅貪實務之調查官、檢察事務官、警察等調任，往後每年再以肅貪考試、職缺徵才面試方式遴薦全國政風機構政風人員調任，藉由肅貪人員與政風人員交流機制，強化人員反貪、防貪及肅貪等各面向之職務歷練，以提升整體廉政政策之能量。

英文回應：

60. The AAC was established on July 20, 2011, to prevent and eradicate corruption. Its objective is to plan and promote ethical government for the nation by stopping, preventing, and investigating corruption. The member constitutes and appointments are according to the “Organic Act of the Agency Against Corruption, MOJ” and the “Regulations for Departmental Affairs of the Agency Against Corruption, MOJ” as below:
- (1) The director general, 2 deputy director-general and chief secretary of the AAC should be appointed by the Executive Yuan with seconded judicial officials from other agencies or with the Government Employee Ethics.
 - (2) The AAC’s organization consists of 10 divisions and offices, with staff members selected from experienced Government Employee Ethics in all Government Employee Ethic Units to increase faculty's job experience. The personnel selection proposals are submitted to the Public Integrity Screening and Performance Appraisal Committee of the Ministry of Justice (MOJ) or the Personnel Case Review Panel for review before qualified personnel is transferred or promoted, and the personnel assignment orders are issued after approved by the MOJ.
61. The AAC performs composite functions for the investigation of corruption, comprised of Investigation Division and 3 Investigation Offices. There are 134 corruption investigators holding the authority of judicial police. To transfer excellent talents with investigation experiences from other agencies and lure professionals in multiple fields to enhance investigation capacity, the AAC

designates prosecutor investigators, investigators and police officers openly during the beginning of its establishment, and then selects Government Employee Ethics nationwide through examinations in investigation and interviews. Such personnel exchange mechanism between corruption investigators and Government Employee Ethics helps to increase faculty's job experiences in anti-corruption, corruption prevention and corruption investigation and to enhance the overall integrity capacity.

2. 25		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 6 條	How are the appointed “resident prosecutors” selected? Has a public and transparent competitive contest been considered? (ROC’s Second Report, p.63)	請問「派駐檢察官」之遴選方式為何？是否考慮採行公開透明的競選程序？ 【第二次國家報告第 37 頁】

中文回應：

62. 「派駐檢察官」機制為廉政署首創，由法務部遴選檢察官派駐廉政署，建立檢察官先期參與偵查之期前辦案模式，直接指揮廉政官及相關司法警察偵辦貪瀆案件，經由多重過濾查證機制，以精緻偵查提升定罪率。
63. 派駐檢察官之遴選不同於競選，現行遴選辦法係依據《法務部遴選檢察官派駐法務部廉政署辦理肅貪業務要點》，由法務部自各級檢察署遴選具領導及溝通協調能力，並熟稔貪瀆及相關犯罪偵查實務之資深績優主任檢察官、檢察官，派駐廉政署辦理肅貪業務（要點第 2 點）；派駐期間為 3 年，必要時得酌予延長或縮短，延長期間不得逾 3 年（要點第 5 點）。
64. 「派駐檢察官」機制係為強化廉政肅貪業務執行成效，並統合廉政署與各級檢察署之聯繫協調，以提升貪瀆犯罪偵辦效能；派駐檢察官需熟稔貪瀆案件並具有相關犯罪偵查實務經驗，更需具備優秀之領導及溝通協調能力，方能精準掌握犯罪事證，並落實保障人權及展現偵查犯罪之獨立性，提升偵辦貪瀆案件之品質與效能，故人選以由法務部遴選之方式為宜，應暫無採公開競選方式之可能。

英文回應：

62. The AAC pioneered the “resident prosecutor” mechanism whereby the MOJ selects the prosecutors to be stationed at the AAC. The goal is to establish a case-handling model before the prosecutor participates in an investigation and directly instruct the integrity officer or the relevant judicial police to investigate corruption cases. This multi-layered filtering and verification mechanism can refine the investigation process and increase the conviction rate.
63. The resident prosecutor selection process is different from an election campaign. At present, selections are made in accordance with the “Guideline for the Ministry of Justice to Select Resident

Prosecutors to Station in the Agency Against Corruption to Handle Corruption Investigations.” The MOJ selects senior and outstanding chief prosecutors and those with leadership, communication, and coordination skills as well as familiarity with corruption-related criminal investigation practices from procuratorial positions and dispatches them to the AAC to handle corruption prevention operations (Point 2 of the Guideline). The assignment period is three years and may be extended or shortened when necessary. The extension period shall not exceed three years (Point 5 of the Guideline).

64. The “resident prosecutor” mechanism is designed to strengthen the ethical government and corruption investigation operations and enhance the communication and coordination between the AAC and the procuratorial offices at all levels to improve corruption crime investigation efficiency. The resident prosecutors must be familiar with corruption cases and have relevant practical experience in criminal investigations. They must also possess excellent leadership, communication, and coordination skills to interpret the crime evidence accurately, protect human rights, conduct unbiased criminal investigations, and improve the quality and efficiency of corruption investigations. Therefore, it is appropriate for the MOJ to select candidates, and an open election is not likely in the near future.

2. 26		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 6 條	Why has the ratio of female staff in lower rank positions declined in 2021? (ROC’s Second Report, p.65)	請問「較低職級的委任職務」在 2021 年女性人數比例下降之原因為何？ 【第二次國家報告第 38 頁】

中文回應：

65. 統計至 2022 年 5 月，中央及地方行政機關政風機構人數，簡任職務 176 人、薦任職務 2,346 人、委任職務 156 人，其中簡任高階主管在各政風機構中擔任領導及決策之角色，並由薦任人員擔任廉政工作推動之核心角色，而委任人員其職稱為助理員、辦事員或書記，皆非主管職務，故以處理公文收發等庶務性工作為主。在行政院組織改造過程中，會積極爭取薦任以上政風人員之設置，或將委任人員改置為薦任人員，俾利提升廉政核心業務之辦理能量，又政風人員依《公務人員考試法》錄取進用人員，均以薦任職務為主，且經統計 2017 年至 2021 年全國廉政人員中，委任職級退休人數，女性 35 人、男性 26 人，故 2021 年女性人數比例方有下降情形。

英文回應：

65. As of May 2022, there are 176 staff of senior-rank positions, as leaders and policy-makers, 2,346 staff of junior-rank positions, as main executors of integrity matters, and 156 staff of elementary-

rank positions, titled as junior officer, clerk or associate clerk responsible for document receipt/forwarding and other general affairs, in all Government Employee Ethic Units of central and local administrative agencies. During the period of organization reform for the Executive Yuan, we will strive for extensions of senior-rank and junior-rank positions, or for transference from elementary-rank positions to junior-rank positions, so as to improve the core integrity business. Besides, all Government Employee Ethics derived from examinations according to the “Civil Service Examinations Act” are of junior-rank positions. Statistics for the AAC personnel between 2017 and 2021 indicate that the number of retired staff of junior-rank positions was 35 women and 26 men, so the proportion of women decreased in 2021.

2.27		
及公約條文 或結論性意 見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 7 條 (第 14 點)	<p>(ROC’s Second Report, p.19)</p> <p>-the collusion between politics and large enterprises may lead to corruptions...</p> <p>Do you consider any further amendments of the “Political Donations Act”?</p> <p>Further amendments of the “Political Donations Act” are recommended</p> <p>- to prohibit any donations by companies, associations, or organizations (then, only private individuals can do contribute to political donations), and</p> <p>- to stipulate the annual upper limit of an individual's political donation, and furthermore, the upper limit of political donations for a specific political party or candidate.</p>	<p>參考第二次國家報告 (第 11 頁) 內容「美國智庫傳統基金會 2019 年與 2020 年發布之經濟自由度…政治與大型企業間存有密切牽連」請問是否考量進一步修訂《政治獻金法》?</p> <p>建議進一步修訂《政治獻金法》之內容:</p> <ul style="list-style-type: none"> - 禁止公司、協會或組織之政治獻金 (爰此, 得捐贈政治獻金者, 以個人為限); - 規定個人捐贈政治獻金之年度總額上限, 以及對特定政黨或候選人捐贈政治獻金之總額上限。 <p>【第二次國家報告第 11、38 頁】 【回應報告第 7 頁】</p>

中文回應：

66. 《政治獻金法》立法之初，對於是否禁止營利事業、人民團體捐贈政治獻金之問題有所討論。其中營利事業部分，全面禁止捐贈固可防杜利益輸送，但於政治現實有其困難，且各國立法例亦非全然禁止，經朝野黨團協商後，並未納入規範；至社會團體部分，在立法院

內政委員會討論時，部分委員指出社會團體、職業團體對於促進民主政治、多元參與具有重要功能，爰未禁止其捐贈政治獻金。

67. 《政治獻金法》雖未完全禁止營利事業、人民團體捐贈政治獻金，但為免政治獻金影響國家安全、易導致貪腐，甚或流於檯面下運作，《政治獻金法》對公司或人民團體捐贈資格及捐贈金額均已設有限制。依《政治獻金法》第7條第1項規定，公營事業或政府持有資本達20%之民營企業；與政府機關（構）有巨額採購或重大公共建設投資契約，且在履約期間之法人；有累積虧損尚未依規定彌補之營利事業；外國、大陸地區、香港、澳門之法人或主要成員為外國、大陸地區、香港、澳門人民、法人、團體或其他機構之團體或其他機構，或主要成員屬之者，均不得捐贈政治獻金。（第二次國家報告第27頁-1(4)）
68. 此外，《政治獻金法》第17條及第18條已分別規定個人、公司或人民團體向政黨、擬參選人之每年捐贈總額上限。

英文回應：

66. At the process of making the “Political Donations Act,” there was some discussion on whether to prohibit the political donations by profit-seeking businesses and civil associations. Although the prohibition of political donations from profit-seeking businesses is conducive to preventing the transmission of benefits, there are difficulties in political reality, and considering that other national legislation is not completely prohibited. After caucus consultation, it was not included in the norms. As for civil associations, during the discussion of the Legislative Yuan's Internal Affairs Committee, some legislators pointed out that social groups and professional groups have important functions for promoting democratic politics and pluralistic participation, and cannot be prohibited from making political donations.
67. The “Political Donations Act” does not completely prohibit political donations by profit-seeking businesses and civil associations, but it has set limit on the eligibility to donate and the amount of donations of businesses or associations in order to prevent political donations from affecting national security, easily leading to corruption, even being diverted to operation that are under the table. According to Paragraph 1, Article 7 of the Act, public enterprises or private enterprises in which the government holds at least 20% of the capital, manufacturers that have signed a government procurement contract of a large amount or an investment contract of important public construction are performing the contract, profit-seeking businesses in accumulative deficit that have not been made up in accordance with relevant provisions, foreign, People’s Republic of China, Hong Kong or Macao citizens/residents, 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 not allowed to make political donations. (ROC’s Second report p.48)
68. In addition, in Article 17 and 18 of the same Act, annual maximum amounts of political donations to political parties and candidates made by individuals, profit-seeking businesses or civil associations are also prescribed.

涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 7 條	Do you have any articles to disclose criminal records and/or asset declarations of election candidates?	有無揭露選舉候選人犯罪紀錄及/或申報財產之法條？ 【第二次國家報告第 26、41 頁】

中文回應：

69. 目前並無規範揭露選舉候選人犯罪紀錄之法條，惟為打擊貪腐淨化選風，《總統副總統選舉罷免法》第 26 條及《公職人員選舉罷免法》第 26 條，定有不得登記為候選人情事，如曾犯內亂、外患、貪污、賄賂等罪，經判刑確定者，即不得參選，並由選舉委員會會審定候選人資格。犯其他罪名經判刑確定，倘執行完畢且未受褫奪公權宣告者，則仍得參選。
70. 選舉候選人申報財產規範如下：
- (1) 《公職人員財產申報法》第 2 條第 3 項規定，總統、副總統及縣（市）級以上公職之候選人應準用本法之規定，於申請候選人登記時申報財產。
 - (2) 《總統副總統選舉罷免法施行細則》第 11 條、《公職人員選舉罷免法施行細則》第 15 條規定，總統、副總統、立法委員、直轄市議員、直轄市長、縣（市）議員及縣（市）長選舉候選人，應檢附候選人財產申報表。
 - (3) 依《公職人員財產申報法》第 6 條第 2 項、第 6 條第 3 項規定，總統、副總統、立法委員、直轄市長、縣（市）長之選舉候選人之財產申報應上網公告。立法院於 2022 年 5 月 30 日三讀通過修正《公職人員財產申報法》第 6 條，增列直轄市議員、縣（市）議員財產申報資料應予公告，使選民藉此瞭解候選人財產狀況，亦可促使候選人保持清廉操守，乾淨選舉。

英文回應：

69. Currently, there is no regulation governing the criminal records disclosure of election candidates. To combat corruption and realize clean elections, it is stipulated in the Article 26 of “Presidential and Vice Presidential Election and Recall Act” and the same article of “Civil Servants Election And Recall Act” that where the person has committed the crime of insurrection, the crime relating to foreign regression or the crime of corruption and is thus sentenced may not be registered as a candidate and his qualification requirements of the candidate shall be examined by the election commission. However, where the person has committed any crime other than the mentioned above is thus sentenced but not deprived of public rights, and the imprisonment has been finished, the regulations shall not be applied.
70. Property declarations by election candidates are stipulated as follows:
- (1) Paragraph 3, Article 2 of the “Act on Property-Declaration by Public Servants” provided that “Election candidates of the President, Vice President, and county/city level and above shall apply mutatis mutandis to this Act and declare properties upon the registration of application for election candidates.”

- (2) Article 11 of “Enforcement Rules of Presidential and Vice Presidential Election and Recall Act” and Article 15 of “Enforcement Rules of Civil Servants Election And Recall Act” provided that candidates for the elections of the President, Vice President, the legislators, municipal councilors and mayors, as well as county (city) councilors and mayors shall submit candidate property declaration application forms.
- (3) Paragraph 2 and Paragraph 3, Article 6 of the “Act on Property-Declaration by Public Servants” provided that declarations made by candidates for the elections of the President, Vice President, the legislators, mayors of special municipalities and the governors of counties (cities) shall be published on the Internet. The Legislative Yuan passed an amendment to Article 6 of the “Act on Property-Declaration by Public Servants” after the third reading on May 30, 2022, to add property information announcement for special municipality councilors and county/city councilors. The goal is to allow voters to understand the property status of candidates and encourage them to maintain their integrity and run clean elections.

2. 29		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 8 條	Do channels to report corruption include online anonymously mechanisms? (ROC’s Second Report, p.75)	請問檢舉貪腐之管道是否包含線上匿名檢舉機制? 【第二次國家報告第 43-44 頁】

中文回應：

71. 廉政署對於受理檢舉貪瀆或相關犯罪之管道，設有 24 小時檢舉服務專線電話，並提供現場檢舉、書面檢舉、傳真及網頁填報等多元檢舉管道，檢舉人以具名或匿名方式檢舉，均予以受理並就檢舉事項依法辦理。

英文回應：

71. The AAC has a 24-hour hotline for reporting corruption or related crimes and provides multiple reporting channels such as on-site reporting, written reporting, fax reporting, and online webpage reporting. Whistleblower can report under their real name or anonymously. All cases are accepted, and the reported matters are handled in accordance with the law.

2. 30		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 9 條 (第 15 點)	<u>Considering the establishment of a Clean Procurement Committee</u>	<u>考慮成立廉潔採購委員會</u>

	<p>(Response Report, p41)</p> <p>There does appear to be a need for more centralisation of procurement oversight, strategy and guidelines.</p> <p>The procurement transparency initiatives currently sit with each department, and one could expect them to be quite silo'd. In addition one would expect government procurement guidelines and government procurement strategies to be developed by a centralised organisation.</p> <p>Should this body be responsible for investigations as suggested in 1(1)?</p> <p>There needs to be clarity of roles and not double up of investigation functions between agencies.</p>	<p>機關採購確實需要更加集中的採購監督、策略與指引。</p> <p>採購廉潔透明措施目前存在於各個機關(部門),這些措施是非常分散。另外,民眾會期待將由一個集中權限的組織來制定採購指引和策略。這個組織需要如 1 (1)「採購申訴審議委員會」負責調查嗎?似乎有需要對它的角色做些釐清,並且避免組織間調查功能重複的問題。</p> <p>【第二次國家報告第 44 頁】</p> <p>【回應報告第 27 頁】</p>
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中文回應：

72. 依《政府採購法》第 9 條及第 10 條規定，該法主管機關為工程會。制定採購指引和策略為工程會的職掌之一。另工程會依該法第 108 條設有中央採購稽核小組，負責稽核監督機關辦理之採購事宜。採購申訴審議委員會（下稱申訴會）職掌《政府採購法》第 76 條廠商申訴、第 85 條之 1 履約爭議之調解及第 102 條廠商申訴等處理事項。工程會及申訴會無功能重複的問題。

英文回應：

72. According to Article 9 and 10 of the “Government Procurement Act,” the “responsible entity” referred to in this Act means the Procurement and Public Construction Commission. Developing government procurement guidelines and strategies is one of its responsible matters. According to Article 108 of this Act, the Procurement and Public Construction Commission (PCC) establishes the central government supervision unit to monitor and supervise the procurement affairs. The Complaint Review Board for Government Procurement (hereinafter called the “CRBGP”) is in charge of matters stipulated in Article 76 (supplier complaint), Article 85-1 (i.e, dispute mediation), and Article 102 (i.e, supplier files complaint) of the “Government Procurement Act.” The PCC and CRBGP have no issues of functional duplication.

涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 9 條	<p><u>EY and EY entities and organizations sign the “Internal Control System Statement” (Response Report, p.35)</u></p> <p>Great to see specific commitment and measuring against this through effectiveness.</p> <p>Are entities encouraged to report on positive impacts for entities of internal control systems (eg employee trust, speaking up).</p>	<p><u>行政院及所屬機關簽署內部控制聲明書</u></p> <p>很高興看到具體的承諾，並以有效性作評估。</p> <p>此外，有無鼓勵各機關(構)提出說明內部控制制度為其帶來的正面影響（例如員工信任、建言行為等）？</p> <p>【第二次國家報告第 50 頁-17(5)】</p> <p>【回應報告第 23 頁】</p>

中文回應：

73. 機關簽署內部控制聲明書，可促使全體人員於執行各項業務時加強內部控制觀念及風險管理意識，並針對機關內部控制缺失澈底檢討改善，進而檢修內部控制機制並落實執行，以協助機關達成各項施政目標。另針對簽署「部分有效」及「少部分有效」內部控制聲明書類之機關，行政院亦函請主管機關積極督導所屬機關檢討改善內部控制缺失，並適時評估採取例外管理，協助所屬強化內部控制，進而達成良善治理目標。
74. 國發會為鼓勵各機關瞭解行政機關風險管理（含內部控制）制度帶來之正面影響，除協助各機關辦理教育訓練外，每年亦舉辦 2 場次研習訓練，並製作數位課程已於 2021 年底上線，向各機關全體人員進行宣導、溝通與交流，持續推廣及建立自主風險管理觀念、型塑風險管理意識，並提供風險管理正確概念與實務運作架構，以提升各機關風險管理量能。

英文回應：

73. By signing “Internal Control System Statement,” entities can strengthen the awareness of internal control and risk management of their staff when conducting business and improve internal control related problems thoroughly. Based on these improvements, internal control mechanisms are adapted and implemented to help entities achieving their governance objectives. For entities without effective statement, the Executive Yuan will ask their competent authorities to supervise and track remediation until improved, conduct management by exception in time and help affiliated agencies to strengthen internal control mechanisms in order to achieve governance objectives better.
74. In order to encourage various agencies to understand the positive impact of the risk management (including internal control) system of administrative agencies, the National Development Commission not only assists agencies in conducting education and training, but also organizes two training sessions every year, and produces digital courses that were launched at the end of 2021. The goal is to publicize, communicate and exchange with all the staff of each agency, continue to

promote and establish the concept of independent risk management, shape the awareness of risk management, and provide the correct concept of risk management and practical operation structure to improve the risk management capacity of each agency.

2. 32		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 10 條	Who controls the accomplishment of the delivery of information to the public by the authorities? Is there a Tribunal or Panel that investigate and sanction the lack of accomplishment? (ROC's Second Report, p.86)	政府機關落實資訊公開之監督機關為何？對於未落實者，是否透過法庭或專責小組加以調查及裁處？ 【第二次國家報告第 50-51 頁】

中文回應：

75. 按《政府資訊公開法》第 5 條規定：「政府資訊應依本法主動公開或應人民申請提供之。」關於政府資訊是否得公開或提供，應由持有資訊之機關，依具體個案情形審酌判斷有無限制公開或不予提供之事由，並作成決定回復申請人。又依本法第 20 條規定，申請人因不服政府機關就其申請提供、更正或補充政府資訊所為之決定，依法得提起行政救濟（包括訴願或行政訴訟）。
76. 檔案係政府資訊之一環，《檔案法》並未訂定監督機關，人民如對相關處分不服，可依法提起行政救濟。

英文回應：

75. According to Article 5 of the “Freedom of Government Information Law,” government information shall be made available to the public actively in accordance with the Law or provided as requested by any person. With respect to whether government information should be made available to the public or provided, the government agency holding the government information should decide whether there are causes for restricting from making it available to the public or provision according to the specific circumstances of the case, and making a decision to reply to the applicant. Also in accordance with Article 20 of the Law, an applicant who has an objection to the decision made by a government agency for the request of providing, correcting or supplementing the government information may seek for administrative relief (including administrative appeal or administrative litigation) as provided by law.
76. Furthermore, archives are part of government information, and the “Archives Act” does not set up any supervisory authority. Those who refuse to obey related depositions can file administrative remedies.

2.33		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 10 條	How were the measures for administrative transparency of the 180 cases of 2021 selected and promoted? (ROC's Second Report, p.87)	有關 2021 年間所推動之 180 項行政透明措施，請問各項措施是如何擇定？推行方式為何？ 【第二次國家報告第 51 頁】

中文回應：

77. 我國推動行政透明措施，係由各機關依據行政院訂頒《行政院及所屬機關（構）推動行政作業流程透明原則》辦理，上開原則規定由各機關針對涉及人民權利或義務之業務，檢視權管業務之行政透明措施，檢視標準包含：依法令應主動公開之事項、其他與人民權益攸關之法令、審查標準、流程、進度與範例事項、公開的訊息完整正確、民眾易於取得與解讀公開資訊、公開資訊有助於民眾監督政府、因未公開資訊致影響政府公信力等。
78. 各機關於推動行政作業流程透明時，得檢討作業流程，選定推動行政作業流程透明項目。另外各機關於推動行政作業流程透明措施，得結合電子化政府設施及科技運用辦理，並加強教育宣導。

英文回應：

77. Government agencies shall handle the nation's administrative transparency measures in accordance with the "Principles of Administrative Procedure Transparency Promotion for Subordinate Agencies (Organizations) of Executive Yuan." The abovementioned principles stipulate that all agencies shall review the administrative transparency measures for operations involving the citizens' rights or obligations. The review criteria include matters that should be actively disclosed in accordance with the law as well as other regulations, review standards, procedures, progresses, and case precedents related to the rights and interests of the people. The goal is to ensure that the public information is complete and correct, ease of access for the public to obtain and interpret public information, the information disclosed can help the public monitor the government, and undisclosed information can negatively affect the credibility of the government.
78. When promoting administrative procedure transparency, each agency must review the operation procedures and select the administrative procedure transparency promotion items. In addition, all agencies may combine digital government facilities and technology applications to promote administrative procedure transparency measures and strengthen education and promotion.

2.34

涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 10 條 (第 3 點)	<p><u>Assisting entities in establishing administrative transparency measure</u> (Response Report, p.32)</p> <p>What goals does the AAC have for transparency measures in different categories (administrative, subsidy, application, budget execution) and for understanding and publishing the gaps?</p>	<p>協助各機關建置行政透明化措施</p> <p>請問廉政署對於各類透明化措施（如行政、補助、申辦、預算執行等）之目標為何？對於瞭解與公開之資訊落差為何？</p> <p>【第二次國家報告第 51 頁-18(2)】 【回應報告第 21 頁】</p>

中文回應：

79. 行政院為落實 UNCAC 所揭示促進政府機關透明與課責制度之目標，規劃辦理行政作業流程透明，以利外部監督、型塑廉能政府，訂定《行政院及所屬機關（構）推動行政作業流程透明原則》，透過將各機關權管業務作業流程中，與業務有關之法令適用、審查標準、審核流程、審查進度與範例之事項公開，以確保政府行政部門運作及決策過程之外部監督可及性，各機關截至 2021 年推動 180 項，已有初步成效。廉政署並督導各政風機構，協助機關建置落實推動相關措施，後續配合機關需要及外界期待持續精進，以提高政府透明度與可信度，打造乾淨廉能政府。經由政府資料的開放，可促使跨機關資料流通，提升施政效能，強化民眾監督政府的力量，對於各級政府間或各部會間之決策品質均有助益。

英文回應：

79. To implement UNCAC's goal of transparency and accountability promotion for government agencies, the Executive Yuan has planned and implemented administrative procedure transparency to facilitate external supervision and shape an ethical and efficient government. The "Principles of Administrative Procedure Transparency Promotion for Subordinate Agencies (Organizations) of Executive Yuan" compels the various competent agencies to disclose legal applications, review standards, inspection processes, review progresses, and case precedents from their operational procedures. The goal is to ensure external oversights for government agency operations and policy process accessibility. The agencies promoted 180 items by 2021, and preliminary results have been achieved. The AAC shall supervise the various Government Employee Ethics Units to assist agencies in implementing the relevant measures, and continue refining them in accordance with the agencies' needs and the public's expectations. The goal is to improve government transparency and credibility while shaping a clean and honest government.

涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
<p>第 2 章 第 10 條 (第 3 點)</p>	<p><u>Statistics of Government Open Information Platform (Response Report, p.32)</u></p> <p>Open information with regards to the site (https://data.gov.tw). Although I can't read the documents, there look to be good general headings.</p> <p>1. Is there a strategy for Open Information?</p> <p>2. with regards to the site (https://data.gov.tw/en) What is the reason for why areas are included or not? For example I don't see crime statistics, COVID statistics, tax, environment, climate change, state sector performance, expenses of public sector leaders and parliamentarians; economy – forecasts.</p>	<p><u>政府資料開放平臺統計</u> <u>政府資料開放平臺網址</u> https://data.gov.tw</p> <p>雖然無法讀懂該平臺中的文件（中文），但網頁標題設計美觀、分類清楚。</p> <p>1. 請問有無開放資料策略？</p> <p>2. 英文版網站提供或不提供部分類別資料的原因為何？例如，該網站並未呈現犯罪統計、嚴重特殊傳染性肺炎統計數據、稅務、環境、氣候變遷、政府部門績效、公部門首長與議員支出、經濟預測等資料。 【第二次國家報告第 51 頁-18(3)】 【回應報告第 21 頁】</p>

中文回應：

80. 為有效型塑我國開放文化，我國已於 2013 年頒布《行政院及所屬各級機關政府資料開放作業原則》，並於 2019 年完成修訂，推動部會落實資料開放相關作業，極大化政府資料開放與增值應用，且於 2019 年頒布《智慧政府行動方案》，各部會須依作業原則擬訂《資料開放行動方案》，提升資料開放品質及利用價值，以帶動民間發展多元便民服務與應用。
81. 目前政府資料開放平臺資料集服務分類，係依據我國「行政機關電子資料流通詮釋資料及分類檢索規範」規定，區分為 18 項分類，有關犯罪統計、嚴重特殊傳染性肺炎統計數據、稅務、環境、氣候變遷、政府部門績效、公部門首長與議員支出、經濟預測等資料均已開放相關資料，可於「生活安全及品質」、「就醫」、「公共資訊」、「投資理財」等分類項下取得相關資料。

英文回應：

80. In order to build our country's open culture effectively, our country has promulgated the "Principles for the Openness of Government Data by the Executive Yuan and its all-levels subordinate agencies" (operational principles) in 2013, and revised it in 2019. The promotion department has

implemented the relevant work on data opening, maximized the opening of government data and value-added applications, and in 2019 has promulgated the "Smart Government Action Plan." For improving the quality and use value of data openness, all ministries and committees must formulate a "data openness action plan" in accordance with operational principles, to promote the development of diverse and convenient services and applications.

81. Open Government Data Platform Datasets Service Classification is based on the regulations of our country's "Administrative Organs Electronic Data Circulation Interpretation Data and Classification Retrieval Specifications." The data is divided into 18 categories, and relevant information on crime statistics, statistics on severe special infectious pneumonia (COVID-19), taxation, environment, climate change, government sector performance, expenditures by public sector heads and legislators, and economic forecasts have been released, and can be found under the categories of "Living Safety and Quality," "Medicine," "Public Information," and "Investment and Financial Management."

2. 36		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 10 條 (第 13 點)	<u>Organising integrity survey</u> <u>(Response Report, p39)</u> Excellent work, this is a great result, especially in the context of COVID which put considerable pressure on social licence.	<u>辦理廉政民意調查</u> 是很值得讚許的工作，並有很優秀的表現，尤其在 Covid-19 疫情期間，對於社會許可是一個很大的壓力。 【第二次國家報告第 52 頁】 【回應報告第 26 頁】

中文回應：

82. 透過每年辦理廉政民意調查，調查研究民眾對於政府廉政的觀感和期待，長期量測追蹤我國民眾在廉政議題上的變化及趨勢，供未來政府廉政措施參考，感謝委員肯定，未來將會持續辦理相關廉政民意調查。

英文回應：

82. By conducting an annual ethical government public opinion survey, the MOJ investigates and understands the public's perceptions and expectations of government integrity. The goal is to track our nation's ethical government-related changes and trends for the long term to provide a reference for future government integrity measures. Thank you, councilor, for your affirmation. We will continue to conduct integrity-related public opinion surveys in the future.

2. 37

涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 10 條	Is it possible to share the results of the last Integrity Opinion Survey conducted by the MOJ? (ROC's Second Report, p.89)	能否分享法務部最新辦理之廉政民意調查結果？ 【第二次國家報告第 52 頁】

中文回應：

83. 有關 2021 年法務部「廉政民意調查」(委託台灣透明組織協會執行)，主要調查結論如下：
- (1) 受訪者對貪污的容忍度：受訪者對公務人員貪污行為容忍度的平均數為 1.26 (0-10, 10 為最容忍)，顯示隨著公民意識的抬頭，民眾對於貪污的容忍度已經維持在一定程度的低點。
 - (2) 受訪者對違反廉政行為的看法：在 4 種常見違反廉政行為方面，2021 年調查顯示這些行為嚴重程度平均數依序為「企業提供好處影響政策」、「私部門利用管理員工或處理事情的權力得到個人好處」、「民眾請託他人向公務人員關說情形」及「民眾向公務人員送紅包的情形」。民眾認為私部門違反廉政行為較為嚴重，而民眾向公務人員送紅包的情形較不嚴重。

英文回應：

83. In 2021, the Ministry of Justice commissioned Transparency International Chinese Taipei to conduct the “Anti-Corruption Survey,” with the main findings as follows:
- (1) The interviewees’ tolerance for corruption: The average score for the interviewees’ tolerance for corruption against public officials was 1.26 (0-10, with 10 being the highest tolerance). This means that with the rise of civic awareness, the public’s tolerance for corruption has remained at a low point.
 - (2) The interviewees’ perception of integrity violations: The 2021 survey indicated that the four common integrity violations, ranged in accordance with the severity-level scores, are as follows: “bribes provided by enterprises to influence policies,” “abuse of the power of employee management or business handling by the private sector for personal benefits,” “citizens hiring others to lobby public officials,” and “citizens giving red envelopes (money) to public officials.” The public believes that the integrity violation by the private sector is more serious, and giving red envelopes (money) to public servants is less serious.

2. 38		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 10 條	Do you have any indicators to periodically evaluate the performance	有無可定期評估政府反貪腐成效的指標？

	<p>of government's anti-corruption efforts?</p> <p>Please refer: my attached paper for a presentation at the IACC in 2020 for your information:</p> <p>“4.5. Additional Couple of Indicators: It would be hard to expect to realize a just society by dealing with visible bribes alone. Another couple of supplementary indicators can be considered to measure any progress in curbing corruption to reach the target:</p> <ul style="list-style-type: none"> • Indicator 16.5.3: Proportion of persons who perceived public policy decisions, during the previous 12 months, were mostly made not for the public interest but for a specific interest group or person. • Indicator 16.5.4: Proportion of persons who perceived the government, during the previous 12 months, did not properly handle the fight against corruption.” 	<p>可參閱附件資料，2020 年國際反貪會議（IACC）演講內容：</p> <p>「4.5. 其他指標：單靠處理可見的賄賂案件，難以營造一個公正的社會，應有可估量遏止貪腐程度以達成目標的其他附加指標：</p> <p>指標 16.5.3：知悉近 12 個月針對特定利益團體或個人而非公共利益所訂公共政策決策的人數比例。</p> <p>指標 16.5.4：知悉近 12 個月政府未適當打擊貪腐情形的人數比例。」</p> <p>【第二次國家報告第 26 頁-1(1)、51-52 頁-19】</p>
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中文回應：

84. 法務部及各級政風機構辦理廉政民意調查，藉由調查研究民眾對於各級政府廉政的觀感和期待，長期量測追蹤我國民眾在廉政議題上的變化及趨勢。例如：法務部定期對全國民眾辦理廉政民意調查、財政部辦理廉政服務指標問卷調查、臺北市政府政風處辦理廉政指標調查及台灣自來水公司辦理工作安全衛生暨假設工程管理廉政民意調查等。
85. 行政院每次召開中央廉政委員會議，由法務部提出「當前廉政情勢及分析」報告案，該報告案自國際廉政評比及從檢察官偵辦貪瀆犯罪探討犯罪狀況等進行個別分析：
- (1) 從檢察官偵辦貪瀆犯罪探討犯罪狀況：統計 1 年內各地檢署檢察官偵辦貪瀆案件，分析涉案人員的官等（分 5 類，簡任、薦任、委任、約聘僱、民意代表及委託公務員）、服務機關（分 4 類，中央行政機關、中央民意機關、地方行政機關、地方民意機關）、性別（男性或女性）及涉案類別（依《法務部辦理貪瀆案件涉案類別及特殊註記歸類原則》分 27 類）。

- (2) 關注國際評比或指標：檢視、評估政府反貪腐成效（例如「經濟自由度指數」針對法律制度、政府規模、監管效率及市場開放四大面向進行評比；「各國人權報告」第四節，針對官員貪腐與政府缺乏透明度進行評估；「世界競爭力報告」針對經濟表現、政府效能、企業效能及基礎建設四大面向進行評比）。

英文回應：

84. The MOJ and Government Employee Ethics Units at all levels conduct an annual ethical government public opinion survey to investigate and understand the public's perceptions and expectations of government integrity. The goal is to track our nation's ethical government-related changes and trends for the long term. For example, the MOJ annually conducts the integrity opinion survey for the public nationwide, the MOF conducts the integrity service barometer survey, the Taipei City Government conducts the integrity performance indicators survey, the Taiwan Water Corporation conducts the public safety and health & falsework management integrity opinion survey and so on.
85. During all previous committee meetings of the Central Integrity Committee of the Executive Yuan, reports were submitted by the MOJ on "Current Integrity Situation and Analysis" which included the international integrity assessments and study of corruption and malfeasance offenses from the viewpoint of investigation and prosecution conducted by prosecutors:
- (1) For study of corruption and malfeasance offenses from the viewpoint of investigation and prosecution conducted by prosecutors: Based on the statistics of corruption and malfeasance cases investigated by prosecutors at every district prosecutors office within one year, we provide the analysis of the official ranks of the individuals involved (including senior-rank positions, junior-rank positions, elementary-rank positions, contract and hired employees, elected representatives and delegated public servants), the analysis of the government sectors where the individuals involved served at the time of offenses (including central administrative authorities, central legislative authorities, local administrative authorities and local legislative authorities), the analysis of the gender of the individuals involved (including males and females) as well as the analysis of the categories of offenses, sorted into 27 categories according to the "Classification Principles of Corruption Cases- Offense Category and Special Genres."
- (2) For international assessments or indicators: We observe and evaluate the anti-corruption efficiency of the government through relevant international evaluations or indicators, such as "Index of Economic Freedom" evaluating four aspects of rule of law, government size, regulatory efficiency and open markets; Section 4 of "Human Rights Report," assessing corruption and lack of transparency in government; "IMD World Competitiveness" evaluating four major aspects of economic performance, government efficiency, business efficiency and infrastructure.

涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	What is an “Attorney Certificate” and which is its value? (ROC’s Second Report, p.41、93)	「律師證書」為何？該證書有何價值？ 【第二次國家報告第 23、53 頁】

中文回應：

86. 依據《律師法》第 5 條及第 19 條規定，通過律師考試、完成律師職前訓練，且無特定犯罪紀錄者，得向法務部請領律師證書；取得律師證書並加入律師公會者，方得執行律師職務。

英文回應：

86. Articles 5 and 19 of the “Attorney Regulation Act” provides that those who have successfully passed the Bar Examination, completed the Pre-Service Training for Attorneys, and have no specific criminal records may apply for and receive an attorney license from the Ministry of Justice (MOJ). Only those who have received their attorney license and been admitted to the Bar Association can perform the duties of an attorney.

2.40		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	Which is the current status of the draft to implement the “Nationals Participation in Review of Non Prosecution Disposition Act”? (ROC’s Second Report, p.41、93)	請問目前《國民參與不起訴處分審查法》草案立法進度為何？ 【第二次國家報告第 24、54 頁】

中文回應：

87. 法務部於 2019 年間，參考當時推行之國民參與刑事審判法草案，提出《國民參與不起訴處分審查法》草案，廣徵各界意見。惟國民參與審判制度近年有重大變革，未採「國民參與刑事審判法草案」而另行制定通過《國民法官法》，且《刑事訴訟法》修正草案將「交付審判」改為「視為提起自訴」，現於立法院審議中。上開各該法案之法制及實務運作，均與《國民參與不起訴處分審查法》草案之規劃相互牽動影響。

88. 為昭慎重，法務部已就草案條文架構及說明重新逐一審視修正，並多次召開會議邀集司法機關代表就檢察審查會之設置、組成、運作與現行刑事訴訟法已有再議、交付審判制度，及《國民法官法》如何銜接等，詳為討論交換意見，目前正研議解決各界疑義，以期儘速提出可行之方案。

英文回應：

87. In 2019, the Ministry of Justice (MOJ) referenced the “Draft of the Act of Citizen Participation of Criminal Judgment” considered at the time to propose the “Citizen Participation in Non-Prosecution Trial Act” draft and solicit comments from all walks of life. However, there have been major changes in recent years involving the citizen trial participation system. The “National Judges Act” was adopted instead of the “Draft of the Act of Citizen Participation of Criminal Judgment.” Moreover, the “setting the case for trial” method provided by the Code of Criminal Procedure is being revised to “regarded as a private prosecution,” which is under consideration by the Legislative Yuan. The preceding bills’ legal system and practical operation are interrelated with the draft formulation of the “Citizen Participation in Non-Prosecution Trial Act.”
88. For prudence, the MOJ has re-examined and revised the structure and description of the draft articles. The MOJ has held several meetings to invite judicial agency representatives to reconsider the establishment, composition, and operation of the procuratorial review committee as well as the existing criminal procedure law, which has been handed over to the trial system. The goal is to discuss and exchange suggestions on incorporating the “National Judges Act.” We are currently exploring how to resolve concerns from all walks of life to develop a feasible solution as soon as possible.

2. 41		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條、 第 25 條	The last report of the High Commissioner of UN on Independency of Judges, about independency and corruption, has been reviewed by the Judicial Yuan or the MOJ?	有關聯合國高級專員辦事處最近提出之法官獨立性報告，請問司法院或法務部是否已檢閱其中獨立性與貪腐相關內容？ 【第二次國家報告第 52、87 頁】

中文回應：

89. 聯合國法官和律師獨立性特別報告員所提出之法官獨立性報告，其中所指出法官、律師獨立性與反貪腐二者之間之重要關係，甚具參考價值，且為我國向來所重視。
90. 法官及檢察官之獨立性，為我國《憲法》及大法官解釋所確立。

(1) 法官獨立性：

我國《憲法》第 80 條揭示「法官須超出黨派以外，依據法律獨立審判，不受任何干涉」，法官應本諸自己之法律判斷為裁判，不僅不受任何外來指示、命令，亦不受司法行政機關或上級法院內部之指示與命令(參司法院釋字第 539 號解釋理由書)。司法獨立審判的意旨即在透過法官本於良知依法獨立裁判，用以確保人民在司法上訴訟權利，得到公平公正及客觀的判斷，而不受任何外在因素影響干涉，包括不受媒體、公眾輿論、政治及宗教等立場或其他因素之影響干涉。又獨立審判之實質內容，包含「職務獨立性」及「身分

獨立性」二者，前者指法官從事審判僅受法律之拘束，不受其他任何形式之干涉（《憲法》第 80 條）；後者謂法官之身分或職位不因審判之結果而受影響（《憲法》第 81 條），兩者兼具方得以確保司法審判之獨立。

- (2) 檢察官代表國家從事「偵查」、「訴追」及「執行」，在此範圍內之國家作用，屬廣義司法機關（參釋字第 392 號解釋理由書），檢察官除對內受檢察一體拘束外，對外獨立行使職權，實任檢察官身分獨立性之保障與實任法官同（參釋字第 325 號解釋理由書），檢察官獨立行使職權亦為經我國大法官歷來釋字所確立之憲法基本原則。
- (3) 我國現行法律中，針對維護律師獨立性雖無明文規定，然我國為高度民主法治國家，國家所為任何干預處分均須恪遵法律保留原則，嚴守法律相關規定，並受到司法權及監察權之監督。

英文回應：

89. The Independence Judge Report issued by the UN Special Rapporteur Independence Judges pointed out the important correlation between the judges and lawyers as well as the fight against corruption. This report offers significant referential value and has always been valued by our country.

90. The independence of judges and prosecutors is established by our country's Constitution and interpretation by grand justices.

(1) Independence of Judges:

Article 80 of our Constitution provides that “Judges shall be above partisanship and shall, in accordance with law, hold trials independently, free from any interference.” Judges must enter judgments based on their own legal decisions and shall neither be subject to any external instructions and orders nor any instructions and orders from judicial administrative organizations or higher-level courts (See Judicial Court Interpretation No. 539 for reasons explanation). The purpose of independent judicial adjudication is to ensure the independence of judgments according to the law and based on the conscience of judges. The goal is to ensure the people's right to judicial litigation and obtain a fair, impartial, and objective judgment without interference from external factors such as media, public opinion, political and religious positions, or other elements. Moreover, the substance of independent adjudication includes both “job independence” and “identity independence.” The former means that judges are only bound by the law and are not subject to any other form of interference (Article 80 of the Constitution). The latter means that the status or position of judges will not be affected by the trial's outcome (Article 81 of the Constitution). Both can ensure the independence of the judiciary system.

- (2) Prosecutors execute “investigation,” “prosecution,” and “enforcement” on behalf of the state. In a broad sense, the state's role in this context is the judicial authority (refer to Judicial Court Interpretation No. 392). Unless bound internally by the procuratorial body, prosecutors must independently exercise their powers externally. The identity and independence protection for substantive prosecutors is the same as that of substantiated judges (refer to Judicial Court

Interpretation No. 325). Prosecutors exercising their powers independently is also a basic constitutional principle established by our country's grand justices.

- (3) Although there are no express provisions to safeguard the independence of lawyers in our current laws, our country is a highly democratic country under the rule of law. Any intervention by the state must follow the principle of legal reservation, strictly abide by relevant laws and regulations, and be supervised by judicial and supervisory powers.

2.42		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 11 條	Who are the members of the “Judicial Evaluation Committee and how are they selected and appointed? Are there any mechanisms implemented to avoid undue interference, pressure or retaliation against judges? (ROC’s Second Report, p.90)	請問「法官評鑑委員會」的成員為何？其遴選及任命方式為何？有無實施任何可避免法官受到不當干預、施壓或報復的機制？ 【第二次國家報告第 53 頁】

中文回應：

91. 法官評鑑委員會由法官 3 人、檢察官 1 人、律師 3 人、學者及社會公正人士 6 人，共 13 人組成。其中學者及社會公正人士，由法務部、律師公會全國聯合會各推舉法官、檢察官、律師以外之人 6 人，送司法院院長遴聘；其餘委員則由全體法官、全體檢察官及全體律師分別票選產生(《法官法》第 33 條、第 34 條參照)。
92. 評鑑程序之進行，應本於正當法律程序原則，且不得影響審判獨立，以貫徹《憲法》保障法官依據法律獨立審判，不受任何干涉之意旨，是以《法官法》第 30 條第 3 項規定，適用法律之見解，不得據為法官個案評鑑之事由。又為防止浮濫的評鑑請求增加法官之負擔，壓縮審判獨立之空間，《法官法》第 35 條第 5 項明定個案評鑑之請求，應先審查有無應不予受理或不付評鑑之情事，不得逕予調查或通知受評鑑法官陳述意見。上開規定之立法意旨係為避免法官受到不當干預、施壓或報復。

英文回應：

91. The Judicial Evaluation Committee consists of thirteen members, including three judges, one prosecutor, three lawyers, and six scholars and social representatives. Six members of scholars and social representatives are selected from candidates proposed by the Ministry of Justice and Taiwan Bar Association (each provides six candidates) for the President of the Judicial Yuan to decide. However, other members are elected by the association of judges, prosecutors, or lawyers separately (According to Articles 33 and 34 of the “Judges Act”).

92. The judicial evaluation should not interfere with judicial independence and proceed following the due process of law, carrying out the constitutional protection of independent adjudication by law for judges without any interference. That is why under Paragraph 3, Article 30 of the “Judges Act,” legal opinions on the application of law shall not be taken into consideration as the basis of individual case evaluation of judges. Furthermore, Paragraph 5, Article 35 of the “Judges Act” states that for individual evaluation petitions, the committee is not allowed to investigate directly or notice judges under evaluation for expressing opinions before reviewing the possible reasons for case dismissal or denial. The above regulations intend to protect judges from improper interference, pressure, or retaliation.

2. 43		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	How are cases of “significant error or gross negligence” selected? If there a report mechanism or they are picked randomly? Which is the criteria to define error or negligence in an specific case? (ROC’s Second Report, p.91)	請問如何選出「重大違誤或重大過失」案件？有無制定檢舉機制或係隨機挑選？針對個案定義違誤或過失的標準為何？ 【第二次國家報告第 53 頁】

中文回應：

93. 法官有《法官法》第 30 條第 2 項各款情事之一者，即屬違失情節嚴重或重大，其所屬機關法官 3 人以上、所屬機關或上級機關、所屬法院對應設置之檢察署、所屬法院管轄區域之律師公會或全國性律師公會，以及所承辦已終結案件檢察官以外之當事人、犯罪被害人，均得請求法官評鑑委員會進行個案評鑑（《法官法》第 35 條第 1 項規定參照）。
94. 除上述法官個案評鑑機制外，各級法院設有法官自律委員會，各級法院院長或法官 3 人以上發現法官有《各級法院法官自律實施辦法》第 6 條第 1 項所列情形之一者，得檢具相關資料，送交法官自律委員會審議。對於違失情節重大之法官，法官自律委員會得為建議院長以所屬法院名義請求法官評鑑委員會評鑑或建議司法院依《法官法》第 51 條第 2 項規定逕行移送監察院審查之決議。藉由內部自律機制與外部評鑑機制並行，以達汰除不良法官之目的。
95. 《法官法》第 30 條第 2 項第 1 款所定「重大過失」或「明顯違誤」之要件，必須依個案事實予以判斷，且應併同該款所定是否「嚴重侵害人民權益」之要件整體觀察。
96. 「裁判確定後或自第一審繫屬日起已逾六年未能裁判確定之案件、不起訴處分或緩起訴處分確定之案件，有事實足認因故意或重大過失，致有明顯違誤，而嚴重侵害人民權益者」，為《法官法》第 89 條第 4 項第 1 款所明定之檢察官應受個案評鑑之事由。而鑑於案件之當事人、犯罪被害人對於檢察官執行職務之表現感受最為直接，應使其等得直接向檢察官評

鑑委員會請求進行個案評鑑，故 2019 年 7 月 17 日評鑑新制實施後，個案當事人已可直接對檢察官請求評鑑，不必再透過律師公會或其他團體。

97. 又依《檢察官評鑑實施辦法》第 4 條規定，由不同方式遴選產生之委員 3 至 4 人為一組，共組成 4 個審查小組，收案後先輪分由審查小組進行書面審查，除審查小組委員一致同意應不受理或不付評鑑外，否則即應輪分予委員承辦，進行實質調查與審議。至於個案是否符合上述之評鑑事由或有無重大過失、重大違誤之情形，係由檢察官評鑑委員會全體委員綜合考量受評鑑人之違失情節、態樣及對檢察官職位尊嚴與司法公信力所造成之影響等因素後，以無記名表決之方式形成決議。亦即每件評鑑個案經過審查小組初步審查後，若無應不受理或不付評鑑之情形，即分由承辦委員實質調查，再由全體委員審議，案件有無重大過失或重大違誤，則係個案認定，並無固定絕對之標準。

英文回應：

93. The judge who falls into any condition under Paragraph 2, Article 30 of the “Judges Act” constitutes cases of misconduct with severity or material impact. The Judicial Evaluation Committee, with a petition filed by any following applicant, can put the alleged judge under an individual case evaluation: three judges as the judge's colleague, their service agency or superior agencies, the prosecutors' office corresponding to their service agency, the national bar association or the local one within the service agency's jurisdiction, parties(including victims) other than the prosecutor for cases that concluded by the judge(according to Paragraph 1, Article 35 of the “Judges Act”).
94. Besides the individual case evaluation mechanism, each court of all levels has a self-discipline committee for judges, so when the court finds their judge having any situation prescribed by Paragraph 1, Article 6 of the “Regulation For The Implementation Of The Self-Discipline of Judges at The Courts of All Levels,” president or at least three judges of each court may submit relevant materials to the self-discipline committee for review. However, for severe cases, the self-discipline committee may suggest their president's, in the name of the court, requesting the Judicial Evaluation Committee to review the case. Or it may advise the Judicial Yuan, under Paragraph 2, Article 51 of the “Judges Act,” to transfer the case directly to the Control Yuan for review. With the inside self-discipline and outside evaluation mechanisms, the court can achieve the goal of eliminating unqualified judges.
95. The legal elements of "obvious errors" or "gross negligence," stated by Subparagraph 1, Paragraph 2, Article 30 of the “Judges Acts,” must be considered based on the facts of the individual case. In addition, together with the "causing a serious infringement on the rights and interests of the people" element stated in the same Subparagraph, the Judicial Evaluation Committee must review these elements comprehensively.
96. Prosecutors shall be subject to case-by-case evaluations as specified in Subparagraph 1, Paragraph 4, Article 89 of the “Judges Act” as follows: “For cases with final and binding judgments rendered or without final and binding judgments for more than six years since the date of the filing of such

cases of the first instance, or cases with the disposition of non-prosecution or deferred prosecution that have become final and binding, there are sufficient facts to conclude the existence of obvious and significant errors due to acts committed intentionally or with gross negligence, causing serious infringement on the rights and interests of the people.” Since the parties or crime victims of cases can provide the most direct observation of the prosecutor’s performance in performing their duties, they should be permitted to directly request a case-by-case evaluation from the Prosecutor’s Evaluation Committee. Therefore, after implementing the new appraisal system on July 17, 2019, parties or victims of a case can directly request prosecutor evaluation without going through the bar association or other organizations.

97. Article 4 of the “Prosecutor Evaluation Implementation Measures” provided that a total of 4 investigation teams shall be formed, with each team comprised of 3 to 4 team members selected using different methods. After the case is accepted, the review team shall conduct a written review. Unless the review team members unanimously agree that they should reject the case or not issue an evaluation, the case shall be assigned to a member in rotation for substantive investigation and deliberation. To determine whether the case meets the evaluation criteria mentioned above or involves any major negligence or violation, a resolution shall be formed via anonymous -ballot by all members of the Prosecutors Evaluation Committee after considering factors such as the circumstances of the reviewee’s violation, overall status, and the impact on the dignity of the prosecutor’s position and judicial credibility. After each case has received a preliminary evaluation by the review team, the undertaking members shall conduct a substantive investigation unless grounds indicate that the case should be rejected or an assessment should not be issued. All members shall then determine whether the case involves gross negligence or violation on a case-by-case basis, and there is no fixed absolute standard.

2. 44		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	Which is the criteria of the Evaluation Committee to consider disciplinary action against a judge or prosecutor is needed? (ROC’s Second Report, p.91)	請問評鑑委員會認定法官或檢察官有必要受懲戒之標準為何？ 【第二次國家報告第 53 頁】

中文回應：

98. 法官評鑑委員會於審認有無「懲戒之必要」，係依具體案件，斟酌受評鑑法官違失行為之動機、目的、手段，以及對公務秩序或侵害之法益所生之損害或影響，暨對受評鑑法官之警惕效果，於合乎比例原則下，警惕之目的與手段須相當，而為適當之處分擇定（法官評鑑委員會 110 年評字第 3 號決議書參照）。

99. 依《法官法》第 89 條第 4 項規定：「檢察官有下列各款情事之一者，應付個案評鑑：一、裁判確定後或自第一審繫屬日起已逾六年未能裁判確定之案件、不起訴處分或緩起訴處分確定之案件，有事實足認因故意或重大過失，致有明顯違誤，而嚴重侵害人民權益者。二、有第九十五條第二款情事，情節重大。三、違反第十五條第二項、第三項規定。四、違反第十五條第一項、第十六條或第十八條規定，情節重大。五、違反偵查不公開等辦案程序規定或職務規定，情節重大。六、無正當理由遲延案件之進行，致影響當事人權益，情節重大。七、違反檢察官倫理規範，情節重大。」此為檢察官應受個案評鑑之事由。
100. 個案經檢察官評鑑委員會審議後，如認檢察官有上述各款所列情事之一，惟無懲戒之必要者，則報由法務部交付檢察官人事審議委員會審議；如認有懲戒之必要者，則報由法務部移送職務法庭審理，並得建議懲戒之種類（《法官法》第 89 條第 1 項準用同法第 39 條第 1 項參照）。
101. 至於個案有無懲戒之必要，係由檢察官評鑑委員會綜合考量受評鑑人之違失情節、態樣、次數及對檢察官職位尊嚴與司法公信力所造成之影響等因素，經全體委員充分討論後，以多數決之方式形成決議，而檢察官評鑑委員會的評鑑委員共 13 人，其中檢察官 3 人，外部委員共 10 人（律師 3 人、法官 1 人、專家學者 6 人），超過四分之三，顯見該委員會之客觀性、中立性、獨立性及公正性。

英文回應：

98. When deciding whether the disciplinary action is necessary, the Judicial Evaluation Committee, based on the case's facts, considers the motive, purpose, and method of the judge committing misconduct, as well as the impact or damage inflicted on the public order or legal interest and the deterrence effect to the judge under evaluation. Finally, the committee will give the judge a proper disposition that complies with the principle of proportionality and weighs the balance between the means and purpose of the deterrence (according to the Judicial Evaluation Committee Decision (2021) Ping-Zi No. 3).
99. The subparagraphs under Paragraph 4, Article 89 of the “Judges Act” provided that: 1. For cases with final and binding judgments rendered or without final and binding judgments for more than six years since the date of the filing of such cases of the first instance, or cases with the disposition of non-prosecution or deferred prosecution that have become final and binding, there are sufficient facts to conclude the existence of obvious and significant errors due to acts committed intentionally or with gross negligence, causing serious infringement on the rights and interests of the people. 2. Severe violations of Paragraph 2 of Article 95. 3. Violations of Paragraphs 2 and 3 of Article 15. 4. Severe violations of Paragraph 1 of Article 15, Article 16, or Article 18. 5. Severe violations of case management procedures or rules of duties such as non-disclosure during investigations. 6. Undue delay of the case process without proper justification which severely affects the rights and interests of the parties. 7. Severe violations of the prosecutor’s ethical rules. These factors shall be the basis of individual case evaluation against prosecutors.

- 100.If it is found that the prosecutor has one of the circumstances listed in the paragraphs above after the Prosecutor Evaluation Committee reviewed the case, but there is no need for punishment, the case shall be reported to the MOJ and handed over to the Prosecutor Personnel Review Committee for review. If punishment is deemed necessary, the case shall be reported to the MOJ, transferred to the Court of the Judiciary, and the type of punishment may be recommended (Paragraph 1, Article 89 of the “Judges Act” shall apply mutatis mutandis to Paragraph 1, Article 39, of the same Act).
- 101.As for whether the case merits punishment, the Prosecutor Evaluation Committee shall comprehensively consider factors such as the circumstances, overall status, frequency of violations by the evaluated person, and the impact on the dignity of the prosecutor’s position and judicial credibility. After full deliberation by all evaluation members, a resolution shall be reached by a majority vote. The Prosecutor Evaluation Committee shall comprise a total of 13 evaluation members, including 3 prosecutors and 10 external members (3 lawyers, 1 judge, and 6 experts and scholars). Over three-quarters of the members are external members, ensuring objectivity, neutrality, independence, and impartiality of the Committee.

2. 45		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	Has the system of mixed jury for grand corruption cases been evaluated? The result of the assessment is positive? (ROC’s Second Report, p.92)	有無評估對重大貪腐案件適用混合陪審團制度？評估結果是否正向？ 【第二次國家報告第 54 頁】

中文回應：

102. 依《國民法官法》第 5 條第 1 項規定，除《少年刑事案件及犯毒品危害防制條例》之罪之案件外，「故意犯罪因而發生死亡結果者」及「所犯最輕本刑為十年以上有期徒刑之罪」經檢察官提起公訴，且由地方法院管轄之第一審案件，應行國民參與審判，並分別自 2023 年 1 月 1 日及 2026 年 1 月 1 日起施行。其中重大貪腐案件如屬最輕本刑十年以上有期徒刑之罪，於 2026 年 1 月 1 日起，將由國民法官與法官共同進行刑事審判。最主要適用的案件類型，為《貪污治罪條例》第 4 條所列：(一) 竊取或侵占公用或公有器材、財物者；(二) 藉勢或藉端勒索、勒徵、強占或強募財物者；(三) 建築或經辦公用工程或購辦公用器材、物品，浮報價額、數量、收取回扣或有其他舞弊情事者；(四) 以公用運輸工具裝運違禁物品或漏稅物品者；(五) 對於違背職務之行為，要求、期約或收受賄賂或其他不正利益者。
103. 於國民參與審判制度正式施行後，每一位國民，都有可能被抽選為國民法官，走入法庭，坐上法槌，與專業法官並肩審理、討論，共同做出決定，國民法官們可以帶來多元的經

驗、想法，並在審理過程中與法律專業觀點彼此激盪，讓判決視角更加全面反映國民正當法律感情；在國民法官制的運作之下，重大貪腐案件之審理程序將更加公開透明，司法制度也將更加得到全民的理解、信任及支持。

英文回應：

102. According to Paragraph 1, Article 5 of the “National Judges Act,” 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 national judges and judges respectively from the year of 2023 and 2026: “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 major corruption cases with a minimum punishment of imprisonment of not less than ten years shall undergo the trial with the participation of national judges starting from the year of 2026, Article 4 of the “Anti-Corruption Act” are included. The crimes are as follows: 1. Stealing or misappropriating public equipment or properties. 2. Acquiring valuables or property through the use of undue influence, blackmail, forced acquisition, forced seizure, or forced collection. 3. Inflating the prices and quantities of, or taking kickbacks from, public works or procurements under his or her charge. 4. Using government vehicles to transport contraband or carry goods for tax evasion. 5. Demanding, taking or promising to take bribes or other unlawful profits by the acts that violate the official duties.
103. 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 national judges and judges perform their authority independently pursuant to the laws without any interference. It is expected to enhance the transparency of the judiciary, accounts 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.

2. 46		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 11 條	Where are the indicators of work ethics for judges established? (ROC’s Second Report, p.93)	請問有無建置可評估法官「敬業精神」之指標？ 【第二次國家報告第 55 頁】

中文回應：

104. 法官敬業精神為發展審判專業能力之基礎，有關敬業精神之評估指標，係參考「法官平時考評紀錄表」敬業精神欄之記載內容，併根據具體個案輔以辦案情形（遲延案件數、問案態度）等相關資料綜合評價。

英文回應：

104. Work ethics for judges is the foundation of developing the profession of adjudication. Regarding the indicators of work ethics, we refer to the content of the work ethics column on records of general performance assessment, together with reviews on individual cases and other information, like the condition of case management (such as the number of delayed cases or their attitude in trial proceedings) to evaluate comprehensively.

2.47		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
總論、 第 2 章 第 12 條	Has a model of liability for top management and directors of private companies like the “Sarbanes Oxley” law of the USA, been considered to be implemented in Taiwan? (ROC’s Second Report, p.27)	美國訂定《沙賓法案》作為私部門高階管理人員與主管之責任模型，請問臺灣是否考慮建置此類模型？ 【第二次國家報告第 16 頁】

中文回應：

105. 金管會參考沙賓法案，已於《證券交易法》第 14 條之 2 至第 14 條之 5 引進獨立董事及審計委員會制度，並於第 14 條增訂董事長、經理人及會計主管應出具財務報告內容無虛偽或隱匿之聲明，及於 20 條之 1 增訂公開發行公司財務報主要內容如有虛偽隱匿情事，該公司、負責人及於財務報告簽章之人應負損害賠償責任，另修正「公開發行公司建立內部控制制度處理準則」，明定公司內部控制及聲明書應經董事會通過。

英文回應：

105. Making reference to the Sarbanes–Oxley Act, the FSC has amended the Securities and Exchange Act, introducing the regimes of independent directors and audit committees (Articles 14-2 to 14-5), requiring the chairperson, managerial officer, and accounting officer to issue a statement that the financial report does not contain any untrue statement of a material fact or omit to state a material fact necessary (Article 14), and stipulating the issuer, its responsible persons and employees of the issuer who placed their signatures or seals on the financial reports shall be liable for damages in the event the financial reports contain any untrue statement of a material fact or omit to state a material fact necessary (Article 20-1). In addition, the FSC amended “Regulations Governing Establishment of Internal Control Systems by Public Companies” to stipulate that the

company's internal control and its statement of the internal control system should be approved by the board of directors.

2. 48		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
總論、第 2 章第 12 條、第 26 條	Which is the regulation established related to compliance of the private sector and criminal liability of companies involved in corruption crimes ? Having a compliance program exonerate the company of criminal liability? (ROC's Second Report, p.6)	針對涉及貪腐案件之私部門法令遵循與公司刑事責任，請問有無訂定相關規章？法令遵循計畫是否可免除公司的刑事責任？ 【第二次國家報告第 4、61、90 頁】

中文回應：

106. 金管會已訂定《金融控股公司及銀行業內部控制及稽核制度實施辦法》、《證券暨期貨市場各服務事業建立內部控制制度處理準則》以及《保險業內部控制及稽核制度實施辦法》，要求應建立及執行法令遵循制度，尚無就公司刑事責任部分訂定免責或除外條款。
107. 《公開發行公司建立內部控制制度處理準則》已要求公開發行公司將法令遵循納入內部控制制度，並要求內部稽核單位應將法令遵循納入年度稽核計畫確實查核。
108. 涉及公司刑事責任的相關規定，應回歸《刑法》及其他相關特別法規定辦理。
109. 我國刑法理論繼受於歐陸法系，故我國《刑法》中尚無法人刑事責任之規定，但為強化法人刑事責任，我國已於諸多附屬特別刑法中增訂法人罰金刑之兩罰規定，於法人之代表人、代理人、受雇人或其他從業人員因執行業務犯罪之情形，對法人科以罰金刑之刑事處罰。
110. 部分附屬刑法中有關法人罰金刑之規定，定有法人舉證已盡防止義務以免責之規定（如《臺灣地區與大陸地區人民關係條例》第 83 及 84 條、《勞動基準法》第 81 條及《營業秘密法》第 13 條之 4 等），於此情形，法人是否定有法令遵循計畫則為法院認定法人是否盡其防止義務審酌要素之一。

英文回應：

106. The FSC has promulgated 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," which require all industries to establish and implement a legal compliance system. There is no exemption or exclusion clause for companies' criminal liability.

107. The "Regulations Governing Establishment of Internal Control Systems by Public Companies" (the "Regulations") set out a clear requirement for a public company to incorporate legal compliance into its internal control systems, and the Regulations requires the internal audit unit to include legal compliance in the annual audit plan for review.
108. The regulations concerning the criminal liability of companies are based on the criminal law and other special laws.
109. Our criminal law theory has derived from the continental law system, so our nation's "Criminal Code" has no provisions on the criminal liability of juridical persons. However, to strengthen provisions for the criminal liability of legal persons, our country has added fine penalties and punishments for juridical persons in many supplemental special criminal laws. If a juridical person commits a business crime, the representative, agent, employee, or other practitioner of a juridical person shall be subject to a fine penalty criminal punishment.
110. Some supplemental criminal laws have provisions concerning the fines and punishment of juridical persons. There are provisions that juridical persons must fulfill their obligations in order to prevent liability by presenting evidence (such as Articles 83 and 84 of the "Act Governing Relations between the People of the Taiwan Area and the Mainland Area," Article 81 of the "Labor Standards Act," and Article 13-4 of the "Trade Secrets Act"). As such, whether a juridical person has a legal compliance plan is one of the factors for the court to determine whether a juridical person has fulfilled its obligations in order to prevent liability.

2.49		
涉及公約條文 或結論性意見 點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 12 條 (第 17 點) 鼓勵各商會、 公會辦理反貪 腐教育訓練	Were the organizations involved in education and training activities adjusted the content of their courses to the recommended anti-money laundering measures? (Response Report, p.17)	這些教育訓練機構是否根據洗錢防制的建議規範調整課程內容? 【第二次國家報告第 56 頁】 【回應報告第 10 頁】

中文回應：

111. 行政院洗錢防制辦公室於 2018 年出版「指定之非金融事業或人員執行防制洗錢及打擊資恐業務最佳指引」，亦持續督導各指定非金融行業之主管機關制定各業別之執行防制洗錢及打擊資恐業務指引手冊。於指引手冊內，均強調私部門辦理教育訓練，必須隨洗錢/資恐風險進行定期調整。2021 年間，曾與財團法人保險事業發展中心、證券暨期貨市場發展基金會及中華民國期貨業商業同業公會合作，舉辦防制洗錢相關議題研討會，共計 4 場，主題分別為「公司之金融犯罪防制」、「地下金融犯罪防制之監理」、「洗錢防制及打擊資恐研討會-APG 評鑑後洗錢防制之思與變」、「現今金融犯罪型態、防制與訴追」，參加人

數共達 1,500 餘人。其中，與反貪腐相關之主題為：「從司法實務觀點談吹哨者制度」、「企業反貪案例研析」。

112. 另為因應 2021 年防制洗錢金融行動工作組織 (FATF) 更新「虛擬資產與虛擬資產服務提供商指引」，行政院洗錢防制辦公室在研討會主題上亦作出相對應之調整。於 2022 年 3 月與金管會共同舉辦「虛擬資產犯罪防制研討會」，針對虛擬資產平台之洗錢防制監理狀況、虛擬資產國家風險評估結果及 STR 申報狀況等議題，與各公私部門人員做更深入的探討。
113. 金管會所轄公會根據國內外洗錢防制規範、新興犯罪威脅、國家風險評估結果等調整訓練課程內容。
114. 因應《洗錢防制法》修正，內政部已配合修正《地政士及不動產經紀業防制洗錢及打擊資恐辦法》、地政士及不動產經紀業應辦理及遵循事項，而各訓練機構已依最新法令及規範，調整洗錢防制相關教育訓練或宣導說明會的課程內容，俾利地政士及不動產經紀業據以執行。

英文回應：

111. The Anti-Money Laundering Office of the Executive Yuan had published the "Best Practice Guidance Notes on Implementing Anti-money Laundering and Countering the Financing of Terrorism for Designated Non-financial Business and Professions" in 2018, and continued to supervise the competent authorities of DNFBPs to formulate the guidelines manual of implementation of AML/CFT for various industries. It is emphasized in the guidelines manual that education and training conducted by the private sector must be regularly adjusted according to the risk of ML/TF. In 2021, the office has cooperated with Taiwan Insurance Institute, Securities& Futures Institute, and Chinese National Futures Association, and to hold 4 seminars on money laundering related topics, the themes are "Corporate Financial Crime Prevention," "Supervision of Underground Financial Crime Prevention and Control," "Seminar on AML/CFT- Thoughts and Changes of AML After APG Evaluation," "Current Types of Financial Crimes, Prevention and Prosecution," with more than 1,500 participants. Among them, the themes related to anti-corruption are: "Discussion on the whistleblower system from the perspective of judicial practice," "Corporate anti-corruption case study."
112. In addition, in response to FATF's updated guideline for virtual assets and virtual asset service providers in 2021, the Office has also made corresponding adjustments in the theme of the seminar. In March 2022, a seminar on virtual asset crime prevention was held by AMLO and Financial Supervisory Commission (FSC), and we conducted more in-depth discussions with public and private sector personnel on topics such as on the status of AML system supervision, the results of national risk assessment of virtual assets, STR reporting status and other issues.
113. Guilds under the guidance of the FSC will adjust the content of the training courses according to domestic and foreign anti-money laundering regulations, emerging criminal threats, and the results of national risk assessments.

114. In response to amendments to the “Money Laundering Control Act,” the Ministry of the Interior has cooperated with the amendment of “Regulations Governing Anti-Money Laundering and Counter-Terrorism Financing for Land Administration Agents and Real Estate Brokerages” and the matters that Land Administration Agents and Real Estate Brokers should handle and follow. Also, to promote anti-money laundering measures to land administration agents and real estate brokers, each training institution has adjusted the curriculum content of anti-money laundering prevention-related education training or publicity briefings according to the latest laws and regulations.

2.50		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 12 條	Are there enforcement mechanisms for companies reluctant to adopt International Financial Reporting Standards? (ROC’s Second Report, p.96)	對於不願採用國際財務報導準則之公司，有無強制實施機制？ 【第二次國家報告第 56 頁】

中文回應：

115. 採用國際財務報導準則（IFRSs）已成為國際趨勢，金管會已透過法規規範我國公開發行公司自 2015 年起全面採用 IFRSs 編製財務報告，爰所有公開發行公司皆採用國際財務報導準則編製財務報告，未依有關法令及 IFRSs 規定編製財務報告者，金管會將視情節輕重要求重編或更補正財務報告。考量非公開發行股票公司一般因為規模太小以致無法負擔採用國際財務報導準則的成本，經濟部訂定與國際財務報導準則相似但是簡化的企業會計準則，提供非公開發行股票公司採用。

英文回應：

115. With the international trend toward full adoption of Financial Reporting Standards (IFRSs), the FSC has amended its regulations to require public companies to prepare IFRS-compliant financial reports since 2015. Therefore, all public companies in Taiwan are required to file financial reports according to IFRSs and will be required to restate or correct a financial report depending on the severity of the violation if the financial report is not prepared in conformance with regulations and IFRSs. Considering that non-public companies are generally too small to afford the cost of adopting IFRS, the Ministry of Economic Affairs has formulated the Enterprise Accounting Standards, which are similar to the IFRS but simplified for non-public companies to adopt.

2.51		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 12 條	Is there a Bar Association? Does it play any role in the investigation and application of sanctions to attorneys? (ROC's Second Report, p.98)	臺灣是否有律師公會？律師公會在案件調查和對律師實施制裁方面有什麼作用嗎？ 【第二次國家報告第 58 頁】

中文回應：

116. 臺灣有 16 個地方律師公會及 1 個全國律師聯合會，全國律師皆為全國律師聯合會之會員。
117. 全國律師聯合會訂有《律師倫理規範》，律師如有違背《律師倫理規範》，地方律師公會得於調查後將該律師移送律師懲戒委員會處理。
118. 地方檢察署對違反《律師法》之律師，亦可於調查後移送律師懲戒委員會處理。（《律師法》第 11、68、75、76 條）

英文回應：

116. Taiwan has 16 local bar associations and 1 Taiwan Bar Association. All attorneys across the country are members of the Taiwan Bar Association.
117. The Taiwan Bar Association has established a code of ethics for attorneys. If an attorney violates this code of ethics, the local bar association may transfer the attorney's case to the Attorney Disciplinary Committee for handling after investigation.
118. The District Prosecutor's Office may also transfer cases for attorneys who violated the "Attorney Regulation Act" to the Attorney Disciplinary Committee for handling after investigation. (Articles 11, 68, 75, and 76 of the "Attorney Regulation Act").

2.52		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 12 條	Who has access to information on beneficial ownership included in the declaration? Is it open to the general public? (ROC's Second Report, p.100)	金管會 2019 年修正「金融控股公司法...申報應注意事項」、「銀行法...申報應注意事項」，誰可以獲得這些實質受益人的資訊？是否對社會大眾公開？ 【第二次國家報告第 58 頁】

中文回應：

119. 金管會 2019 年 12 月 25 日修正發布、2020 年 7 月 1 日生效之《金融控股公司法第十六條第二項持有已發行有表決權股份申報應注意事項》、《銀行法第二十五條第二項持有已

發行有表決權股份申報應注意事項》，修正重點係請法人股東將其背後實質受益人或最終控制權人併列入申報範圍。

120. 金管會回應預告期間外界對於相關資料應予保密之要求，於《金融控股公司法第十六條第二項持有已發行有表決權股份申報應注意事項》修正規定第 4 點之說明欄載明，本申報資料係為監理上需要之申報，與揭露、公告目的不同；官網問答集亦明確對外說明，本次申報目的僅限於主管機關監理上之需要，並不公開。

英文回應：

119. The FSC amended the "Instructions for Reporting Voting Shares in Accordance with Paragraph 2, Article 16 of Financial Holding Company Act" and the "Instructions for Reporting Voting Shares in Accordance with Paragraph 2, Article 25 of Banking Act" on Dec. 25, 2019 and these instructions took effect on July 1st, 2020. The key points of the amendments require majority shareholders to report beneficiary owners/ultimate controllers when reporting their shareholdings.
120. During the public comment period for the draft amendments, the FSC clarified to the public that all the reporting information of voting shares shall be kept confidential (from "Instructions for Reporting Voting Shares in Accordance with Paragraph 2, Article 16 of Financial Holding Company Act"). The related FAQ on the official website also states that this reporting information is only for supervisory purposes and will not be disclosed or announced.

2.53		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 12 條	Is there any registry of public servants records to avoid revolving door actions? (ROC's Second Report, p.101)	是否有關於公務員(擔任相關職務)的登記或紀錄，以防止旋轉門行為？ 【第二次國家報告第 59 頁】

中文回應：

121. 離職公務員如有違反《公務員服務法》第 14 條之 1 規定，依《刑事訴訟法》第 240 條至第 242 條規定，任何人得為告發，並應以書狀或言詞向檢察官或司法警察官為之，爰機關尚無需登記離職公務員任職營利事業職務。
122. 各機關於辦理國營事業機構職務、政府（含部會及所屬機關、國營事業機構）投資民營事業機構，以及其再轉投資之民營事業機構負責人、經理人等人事案件時，行政院人事行政總處均請其確實依《公務員服務法》第 14 條之 1 規定辦理。

英文回應：

121. If resigned public servants violate Article 14-1 of the “Civil Servant Work Act,” according to Article 240 to 242 of the “Code of Criminal Procedure,” any person can report, whether written or spoken, those suspects to the public prosecutor or judicial police officer. Therefore, there is no need for the agency to register records of resigned public servants who assume a position in profit-seeking enterprises.
122. When appointing the directors, managerial officers and other positions of state-owned enterprises, government-donated incorporated foundations including companies invested in by them, the Director-General of Personnel Administration would require government agencies under the Executive Yuan to follow the provision of Article 14-1 of the “Civil Servant Work Act” during the selecting process assuredly.

2.54		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 12 條 (第 13 點)	<u>Corporate governance evaluation of state owned enterprise under MOEA and Ministry of Finance(Response Report, p40)</u> Very good initiative. Are these evaluations, or summary reports publicly available?	經濟部與財政部所屬國營事業公司治理評鑑這是很好的措施，請問這些評鑑的摘要或報告是否已經公開？ 【第二次國家報告第 63 頁】 【回應報告第 26-27 頁】

中文回應：

123. 經濟部與財政部所屬事業之公司治理評鑑報告，業已摘要內容於國營事業公司年報或永續報告書對外揭露與公開。

英文回應：

123. The summary of corporate governance evaluation of state-owned enterprises affiliated to the Ministry of Economic Affairs and the Ministry of Finance has been disclosed and made public in the annual reports or sustainability reports.

2.55		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 12 條	Is the concept of “social responsibility” defined in any norm? Does it include the notion of integrity or anticorruption?	「社會責任」的概念是否在任何規範中予以定義？它是否包含「誠信」或「反貪腐」的概念？ 【第二次國家報告第 64 頁】

中文回應：

124. 證交所及櫃買中心業制定《上市上櫃公司永續發展實務守則》，要求上市上櫃公司宜遵循《上市上櫃公司誠信經營守則》等，健全公司治理，並實踐企業社會責任，促成經濟、環境及社會之進步，及達成永續發展之目標等。另依據世界企業永續發展協會（World Business Council For Sustainable Development，簡稱 WBCSD）的看法，企業社會責任是企業承諾持續遵守道德規範，為經濟發展做出貢獻，並且改善員工及其家庭、當地整體社區、社會的生活品質。廣義來說，社會責任已包含「誠信」或「反貪腐」的概念。
125. 《公司法》2018 年 8 月 1 日修正公布，明定公司經營業務應遵守法令及商業倫理規範，得採行增進公共利益之行為，以善盡其社會責任。為鼓勵私部門實踐企業社會責任，落實誠信經營理念及永續發展，經濟部及所屬機關編製「誠信經營這堂課」、工業局「工業區企業社會責任實務做法指引手冊」、中小企業處「中小企業誠信經營手冊」、智慧財產局「智慧誠信倫理手冊」及數位教材「專利職業倫理及法令遵循」，並鼓勵企業編製企業社會責任報告書等私部門反貪腐措施，強化企業誠信與反貪腐之概念，進而落實社會責任。

英文回應：

124. The TWSE/TPEX released the "Sustainable Development Best Practice Principles for TWSE/TPEX Listed Companies," which require TWSE/TPEX listed companies to follow the "Ethical Corporate Management Best Practice Principles for TWSE/TPEX Listed Companies" to enhance corporate governance, and to fulfill their corporate social responsibility initiatives and promote economic, environmental, and social advancement for purposes of sustainable development. In addition, according to the World Business Council for Sustainable Development (WBCSD), corporate social responsibility is a company's commitment to continue to abide by ethical standards, contribute to economic development, and improve employees and their families, the local community as a whole, and quality of life in society. Broadly speaking, social responsibility already includes the concept of "integrity" or "anti-corruption."
125. The "Company Act" was amended and promulgated on August 1, 2018, specifying that companies should conduct their business in compliance with the law and business ethics, and may take actions that promote the public interest in order to fulfill their social responsibility. In order to encourage the private sector to practice corporate social responsibility, implement the integrity management concept and sustainable development, the Ministry of Economic Affairs and its affiliated agencies have composed the "Course on Integrity Management"、Industrial Development Bureau" Handbook of CSR Practices in Industrial Parks"、Small and Medium Enterprise Administration" Handbook for Honest Management of Small and Medium Enterprises"、Intellectual Property Office" Handbook of Intelligent Integrity Ethics" and digital education materials such as "Patent Professional Ethics and Legal Compliance," and enterprises

are also encouraged to prepare corporate social responsibility reports and other private sector anti-corruption measures, strengthen the concept of corporate integrity and anti-corruption, and then implement social responsibility.

2. 56		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
總論、第 2 章第 13 條	How does Taiwan encourage individuals and organizations to cooperate with authorities in preventing and combating corruption? (ROC's Second Report, p.13)	臺灣如何鼓勵個人、組織與政府機關合作預防和打擊貪腐？ 【第二次國家報告第 7 頁】

中文回應：

126. 臺灣重視國際審查委員 2018 年 UNCAC 結論性意見，包含委員會認可廉政署成立由各領域之專業人士組成之廉政審查會（第 7 點）、推行廉政志工計劃（第 8 點）、公民社會組織、學術界及媒體參與反貪倡廉工作（第 18、19 及 22 點）等；並建議對公共機構進行廉潔評估（第 13 點）、臺灣的商會、工會、中小企業等，應更積極地參與打擊貪腐和促進良善治理（第 17 點）等。
127. 臺灣於行政院設立中央廉政委員會，統籌廉政政策；另中央及地方各級機關設置廉政會報，定期召開會議。為提高決策過程之透明度，並促進公眾在決策過程中發揮作用，中央廉政委員會及廉政會報均引進機關外部專家學者及社會公正人士（包含個人、私部門代表與其他政府機關代表）擔任廉政委員提供諮詢，強化廉政預防機制。
128. 在推動預防性反貪腐政策方面，臺灣持續落實《國家廉政建設行動方案》，採取多元合作策略，鼓勵並結合公私部門力量投入反貪工作：
- (1) 持續與私部門合辦反貪宣導及交流，辦理破解圖利與便民大型廠商座談會，2019 年至 2021 年共計辦理 10 場次。
 - (2) 企業及外商誠信論壇，透過交流座談建立互信，以協助私部門提升誠信經營與法令遵循，並藉由瞭解政府預防作為以鼓勵各界參與，2019 年至 2021 年共計辦理 8 場次。
 - (3) 推動機關採購廉政平臺，引進公民團體、專家、民眾及廠商等跨域監督力量，避免外力不當干預，統計至 2022 年 7 月為止，已成立機關採購廉政平臺 52 案，其中中央機關 18 案，地方政府 34 案，總金額達 1 兆 2,139 億餘元。
 - (4) 為延續機關採購廉政平臺之精神，推動企業服務廉政平臺，鼓勵私部門與政府機關協力跨域合作，營造廉能優質投資環境，共同精進預防性反貪腐措施，提升對政府的廉潔加以監督，進而打擊貪腐。
129. 臺灣 2021 年起推動為期 4 年之《臺灣開放政府國家行動方案》，由政府與民間共同推動承諾事項，其中與反貪腐措施相關者，包含「強化政治獻金透明化」、「建置與精進機關採

購廉政平臺」、「推動揭弊者保護法立法」、「實質受益人資訊透明」及「執行宗教團體財務透明相關政策，阻絕洗錢漏洞」等 5 項，2021 年承諾事項執行情形（包含公私部門參與人員、年度衡量指標及具體績效）已於國家發展委員會網站公告⁷。

130. 在鼓勵公眾檢舉公私部門貪腐犯罪方面，臺灣已建立多元檢舉管道，訂有相關保護規範，例如《證人保護法》的身分保密、人身安全保護及刑責減免等措施，《勞動基準法》等私部門法規也明文禁止雇主對檢舉之勞工施以不利處分，為擴大保護範圍，更積極推動《揭弊者保護法》草案法制作業，並對貪污瀆職案件之檢舉人，法務部依《獎勵保護檢舉貪污瀆職辦法》給予獎金，自 2019 至 2021 年，經貪污瀆職案件檢舉獎金審查會審議同意發給獎金計 42 案，給與獎金共計新臺幣 5,600 萬 2 元；另為維護金融市場秩序，鼓勵民眾勇於檢舉金融違法案件，特訂定《金融監督管理委員會受理民眾檢舉金融違法案件獎勵要點》，對因檢舉而查獲金融違法案件之檢舉人給予獎勵，並明定金融控股公司、銀行業、保險業、證券商、期貨商、證券投資信託事業及證券投資顧問事業應建立檢舉制度，並規範對檢舉人之保護應包含身分保密及工作權保障，以鼓勵員工主動檢舉不法案件。
131. 在洗錢防制方面，透過金融機構（含銀行業、證券業、保險業等）及指定之非金融事業或專門執業技術人員（DNFBPs，如律師、會計師、公證人等）之主動申報，獲取疑似洗錢/資恐可疑交易資訊，處理情形亦反饋給申報機關，以有效整合國內公、私部門金融相關資源，建立我國金流透明秩序。

英文回應：

126. Taiwan values the International Review Committee's 2018 UNCAC Concluding Observations, including the Committee's endorsement of the AAC's establishment of a Clean Politics Advisory Committee composed of professionals from various fields (Measure 7), the implementation of the Anti-corruption volunteers program (Measure 8), and the participation of civil society organizations, academia, and the media in anti-corruption and integrity promotion work (Measure 18, 19, and 22). The Committee also suggested that integrity assessment should be conducted on public institutions (Measure 13), and that Taiwan's chambers of commerce, trade unions, and small and medium-sized enterprises should be more actively involved in fighting corruption and promoting good governance (Measure 17), etc.
127. Taiwan has established the Central Integrity Committee in the Executive Yuan to coordinate government integrity policies; in addition, the central and local authorities at all levels have set up the Integrity Report, which meets regularly. In order to enhance the transparency of the decision-making process and to promote the role of the public in the decision-making process, the Central Integrity Committee and the Integrity Report both invite experts and academics from outside the agency and impartial members of society (including individuals, private sector

⁷ <https://ws.ndc.gov.tw/Download.ashx?u=LzAwMS9hZG1pbmlzdHJhdG9yLzEwL3JlbGZpbGUvMC8xNDc1Mi82ZmY1MzZiNi04N2U2LTRkY2QtYTMzOS05OGMxODI1ODhhYWwucGRm&n=MjAyMeW5tOWQhOaJv%2birvuS6i%2bmgheWft%2bihjOaDheW9oi5wZGY%3d&icon=.pdf>

representatives, and representatives from other government agencies) to serve as committee members to provide consultation and strengthen the corruption prevention mechanism.

128. In promoting preventive anti-corruption policies, Taiwan has continued to implement the “National Integrity Building Action Plan” and has adopted a multi-faceted collaboration strategy to encourage and combine public and private sector efforts in anti-corruption work:

- (1) Continue to partner with the private sector to organize anti-corruption advocacy and exchanges, and hold large-scale seminars for industry on the topic of “deciphering abuse of power for private profit and convenience to the public,” with a total of 10 sessions held from 2019 to 2021.
- (2) The Foreign Business and Enterprise Forum fosters mutual trust through exchanges and discussions to assist the private sector in promoting integrity in business practices and compliance with laws and regulations, and to encourage participation by understanding the government's corruption prevention initiatives. A total of 8 sessions were held from 2019 to 2021.
- (3) Promote the Government Procurement Integrity Platform, and introduce cross-disciplinary oversight by citizen groups, experts, the public and contractors to eliminate undue external interference. As of July 2022, 52 cases have been established on the Government Procurement Integrity Platform, including 18 cases for the central government and 34 cases for local governments, with a total amount of NT\$1.2139 trillion.
- (4) In order to extend the spirit of the Government Procurement Integrity Platform and promote the Integrity Platform for Corporate Services, the private sector is encouraged to collaborate with government agencies to create a clean and quality investment environment, to jointly refine preventive anti-corruption measures, and to enhance the supervision of government integrity in order to combat corruption.

129. Promotion of the 4-year “Taiwan Open Government National Action Plan” in 2021, which is jointly promoted by the government and the public. Among the pledges, five are related to anti-corruption measures, including “strengthening the transparency of political contributions,” “establishing and refining the Government Procurement Integrity Platform” “promoting the legislation of the Whistleblower Protection Act,” “transparency of information on real beneficiaries,” and “implementing policies related to financial transparency of religious groups to stop money laundering loopholes,” etc. The implementation status of the pledges in 2021 (including public and private sector participants, annual measurement indicators and specific performance) has been announced on the website of the National Development Council (NDC).⁸

⁸ <https://ws.ndc.gov.tw/Download.ashx?u=LzAwMS9hZG1pbmlzdHJhdG9yLzEwL3JlbGZpbGUvMC8xNDc1Mi82ZmY1MzZiNi04N2U2LTRkY2QtYTMzOS05OGMxODI1ODhhYWUucGRm&n=MjAyMeW5tOWQhOaJv%2birvuS6i%2bmgheWft%2bihjOaDheW9oi5wZGY%3d&icon=..pdf>

Performance of Taiwan Open Government National Action Plan in 2021

(<https://ws.ndc.gov.tw/Download.ashx?u=LzAwMS9hZG1pbmlzdHJhdG9yLzEwL3JlbGZpbGUvMC8xMzY5My9lMDQxODVlYy1hZTM4LTQ2ODUuYTkzYy1kNjYxNjllYWZiOTUucGRm&n=UGVyZm9ybWFuY2Ugb2YgVGFpd2FuIE9wZW4gR292ZXJubWVudCBOYXRpb25hbCBBY3Rpb24gUGxhbiBpbiAyMDIxLnBkZg%3d%3d&icon=..pdf>)

130. In terms of encouraging the public to report corruption crimes in the public and private sectors, Taiwan has established multiple reporting channels and established relevant protection norms, such as the “Witness Protection Act” measures on identity confidentiality, personal safety protection and criminal liability relief, as well as the “Labor Standards Act,” etc. Regulations pertaining to the private sector also explicitly prohibit employers from imposing adverse penalties on workers who report violations. In order to expand the scope of protection, the MOJ has been actively promoting the draft “Whistleblower Protection Act.” As for reporters of corruption and malfeasance cases, The MOJ, in accordance with the "Anti-Corruption Informant Rewards and Protection Regulation," has granted rewards for 42 cases from 2019 to 2021, after the review and approval of the Review and Evaluation Committee of Rewards for Corruption and malfeasance, totaling NT\$56 million. In addition, to maintain the order of the financial market and encourage the reporting of financial crimes, the “Directions for Encouraging the Public to Report Illegal Financial Activities by the Financial Supervisory Commission” were also enacted, which provides incentives to whistleblowers who uncover financial violations, and to specify that financial holding companies, the banking, insurance, securities dealers, futures dealers, securities investment trusts and securities investment advisors should establish a whistleblower system and that the protection of whistleblowers should include confidentiality and protection of right to work to encourage employees to take the initiative to report illegal violations.
131. In terms of money laundering prevention and control, through proactive reporting by financial institutions (including banking, securities, insurance, etc.) and designated non-financial institutions or specialized technical practitioners (DNFBPs, such as lawyers, accountants, notaries, etc.), suspected money laundering / suspicious transactions information is obtained, the handling measures are also reported back to the competent authorities, in order to effectively integrate domestic public and private sector financial-related resources and establishing a transparent financial order in the nation.

2.57		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 13 條 (第 3 點)	<p><u>Promoting social participation</u> <u>(Response Report, p30)</u></p> <p>The AAC has clearly worked with a large number of people and events to raise the issue of zero tolerance to corruption and integrity.</p> <p>Civil society and business peak bodies are also essential to promoting</p>	<p><u>推動社會參與</u></p> <p>廉政署已舉辦許多活動，有效喚起多數民眾貪腐零容忍與廉潔意識。</p> <p>民間社會與企業領導團體亦為促進廉潔不可或缺的推手，當社會積極參與時，廉潔風氣便會盛行。請問廉政署如何與該等組織合作，並支持這些民間</p>

	<p>integrity and integrity improves when civil participation is active rather than passive. How has the AAC worked alongside those organisations, supporting events that these civil society and business groups lead or initiate?</p>	<p>社會與企業團體所主導或發起的活動？ 【第二次國家報告第 65 頁】 【回應報告第 20 頁】</p>
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中文回應：

132. 廉政署與各主管機關政風機構，持續針對公部門以外的個人及團體，運用多元參與途徑，加強各界對廉政政策之認識與支持，提升全民貪污零容忍意識，對於政府廉潔、企業誠信、校園誠信等價值的守護，已逐漸成為型塑廉潔誠信社會之共識，使國家整體發展向上提升。因此不論政府機關、民間社會或企業團體發起舉辦之廉潔誠信反貪腐活動，都需要公私部門及社會各界相互協力支持。廉政署偕同檢察機關、主管機關、地方政府與企業、工商團體、專家學者及非政府組織，透過辦理論壇、座談，及試辦企業服務廉政平臺等各種方式，以公私協力的精神，結合廉政議題，與企業團體、公協會組織不斷交流，推動行政透明與簡政便民，協助區辨圖利與便民，倡議企業誠信及法令遵循，邀請標竿企業進行實踐分享，建立反貪腐夥伴關係，傳達並擴散廉潔誠信相關訊息，進而更強化社會反貪意識，並提升反貪活動效益。

英文回應：

132. The AAC and the various competent authorities' Government Employee Ethics Units have created multiple participation approaches to strengthen the understanding and support of the clean government policy. The goal is to raise the public's awareness of zero tolerance for corruption and protect values such as government integrity, corporate integrity, and campus integrity. As a result, the public has gradually reached a consensus on shaping a clean and honest society while promoting the country's overall development. Regardless of the integrity or anti-corruption activities initiated by government agencies, civil groups, or enterprises, they all require public support and provide sectors in the society. To promote administrative transparency, simplified administration and convenience for the general public, and to assist in distinguishing illegal profits and citizen services, the AAC and the prosecution agencies, the competent authorities, local governments and enterprise, industrial and commercial groups, experts and scholars, NGOs have established an anti-corruption partnership through continuous exchanges with enterprise groups and union/association organizations, such as forums, seminars and corporate service integrity platforms and other activities, to deal with the ethical government topic, initiate corporate integrity and law compliance, invite benchmarking enterprises to share practical experiences, and spread the information on integrity and honesty under the spirit of

public-private cooperation. The goal is to further strengthen social anti-corruption awareness and enhance the performance of anti-corruption efforts.

2.58		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 2 章 第 13 條	Has a coordinated national campaign to raise awareness been considered (anticorruption day or week)? (ROC's Second Report, p.63)	請問是否考慮舉辦全國性活動，以喚起全民意識？（例如反貪日或反貪週） 【第二次國家報告第 36 頁】

中文回應：

133. 我國《國家廉政建設行動方案》訂有「鼓勵社會參與，促進透明與貪腐零容忍的共識」，透過反貪活動的辦理，向社會各界宣導建立反貪腐共識。為精進反貪活動宣導質量，廉政署及相關主管機關透過公私協力、跨域整合公私部門不同領域，建立主題性反貪活動模式，如企業誠信、校園誠信、工程倫理等，部分活動透過媒體或數位傳遞，使宣導效益廣泛而普及各階層。2019 至 2021 年，於「聯合國國際反貪日」（12 月 9 日）前後期間，積極結合各主管機關及地方政府分別舉辦各類型反貪活動，以接軌國際反貪議題，例如：2021 年辦理公司治理及企業誠信研討會（經濟部）、國防廉潔論壇（國防部）、金融論壇（財政部）、圖利與便民座談會（基隆市）及誠信反貪月系列宣導（高雄市）等，未來仍將評估運用全國性活動或精進其他不同宣導模式等策略，以達推展廉潔誠信價值之綜效。

英文回應：

133. The “National Integrity Building Action Plan” stipulates the “encouraging social participation, promoting transparency and zero corruption tolerance” to guide all sectors of society to establish an anti-corruption consensus through anti-corruption activities. To refine the quality of anti-corruption activities, the AAC and the competent authorities have established public-private cooperation via cross-domain integration from different fields. The goal is to formulate anti-corruption activity models such as corporate integrity, campus integrity, or engineering ethics. Some activities are transmitted via media or digital files to ensure effective publicity for all sectors of society. During UN International Anti-Corruption Day (on December 9) from 2019 to 2021, the AAC combined with the competent agencies and local governments to organize various anti-corruption activities respectively to be in line with international anti-corruption issues, such as “Corporate Governance and Corporate Integrity Seminar” (MOE), government defense integrity forum (MND), financial forums (MOF), “Illegal Profits and Citizen Services Seminar” (Keelung City) and “Integrity & Anti-corruption Month” (Kaohsiung City) in 2021. In the future, national campaigns or other promotional models will be evaluated to achieve synergistic effects in promoting ethics and integrity values.

2.59		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 2 章 第 13 條 (第 18、22 點)	<p><u>continuous participation of civil society organizations and the academia and the media should continue their involvement in anti corruption efforts</u> (Response Report, p46-47)</p> <p>Very good examples of civil society.</p> <p>With respect of media Taiwan has challenging issues similar to other countries, with political polarisation in media agencies.</p> <p>Would it be worth noting Taiwan's score in the Press Freedom Index.</p>	<p>公民社會組織、學術界與媒體參與反貪倡廉</p> <p>報告所列的公民社會參與都是很好的案例。</p> <p>在媒體方面，臺灣與其他國家一樣具有挑戰性的問題，即媒體機構的政治兩極化。臺灣在新聞自由指數上的表現值得一提。</p> <p>【第二次國家報告第 66 頁】 【回應報告第 31 頁】</p>

中文回應：

134. 言論自由為我國《憲法》第 11 條：「人民有言論、講學、著作及出版之自由」所保障的基本人權，以及民主轉型關鍵，我國極為尊重並致力維護。依據《通訊傳播基本法》第 3 條規定：「為有效辦理通訊傳播之管理事項，政府應設通訊傳播委員會，依法獨立行使職權。」爰為避免人民言論受到干預，通訊傳播委員會透過獨立機關及委員合議制，以嚴守客觀、中立及專業立場，掌理專業管制性業務，落實言論自由保障。
135. 文化部負責國家各項文化振興、藝術發展、出版相關業務，以及廣播影視產業的推廣，自 1999 年 1 月 25 日《出版法》廢止後，目前對平面媒體報導、出版內容主要以自律、他律及依法律辦理為原則，政府不予干涉，如報導內容若違反相關法規（如兒少保護），則依各該現行法規（如《兒童及少年福利與權益保障法》、《刑法》、《民法》）辦理，文化部亦不定期彙整出版平面媒體相關法規，函請各縣市政府協助轉請所轄媒體公協會，提醒所屬會員應遵守相關規定，並加強新聞自律。
136. 根據無國界記者公布之 2022 年度新聞自由指數報告，臺灣全球排名第 38 名，比 2021 年排名上升 5 名，新聞自由程度居亞洲國家之冠。另非營利組織 TRACE（致力於全球商業反賄賂、透明及良善治理議題）於 2021 年 11 月 17 日公布「2021 年賄賂風險指數」（2021 TRACE Bribery Risk Matrix）結果，針對公民社會監督能力之媒體自由及公民社會，臺灣排名第 14 名，較 2020 年第 16 名提升 2 名。

英文回應：

134. Freedom of speech is a fundamental human right protected by Article 11 of the “Constitution of the ROC,” which stipulates “The people shall have the freedom of speech, teaching, writing and publication.” Article 3 of the “Fundamental Communications Act” stipulates, “The Government shall establish the National Communications Commission to independently exercise its duties and powers in accordance with the laws.” Thus, to safeguard people’s freedom of speech and promote the sound development of communications, NCC was established as an independent organization with a collegial system, consisting of 7 commissioners.
135. The Ministry of Culture is in charge of cultural heritage and encourages excellence in the arts, publishing, broadcasting, film, and other forms of cultural expression. Since the abolishment of the “Publishing Act” on Jan. 25, 1999, Taiwan no longer seeks to curb press freedom — print media outlets and publishers operate according to the law and on an independent basis, with their self-monitoring by those who work for them, and those who read their works. The government only steps in when a publication is in violation of the law. A reprimand is then issued based on the legal framework governing that specific area, such as the “Protection of Children and Youths Welfare and Rights Act,” the “Criminal Code,” or the “Civil Code.” The Ministry of Culture shall continue to raise awareness of relevant legal regulations pertaining to publishing and print media by providing memos to city and county governments for them to share with media and publishing unions, networks, and associations registered in their jurisdiction. The memo will be distributed on an intermittent basis to highlight the importance of self-regulatory mechanisms for the free press, and boost familiarity of and compliance with the country’s governing laws among those working in journalism or print.
136. According to the 2022 World Press Freedom Index by Reporters Without Borders (RSF), Taiwan has moved up five places from the previous year, ranking at number 38th, the highest among all Asian countries. TRACE, a non-profit organization dedicated to global commercial anti-bribery, transparency and good governance, released the “2021 TRACE Bribery Risk Matrix” on November 17, 2021, aiming at free press and civil society of oversight, Taiwan ranks 14th, up 2 places from 16th in 2020.

聯合國反貪腐公約 第三章 定罪和執法

UNCAC Chapter III. Criminalization and law enforcement

3.1		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 15 條	The statistics on bribery cases does not include cases of bribe payers? (ROC's Second Report, p.125)	表 17 的數據不包含行賄案件？ 【第二次國家報告第 74 頁】

中文回應：

137. 表 17 數據不包含行賄案件，各地檢署辦理違反《貪污治罪條例》行賄案件統計如下表。

表 4 各地檢署辦理違反《貪污治罪條例》行賄案件統計

單位：人

項目別	偵查終結起訴		執行裁判確定有罪	
	對於違背職務之行為，行求、期約或交付賄賂罪	對於不違背職務之行為，行求、期約或交付賄賂罪	對於違背職務之行為，行求、期約或交付賄賂罪	對於不違背職務之行為，行求、期約或交付賄賂罪
2017 年至 2022 年 5 月	366	221	190	107
2017 年	73	20	24	33
2018 年	50	26	43	11
2019 年	89	66	16	11
2020 年	73	78	54	16
2021 年	46	11	44	31
2022 年 1-5 月	35	20	9	5

資料提供：法務部統計處

英文回應：

137. The statistics on bribery cases does not include cases of bribe payers. For details on the cases of bribe payers in violation of Paragraph 1 (offenses of bribery in violation of duties) and 2 (offenses of bribery not in violation of duties) of Article 11 of the “Anti-Corruption Act” handled by local prosecutors’ offices, please refer to Table4.

Table 4 Statistics on the cases of bribe payers in violation of the “Anti-Corruption Act” handled by local prosecutors’ offices

Unit: people

Item	Prosecuted after investigation		Convicted by judgment	
	Tendering, promising to	Tendering, promising to	Tendering, promising to	Tendering, promising to

	give, or giving a bribe in violation of duties	give, or giving a bribe not in violation of duties	give, or giving a bribe in violation of duties	give, or giving a bribe not in violation of duties
2017-May,2022	366	221	190	107
2017	73	20	24	33
2018	50	26	43	11
2019	89	66	16	11
2020	73	78	54	16
2021	46	11	44	31
Jan-May,2022	35	20	9	5

Data source: Department of Statistics (MOJ)

3.2		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 15 條	Two or three leading examples of the definition of bribery articulated by the courts .	請提供法院闡明賄賂定義的 2 或 3 個主要案例。 【第二次國家報告第 74 頁】

中文回應：

138. 關於賄賂犯行之定義及規定，按「公務員為違背職務之行為，要求、期約或收受賄賂或其他不利益者，處無期徒刑或十年以上有期徒刑，得併科新臺幣一億元以下罰金」；「對於職務上之行為，要求、期約或收受賄賂或其他不正利益者，處七年以上有期徒刑，得併科新臺幣六千萬元以下罰金」；「對於公務員對於違背職務之行為，行求、期約或交付賄賂或其他不正利益者，處一年以上七年以下有期徒刑，得併科新臺幣三百萬元以下罰金」；「對於公務員不違背職務之行為，行求、期約或交付賄賂或其他不正利益者，處三年以下有期徒刑、拘役或科或併科新臺幣五十萬元以下罰金」，《貪污治罪條例》第 4 條第 5 款、第 5 條第 1 項第 3 款、第 11 條第 1 項、第 2 項分別定有明文。
139. 關於賄賂犯行之法律見解，例如：《貪污治罪條例》第 5 條第 1 項第 3 款對於職務上之行為收受賄賂罪，須他人有行求賄賂之意思，而公務員於其職務範圍內，有允諾踐履賄賂對象之特定行為，且所收受之金錢、財物或不正利益與其職務上之行為有相當對價關係，始足當之。(最高法院 98 年度台上字第 5370 號判決)；交付者本於行賄之意思，以賄賂或不正利益買通公務員，冀求對於職務範圍內踐履賄賂對象之特定行為，而公務員明知交付者係對於其職務上行為行賄，明示或默許允為行賄者所冀求之職務上行為，進而收受，其收受財物或不正利益與其職務上之行為，始具有對價關係(最高法院 106 年度台上字第 3114 號判決)。

英文回應：

138. With regard to the definition and rules of bribery, “any public servant who has committed demanding, taking or promising to take bribes or other unlawful profits by the acts that violate the official duties, 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,” “Any public servant who has committed demanding, taking or promising to take bribes or other unlawful profits by an act that belongs to the official duties, shall be punished by imprisonment for a term of no less than seven years and may also be punished by a fine not to exceed NT\$60 million.” “Any person who tenders a bribe or other unjust valuables, promises to give anything of value or gives anything of value to a public servant in return for his or her performing or omitting against his or her official duties 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 not to exceed NT\$3,000,000,” “where in return for performing his or her official duties, shall be punished by imprisonment for a term of no more than three years, criminal detention, and may also be punished by a fine not to exceed NT\$500,000.” (According to Paragraph 5 of Article 4, Subparagraph 3 of Paragraph 1 of Article 5, and Paragraph 1 and 2 of Article 11 of “Anti-Corruption Act”)
139. With regard to the legal opinion of bribery, the Supreme Court stipulated in its docket no. Supreme Court decision 98 Taishang 5370 decision that the bribery crime of Subparagraph 3 of Paragraph 1 of Article 5 shall be based on the findings that the defendant promised a person to perform a specified act within his or her official duties, that person has the intention of giving a bribe, and the bribe and the promised official duties have a quid pro quo relationship. The Supreme Court also ruled in its docket no. Supreme Court decision 106 Taishan 3114 decision that the so-called quid pro quo relationship is the relationship in which: (1) on the one hand someone with the intention of giving a bride wishes the defendant, as a public servant, to perform an act within his or her official duties and actually gives a bribe or an unjust profit to the defendant; (2) on the other hand the defendant knows that person is giving a bride in exchange for his or her official duties, explicitly or implicitly promises that person to perform an act within his or her official duties, and actually takes the bride.

3.3		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 15 條	The most recent statistics on enforcement against active domestic and foreign bribery (i.e. promising or giving a bribe), including cases concluded with sanctions	對國內外行賄 (即允諾或行賄) 的最新執法統計數據, 包括以刑事結案的案件。 【第二次國家報告第 74 頁】

中文回應：

140. 地方檢察署辦理違反《貪污治罪條例》第4條第1項第5款（對於違背職務之行為，要求、期約或收受賄賂罪）、第5條第1項第3款（對於職務上之行為，要求、期約或收受賄賂）起訴及有罪人數，如下表。

表5 各地檢署辦理違反《貪污治罪條例》相關法條起訴及有罪人數統計

單位：人

項目別	偵查終結起訴		執行裁判確定有罪	
	對於違背職務之行為，要求、期約或收受賄賂罪	對於職務上之行為，要求、期約或收受賄賂	對於違背職務之行為，要求、期約或收受賄賂罪	對於職務上之行為，要求、期約或收受賄賂
2017年至2022年5月	352	341	228	297
2017年	75	32	33	48
2018年	67	69	46	80
2019年	72	69	48	49
2020年	67	105	40	48
2021年	48	32	41	57
2022年1-5月	23	34	20	15

141. 司法院統計資料並未區分國內、國外行賄之案件，謹提供地方法院、高等法院及最高法院之賄賂相關法條之案件裁判結果統計資料供參。

表6 地方法院刑事第一審訴訟案件被告違反賄賂相關法條之裁判結果

單位：人

資料期間	裁判結果																								
	總計	科刑情形																			管轄錯誤	通緝	撤回	駁回	其他
		計	死刑	無期徒刑	有期徒刑										拘役	罰金	免除其刑	無罪	免訴	不受理					
					計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年											
總計	3,667	2,796			2,770	814	202	1,075	102	274	104	101	97	1	26		44	567	36	200	3	11	1		9
2017	679	468			467	200	36	96	18	34	26	26	30	1	1		11	107	7	82		2			2
2018	513	363			363	147	22	96	7	37	20	13	21				2	85	10	50		2			1
2019	1,390	1,113			1,112	246	79	595	31	97	20	17	27		1		10	225	11	23	2	2	1		3
2020	531	399			394	140	24	143	17	36	14	12	8		5		12	111	2	5		2			
2021	433	353			334	55	28	105	28	62	21	27	8		19		5	26	3	39	1	3			3
2022 1-5月	121	100			100	26	13	40	1	8	3	6	3				4	13	3	1					

表7 高等法院刑事第二審訴訟案件被告違反賄賂相關法條之裁判結果

單位：人

資料期間	裁判結果																								
	科刑情形														免除其刑	無罪	撤回	免訴	不受理	管轄錯誤	通緝	發回原審法院	其他		
	總計	計	死刑	無期徒刑	有期徒刑																			拘役	罰金
					計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年											
計																									
總計	3,099	1,828			1,824	215	106	570	159	365	176	121	111	1	4		13	1,056	63	5	119			5	10
2017	723	366			365	41	20	112	29	57	38	37	30	1	1		5	265	9		73			4	1
2018	548	276			276	43	20	79	26	45	36	19	8				1	254	6	2	5				4
2019	613	397			397	28	22	154	39	66	36	20	32				3	182	13	1	17				
2020	671	437			437	66	23	133	33	113	33	16	20				2	191	21	1	16				3
2021	408	251			249	31	16	64	18	58	26	21	15		2		2	134	12	1	6			1	1
2022 1-5月	136	101			100	6	5	28	14	26	7	8	6		1			30	2		2				1

表 8 最高法院刑事上訴案件被告違反賄賂相關法條之裁判結果

單位：人

資料期間	裁判結果																				
	科刑情形											免除其刑	無罪	免訴	不受理	管轄錯誤	其他				
	總計	計	死刑	無期徒刑	有期徒刑													拘役	罰金		
					計	一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下									逾十年	
計																					一年以下
總計	1,193	951			951	107	210	94	242	118	101	79			7	212		22			1
2017	225	179			179	28	38	22	41	20	20	10				43		3			
2018	258	196			196	24	32	18	48	28	28	18			5	53		4			
2019	191	148			148	16	29	10	28	30	20	15				29		14			
2020	225	183			183	16	51	22	48	13	16	17			1	40		1			
2021	246	198			198	18	50	17	65	21	12	15			1	47					
2022 1-5月	48	47			47	5	10	5	12	6	5	4									1

英文回應：

140. For details on the cases in violation of Subparagraph 5, Paragraphs 1, Article 4 (Demanding, agreeing to accept or accepting a bribe in violation of duties) and Subparagraph 3, Paragraph 1,

Article 5 (Demanding, agreeing to accept or accepting a bribe not in violation of duties) of the “Anti-Corruption Act” handled by local prosecutors’ offices, please refer to Table5.

Table 5 Statistics on the cases in violation of the “Anti-Corruption Act” handled by local prosecutors’ offices

Unit: people

Item	Prosecuted after investigation		Convicted by judgment	
	Demanding, agreeing to accept or accepting a bribe in violation of duties	Demanding, agreeing to accept or accepting a bribe not in violation of duties	Demanding, agreeing to accept or accepting a bribe in violation of duties	Demanding, agreeing to accept or accepting a bribe not in violation of duties
2017-May,2022	352	341	228	297
2017	75	32	33	48
2018	67	69	46	80
2019	72	69	48	49
2020	67	105	40	48
2021	48	32	41	57
Jan-May,2022	23	34	20	15

Data Source: Department of Statistics (MOJ)

141. So far the statistics data of the Judicial Yuan do not distinguish between domestic and foreign bribery cases. We would like to provide statistics on the results of the trials of the District Court, the High Court and the Supreme Court as below.

Table 6 Results of District Court Criminal Case in which the defendant violated the provisions of the Bribery Act

Unit: person

Year	Defendants	Total	Referee Result																							
			Total	Individuals Sentenced											Exempt from Punishment	innocent	Exempt from Prosecution	Case Not Entertained	Mistake in jurisdiction	circular order	withdrawal	Return the case to the original court	Others			
				Total	Imprisonment																					
					Total	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years to 15 years or less	More than 15 years										Detention	Fines	
Total	Total	3,667	2,796			2,770	814	202	1,075	102	274	104	101	97	1	26		44	567	36	200	3	11	1		9
2017	Total	679	468			467	200	36	96	18	34	26	26	30	1	1		11	107	7	82		2			2
2018	Total	513	363			363	147	22	96	7	37	20	13	21				2	85	10	50		2			1

2019	Total	1,390	1,113			1,112	246	79	595	31	97	20	17	27		1		10	225	11	23	2	2	1		3
2020	Total	531	399			394	140	24	143	17	36	14	12	8		5		12	111	2	5		2			
2021	Total	433	353			334	55	28	105	28	62	21	27	8		19		5	26	3	39	1	3			3
Jan-May 2022	Total	121	100			100	26	13	40	1	8	3	6	3				4	13	3	1					

Table 7 Results of High Court Criminal Appeal Case in which the defendant violated the provisions of the Bribery Act

Unit: person

Year	Defendants	Referee Result																								
		Total	Death Penalty	Life Imprisonment	Individuals Sentenced											Exempt from Punishment	innocent	withdrawal	Exempt from Prosecution	Case Not Entertained	Mistake in jurisdiction	circular order	Return the case to the original court	Others		
					Imprisonment																					
					Total	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years to 15 years or less	More than 15 years	Detention										Fines	
Total	Total	3,099	1,828			215	106	570	159	365	176	121	111	1	4		13	1,056	63	5	119			5	10	
2017	Total	723	366			365	41	20	112	29	57	38	37	30	1	1		5	265	9		73			4	1
2018	Total	548	276			276	43	20	79	26	45	36	19	8			1	254	6	2	5					4
2019	Total	613	397			397	28	22	154	39	66	36	20	32			3	182	13	1	17					
2020	Total	671	437			437	66	23	133	33	113	33	16	20			2	191	21	1	16					3
2021	Total	408	251			249	31	16	64	18	58	26	21	15		2	2	134	12	1	6				1	1
Jan-May 2022	Total	136	101			100	6	5	28	14	26	7	8	6		1		30	2		2					1

Table 8 Results of Supreme Court Criminal Appeal Case in which the defendant violated the provisions of the Bribery Act

Unit: person

Year	Defendants	Referee Result																		
		Total	Death Penalty	Life Imprisonment	Individuals Sentenced										Exempt from Punishment	innocent	Exempt from Prosecution	Case not entertained	Mistake in jurisdiction	Others
					Imprisonment															
					Total	Under 1 year	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years	Detention	Fines						

Total	Total	1,193	951		951	107	210	94	242	118	101	79		7	212		22		1
2017	Total	225	179		179	28	38	22	41	20	20	10			43		3		
2018	Total	258	196		196	24	32	18	48	28	28	18		5	53		4		
2019	Total	191	148		148	16	29	10	28	30	20	15			29		14		
2020	Total	225	183		183	16	51	22	48	13	16	17		1	40		1		
2021	Total	246	198		198	18	50	17	65	21	12	15		1	47				
Jan-May 2022	Total	48	47		47	5	10	5	12	6	5	4							1

3.4		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 15 條	A few court judgements in cases where individuals have been held liable or acquitted on charges of active domestic or foreign bribery (i.e. promising or giving a bribe) or related charges. Please include information on any sanctions imposed.	請提供一些有關個人在境內或境外賄賂(允諾或行賄)，被宣告有罪或無罪的判決，包括實施任何處分的相關資訊。 【第二次國家報告第 74 頁】

中文回應：

142. 有罪案例：（彰化縣鄉公所蔡姓鄉長及王姓代表會主席向綠能廠商索賄案）

- (1) 事實：彰化縣大城鄉蔡姓鄉長、代表會王姓主席以許可路權向廠商索賄，又挾黑道勢力藉勢勒索綠能業者，貪污不法所得共計 2,010 萬元。
- (2) 判決：2022 年 6 月 8 日二審判決，蔡姓鄉長有期徒刑 4 年 5 月；王姓代表會主席 3 罪（5 年 4 月、5 年 10 月、6 年 6 月，合併定應執行有期徒刑 12 年）。
- (3) 行政懲戒：監察院於 2022 年 5 月 12 日以上開 2 人本件犯罪行為已違反《公務員服務法》第 1 條、第 5 條、第 6 條及《彰化縣政府員工廉政倫理規範》第 3 點、第 4 點前段等規定，構成《公務員懲戒法》第 2 條第 1 款所定應受懲戒事由，提案彈劾，移請懲戒法院審理。

143. 無罪案例

- (1) 事實：新北市汐止區公所科員王姓被告覬覦「祭祀公業保儀大夫」名下土地龐大利益，與蔡姓祭祀公業管理人簽立土地買賣委託書受祭祀公業委託出售土地。王姓被告於 102 年 2 月間晉升視導職務，接任民政課祭祀公業業務，知悉出售土地需要派下全員證明、規約等文件，違法審核通過祭祀公業之規約備查，使土地順利出售，以此方式取得犯罪所得 1695 萬元。
- (2) 判決：一審判決被告犯違背職務收賄罪，處有期徒刑 13 年。二審改判無罪。本案嗣經最高法院發回更審，審理中。

- (3) 無罪理由：被告主動去找祭祀公業簽下土地買賣委託書，是屬於兼差仲介賣地行為，被告獲得之利益與職務行為（同意規約備查）之間無對價關係。
- (4) 行政懲戒：王姓公務員上開不法行為，違反《公務員服務法》第5條，該當《公務員懲戒法》第2條第1款規定違法執行職務之行為，經懲戒法院判處撤職並停止任用3年。
144. 司法院統計資料並未區分個人在境內或境外賄賂（允諾或行賄），謹提供地方法院之賄賂相關法條之案件裁判結果統計資料供參，高等法院及最高法院均無裁判結果資料。

表 9 地方法院刑事第一審訴訟案件被告違反賄賂相關法條之裁判結果-自然人

單位：人

資料期間	總計	裁判結果																							
		科刑情形													免除其刑	無罪	免訴	不受理	管轄錯誤	通緝	撤回	駁回	其他		
		計	死刑	無期徒刑	有期徒刑																			拘役	罰金
					計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年											
總計	3,586	2,796		2,770	814	202	1,075	102	274	104	101	97	1	26		44	567	36	120	3	11	1		8	
2017	660	468		467	200	36	96	18	34	26	26	30	1	1		11	107	7	64		2			1	
2018	478	363		363	147	22	96	7	37	20	13	21				2	85	10	15		2			1	
2019	1,390	1,113		1,112	246	79	595	31	97	20	17	27		1		10	225	11	23	2	2	1		3	
2020	531	399		394	140	24	143	17	36	14	12	8		5		12	111	2	5		2				
2021	406	353		334	55	28	105	28	62	21	27	8		19		5	26	3	12	1	3			3	
2022 1-5月	121	100		100	26	13	40	1	8	3	6	3				4	13	3	1						

表 10 高等法院刑事第二審訴訟案件被告違反賄賂相關法條之裁判結果-自然人

單位：人

資料期間	總計	裁判結果																							
		科刑情形													免除其刑	無罪	撤回	免訴	不受理	管轄錯誤	通緝	發回原審法院	其他		
		計	死刑	無期徒刑	有期徒刑																			拘役	罰金
					計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年											
總計	3,082	1,828		1,824	215	106	570	159	365	176	121	111	1	4		13	1,056	63	5	102			5	10	
2017	706	366		365	41	20	112	29	57	38	37	30	1	1		5	265	9	56			4	1		
2018	548	276		276	43	20	79	26	45	36	19	8				1	254	6	2	5				4	
2019	613	397		397	28	22	154	39	66	36	20	32				3	182	13	1	17					

2020	671	437			437	66	23	133	33	113	33	16	20			2	191	21	1	16					3
2021	408	251			249	31	16	64	18	58	26	21	15		2	2	134	12	1	6				1	1
2022 1-5月	136	101			100	6	5	28	14	26	7	8	6		1		30	2		2					1

表 11 最高法院刑事上訴案件被告違反賄賂相關法條之裁判結果-自然人

單位：人

資料 期間	總計	裁判結果																							
		科刑情形																		免 除 其 刑	無 罪	免 訴	不 受 理	管 轄 錯 誤	其 他
		有期徒刑											拘 役	罰 金											
		計	死 刑	無 期 徒 刑	計	一 年 以 下	逾 一 年 至 二 年 以 下	逾 二 年 至 三 年 以 下	逾 三 年 至 五 年 以 下	逾 五 年 至 七 年 以 下	逾 七 年 至 十 年 以 下	逾 十 年													
總計	1,174	939			939	107	208	94	233	118	100	79			7	212		15		1					
2017	225	179			179	28	38	22	41	20	20	10				43		3							
2018	258	196			196	24	32	18	48	28	28	18			5	53		4							
2019	184	148			148	16	29	10	28	30	20	15				29		7							
2020	225	183			183	16	51	22	48	13	16	17			1	40		1							
2021	234	186			186	18	48	17	56	21	11	15			1	47									
2022 1-5月	48	47			47	5	10	5	12	6	5	4									1				

英文回應：

142. Guilty case: (Changhua County Township Office Chief Tsai and Chairman Wang of the representative council solicited bribes from green energy manufacturers)

- (1) Facts: Chief Tsai of Dacheng Township in Changhua County and Chairman Wang of the representative council requested bribes from manufacturers in exchange for permit issuance. They also conspired with criminal gang forces to extort green energy companies and obtained a total of NT\$20.1 million in illegal gains.
- (2) Verdict: On June 8, 2022, the second instance court sentenced Township Chief Tsai to 4 years and 5 months of imprisonment. Chairman Wang of the representative council was convicted of 3 crimes (sentenced to 5 years and 4 months, 5 years and 10 months, and 6 years and 6 months, respectively; and must serve 12 years of the mandatory determinate sentence before eligible for parole).
- (3) Administrative punishment: On May 12, 2022, the Control Yuan found that the criminal acts of the 2 suspects mentioned above have violated Articles 1, 5, & 6 of the “Civil Servant Work Act” as well as Point 3 and Point 4 (first section) of the Code of Ethics for Changhua County Government’s Civil Servants. Their actions constituted grounds for disciplinary action

provided by Paragraph 1, Article 2 of the “Civil Service Discipline Act.” The case was transferred to the Disciplinary Court for trial.

143. Not Guilty Case

- (1) Facts: The Defendant, Mr. Wang, was a staff member of the Xizhi District Office in New Taipei City. He was accused of coveting huge interests from the lands under the name of the “Ancestor Worship Guild of Cabinet Baoyi” by signing a power of attorney for land tractions with the manager of Tsai’s Ancestor Worship Guild to sell its lands. Defendant Wang was promoted to inspector in February 2013 to head the Civil Affairs Division that oversees ancestor worship guilds. He knew that the sale of lands required approval certificates, conventions, and other documents from all members. The illicitly passed ancestor worship guild conventions (attached as reference) were used to sell the lands successfully, and the Defendant obtained NT\$16.95 million through his illegal acts.
- (2) Verdict: The first instance court convicted the Defendant of taking bribes in violation of his duties and sentenced him to 13 years in prison. The second instance court acquitted the case. The Supreme Court has remanded this case for further trial, and the trial is in progress.
- (3) Grounds for acquittal: The Defendant took the initiative to go to the ancestor worship guild to sign a power of attorney for the land sale. His action is considered a part-time intermediary act to sell land. The profits obtained by the Defendant (agreement conventions provided for reference) has no consideration relationship to his official duties.
- (4) Administrative punishment: The illegal acts of Mr. Wang, a civil servant, violated Article 5 of the “Civil Servant Work Act.” Upon conviction of performing official duties illegally pursuant to Paragraph 1, Article 2 of the “Civil Servant Disciplinary Act” by the Disciplinary Court, the suspect was sentenced to immediate dismissal and a 3-year suspension.

144. So far the statistics data of the Judicial Yuan do not distinguish between domestic or foreign bribery (i.e. promising or giving a bribe) by legal persons. We would like to provide statistics on the results of the trials of the District Court as below. The High Court and the Supreme Court have no judgment results.

Table 9 Results of District Court Criminal Case in which the defendant violated the provisions of the Bribery Act (individuals)

Unit: person

Year	Defendants	Total	Referee Result																	
			Total	Individuals Sentenced										Exempt from Prosecution innocent	Case Not Entered Mistake in jurisdiction circular order withdrawal Return the case to the original court Others					
				Total	Imprisonment															
					Death Penalty	Life Imprisonment	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less			More than 10 years to 15 years or less	More than 15 years	Fines	Detention	

Total	3,586	2,796		2,770	814	202	1,075	102	274	104	101	97	1	26		44	567	36	120	3	11	1		8
2017	660	468		467	200	36	96	18	34	26	26	30	1	1		11	107	7	64		2			1
2018	478	363		363	147	22	96	7	37	20	13	21				2	85	10	15		2			1
2019	1,390	1,113		1,112	246	79	595	31	97	20	17	27		1		10	225	11	23	2	2	1		3
2020	531	399		394	140	24	143	17	36	14	12	8		5		12	111	2	5		2			
2021	406	353		334	55	28	105	28	62	21	27	8		19		5	26	3	12	1	3			3
Jan-May 2022	121	100		100	26	13	40	1	8	3	6	3				4	13	3	1					

Table 10 Results of High Court Criminal Appeal Case in which the defendant violated the provisions of the Bribery Act (individuals)

Unit: person

Year	Defendants	Referee Result																							
		Individuals Sentenced													Exempt from Punishment	innocent	withdrawal	Exempt from Prosecution	Case Not Entertained	Mistake in jurisdiction	circular order	Return the case to the original court	Others		
		Total	Death Penalty	Life Imprisonment	Imprisonment																			Fines	Detention
					Total	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 year to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years to 15 years or less	More than 15 years											
Total	3,082	1,828		1,824	215	106	570	159	365	176	121	111	1	4		13	1,056	63	5	102			5	10	
2017	706	366		365	41	20	112	29	57	38	37	30	1	1		5	265	9		56			4	1	
2018	548	276		276	43	20	79	26	45	36	19	8				1	254	6	2	5				4	
2019	613	397		397	28	22	154	39	66	36	20	32				3	182	13	1	17					
2020	671	437		437	66	23	133	33	113	33	16	20				2	191	21	1	16				3	
2021	408	251		249	31	16	64	18	58	26	21	15		2		2	134	12	1	6			1	1	
Jan-May 2022	136	101		100	6	5	28	14	26	7	8	6		1			30	2		2				1	

Table 11 Results of Supreme Court Criminal Appeal Case in which the defendant violated the provisions of the Bribery Act (individuals)

Unit: person

Year	Defendants	Referee Result																				
		Total	Individuals Sentenced											Exempt from Punishment	innocent	Exempt from Prosecution	Case not entertained	Mistake in jurisdiction	Others			
			Total	Death Penalty	Life Imprisonment	Imprisonment														Detention	Fines	
						Total	Under 1 year	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years									
Total		1,174	939			939	107	208	94	233	118	100	79			7	212		15		1	
2017	Natural person	225	179			179	28	38	22	41	20	20	10				43		3			
2018		258	196			196	24	32	18	48	28	28	18			5	53		4			
2019		184	148			148	16	29	10	28	30	20	15				29		7			
2020		225	183			183	16	51	22	48	13	16	17			1	40		1			
2021		234	186			186	18	48	17	56	21	11	15			1	47					
Jan-May 2022		48	47			47	5	10	5	12	6	5	4									1

3.5		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 18 條	(ROC's Second Report -41(3), p.130) Are Government employees trained to recognise, and required to report, conflicts of interest? If reported, how are conflicts of interest managed?	參照第二次國家報告第 78 頁-41(3)內容，請問公職人員有無經過相關訓練，以辨識《公職人員利益衝突迴避法》第 14 條之事件，並要求其通報此類事件？事件經通報後，後續如何處理？ 【第二次國家報告第 78 頁-41(3)】

中文回應：

145. 《公職人員利益衝突迴避法》乃為促進廉能政治、端正政治風氣，有效遏阻貪污腐化及不當利益輸送，自 2000 年 7 月 12 日公布施行後，為達成上述立法目的，廉政署加強各項宣導作為，而 2018 年 12 月 13 日《公職人員利益衝突迴避法》大幅修正施行後，持續

透過辦理說明會、製作多元化文宣（如簡介摺頁及資料夾）、編撰案例彙編手冊及於 2022 年召開「公職人員利益衝突迴避法第 14 條執行情形研討會」等各項具體宣導作為，使各機關公職人員更能知悉《公職人員利益衝突迴避法》第 14 條原則禁止交易或補助行為及同條第 1 項但書可例外交易或補助行為之態樣及適用情形。

146. 有關違反《公職人員利益衝突迴避法》須接受法務部裁罰之案件，法務部設立「公職人員利益衝突迴避案件審議委員會」處理此等案件，該委員會置委員 9 人（其中外部委員 7 人），就前開案件加以審議決定裁罰與否及裁罰額度。

英文回應：

145. The “Act on Recusal of Public Servants Due to Conflicts of Interest” is enacted to promote uncorrupt and efficient politics and to well form politics ethics for recusal due to conflicts of interest, so that corruption and conveyance of unjust interests can be efficiently eliminated. To fulfill the above-mentioned legislative purposes, the AAC has strengthened publicity measures since the Act was promulgated and implemented on July 12, 2000. After the great amendment of the Act on December 13, 2018, the AAC has therefore taken specific propaganda actions such as holding sessions, producing diversified publicity literature (including introduction fliers or booklets), compiling the case precedent handbook, and holding the “Recusal Act Article 14 Implementation Status Seminar” in 2022. The goal is to give various public agency personnel a better understanding of the transaction or subsidy prohibition principles under Article 14 of the Recusal Act and the pattern and applicability of the transaction or subsidy exception provided by Paragraph 1 of the same Article.
146. For cases in violation of the “Act on Recusal of Public Servants Due to Conflicts of Interest” and shall be imposed penalties by the MOJ, the “Civil Servant Conflicts of Interest and Recusal Review Committee,” with 9 committee members (including 7 external committee members), has been established to carry out review operations on penal sanctions and the level of penalties.

3.6		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 20 條	In cases of illicit enrichment, in addition to potential imprisonment, is there capacity to confiscate unexplained wealth?	針對不法致富案件，除得處以有期徒刑外，能否沒收無法合理說明之財產？ 【第二次國家報告第 80 頁-45(1)】

中文回應：

147. 針對不法致富（財產來源不明），《貪污治罪條例》第 6 條之 1 及《洗錢防制法》第 15 條定有刑事處罰。

148. 經法院認定違反《貪污治罪條例》第 6 條之 1 者，無法合理說明之財產為擬制犯罪所得，法院可依《刑法》第 38 條之 1 宣告沒收（最高法院 107 年度台上字第 1286 號刑事判決可資參照）
149. 若屬違反《洗錢防制法》第 15 條規定者，針對無法合理說明之財產，《洗錢防制法》第 18 條第 1 項、第 2 項定有沒收之規定。

英文回應：

147. In cases of illicit enrichment, the “Criminal Code” and the “Money Laundering Control Act” have provisions for confiscation.
148. In the case of an offence of Art. 6-1 of the “Anti-Corruption Act,” the unexplained wealth should be confiscated under Art.38-1 of the “Criminal code.”
149. In the case of an offence of Art. 15 of the “Money Laundering Control Act,” the unexplained wealth should be confiscated under Art.18(1)(2) of the “Money Laundering Control Act.”

3.7		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 21 條	A few court judgements in cases where legal persons have been held liable or acquitted on charges of domestic or foreign bribery (i.e. promising or giving a bribe) or related charges. Please include information on any sanctions imposed, administrative or criminal?	請提供一些有關法人在境內或境外賄賂（允諾或行賄），被宣告有罪或無罪的判決，包括對其實施行政或刑事處分的相關資訊？ 【第二次國家報告第 82 頁】

中文回應：

150. 我國《刑法》貪瀆罪章以及《貪污治罪條例》尚無處罰法人之規定，故並無法人行賄被判決有罪或無罪之判決。
151. 針對 UNCAC 第 3 章第 21 條（第二次國家報告第 82 頁），我國並未就法人收受或支付賄賂處罰。但在調查局偵辦之企業貪瀆案件中，依據《營業秘密法》第 13 條之 4 規定，法人之代表人、受雇人因執行業務違反同法第 13 條之 1、第 13 條之 2 之罪者，得一併處罰法人。
152. 聯電公司高薪挖角美光公司前員工何○○及王○○，何○○及王○○於離職前自美光公司擅自下載多筆有關 32 奈米 DRAM 技術之營業秘密，並攜至聯電公司使用，聯電公司高階主管戎樂天亦要求使用美光公司數據改善聯電公司技術，聯電公司未盡力防止犯罪，且受有節省研發成本之不當經濟利益。本案由調查局新北市調查處調查及移送，臺灣臺中地方檢察署起訴，臺灣臺中地方法院於 109 年判決何○○、王○○、戎○○有罪及沒收供犯罪所用之物，聯電公司亦依《營業秘密法》第 13 條之 4 被科處罰金。

<p>第 3 章 第 21 條 (第 27 點)</p>	<p>Is the review process of the amendments to the criminalization of commercial bribery conducted by the MOJ to fill the gaps that promote impunity among companies or enterprises has an established calendar? Has there been any advancement since 2019? (Response Report, p.60-61)</p>	<p>法務部研議推動企業賄賂立(修)法是否有時程表?自 2019 年以來有什麼進展? 【第二次國家報告第 83 頁】 【回應報告第 40 頁】</p>
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中文回應：

154. 法務部廉政署於 2019 年委託世新大學辦理「建構私部門防貪機制委外研究案」，針對私部門反貪與商業賄賂罪之立法政策進行整體評估。另外，針對商業賄賂罪立法方向，法務部亦於 2022 年 4 月 22 日與經濟刑法學會合辦「聯合國反貪腐公約修法研討會」，針對商業賄賂罪之可罰性基礎及立法建議，廣泛蒐集實務與學術及外界意見，為我國立法參考。

英文回應：

154. The AAC of the MOJ commissioned Shih Hsin University to implement the “Private Sector Corruption Prevention Mechanism Construction Outsourced Research Project” in 2019 to conduct an overall legislative policy assessment on anti-corruption and commercial bribery in the private sector. Moreover, the MOJ jointly held the “United Nations Convention against Corruption (UNCAC) Amendment Seminar” with the Economic Criminal Law Association on April 22, 2022, to discuss the legislative direction for the crime of commercial bribery. The goal is to solicit legislative suggestions on the punishability of commercial bribery by collecting extensive practical, academic, and external opinions for reference by the legislative body.

3.9		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
<p>第 3 章 第 21 條</p>	<p>Is guidance provided to the Private Sector on corporate governance measures the private sector may implement to prevent, detect and report potential cases of bribery and corruption?</p>	<p>有無提供私部門有關公司治理措施相關之指引，以利私部門預防、監測並檢舉賄賂及貪腐案件? 【第二次國家報告第 83 頁-48(1)】</p>

中文回應：

155. 調查局派員在私部門舉辦企業肅貪經驗交流，與企業建立共同打擊企業貪瀆之夥伴關係，迄今已舉辦 1,671 場次企業肅貪經驗交流，共計有 1 萬 5,129 家公司參與。調查局提供偵辦實際案件經驗以協助教育員工及主管，並提供內部管理及平時預防措施建議，共同預防企業內部舞弊或及早察覺犯罪發生。此外，調查局提供多元舉報管道，鼓勵企業檢舉或告發。
156. 臺灣證券交易所股份有限公司訂有《上市上櫃公司誠信經營守則》及「○○股份有限公司誠信經營作業程序及行為指南」參考範例，以協助上市上櫃公司建立誠信經營之企業文化及健全發展，提供其建立良好商業運作之參考架構，及預防、監測並檢舉賄賂及貪腐案件。

英文回應：

155. The Investigation Bureau (MJIB), Ministry of Justice assigns personnel to conduct “Experience Exchange between Enterprises on Anti-corruption” meetings with private sectors in order to establish a partner relationship with enterprises to jointly combat corporate corruption. So far, MJIB has held 1,671 sessions of “Experience Exchange between Enterprises on Anti-corruption” meetings and a total of 15,129 companies have attended these meetings. The MJIB shares investigation experience to assist in educating employees and supervisors of enterprises, and also provides advice on internal management and usual preventive measures to jointly prevent internal corruption within enterprises or to achieve early detection of the occurrence of crimes. In addition, MJIB provides multiple whistleblower channels and encourages the private sector to report or inform any wrongdoing.
156. The Taiwan Stock Exchange has established the "Ethical Corporate Management Best Practice Principles for TWSE/GTSM Listed Companies" and the "Sample Template for XXX Co., Ltd. Procedures for Ethical Management and Guidelines for Conduct" to help listed companies to establish a corporate culture of ethical business practices and to prevent, detect and report potential cases of bribery and corruption.

3.10		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 21 條	Is there an anticipated date to implement the Whistleblower Protection Act covering private sector employees?	涵蓋私部門員工的《揭弊者保護法》，預定施行日期為何時？ 【第二次國家報告第 83 頁-48(2)】

中文回應：

157. 法務部分別於 2020 年 2 月 20 日、9 月 22 日、2021 年 12 月 2 日及 2022 年 1 月 25 日將《揭弊者保護法》草案（公私合併版）陳報行政院審查，尚未立法通過。期間由行政院召開 3 次審查會，法務部將持續蒐集各界意見，並配合相關法制作業。

英文回應：

157. The MOJ submitted the draft of the “Whistleblower Protection Act” (public/private merged version) to the Executive Yuan for review on February 20, 2020, September 22, 2020, December 2, 2021, and January 25, 2022. The legislation has not yet passed. During this period, the Executive Yuan has held three review meetings, and the MOJ will continue to collect suggestions from all sectors of society and cooperate with relevant legislation work.

3.11		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 23 條	Why such increase in the number of cases of money laundering handled by Prosecutors of Table 22 ? (ROC’s Second Report, p.142)	為什麼檢察官辦理洗錢防制案件數如表 22 有增加的情形？ 【第二次國家報告第 86 頁】

中文回應：

158. 我國近年來致力於洗錢防制，打擊洗錢犯罪為我國重要目標，要求執法機關於偵辦各類不法犯罪時積極查緝洗錢犯罪，並於偵辦犯罪過程中發現有違反洗錢防制法不法犯行，依法適用洗錢防制法提起公訴，上開成果反應於我國各地檢署辦理違反《洗錢防制法》統計數據，明顯可見起訴有增加趨勢。

英文回應：

158. In recent years, our nation has devoted itself to the prevention and control of money laundering, and combating money laundering crimes has become a key objective of our country. Law enforcement agencies must actively investigate money laundering crimes while investigating various illegal acts. If unlawful acts in violation of the “Money Laundering Control Act” are discovered during the criminal investigation process, the suspects are prosecuted pursuant to the “Money Laundering Control Act.” The results are reflected by the “Money Laundering Prevention Act” violation statistics from the various prosecution offices in our nation, which show an increasing trend of prosecution.

3.12

涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 24 條	Please describe if, and how, the financial information reporting and feedback mechanism has worked with financial institutions and DNFBPs to reduce the money laundering risk of corruption and bribery, as identified as high risks in the 2018 National Risk Assessment?	請說明金融情資申報與回饋機制有無與金融機構及指定之非金融事業或人員（DNFBP）配合運作，以降低 2018 年「國家洗錢及資恐風險評估報告」中列為高度風險之貪腐與賄賂相關洗錢風險？如有的話，其運作方式為何？ 【第二次國家報告第 87 頁-55】

中文回應：

159. 調查局洗錢防制處定期或不定期出刊年報、電子報及研編洗錢暨特定犯罪相關策略分析報告，提供申報機構相關風險資訊，其中 2019 年間即曾就調查局及廉政署移送之公務員重大貪瀆案件相關 STR 分析洗錢態樣，撰寫「貪瀆犯罪之策略分析報告」，並於 2020 年 1 月間分送相關業別主管機關及公會參考。
160. 調查局洗錢防制處自 2019 年起每年與金管會共同舉辦「犯罪金流分析與異常交易態樣研討會」，邀請包括廉政署及調查局廉政處等執法機關代表，向金融機構分享近期有關貪污賄賂等高風險犯罪金流與異常交易態樣，協助申報機構建構異常交易辨識技巧，提升洗錢防制效能。
161. 調查局洗錢防制處定期回饋申報機構 STR 處理情形，分析人員並會針對個案主動聯繫申報機構溝通精進品質意見，作為各申報機構精進 STR 質量之參考；調查局洗錢防制處亦參與申報機構公會組織相關 AML/CFT 例行會議，共同研商提升申報品質策略；調查局洗錢防制處並持續協助申報機構辦理教育訓練，加強申報機構辨識高風險犯罪態樣及可疑交易分析能力，總計 2018 年、2019 年、2020 年及 2021 年分別自行舉辦或協助申報機構辦理 81 場（9109 人次）、81 場（7091 人次）、42 場（3232 人次）及 34 場（2884 人次）教育訓練。
162. 行政院洗錢防制辦公室自 2021 年 8 月與法務部調查局洗錢防制處組成工作小組，並於 2021 年 10 月、2022 年 1 月及 2 月邀請相關權責機關，陸續召開防制洗錢打擊資恐及資武擴資訊交流平台會議，就現有金融情資申報系統研商精進措施，並由調查局資通安全處於 2022 年 9 月前辦理系統擴增事宜，相關具體措施如下列所述：
- (1) 將執法機關、監理機關、部分稅務機關納入金融情資申報系統，且上開機關得上傳預警資訊、去識別化之起訴案件、行政裁罰案例等資訊，以強化公私部門間之資訊交流與整合。如涉及貪污賄賂等非常高風險犯罪之分析，私部門可於該系統上獲取即時且完整的風險預警資訊。

- (2) 針對金融情資申報之回饋，擴大私部門之資訊受眾主體。即除現有申報機構之金融機構及虛擬通貨業者，DNFBP 公會特定之代表亦將被納入金融情資申報系統。DNFBP 公會特定代表得獲取即時犯罪手法等預警資訊，以個資保護方式報給所屬特定公會會員，以有效增強其獲取防制洗錢、打擊資恐及資武擴等策略情報之能力，並進而提升申報可疑交易報告之品質，達成「利用資訊共享以有效控制洗錢/資恐、資武擴風險」之最終目標。

英文回應：

159. The Anti-Money Laundering Division of Ministry of Justice, Investigation Bureau (AML, MJIB) regularly or irregularly publishes annual reports and press, as well as composes money laundering and specified unlawful activities-related strategy analysis reports, which provides relevant risk information to financial institutions and designated non-financial businesses and professions (DNFBPs). Written in 2019, “Strategy Analysis Report on Corruption” was based on typologies analyzed from Suspicious Transaction Reports (STRs) involving high-profile corruption cases being transferred to the public prosecutor by MJIB and the AAC. The report was disseminated to competent authorities and associations for reference in January, 2020.
160. Since 2019, the AML, MJIB and Financial Supervisory Commission (FSC) jointly host “Illicit Financial Flow Analysis and Abnormal Transaction Typology Seminar” every year, which invites representatives from law enforcement agencies, such as the AAC and the Anti-Corruption Division of MJIB to share up-to-date typologies of high-risk crimes including corruption and bribery with financial institutions for building up their skills in identifying abnormal transactions and improving their anti-money laundering performance.
161. The AML, MJIB regularly provides feedback on the handling status of received STRs and actively contacts the reporting entities to communicate regarding individual cases in order to assist them in improving the quality of STR reporting. The AML, MJIB also participates in regular meetings held by the associations of reporting entities to jointly formulate strategies for elevating the quality of STR. The AML, MJIB continues to assist reporting entities in AML/CFT education and training, and in strengthening their ability to identify high-risk typologies and analyze suspicious transactions. According to the statistics from 2018, 2019, 2020, and 2021, the AML, MJIB respectively assisted reporting entities in holding 81 (9,109 persons), 81 (7,091 persons), 42 (3,232 persons) and 34 (2,884 persons) training sessions.
162. Since August 2021, Anti-Money Laundering Office, Executive Yuan had formed a working group with the AML, and held three meetings for “Information Exchange Platform for AML/CFT/CPF” in October 2021, January and February 2022, to discuss advanced measures for financial intelligence reporting system with relevant authorities. Cyber Security Department

of MJIB will handle the system expansion before September 2022, and the relevant specific measures are as follows:

- (1) We incorporate law enforcement agencies, supervisory agencies, and some taxation bureaus into financial intelligence reporting system, and allow them to upload early warning information, de-identified prosecution cases, administrative penalty cases, and other public information, which strengthens the information exchange and integration between the public and private sectors. If it involves the analysis of very high-risk crimes such as corruption and bribery, the private sector can obtain real-time and comprehensive risk warning information on the system.
- (2) In response to the feedback of financial intelligence reporting, we also add other information audiences from the private sector. That is to say, in addition to financial institutions and virtual currency enterprises as existing reporting institutions in the system, specific representatives of DNFBP associations will also be included in the financial intelligence reporting system to obtain real-time criminal methods and other warning information, and report to specific association members in the form of personal information protection, so as to effectively enhance their access to AML/CFT strategic intelligences and then improve its quality of suspicious transactions reports, and to achieve the ultimate goal of "using information sharing to effectively control ML/TF/PF risks."

3. 13		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 24 條	Please provide information on any change in the quality or quality of suspicious activity reporting related to corruption and bribery, since the National Risk Assessment.	請提供在前題所述風險評估報告發布之後，貪腐與賄賂相關可疑活動的申報品質及其變化趨勢之資料。 【第二次國家報告第 87 頁-55】

中文回應：

163. 申報機構難僅依交易資料即得連結貪污賄賂、毒品販運等特定不法目的，該類非常高風險犯罪類型之可疑交易數量偏低，又可疑交易報告於受理申報之初，礙難依據申報理由及附件資料判定是否確實與特定犯罪相關，故調查局洗錢防制處無受理可疑交易報告係屬何種犯罪類型之統計數據。
164. 另觀察 2018 年至 2021 年調查局洗錢防制處分析、分送之可疑交易報告件數統計資料，該處分送執法機關參處之貪污賄賂犯罪類型可疑交易報告件數分為 2018 年 21 件、2019

年 25 件、2020 年 39 件及 2021 年 72 件，顯示可疑交易報告之申報及分析作業尚能回應風險評估結果，逐步提升對貪污賄賂犯罪相關情資之查核及申報。

英文回應：

163. It is difficult for the reporting entities to identify the illegal activities such as corruption and drug trafficking relying only on the financial transaction information. The number of suspicious transaction reports (STRs) regarding abovementioned high-risk crimes are relatively low. Furthermore, there is limited indicators in terms of the description of suspicious activities and transaction details in the STRs for the AMLD, MJIB to detect the links related to specific predicate offense. Thus, there is no specific statistics on the types of crimes of the STRs received by the AMLD, MJIB.
164. However, according to the statistics on the STRs analyzed and disseminated by the AMLD, MJIB from 2018 through 2021, there are 21 STRs related to the corruption in 2018, 25 STRs in 2019, 39 STRs in 2020 and 72 STRs in 2021, which demonstrates that the situation of reporting and analysis of STRs respond to the risk assessment results. It also reveals that the reporting entities and the AMLD, MJIB makes more efforts to strengthen the capability in analyzing the STRs related to corruption.

3.14		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 24 條	The APG Mutual evaluation of ROC Taiwan in 2019 noted that Chinese Taipei “. . . has pursued wide ranging reforms since early 2017, with very significant progress achieved in a short period of time.” In the context of this very significant progress, and high levels of compliance with FATF Recommendations, could you please provide further information on any increase the human resources available to the AMLD to ensure that financial intelligence is fully exploited and that it can continue to service the demands it faces in relation to	亞太防制洗錢組織 (APG) 於 2019 年來臺進行相互評鑑時，曾指出臺灣「自 2017 年初起即推動大規模的改革，並在短期內獲致顯著進步」，有關其所指的顯著進步與高度遵循防制洗錢金融行動工作組織 (FATF) 建議部分，請進一步說明洗錢防制處有無增加可用的人力資源，以確保金融情報獲得充分運用，並持續因應業務拓展、資料共享、風險評估及相關業務之需求。 【第二次國家報告第 87 頁-55】

	outreach, information sharing, risk assessments, and related matters.	
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中文回應：

165. 調查局洗錢防制處因應 APG 相互評鑑所提缺失，提報「請增人力說明表」及「人力擴充計畫」予法務部人事處，並於 2020 年 8 月獲核增 3 名員額。
166. 調查局洗錢防制處另於 2021 年 3 月及 2022 年 5 月辦理調查局借調人員徵選計畫，各年度分別調徵調查局 3 名及 2 名優質分析人力，協助調查局洗錢防制處辦理核心情資受理、分析及分送事務及國際合作、資料共享等相關業務。

英文回應：

165. In order to respond to the suggestion of APG, the AMLD, MJIB submitted the “Synopsis of Increasing Human Resources” and the “Plan of Expanding the Human Resources Capacity” to the Department of Personnel Administration of the Ministry of Justice. And the Ministry of Justice approved to increase 3 more staffs in addition to the present headcount of the AMLD, MJIB.
166. The AMLD, MJIB conducted “secondee training programs” in March 2021 and May 2022. Three and two secondees were recruited respectively in 2021 and 2022 from the MJIB field offices to assist in dealing with AMLD’s core affairs, including receiving, analyzing and disseminating of financial intelligence, as well as international cooperation and information sharing.

3.15		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 26 條	<p>Is there a difference between criminal liability of the company (criminal sanctions applied to the legal person, like suspension of activities, dissolution, etc.) and economic sanctions derived of a criminal process (fines and others). Nowadays, many countries with continental tradition in criminal law are establishing criminal liability of the legal persons. Which is the situation of Taiwan?</p> <p>(ROC’s Second Report, p.148)</p>	<p>公司的刑事責任（對法人的刑事制裁，例如暫停活動、公司解散）與刑事程序中所衍生的經濟制裁（罰金或其他），這兩者有什麼差別？現今許多大陸法系國家正逐步建立法人的刑事責任，臺灣也是這樣的情況嗎？</p> <p>【第二次國家報告第 90 頁】</p>

中文回應：

167. 我國現行針對法人之刑罰種類，僅有「罰金刑」一種。
168. 《刑事訴訟法》所訂「緩起訴制度」賦予檢察官得於對法人諭知緩起訴時附帶「預防再犯所為之必要命令」之權利，運用上具高度裁量，如：命法人成立法遵部門、完成廢棄物清運計畫、取得政府合格證書，進行公益捐贈等等。
169. 我國積極進行法人刑事責任之修法研議，除針對現行附屬刑法中法人罰金刑之規定進行跨部會通盤檢討外，法人刑事責任亦已列入法務部司法官學院犯罪防制研究中心 112 年委託研究案，希望藉此完備我國法人刑事責任之法制架構，以符公約規範。

英文回應：

167. There is only one type of punishment for legal persons in our country, “penalty fine punishment.”
168. The “Deferred Prosecution System” provided by the “Code of Criminal Procedure” gives prosecutors the right to attach the “necessary orders to prevent recidivism” with high discretion when advising legal persons to deferred prosecution. For example, ordering legal persons to establish a legal compliance department, complete the waste removal and transportation plan, obtain a government certificate of conformity, and make public welfare donations.
169. Our country is actively researching to revise the criminal liability of legal persons. In addition to conducting a comprehensive cross-ministerial review of the provisions on the penalty fines for legal persons in the current supplemental criminal laws, the criminal liability of legal persons has also been included in the research case commissioned by the Crime Prevention Research Center, Academy for the Judiciary, MOJ in 2023. The goal is to provide a comprehensive legal framework on the criminal liability of legal persons in our country in order to comply with the UNCAC norms.

3.16		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 26 條、 (第 27 點)	The 59 regulations that consider punishment to legal persons establish criminal or administrative sanctions? (Response Report, p.60)	這裡提到對於法人的處罰，是否建立了刑事或行政制裁？ 【第二次國家報告第 89 頁】 【回應報告第 39-40 頁】

中文回應：

170. 我國法律制度，法人責任包括民事、刑事或行政責任，第二次國家報告第 89 頁所列規範，包含民事、刑事或行政責任之規定。

英文回應：

170. In our country’s legal system, legal person liabilities include civil, criminal, and administrative liabilities. The provisions listed on page 89 of ROC’s Second Report include civil, criminal, and administrative liabilities.

3.17		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 30 條	How are regulated in Taiwan immunities and judicial privileges related to corruption and civil servants and other top authorities? (ROC’s Second Report, p.156)	臺灣在有關豁免權與司法特權貪腐這部分，公務員及其他上級機關是如何規範管理的？ 【第二次國家報告第 95 頁】

中文回應：

171. 依我國《憲法》規定，總統享有刑事豁免權，除犯內亂或外患罪外，非經罷免或解職，不受刑事上之訴究（《憲法》第 52 條）。
172. 另外，《憲法》針對立法委員定有言論免責及程序特權之規定，明定立法委員在會議時所為之言論及表決，對外不負責任（第 73 條）。立法委員除現行犯外，在會期中，非經立法院許可，不得逮捕或拘禁。（《憲法》增修條文第 4 條第 8 項）。
173. 司法實務上，如 2020 年所爆發之立委收賄案，因立法院會期開始後，臺北地方法院為羈押之裁定時，均遵循上開《憲法》規定徵詢立法院之許可，本案後來立法院有許可法院羈押裁定之徵詢。
174. 釋字第 627 號解釋-總統之刑事豁免權，內容請詳參附錄 2。

英文回應：

171. According to our Constitution, the President enjoys criminal immunity. The President shall not, without having been recalled or relieved of the President’s functions, be liable to criminal prosecution unless the President is charged with having committed an act of rebellion or treason (Article 52 of the Constitution).
172. Moreover, the Constitution provided speech and procedural immunity privileges to legislators. No Member of the Legislative Yuan shall be held responsible outside the Yuan for opinions expressed or votes cast in the Yuan (Article 73 of the Constitution). No member of the Legislative Yuan may be arrested or detained without the permission of the Legislative Yuan, when that body is in session, except in case of flagrante delicto. (Paragraph 8, Article 4 of the Additional Articles of the Constitution of the Republic of China.)
173. In judicial practice, such as the Legislative Council’s bribery case that broke out in 2020 after the Legislative Yuan’s session began, the Taiwan Taipei District Court followed the aforesaid Constitutional provisions to seek permission from the Legislative Yuan when it made a ruling on

detention. In this case, the Legislative Yuan subsequently permitted the court to detain, investigate, and adjudicate the suspect.

174. J.Y. Interpretation No. 627: Presidential Criminal Immunity, please refer to appendix 2.

3.18		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
總論 第3章 第30條 (第47點)	How many foreigners have been convicted in Taiwan since 2018? (ROC's Second Report, p.31)	自 2018 年以來，請問在臺灣遭判決有罪之外國人數為何？ 【第二次國家報告第 18、95 頁】

中文回應：

175. 司法院之統計資料如下表。

表 13 地方法院刑事第一審訴訟涉外案件被告有罪之裁判結果

單位：人

資料期間	總計	裁判結果																
		科刑情形																
		小計	死刑	無期徒刑	有期徒刑											拘役	罰金	免除其刑
					計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年				
2018	2,161	2,159			1,774	1,541	63	104	11	30	7	10	8		292	93	2	
2019	2,717	2,713			2,254	1,973	75	119	4	50	6	19	6	2	348	111	4	
2020	3,042	3,039	4		2,514	2,264	43	129	4	51	5	15	3		354	167	3	
2021	2,481	2,481			1,935	1,723	58	85	15	22	15	11	6		381	165		

表 14 高等法院刑事第二審訴訟涉外案件被告有罪之裁判結果

單位：人

資料期間	總計	裁判結果														
		科刑情形														
		小計			有期徒刑											

			死刑	無期徒刑	計	六月以下	逾六月至一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年至十五年以下	逾十五年	拘役	罰金	
2018	187	187			173	58	25	39	5	27	5	7	7		13	1	
2019	194	193			185	27	27	88		14	8	17	2	2	4	4	1
2020	175	174			160	25	17	40	9	47	7	11	4		12	2	1
2021	146	145	3		126	25	12	46	7	19	7	3	6	1	13	3	1

表 15 最高法院刑事上訴涉外案件被告有罪之裁判結果

單位：人

資料期間	總計	裁判結果														免除其刑	
		科刑情形													拘役		罰金
		小計	死刑	無期徒刑	有期徒刑												
					計	一年以下	逾一年至二年以下	逾二年至三年以下	逾三年至五年以下	逾五年至七年以下	逾七年至十年以下	逾十年					
2018	34	34			33	7	11	2	6		1	6	1				
2019	41	41			41	8	4		9	2	14	4					
2020	52	52			52	8	19	1	12	6	4	2					
2021	41	41		3	38	7	13	3	5	1	7	2					

英文回應：

175. The statistics data of Judicial Yuan are listed below.

Table 13 The Judgment Results of the Defendant's Guilty in the First Instance Criminal Proceedings of the District Courts in Foreign-Related Cases

Unit: person

Year	Total	Referee Result													Exempt from Punishment		
		Individuals Sentenced											Detention	Fines			
		Total	Death Penalty	Life Imprisonment	Imprisonment												
					Total	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less				More than 10 years to 15 years or less	More than 15 years
2018	2,161	2,159			1,774	1,541	63	104	11	30	7	10	8		292	93	2

2019	2,717	2,713			2,254	1,973	75	119	4	50	6	19	6	2	348	111	4
2020	3,042	3,039		4	2,514	2,264	43	129	4	51	5	15	3		354	167	3
2021	2,481	2,481			1,935	1,723	58	85	15	22	15	11	6		381	165	

Table 14 The Judgment Results of the Defendant's Guilty in the Second Instance Criminal Proceedings of the High Court in Foreign-Related Cases

Unit: person

Year	Referee Result																
	Total	Individuals Sentenced															Exempt from Punishment
		Total	Death Penalty	Life Imprisonment	Imprisonment										Detention	Fines	
					Total	6 months or less	More than 6 months to 1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years to 15 years or less	More than 15 years			
2018	187	187			173	58	25	39	5	27	5	7	7		13	1	
2019	194	193			185	27	27	88		14	8	17	2	2	4	4	1
2020	175	174			160	25	17	40	9	47	7	11	4		12	2	1
2021	146	145		3	126	25	12	46	7	19	7	3	6	1	13	3	1

Table 15 The Judgment Results of the Defendant's Guilty of the Supreme Court in Foreign-Related Cases

Unit: person

Year	Referee Result																
	Total	Individuals Sentenced															Exempt from Punishment
		Total	Death Penalty	Life Imprisonment	Imprisonment										Detention	Fines	
					Total	1 year or less	More than 1 year to 2 years or less	More than 2 years to 3 years or less	More than 3 years to 5 years or less	More than 5 years to 7 years or less	More than 7 years to 10 years or less	More than 10 years					
2018	34	34			33	7	11	2	6		1	6		1			
2019	41	41			41	8	4		9	2	14	4					
2020	52	52			52	8	19	1	12	6	4	2					

2021	41	41		3	38	7	13	3	5	1	7	2			
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3.19		
涉及公約條文 或結論性意見 點次	問題內容（原文）	中文參考翻譯
第 3 章 第 31 條 (第 32 點)	Is the consensus to amend laws and regulations on beneficial ownership still pending? Why? (Response Report, p.26)	實質受益人之修法是否仍無法取得共識？原因為何？ 【第二次國家報告第 99 頁】 【回應報告第 17 頁】

中文回應：

176. 為配合洗錢防制政策，協助建置完善洗錢防制體制，強化洗錢防制作為，故《公司法》已於 2018 年完成修正第 22 條之 1，規範公司每年應將其公司之董事、監察人、經理人等公司負責人及持股超過 10% 之主要股東申報至「公司負責人及主要股東資訊申報平臺」。目前申報率逾 9 成以上，有助於主要股東資料庫之建立，已達增加法人（公司）透明度之要求，且此申報制度也減少企業在申報作業上所造成的時間及成本浪費。

英文回應：

176. In order to comply with the Anti-Money Laundering (AML) policies, to construct a well-planned AML systems, and to bolster AML measures, the Article 22-1 of the “Company Act” has been amended in 2018, making it necessary for companies to report annually the information of responsible persons (directors, the supervisor, the managerial officer) and shareholders who own more than 10 percent of the company’s total shares to the Company Transparency Platform. At present, the reporting rate is over 90%. This reporting mechanism is helpful for the establishment of the database of major shareholders so as to achieve the demand for corporate transparency. This mechanism also cuts red tape met by enterprises in the reporting procedure.

3.20		
涉及公約條文 或結論性 意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 31 條	(ROC’s Second Report -69(6), p.164) Please describe if, and how, ROC Taiwan requires income and asset declarations from certain Government employees?	參照第二次國家報告第 100 頁-69(6)，請說明臺灣有無要求特定公職人員申報收入與資產？如有的話，其申報方式為何？ 【第二次國家報告第 100 頁-69(6)】

中文回應：

177. 為端正政風，確立公職人員清廉之作為，《公職人員財產申報法》於 1993 年 9 月 1 日正式施行，立法原意旨在建立財產申報制度，瞭解公職人員之財產狀況，以判斷公職人員有無利用職權牟取私利，進而端正政風，增加對政府施政及公職人員清廉、操守之信賴。
178. 同法第 2 條規定應申報財產之公職人員有總統、副總統；五院院長；政務人員；各級政府機關之首長、副首長及職務列簡任第十職等以上之幕僚長、主管；各級公立學校之校長、副校長；各級民意機關民意代表；其他特定職務之主管人員等均須申報財產。前開公職人員應於就（到）職三個月內申報財產，每年並定期申報一次。
179. 公職人員之配偶及未成年子女所有之不動產、船舶、汽車及航空器；一定金額以上之現金、存款、有價證券、珠寶、古董、字畫及其他具有相當價值之財產；一定金額以上之債權、債務及對各種事業之投資，均需一併申報。
180. 申報人除少數仍以紙本方式申報外，主要以網路方式申報（2021 年網路申報比例已達 97.54%），即利用「公職人員財產申報系統」辦理申報作業，而廉政署為使申報人能運用更為友善便利之系統申報，業於 2021 年完成新版公職人員財產申報系統建置，並於 2022 年 7 月 6 日正式上線，希能藉此提升及優化財產申報之行政效能。

英文回應：

177. To promote political ethics and establish the integrity of public officials, the “Act on Property-Declaration by Public Servants” was officially implemented it on September 1, 1993. The legislation’s original intent was to establish a property declaration system, disclose the property status of public officials, determine whether public officials have used their powers for personal gain, ensure political ethics, and increase the trust in government governance and the integrity of public officials.
178. Under Article 2 of the Act, public officials who must provide property declaration include the President, Vice-President; presidents of the five Yuans, government officials, heads and deputy heads of government agencies at all levels, chief of staff, and supervisor at the 10th grade or higher, principals and vice-principals of public schools at all levels, public opinion representatives of public opinion agencies at all levels; and other persons in charge of specific positions. The aforesaid public officials must declare their properties within three (3) months after taking (assuming) office and make regular declarations once a year after that.
179. Immovable properties, ships, automobiles, and aircraft owned by the spouses and minor children of public officials; cash, deposits, securities, jewelry, antiques, calligraphy, paintings, and other properties of considerable value over a certain amount; claims, debts, and other assets over a certain amount; and investments in various businesses must be declared together.
180. Only a few of declaration obligors submit property declaration application forms on paper while most of them perform online declarations through the Property-Declaration Platform mainly. The ratio of online declarations has reached 97.54% in 2021. The AAC completed the development

of a new version of Property-Declaration Platform in 2021 and then put in into formal use on July 6, 2022 to provide an user-friendly interface for optimized administrative efficiency of property declarations.

3. 21		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 31 條	Has ROC Taiwan assisted foreign governments to recover proceeds tainted assets derived from corruption?	請問臺灣是否曾經協助外國政府追繳貪腐所得與不法資產？ 【第二次國家報告第 101 頁-72(2)】

中文回應：

181. 法務部曾於 2019 年 2 月收受某南美洲國家偵辦並追繳該國公職人員收賄犯罪所得之司法互助請求，請求法務部取得不法所得匯入帳戶之交易明細，並凍結其內資金。本件請求係由臺北地方檢察署協助執行，並經法務部於同年 10 月將調得之帳戶交易明細，透過外交部轉交該國政府。另凍結請求部分，尚待該外國司法機關，就該等帳戶內資金與貪污犯罪所得之關連性，提出足夠之釋明或提供該國法院裁定，方能續行協助。

英文回應：

181. In February 2019, the Ministry of Justice (MOJ) received a mutual legal assistance request from a South American country to forfeit criminal proceeds of corruption (receipt of bribery) committed by its government servants. It requested the provision of transaction records of the bank accounts in which the proceeds were deposited; it also asked for immobilization of such accounts for forfeiture. The Taiwan Taipei District Prosecutors Office executed the request, and the accounts transfer records were provided to the requesting country in October 2019 from MOJ through MOFA to the requesting country. As for the immobilization, the MOJ is awaiting supplemental information or pertinent verdict/judgment from the requesting country to determine if the accounts to be immobilized are reasonably related to the criminal corruption proceeds.

3. 22		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 32 條	Have any rules been implemented to allow a secure participation of the victims through technological means? (ROC's Second Report, p.169)	是否已推動法律讓被害人可藉由科技方法安全地參與？ 【第二次國家報告第 103 頁 73(3)】

中文回應：

182. 《刑事訴訟法》第 248 條之 3 規定：「檢察官於偵查中應注意被害人及其家屬隱私之保護。被害人於偵查中受訊問時，檢察官依被害人之聲請或依職權，審酌案件情節及被害人之身心狀況後，得利用遮蔽設備，將被害人與被告、第三人適當隔離。前二項規定，於檢察事務官、司法警察官或司法警察調查時，準用之。」準此，檢察官、檢察事務官、司法警察(官)於偵查及調查犯罪時，均應注意被害人及其家屬隱私之保護，並得利用遮蔽設備，將被害人與被告、第三人適當隔離。
183. 對於特定犯罪類型，例如性侵害犯罪、家庭暴力犯罪、跟蹤騷擾案件，已有法律明定將被害人與被告、第三人適當隔離：
- (1) 《性侵害犯罪防治法》規定對被害人之訊問或詰問，得依聲請或依職權在法庭外為之，或利用聲音、影像傳送之科技設備或其他適當隔離措施，將被害人與被告或法官隔離(第 16 條)。
 - (2) 《家庭暴力防治法》規定有關法院審核保護令事件調查證據，及家庭暴力刑事案件之偵查及審理，對被害人之訊問或詰問，依聲請或依職權於法庭外為之，或採有聲音及影像相互傳送之科技設備或其他適當隔離措施(第 13 條、第 36 條)。
 - (3) 《跟蹤騷擾防制法》規定保護令事件之審理，法院得依職權或依聲請調查事實及必要之證據，並得隔別訊問；必要時得依聲請或依職權於法庭外為之，或採有聲音及影像相互傳送之科技設備或其他適當隔離措施(第 10 條)。

英文回應：

182. Article 248-3 of the Code of Criminal Procedure stated, “During the investigation stage, the public prosecutor shall take due care to protect the privacy of the victim and his/her family members. While the victim is examined during the investigation, the public prosecutor may, upon the petition of the victim or on his/her own initiative, after taking into account the circumstances of the case and the physical and mental conditions of the victim, apply appropriate isolation facilities such as screens, to prevent the victim from being seen by the accused or a third party. The provisions in the preceding two paragraphs shall apply mutatis mutandis to investigations conducted by a public prosecutor investigator, judicial police officer, or judicial policeman.” As such, prosecutors, public prosecutor investigators, and judicial police officers (policemen) must take due care to protect the privacy of the victim and his/her family members during crime investigations and apply appropriate isolation facilities such as screens, to prevent the victim from being seen by the accused or a third party.
183. The laws have provided clear provisions to separate the victim, the accused, and a third party for specific types of crimes such as sexual assault, domestic violence, or stalking and harassment cases.
- (1) Article 16 of the “Sexual Assault Crime Prevention Act” provided that, “Upon application by victims or duties of judicial officers, the inquiries or questioning of the victim may be carried

out outside the court via technology equipment such as audio, video conference or any other suitable means so that the victim could be separated from the defendant or judge.”

- (2) Articles 13 and 36 of the “Domestic Violence Prevention Act” provided that when a court reviews evidence during a protection order incident investigation or domestic violence criminal case investigation and trial, a segregated interrogation or examination of the victim may be conducted outside the court pursuant to petition or on its own initiative. Any technical equipment allowing two-way transmission of voice and image and other proper segregation measures may also be used.
- (3) Article 10 of the “Stalking and Harassment Prevention Act” provided that the court may investigate the facts and necessary evidence ex officio or upon request, and may conduct separate interrogation; when necessary, on the basis of ex officio or upon request, it may perform such relevant processes outside the courtroom, or adopt technology tools or other appropriate measures that isolate the parties and for mutual transmission of audios and videos.

3. 23		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 32 條 (第 33 點)	Which is the current status of the drafted amendment chapter regarding expert witnesses? (Response Report, p.62)	修正草案中關於鑑定人的章節，目前修法進度為何？ 【第二次國家報告第 102 頁】 【回應報告第 41 頁】

中文回應：

184. 法務部已研擬《刑法》部分條文修正草案，增訂妨害司法公正罪章及對鑑定人為騷擾等行為之處罰或加重規定，於 2019 年 9 月 17 日陳報行政院審查，現於行政院審查中。

英文回應：

184. The MOJ has prepared a draft amendment to some of the Criminal Code provisions by amending the crime of obstruction of justice, the harassment of expert witness and its penalty or aggravating criminal sanctions. The draft was submitted to the Executive Yuan for review on September 17, 2019, and is currently under review.

3. 24		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 33 條	Which is the situation of the draft of the Whistleblower Protection Act regarding the reduction or	請問《揭弊者保護法》草案就揭弊者予以減輕或免除刑事責任之規定為何？ 【第二次國家報告第 104 頁】

	exemption of criminal liability of whistleblowers? (ROC's Second Report, p.75)	
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中文回應：

185. 揭弊者之責任類型，包含因揭弊行為所涉之洩密責任，及其參與揭弊內容之共犯責任：
- (1) 洩密責任部分：揭弊者因揭弊行為所涉之洩密責任部分，草案第 12 條明定免除其民事、刑事、行政及職業倫理之懲戒責任。
 - (2) 共犯責任部分：揭弊者因參與揭弊內容之共犯責任部分，草案介接《證人保護法》適用之立法模式，故準用減刑或免除其刑之刑事責任規範。

英文回應：

185. The whistleblower's responsibilities include the liability for the disclosure of classified information and involvement in wrongdoing they exposed as accomplices:
- (1) Liability for the disclosure of classified information:
Article 12 in the draft expressly provides that whistleblowers are exempt from any civil, criminal, administrative or professional ethics-related disciplinary liability for the disclosure of classified information in respect of their whistleblowing.
 - (2) Liability for being an accomplice committing a wrongdoing in the whistleblowing case:
As for the liability for being an accomplice, whistleblowers are taken into account that the draft provides provisions based on the "Witness Protection Act" legislative model whereby criminal liability for commutation or exemption in the whistleblowing case shall be applied mutatis mutandis.

3. 25		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 33 條	A copy of the latest draft of the whistleblower protection legislation and the current timetable for its consideration	請提供《揭弊者保護法》最新草案及其審議立法時間表。 【第二次國家報告第 106 頁】

中文回應：

186. 廉政署依 UNCAC 第 33 條保護檢舉人之意旨，已研訂《揭弊者保護法》草案，保護範圍涵蓋公、私部門弊端及揭弊者保護，保護內涵包含工作權保障、身分保密、人身安全保護及責任減免等措施。立法院於 2021 年 4 月及 12 月就本草案召開公聽會以廣徵民意，經廉政署綜整各界意見後，於 2021 年 12 月 2 日陳報行政院審查，行政院於 2022 年 1 月 4 日召開審查會，經參酌相關機關審查意見，廉政署再修正條文，並於 2022 年 1 月 25 日

將草案再陳報行政院審查，廉政署將賡續推動並積極完成立法作業。相關資料業置放於廉政署網站「揭弊者保護專區」供參考⁹。

英文回應：

186. The AAC has formulated the “Whistleblower Protection Act” draft to protect whistleblowers in accordance with Article 33 of UNCAC. The scope of protection covers whistleblower protection for public and private sector abuses, including labor rights protection, identity confidentiality, personal safety protection, and liability relief. The Legislative Yuan held public hearings on this draft in April and December of 2021 to solicit public opinions. After the AAC reviewed the public opinions, the case was submitted to the Executive Yuan for review on December 2, 2021. The Executive Yuan held a review meeting on January 4, 2022. The AAC revised the draft after considering relevant agencies’ review opinions and submitted the draft to the Executive Yuan for review again on January 25, 2022. The AAC will continue to promote and actively complete the legislative operations. The relevant information is posted in the “Whistleblowers Protection Area” on the AAC website for reference¹⁰.

3. 26		
涉及公約條文 或結論性意見 點次	問題內容（原文）	中文參考翻譯
第 3 章 第 35 條 (第 36 點)	For compensation purposes corruption is considered a defect on management of a public facility? Is that the only basis of compensation for corruption? (Response Report, p.72)	就賠償目的而言，貪腐被視為是公共設施管理上的欠缺嗎？這是貪腐賠償的唯一根據嗎？ 【第二次國家報告第 109 頁】 【回應報告第 48 頁】

中文回應：

187. 《國家賠償法》所謂公共設施管理欠缺，係指公共設施建造後之維持、修繕及保管不完全，不具備通常應有之狀況、作用或功能。貪腐可能是造成公共設施管理欠缺的原因，但貪腐行為本身並非公共設施管理上的欠缺。惟如具體個案中，因貪腐行為致公共設施管理欠缺且與人民損害間有因果關係，國家即負有國家賠償責任。
188. 公部門之貪腐行為而造成他人權益之損害，如前所述，受害人可依實際情況，依《國家賠償法》之規定，請求損害賠償；倘為私部門之貪腐行為，受害人則得視具體個案情形，依《民法》侵權行為或債務不履行等規定請求損害賠償。

英文回應：

⁹ <https://www.aac.moj.gov.tw/6398/6540/837481/Lpsimplelist>.

¹⁰ <https://www.aac.moj.gov.tw/5791/5793/5871/841151/Lpsimplelist>.

187. The so-called lack of management of public facilities in the "State Compensation Law" refers to the incomplete maintenance, repair and preservation of public facilities after construction, and the lack of normal conditions or functions. Corruption may be the cause of the lack of management of public facilities, but corruption itself is not a lack of management of public facilities. However, if in a specific case, the lack of management of public facilities due to corrupt behavior and a causal relationship between the damage to the people, the state is responsible for state compensation.
188. Corruption in the public sector causes damage to the rights and interests of others. As mentioned above, the victim may request compensation for damages according to the actual situation and in accordance with the provisions of the "State Compensation Law"; in the case of corruption in the private sector, depend on the specific circumstances of individual cases, compensation for damages may be claimed by the victim in accordance with the provisions of the "Civil Law" for torts or non-performance of debts.

3. 27		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 35 條 (第 36 點)	When corruption generates damage to “collective victims” (communities, groups, associations, etc.), how are they entitled to claim compensation? Can they do it through the criminal system? (Response Report, p.73)	當貪腐行為對「集體受害者」(社群、團體、組織...等)造成損害時，他們如何能有權利要求賠償？可否透過刑事程序求償嗎？ 【第二次國家報告第 109 頁】 【回應報告第 48 頁】

中文回應：

189. 《民法》第 184 條規定：「(1) 因故意或過失，不法侵害他人之權利者，負損害賠償責任。故意以背於善良風俗之方法，加損害於他人者亦同。(2) 違反保護他人之法律，致生損害於他人者，負賠償責任。但能證明其行為無過失者，不在此限。」受害者亦可能依據契約條款或債務不履行規定向行為人請求賠償，另《民事訴訟法》第 41 條至第 44 條之 3 定有關於多數當事人或集體訴訟之規定，受害者得依具體個案事實按上開規定請求損害賠償。此外，因犯罪而受損害之受害者，得按《刑事訴訟法》第 9 編「附帶民事訴訟」之相關規定，於刑事訴訟程序提起附帶民事訴訟，請求回復其損害。
190. 若私部門之貪腐行為造成證券投資人或期貨交易人集體受害，於符合《證券投資人及期貨交易人保護法》第 28 條第 1 項規定所稱之證券、期貨事件時，得由 20 人以上之集體受害者授與訴訟實施權，由投保中心提起團體訴訟，依《證券交易法》、《公司法》或《民法》等之侵權行為規定請求民事損害賠償。如符合《刑事訴訟法》第 487 條規定，前揭民事訴訟並得於刑事訴訟程序附帶提起。

英文回應：

189. Article 184 of the “Civil Code” stipulates that: “(1) A person who, intentionally or negligently, has wrongfully damaged the rights of another is bound to compensate him for any injury arising therefrom. The same rule shall be applied when the injury is done intentionally in a manner against the rules of morals. (2)A person, who violates a statutory provision enacted for the protection of others and therefore prejudice to others, is bound to compensate for the injury, except no negligence in his act can be proved.” The victims may also claim compensation on the basis of contractual terms or non-performance provisions. In addition, Articles 41 to 44-3 of Taiwan Code of Civil Procedure contain provisions on multiple parties or class actions. Based on individual circumstances, the victims may be entitled to claim compensation according to the provisions above. Furthermore, according to the Part IX “Ancillary Civil Action” of the Code of Criminal Procedure, the victims who injured by a criminal behavior may bring an ancillary civil action along with the criminal procedure to request compensation.
190. If corruption on the part of a private sector entity generates collective damage to securities investors or futures traders and meets the elements of a "securities or futures matter" referred to in paragraph 1, Article 28 of Taiwan's "Securities Investor and Futures Trader Protection Act," the SFIPC may institute a class action after being so empowered by not less than 20 of the collective victims. Such a class action may claim civil damages under the tort provisions of applicable laws such as the "Securities and Exchange Act," "the "Company Act," or the "Civil Code." If the collective damage arose from a criminal offense, under Article 487 of Taiwan's "Code of Criminal Procedure," a class action may furthermore be instituted in the form of supplementary civil action brought along with the criminal procedure.

3. 28		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 36 條	Looks like there is not a clear division of duties between AAC and MJIB regarding prevention and investigation of corruption crimes, Please explain (ROC’s Second Report, p.181)	看起來廉政署與調查局對於貪腐犯罪的預防跟偵查的義務並沒有明確的界線，請解釋。 【第二次國家報告第 111 頁】

中文回應：

191. 廉政署與調查局的功能職掌並不相同，在法務部的指揮下，發揮各自優勢合力防範公、私部門之貪瀆情事，廉政署依《法務部廉政署組織法》規定，為兼具預防性反貪及專責性

肅貪之複合性機關，而調查局依《法務部調查局組織法》職掌貪瀆防制及賄選查察、重大經濟犯罪防制等 14 項業務，肅貪調查業務僅是其業務之一：

- (1) 在預防貪腐方面，廉政署掌理公部門貪瀆預防措施之推動及執行，並依《政風機構人員設置管理條例》規定，結合政風機構辦理廉政宣導及社會參與，廉政預防措施之擬訂、推動及執行，廉政興革建議之擬訂、協調及推動，以及公職人員財產申報、利益衝突迴避及廉政倫理相關業務；調查局依《法務部調查局組織法》職掌洗錢防制及資恐防制等業務，主要任務為預防、發掘、偵辦及遏止私部門貪腐等重大經濟犯罪案件。
- (2) 在打擊貪腐不法執行面，我國以檢察官為犯罪偵查主體，各司法偵查輔助機關（如警察、調查、廉政等）在檢察機關協調、指揮下，以複式多線方式執行肅貪犯罪調查。依組織法規，貪瀆犯罪之預防為廉政署專責職掌業務，廉政署並掌理貪瀆或相關犯罪之調查及處理，為單一的廉政政策規劃及執行機關；調查局掌理貪瀆犯罪、賄選查察、重大經濟犯罪（含企業貪瀆）及洗錢等調查事項。
- (3) 廉政署及調查局對於公部門貪瀆案件均盡全力發掘與偵辦，廉政署督導政風機構在機關內部發掘貪瀆線索，調查局則主要從設在機關外部的調查站獲得犯罪線索，遇有相同案件時，係依《法務部廉政署與法務部調查局肅貪業務聯繫作業要點》規定，採交叉火網、分進合擊之方式共同打擊貪瀆，臺灣以複式多線方式進行肅貪，獲致的成果更為有效。

英文回應：

191. The AAC differs from the MJIB in functions and authorities. Under the command of the MOJ, both can exert their own strengths to prevent corruption in the public and private sectors respectively. The former performs the composite function of anti-corruption and investigation of corruption according to the “Organic Act of the Agency Against Corruption, MOJ,” while the latter is responsible for 14 businesses in accordance with the “Organic Act for Investigation Bureau, MOJ,” such as corruption prevention and election bribery investigations, as well as major economic crime prevention, one of which is investigation of corruption:

- (1) Regarding prevention of corruption, the AAC shall be responsible for the promotion and implementation of anti-corruption measures in public sectors, Further, the “Act of the Establishment and Management of the Government Employee Ethics Units and Officers” requires that the AAC shall be responsible for the cooperation of education and social participation of anti-corruption with Government Employee Ethics Units; design, advocacy, and execution of rules and regulations and preventive measures for anti-corruption; design, coordination, and advocacy of recommendations for anti-corruption; the declaration of property by public servants, avoidance of conflicts of interest, and ethics of anti-corruption.
- (2) Regarding combating corruption and illegal operations, the prosecutor’s office is our nation’s main criminal investigation body. Under the coordination and command of the Prosecutors Office, the various auxiliary judicial investigation organizations (such as the police, investigation, and ethical government units) execute corruption and crime investigations in a multifaceted manner. According to its organic act mentioned above, the AAC is in charge of

corruption prevention operations. The AAC is also in charge of investigating and handling corruption-related crimes and is an independent ethical government policy planning and implementation agency. The Investigation Bureau is in charge of investigating corruption, election bribery cases, major economic crimes (including corporate corruption), and money laundering.

- (3) The AAC spares no efforts into the discovery and investigation of corruptions in public sectors, so does the MJIB. The AAC supervises the Government Ethics Units to uncover clues of corruption within the agencies while the MJIB is responsible for uncovering corruption clues outside the agencies. These agencies shall jointly combat corruption through collaboration and combined efforts when investigating the same case according to the “Ministry of Justice Agency Against Corruption and Investigation Bureau Collaboration Guidelines.” It would be a more effective way to execute corruption and crime investigations in a multifaceted manner.

3. 29		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 3 章 第 36 條	How are resources for both agencies allocated? (ROC Second Report, p.181)	二機關(廉政署及調查局)的資源如何分配? 【第二次國家報告第 111 頁】

中文回應：

192. 廉政署及調查局各依其業務職掌作為資源分配之基礎，廉政署之業務職掌依《法務部廉政署組織法》規定，係聚焦於貪瀆預防措施、貪瀆相關犯罪之調查與處理，調查局依其組織法規，著重從機關外部發掘貪瀆線索，主要資源投注於外圍情資網絡的建立，包含布置諮詢人員協助察覺或蒐集不法事證。同時調查局也可以透過偵辦經濟犯罪、防制洗錢、毒品犯罪等管道間接發掘貪瀆線索。
193. 廉政署及調查局均設置於法務部之下，係中央三級政府機關，法務部設置於行政院之下，係中央二級政府機關。依《預算法》及各年度中央政府總預算編制辦理，廉政署及調查局編擬預算陳報法務部，法務部審核後，由行政院提送立法院審議。又依《中央政府機關員額管理辦法》，行政院應於年度預算員額總數內，辦理所屬各級機關年度預算員額分配作業；法務部得審酌所屬機關業務特性，報請行政院核定後，實施跨機關員額總量管理。
194. 廉政署及調查局兩機關間依《法務部廉政署與法務部調查局肅貪業務聯繫作業要點》規定，於法務部的指揮下，採交叉火網、分進合擊之方式共同打擊貪瀆。

英文回應：

192. The resource allocations for the AAC and the Investigation Bureau are based on the scope of their operations. The scope of operation for the ACC is provided by the “Organic Act of the

Agency Against Corruption, Ministry of Justice” to focus on corruption prevention measures and the investigation and handling of corruption-related crimes. The scope of operation for the Investigation Bureau is provided by the “Organic Act for Investigation Bureau, Ministry of Justice” to focus on uncovering corruption clues outside the agencies and putting main resources into building an outer intelligence network, including the arrangement of counseling staff for assistance in discovering and gathering of illegal evidence. In addition, the Investigation Bureau can also uncover corruption clues indirectly through investigation of economic crimes, anti-money laundering and drug enforcement.

193. The AAC and MJIB are subordinated to the Ministry of Justice as the central third-level agencies. The Ministry of Justice is subordinated to the Executive Yuan as the central second-level agency. According to the “Budget Act” and the Regulations for Preparing Central Government General Budget of each year, the AAC and MJIB shall prepare budgets and submit the same to the Ministry of Justice. Upon review, the Ministry of Justice shall prepare its budget and submit the same to the Executive Yuan for submission to the Legislative Yuan for review. According to the “Act Governing the Total Number of Civil Servants Employed by Central Government,” the Executive Yuan shall complete the distribution of annual budget headcount into the agencies at all levels affiliated with it within the annual budget headcount limit; the Ministry of Justice may, depending on the characteristics of business handled by the agencies affiliated with it, implement the inter-agency total headcount management upon approval of the Executive Yuan.
194. Under the command of the MOJ, the AAC and the Investigation Bureau shall jointly combat corruption through collaboration and combined efforts according to the “Ministry of Justice Agency Against Corruption and Investigation Bureau Collaboration Guidelines.”

3. 30		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 36 條	Are both agencies independent of the Executive Yuan regarding investigations? How is this independence assured? (ROC’s Second Report, p.181)	在偵查上，廉政署與調查局是否獨立於行政院？如何確保其獨立性？ 【第二次國家報告第 111 頁】

中文回應：

195. 廉政署及調查局設置於法務部之下，係中央三級政府機關，法務部設置於行政院之下，係中央二級政府機關，預算、決算及法案，同行政院(法務部)均受立法院監督。
196. 我國《刑事訴訟法》以檢察官為偵查主體，檢察官所屬之檢察機關則隸屬於法務部；廉政署為兼具預防性反貪及專責性肅貪機關，為構思創新之打擊貪腐模式，並結合我國現行犯罪偵查體制，建置「派駐檢察官」制度，由法務部遴選檢察官派駐廉政署辦理貪瀆及相

關犯罪之偵（調）查，啟動期前辦案，以多重過濾查證機制，機先精準掌握犯罪事證，又因檢察官於案件開始時即指揮偵辦，更能確保相當之獨立性，不受干預。廉政署及各地區調查組廉政官具有司法警察權，由駐署檢察官直接指揮偵辦貪瀆案件，貫徹檢察官偵查主體之精神，發揮偵查效能，提升其辦案效率與獨立性，另由社會公正人士組成「廉政審查委員會」，定期審查結存案件，防止誤判、拖辦及吃案，監督並提升廉政署運作之透明度、獨立性和超然性。

197. 維持偵查的獨立性，主要在於長期以來所建立的社會共識。在臺灣，凡是以政治力干涉司法調查者，不但本身可能涉及犯罪，也必然會遭受媒體輿論的撻伐。廉政署與調查局的執法同仁均是經由公平的國家考試所錄取，素質極高，要藉由外力不當妨礙偵查的進行，危險性已經遠高於原本調查的犯罪。

英文回應：

195. The AAC and MJIB are subordinated to the Ministry of Justice as the central third-level agencies. The Ministry of Justice is subordinated to the Executive Yuan as the central second-level agency. Together with the Executive Yuan (Ministry of Justice), the both agencies shall be under supervision of the Legislative Yuan when processing the affairs related to budget, final accounting and acts.
196. According to the “Code of Criminal Procedure,” prosecutors play the leading role in the criminal investigation. The prosecuting apparatus where the prosecutors work shall be subordinated to the Ministry of Justice. On the other hand, the AAC performs the composite functions of anti-corruption and investigation of corruption. The “Resident Prosecutor” system is established by combining the current system of criminal investigation, conceived as an innovative model for combating corruption. Under this system. The MOJ 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. The AAC and the agents of various regional investigation offices both hold the authority of judicial police. The prosecutors serving for the AAC may direct the investigation on cases of corruption directly and fulfill the spirit of the leading role in criminal investigation thoroughly, exert the performance of investigation, and upgrade the efficiency and independence of investigation. Meanwhile, the “Advisory Committee,” consisting of fair and just public figures, will review closed and pending cases periodically to prevent misjudgment, deferred investigation and covered cases, to supervise and upgrade the transparency, independence and detachment of the AAC’s operations.
197. The independence of investigation mainly relies on the consensus in the community in the long term. In Taiwan, those who interfere in judicial investigations through political power would be involved in crimes and be inevitably slammed by public opinions. The law enforcement officers

of the AAC and the MJIB are derived from fair national examinations and show high qualities in job performance. To interfere the investigation improperly through external forces would bring more risk and danger than the crimes under investigation do.

3. 31		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 38 條	Are the MJIB Legal Officers permitted to engage in capacity building programs in other countries – e.g. are they able to provide training to assist developing countries?	調查局法務秘書是否獲准參與其他國家的能力建構計畫？例如，法務秘書能否舉辦培訓課程，以協助開發中國家？ 【第二次國家報告第 115 頁-89(7)】

中文回應：

198. 駐泰國法務秘書

- (1) 2017 年 9 月 13 日及 2018 年 8 月 29 日，調查局時任駐泰國法務秘書參加由泰國肅貪委員會 (NACC) 與泰國外商總會 (JFCCT) 共同舉辦之「防貪與肅貪交流研討會」。
- (2) 2022 年 3 月 15 日，調查局現任駐泰國法務秘書參加由泰國公部門肅貪委員會 (PUBLIC SECTOR ANTI-CORRUPTION COMMISSION, PACC) 在暖武里 IMPACT 展覽館舉辦之「外國投資者申訴中心公布計畫」，該計畫主要說明 PACC 扮演之角色及外國投資者若遇到泰國官員意圖索賄時應如何處理，PACC 並提供檢舉貪瀆電話 1266，若有任何貪瀆情形都可撥打。

199. 駐韓國法務秘書

- (1) 2017 年 11 月 15 日至 17 日，亞洲開發銀行 (ADB) 與經濟合作暨發展組織 (OECD) 於韓國首爾希爾頓飯店舉辦「亞太地區反貪倡議小組第 9 屆區域性反貪腐研討會 (9th Regional Conference ADB/OECD Anti-Corruption Initiative for Asia-Pacific)」，時任調查局駐韓國法務秘書與會。
- (2) 2020 年 12 月 1 日至 4 日，韓國反貪腐及國民權益委員會 (Anti-Corruption & Civil Rights Commission) 於線上舉辦「第 19 屆國際反貪會議 (19th International Anti-Corruption Conference)」，調查局駐韓法務秘書線上與會。

200. 駐馬來西亞法務秘書

2017 年 5 月 24 日至 25 日，馬來西亞反貪污委員會 (Malaysian Anti-Corruption Commission, MACC) 在馬來西亞吉隆坡舉辦「第 8 屆國際反貪機構論壇 (8th Anti-Corruption Agency Forum)」，時任調查局駐馬來西亞法務秘書與會。

201. 駐澳洲法務秘書

2018 年 8 月 21 日，時任駐澳洲法務秘書參加由格利芬大學 (Griffith University) 與澳洲國際透明組織 (Transparency International Australia) 共同舉辦之「澳大利亞公共整合機構：

強化、弱化及選項研討會」(Australia's public integrity institutions: Strengths, weaknesses, options)，該研討會目的在探討澳洲是否有設立一獨立聯邦級打擊貪腐機構之需求。

202. 駐德國法務秘書

- (1) 參與 2022 年 1 月 27 日國際透明組織 (TI) 舉辦之「2021 年清廉印象指數」(Corruption Perceptions Index, CPI) 報告線上分析會 (會議名稱:Corruption Perceptions Index 2021-Briefing and Analysis)。
- (2) 參與 2022 年 5 月 3 日國際透明組織 (TI) 舉辦之「第 20 屆國際反腐敗會議 (IACC)」會前會。
- (3) 參與 2022 年 5 月 11 日至 12 日德國官署明鏡社 (Behoerde Spiegel) 舉辦之「第 25 屆歐洲警察大會 (European Police Congress)」，部分議題涉及反貪腐偵查作為。

203. 調查局舉辦與反貪腐相關之跨國研習班、國際會議及研討會：

調查局自 2007 年至 2019 年，連續 13 年在臺舉辦「東南亞跨國犯罪研習班」(現因疫情停辦)，俾使東南亞及亞太地區執法官員充分瞭解調查局職掌及案件偵查方式，提供彼此一個經驗交流及分享的溝通平台，以強化國際合作偵辦跨境犯罪效能。

204. 另駐外法務秘書參加並邀請駐在國對等執法機關官員參與以下調查局所舉辦與國際反貪腐有關會議：

- (1) 2017 年「第三屆亞西論壇 (TWAF) -2017 區域安全與跨境犯罪國際研討會」。
- (2) 2019 年「2019 全球合作暨訓練架構 (GCTF) -打擊公私部門貪瀆國際研習營」。
- (3) 2019 年「2019 第 22 屆 FBI 國家學院校友會亞太區複訓研習營 (FBINAA)」。
- (4) 2019 年「第四屆亞西論壇 (TWAF) -2019 區域安全與跨境犯罪國際研討會」。
- (5) 2020 年「2020 全球合作暨訓練架構 (GCTF) -新冠肺炎相關犯罪防制國際研習營」(視訊會議)。
- (6) 2021 年「2021 全球合作暨訓練架構 (GCTF) -洗錢防制國際研習營」(視訊會議)。
- (7) 2021 年「第五屆臺灣亞西論壇 (TWAF) -2021 區域安全與跨境犯罪國際研討會 (視訊會議)」。
- (8) 2022 年「2022 全球合作暨訓練架構 (GCTF) -數位犯罪防制國際研習營」(視訊會議)。

英文回應：

198. MJIB's legal attaché in Thailand

- (1) Attended "Seminar to Exchange on Corruption of Prevention and Corruption Suppression Between Office of The National Anti-Corruption Commission and The Joint Foreign Chambers of Commerce in Thailand" held by the National Anti-Corruption Commission (NACC) and the Joint Foreign Chambers of Commerce in Thailand (JFCCT) on September 13th, 2017 and August 29th, 2018.
- (2) Attended "The Foreign Investors Complaint Center Publication Project" held by Public Sector Anti-Corruption Commission (PACC) in Nonthaburi on March 15th, 2022, which mainly explained the disposition of requiring bribery by public officers in Thailand as a role played by PACC or as a foreign investor, as well as the hotline for reporting corruption if any.

199. MJIB's legal attaché in Korea
- (1) Attended "9th Regional Conference ADB/OECD Anti-Corruption Initiative for Asia-Pacific" held by Asian Development Bank (ADB) and Organization for Economic Cooperation and development (OECD) during November 15th ~ 17th, 2017.
 - (2) Attended "19th International Anti-Corruption Conference" held by Anti-Corruption & Civil Rights Commission online forum during December 1st to 4th, 2020.
200. MJIB's legal attaché in Malaysia
- Attended "8th Anti-Corruption Agency Forum" held by Malaysian Anti-Corruption Commission (MACC) during May 24th ~ 25th, 2017.
201. MJIB's legal attaché in Australia
- Attended forum on "Australia's public integrity institutions: Strengths, weaknesses, options" held by Griffith University and Transparency International Australia on August 21st, 2018.
202. MJIB's legal attaché in Germany:
- (1) Attended the 2021 Corruption Perceptions Index (CPI) Report online analysis meeting "Corruption Perceptions Index 2021: Briefing and Analysis" held by Transparency International (TI) on January 27, 2022.
 - (2) Attended the pre-conference of the 20th International Anti-Corruption Conference (IACC) hosted by Transparency International (TI) on May 3, 2022.
 - (3) Participated in the German news agency Der Spiegel's 25th European Police Congress, during May 11 to 12, 2022, some topics were related to anti-corruption investigations.
203. The anti-corruption related workshops, conferences and forums hosted by MJIB:
- The MJIB had managed the "Transnational Crime Workshop" for law enforcement agencies of Southeastern countries for 13 consecutive years from 2007 to 2019 in Taiwan (the Workshop has been postponed due to COVID-19 since 2020). The main purpose of managing such a program is to introduce the MJIB to counterparts from overseas as well as to provide an opportunity for agencies to exchange views and experience in transnational crime investigation.
204. MJIB's legal attachés also attended and invited local law enforcement officials to attend the following anti-corruption related workshops, conferences and forums hosted by MJIB:
- (1) The 3rd TWAF- 2017 Taiwan International Symposium on Regional Security and Transnational Crime
 - (2) 2019 Global Cooperation and Training Framework (GCTF) - Workshop on Anti-Corruption in Public and Private Sectors.
 - (3) The 2019 22nd FBINAA Asia-Pacific Retraining Conference.
 - (4) The 4th TWAF- 2019 Taiwan-Western Asia Forum on Regional Security and Transnational Crime.
 - (5) 2020 Global Cooperation and Training Framework (GCTF) - Workshop on Combating COVID-19 Related Crimes (online).

- (6) 2021 Global Cooperation and Training Framework (GCTF) - Workshop on Anti-Money Laundering (online).
- (7) The 5th TWAF- 2021 Taiwan-Western Asia Forum on Regional Security and Transnational Crime (online).
- (8) 2022 Global Cooperation and Training Framework (GCTF) - Workshop on Combating Digital Crimes (online).

3. 32		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 39 條	(ROC's Second Report -91(7), p.189) Is the AAC able to participate in technical or capacity building assistance programs for jurisdictions outside ROC Taiwan?	參照第二次國家報告第 117 頁-91(7)，廉政署能否參與臺灣境外與司法管轄權相關的技術或能力建構協助計畫？ 【第二次國家報告第 117 頁-91(7)】

中文回應：

205. 廉政署曾與美國司法部聯邦調查局、中國大陸最高人民檢察院、香港廉政公署、新加坡貪污調查局、澳門廉政公署、馬來西亞反貪委員會、韓國反貪及國民權益委員會、日本最高檢察廳、日本消費者廳、泰國最高檢察署、泰國洗錢防制局等 11 個外國反貪腐專責機關建立業務聯繫合作機制，共計進行司法互助 6 案、情資交換 64 案。
206. 鑒於世界各國均面臨貪污犯罪組織化、國際化所帶來威脅與挑戰，廉政署將持續尋求與國際間反貪機構共同偵查及執法合作，除鞏固強化既有之跨境協查機制外，將持續與相關國家建立情資聯繫窗口，透過跨境協查方式，展現刑事追訴，以打擊貪污犯罪。
207. 廉政署除常態性在亞太經濟合作組織 (APEC) 之反貪腐暨透明化工作小組 (ACTWG)、反貪腐有關單位和執法機構網絡會議 (ACT-NET) 提供經驗分享外，更積極尋求合作主辦全球合作暨訓練架構(GCTF)相關廉政之機會，以展現我國近年推動廉能治理之成果。

英文回應：

205. The AAC has established collaboration mechanisms with 11 foreign anti-corruption agencies such as the FBI in the USA, the Supreme People's Procuratorate of China, the Independent Commission Against Corruption of Hong Kong, the Corrupt Practices Investigation Bureau of Singapore, the Commission Against Corruption of Macau, the Malaysian Anti-Corruption Commission, the Anti-corruption and Civil Rights Commission of South Korea, the Supreme Public Prosecutors Office of Japan, the Consumer Affairs Agency of Japan, the Supreme Prosecutors Office of Thailand, and Thailand's Anti-Money Laundering Department. The AAC

has provided mutual legal assistance in six cases and exchanged information in 64 cases with these agencies.

206. As nations worldwide are facing the threats and challenges brought about by the internationalization of organized corruption crimes, the AAC has continued to seek joint investigation and law enforcement cooperation with international anti-corruption agencies. In addition to consolidating and strengthening the existing cross-border cooperation investigation mechanism, the AAC will continue to establish information contact windows with relevant countries and engage in criminal prosecution via cross-border cooperation investigation methods to combat corruption crimes.
207. Every year, the AAC reports the experiences and results of anti-corruption to APEC Anti-Corruption and Transparency Experts Working Group (ACTWG) and Anti-Corruption Authorities and Law Enforcement Agencies Network (ACT-NET). In looking forward to the future, the AAC proposes to jointly hold the 2023 Global Cooperation and Training Framework (GCTF), along with the United States, Japan and Australia, to promote Taiwan’s great achievements of integrity governance.

3. 33		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 39 條	May Peter Ritchie please have a copy of “Principle of Piercing the Corporate Veil.”	請問能否提供「揭穿公司面紗原則」資料影本？ 【第二次國家報告第 118 頁-93(4)】

中文回應：

208. 我國《公司法》涉及揭穿公司面紗原則之條文如下：

(1) 第 99 條 (有限公司)

各股東對於公司之責任，除第二項規定外，以其出資額為限。

股東濫用公司之法人地位，致公司負擔特定債務且清償顯有困難，其情節重大而有必要者，該股東應負清償之責。

(2) 第 154 條 (股份有限公司)

股東對於公司之責任，除第二項規定外，以繳清其股份之金額為限。

股東濫用公司之法人地位，致公司負擔特定債務且清償顯有困難，其情節重大而有必要者，該股東應負清償之責。

英文回應：

208. The regulation of Principle of Piercing the Corporate Veil in the Company Act is as follows:

(1) Article 99 (Limited Company)

The liability of shareholders to the company shall, unless otherwise provided for in Paragraph 2, be limited to the extent of the capital contributed by each of them.

If a shareholder abuses the company's status as a legal entity and thus causes the company to bear specific debts and to be apparently difficult for the company to pay such debts, and if such abuse is of a severe nature, the shareholder shall, if necessary, be liable for the debts.

(2) Article 154 (Company Limited by Shares)

The liability of shareholders to the company shall, unless otherwise provided in the paragraph 2, be limited to payment in full of the shares they have subscribed.

If a shareholder abuses the company's status as a legal entity and thus causes the company to bear specific debts and to be apparently difficult for the company to pay such debts, and if such abuse is of a severe nature, the shareholder shall, if necessary, be liable for the debts.

3. 34		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 3 章 第 40 條	Private tax refund operators require judicial order to share information? (ROC's Second Report, p.195)	民營退稅業者必需要有司法命令才能分享資訊? 【第二次國家報告第 119 頁-94.(5)】

中文回應：

209. 按《外籍旅客購買特定貨物申請退還營業稅實施辦法》(下稱該辦法)第 14 條之 1 第 1 項規定，民營退稅業者如遇有受理 50 萬元以上現金退稅或疑似洗錢案件，應填具相關申報表，函送法務部調查局進行調查。
210. 該辦法第 14 條之 1 第 2 項亦規定，不論金額多寡，民營退稅業者應向法務部調查局為疑似洗錢交易申報：
- (1) 外籍旅客為財政部函轉外國政府所提供之恐怖分子；或國際洗錢防制組織認定或追查之恐怖組織成員；或交易資金疑似或有合理理由懷疑與恐怖活動、恐怖組織或贊助恐怖主義有關聯者，其來臺旅遊辦理之退稅案件。
 - (2) 同一外籍旅客於一定期間內來臺次數頻繁且辦理大額退稅，經財政部及所屬機關或民營退稅業者調查後報請法務部調查局認定異常，應列為疑似洗錢交易追查對象者，其來臺旅遊辦理之退稅案件。
211. 法務部調查局洗錢防制處為執法型金融情報中心，依據《法務部調查局組織法》第 14 條，洗錢防制處所屬人員為《刑事訴訟法》第 230 條之司法警察官，得為分析金融情資異常金流、資金來源及確認交易原因，依《刑事訴訟法》要求申報機構(包含民營退稅業者)提供補充資料，包括期間較長、交易相關之交易明細、客戶審查資料或申報機構保管之其他相關文件資料。

英文回應：

209. According to Paragraph 1, Article 14-1 of the Implementation Measures for Foreign Passengers Purchasing Specific Goods to Apply for Refund of Business Tax (hereinafter referred to as the Measures), if a private tax refund company accepts a cash tax refund of more than 500,000 yuan or is suspected of money laundering, it should fill out the relevant declaration form and send it to the Investigation Bureau of the Ministry of Justice for investigation.
210. According to Paragraph 2, Article 14-1 of the Measures, in case of any of the following situations, regardless of the amount, a private tax refund operator shall file a suspicious transaction report (STR) thereof with the Investigation Bureau, Ministry of Justice:
- (1) Where a foreign traveler is a terrorist or terrorist group as advised by the Ministry of Finance based on information provided by foreign governments, or a terrorist organization identified or investigated by an international organization against money laundering; or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organization or financing of terrorism.
 - (2) Where a foreign travelers visit Taiwan frequently during a certain period of time doing large-amount VAT refund, will be listed as the investigated target and the transaction as a suspicious and deemed as irregular by Ministry of Finance or the private tax refund operators which later report to the Investigation Bureau.
211. The Money Laundering Prevention Division of the Investigation Bureau of the Ministry of Justice is a financial intelligence center that in charge of law enforcement. According to Article 14 of the Organic Law of the Investigation Bureau of the Ministry of Justice, staffs within the Division are judicial police officers who, under Article 230 of the “Criminal Procedure Law,” has the authority to analyze abnormal cash-flow, track source of funds, assess the due cause of transactions, and require reporting institutions (private tax refund operators included) to provide supplementary information, as stipulated in the Criminal Procedure Law, including details of the long-term transactions, customer-due diligence report or any documents retained by the reporting institution.

聯合國反貪腐公約 第四章 國際合作

UNCAC Chapter IV. International cooperation

4.1		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 4 章 第 44 條	Is there an estimated time when the legislation updates will be completed, if not already?	如果尚未完成《引渡法》修法，是否可預估完成修法的時間？ 【第二次國家報告第 127 頁】

中文回應：

212. 《引渡法》草案業於 2022 年 3 月 31 日經行政院送立法院審議，並列為立法院第 10 屆第 5 會期優先法案。法務部將積極配合立法院審議時程，以期引渡法修正草案得以順利通過。

英文回應：

212. The draft bill of the “Extradition Law” was sent by the Executive Yuan to the Legislative Yuan for deliberation on March 31, 2022, and has been given special priority in the current legislative session. The Ministry of Justice will actively cooperate with the Legislative Yuan to expedite the amendment of the “Extradition Law.”

4.2		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 4 章 第 44 條	Which is the current status of the draft of amendments to the law of extradition? (ROC’s Second Report, p.208)	請問《引渡法》修正草案的現況為何？ 【第二次國家報告第 127 頁】

中文回應：

213. 《引渡法》草案業於 2022 年 3 月 31 日經行政院送立法院審議，並列為立法院第 10 屆第 5 會期優先法案。

英文回應：

213. The draft bill of the “Extradition Law” was sent by the Executive Yuan to the Legislative Yuan for deliberation on March 31, 2022, and has been given special priority in the incumbent legislative session.

4.3		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 4 章 第 44 條	In the absence of bilateral treaties, has the UNCAC been considered as the base for extradition with other countries? (ROC’s Second Report, p.208)	在缺乏雙邊協議的狀況下，UNCAC 可否當作與他國進行引渡的基礎？ 【第二次國家報告第 127 頁】

中文回應：

214. 依據現行《引渡法》第 1 條「引渡依條約，無條約或條約無規定者，依本法之規定」規定，我國與他國進行引渡時，係以條約為基礎，若無條約或條約無規定者，則回歸到《引渡法》的規範。而依我國《條約締結法》第 2 條規定「中央行政機關或其授權之機構、團體與外國政府、國際組織或外國政府授權之機構、團體締結條約或協定，依本法之規定」，我國因非聯合國成員，故無法簽署 UNCAC，但我國通過《UNCAC 施行法》，藉由將 UNCAC 內國法化，以因應國際廉政發展趨勢與挑戰，然《UNCAC 施行法》仍與前揭《條約締結法》所定義之條約不同，我國並無法以 UNCAC 作為與他國進行引渡的基礎。

英文回應：

214. According to Article 1 of the “Extradition Law,” “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,” Taiwan’s extradition with other countries is based on the treaty. If there are no such treaties or provisions applicable, the “Extradition Law” should be followed. Article 2 of the “Conclusion of Treaties Act” stipulates that “This Act shall apply when competent administrative authorities of the central government, or authorized institutions and organizations, conclude treaties or agreements with foreign governments, international organizations, or foreign institutions and organizations authorized by their government.” Taiwan is not a member of the United Nations, thus cannot sign the United Nations Convention against Corruption. To rise upon the challenges to international integrity, Taiwan incorporated the Convention into domestic law by enacting the enforcement “Act to Implement the United Nations Convention against Corruption”. However, the Act is still no compare to the treaties.

Therefore, the United Nations Convention against Corruption is not applicable in Taiwan for extradition to or from other countries.

4.4		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 4 章 第 46 條 (第 38 點)	<p><u>Status of International judicial assistance (Response Report, p74)</u></p> <p>Please refer to the section on Article 46 of the UNCAC in ROC's Second Report.</p> <p>Does Taiwan have a cyber security strategy?</p>	<p><u>國際司法互助執行情形</u></p> <p>請參閱第二次國家報告第 46 條內容，請問臺灣有資通安全策略嗎？</p> <p>【第二次國家報告第 130 頁】</p> <p>【回應結論性意見報告第 49 頁】</p>

中文回應：

215. 行政院為提升我國資通安全防護能量，爰據以提出《國家資通安全發展方案（110 年至 113 年）》，作為我國推動資安防護策略與計畫之依循目標，其有關網路犯罪偵防之具體措施包括：

- (1) 擴大國際參與及深化跨國情資分享：發展 N-ISAC 成為國內主要情資彙整平臺，整合國內外情資來源，提升威脅情蒐與主動偵測能量，並推動標準情資交換格式，以介接國際資安情資之參與。
- (2) 提升科技偵查能量防制新型網路犯罪：加強犯罪偵查技能之實務訓練，以強化整體偵查實戰能量。積極參與各項司法機關及國際資安會議，建立與國外企業調閱相關犯罪資料窗口，增進跨境網路犯罪偵查管道及技術，並促進國際情資交換。

216. 關於司法互助之資通安全維護，臺灣將謹守我國《刑事司法互助法》及相關條約協定之規定。

英文回應：

215. Executive Yuan proposed the "National Cyber Security Program of Taiwan (2021-2024)," the guideline for promoting our cyber security protection strategy and plan. The corresponding countermeasures for preventing emerging cybercrimes include:

- (1) Expanding international participation and deepening cross-border intelligence sharing: Develop National Information Sharing and Analysis Center (N-ISAC), the main domestic intelligence and information integration platform, integrate domestic and foreign intelligence and information sources, enhance both threat-related intel collection and autonomous detection

capabilities; promote standardized intelligence and information exchange formats to interface with the world.

- (2) Enhancing the power of technological investigations to prevent emerging cybercrimes: Strengthen the empirical training of criminal investigation skills to enhance the whole power of investigations; actively participate in various judicial and international cyber security seminars; establish a window for accessing relevant criminal information with foreign companies, whereas enhance cross-border cybercrime investigation channels and technologies and facilitate international information exchange.

216. Taiwan will vigorously comply with the “Mutual Legal Assistance in Criminal Matters Act” and Treaties and Agreements in the practice of mutual legal assistance matters to protect cyber security.

4.5		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第4章 第46條	The % of successful MLA requests made and received i.e. that led to the requested assistance being provided	我方提出與接受司法互助案件，最終成功的百分比為何（例如請求案件得到對方協助）？ 【第二次國家報告第135頁】

中文回應：

217. 有關我方提出與接受司法互助案件的完成率，如下表所示。

表 16 我方提出司法互助案件件數及完成率

單位：件數

期間	美洲		歐洲		亞洲		大洋洲		非洲	
	我方 請求	他方 完成	我方 請求	他方 完成	我方 請求	他方 完成	我方 請求	他方 完成	我方 請求	他方 完成
2018.01.01~ 2021.12.31	98	75	47	35	80	27	18	7	2	1
完成率	78%		74.4%		33.8%		39%		50%	

表 17 我方接受司法互助案件件數及完成率

單位：件數

期間	美洲		歐洲		亞洲		大洋洲		非洲	
	他方 請求	我方 完成	他方 請求	我方 完成	他方 請求	我方 完成	他方 請求	我方 完成	他方 請求	我方 完成
2018.01.01~ 2021.12.31	45	33	53	46	37	15	8	5	0	0

完成率	74%	86.7%	41%	63%	--
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英文回應：

217. The completion rate of MLA requests made and response received are demonstrated as following:

Table 16 The completion rate of MLA requests made by Taiwan

Unit: Case

	America		Europe		Asia		Oceania		Africa	
	Requested by Taiwan	Completed by the other party	Requested by Taiwan	Completed by the other party	Requested by Taiwan	Completed by the other party	Requested by Taiwan	Completed by the other party	Requested by Taiwan	Completed by the other party
2018.01.01~2021.12.31	98	75	47	35	80	27	18	7	2	1
Completion Rate	78%		74.4%		33.8%		39%		50%	

Table 17 The completion rate of MLA requests responded by Taiwan

Unit: Case

	America		Europe		Asia		Oceania		Africa	
	Requested by the other party	Completed by Taiwan	Requested by the other party	Completed by Taiwan	Requested by the other party	Completed by Taiwan	Requested by the other party	Completed by Taiwan	Requested by the other party	Completed by Taiwan
2018.01.01~2021.12.31	45	33	53	46	37	15	8	5	0	0
Completion Rate	74%		86.7%		41%		63%		--	

4.6		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第4章 第47條	In the absence of bilateral treaties, has the UNCAC been considered as the base for transferring criminal proceedings from and to other countries? (ROC's Second Report, p.224)	在缺乏雙邊協議的狀況下，UNCAC可否當作刑事訴訟移轉管轄的基礎？ 【第二次國家報告第137頁】

中文回應：

218. 在缺乏雙邊協議的狀況下，若外國與我國對個案均有管轄權時，我國會考慮本於取得證據之需求，依我國《國際刑事司法互助法》之規定，以向外國提出司法互助請求之方式，

接受他國將個案之刑事程序移轉予我國，以利案件之追訴。然由於我國並未規範刑事訴訟移轉管轄此種司法互助態樣，因此無從將我國具有管轄權之個案以程序移轉之方式移交外國偵審。又依我國目前對於貪腐的定義，幾已符合 UNCAC 之規定，在我國偵審涉及違反 UNCAC 所列罪行之個案時，可透過向他國提出司法互助請求，取得相關證據資料，以達到成功定罪的目的。

英文回應：

218. In the absence of bilateral treaties, in a case where there is conflict of jurisdictions, which Taiwan also has jurisdiction, we will consider admitting the documents and criminal proceedings transferred from other countries upon the opposite side submitting request of mutual legal assistance, for the sake of collecting evidence, from that foreign country, in accordance with the “Mutual Legal Assistance in Criminal Matters Act,” to facilitate prosecution of such case. However, since cross-border transfer of criminal proceeding is yet to be a type of assistances stipulated in current domestic legal systems, we cannot transfer a criminal case over which Taiwan has jurisdiction to another country. In fact, the current definitions of corruption in Taiwan have almost been in line with the United Nations Convention against Corruption provisions. On the premise that Taiwan has jurisdiction over crimes violating the United Nations Convention against Corruption, we can obtain evidence and information by submitting requests for mutual legal assistance to other countries to secure convictions.

4.7		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 4 章 第 48 條 (第 42 點)	<p><u>Participating in international organisations, seminars and forums</u> <u>(Response Report, p78)</u> The inability for Taiwan to be a member of Interpol is a barrier to managing cyber crime and transnational crime. This is highlighted in “Mutual Legal Assistance in the Digital Age and Taiwan’s New Southbound Policy”¹¹. Taiwan should be congratulated for maintaining its independent stance,</p>	<p>參與國際組織、研討會及論壇(國際執法合作) 臺灣無法成為國際刑警組織的成員是管理網路犯罪和跨國犯罪的障礙。這點在全球臺灣研究中心 (Global Taiwan Institute)2021 年 11 月發表的「數位時代的司法互助與臺灣的新南向政策」一文中有所強調。 臺灣能保持獨立立場，成功遣返逃犯，這點值得恭賀，與中國大陸保持調查合作協議這部分也值得認同；資通安全對於臺灣人民和組織來說仍然是一</p>

¹¹ https://globaltaiwan.org/wp-content/uploads/2021/12/Hsiao-Weaver_PB21-1.pdf

	<p>and for successfully repatriating escaped fugitives. It should also be acknowledged for maintaining investigation cooperation agreements with mainland China.</p> <p>Cyber security remains an issue for the people and organisations of Taiwan.</p> <p>Does Taiwan have a cyber security strategy?</p>	<p>個重要議題。請問臺灣有資通安全策略嗎？</p> <p>【第二次國家報告第 138 頁】</p> <p>【回應結論性意見報告第 52 頁】</p>
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中文回應：

219. 行政院自 2001 年起，以 4 年為 1 期，陸續訂定我國《資通安全發展方案》，目前我國資安政策推動已歷經前 5 階段之系統性發展，逐步達成「建立安全資安環境，完備資安防護管理，分享多元資安情報，擴大資安人才培育，加強國際資安交流」之階段性目標，有效提升我國資安完備度。
220. 為發展活躍網路社會、推進高值創新經濟、建構豐饒數位國家，本方案將做為現階段主要數位經濟計畫之穩固基石，並搭配六大核心戰略產業之資安卓越產業發展方案所定之推動策略，在穩健資通安全之環境下，大幅茁壯各項數位經濟之脈動，行政院於 2021 年提出「國家資通安全發展方案（2021 年至 2024 年）」，並以「打造堅韌安全之智慧國家」為願景，期打造安心社會與智慧生活。
221. 自 1984 年中國取代臺灣在國際刑警組織的會籍後，臺灣因政治問題而無法參與國際刑警組織形成犯罪與情資分享的漏洞，惟臺灣仍積極致力於跨境打擊犯罪工作，讓世界更安全。
222. 調查局資通安全處遵循行政院資通安全處所訂資通安全策略，參與國際組織活動、研討會及論壇；在國際司法互助方面則依法務部規範辦理，惟因 COVID-19 疫情關係，近 2 年內，僅於網路辦理 GCTF 論壇及法國巴林線上資安交流。
223. 感謝委員對臺灣的肯定，也籲請委員支持臺灣參與國際刑警組織共同打擊犯罪，讓全球治安防護網沒有漏洞。

英文回應：

219. Since 2001, the Executive Yuan has successively promoted 5 phases of major cyber security plans or programs, each with a 4-year time frame, which has effectively improved our cyber security. The objectives are to "establish a cyber-secured environment, perfect the management of cyber security protection management, enable sharing of multiple cyber security information and expand the scale of the cultivation of cyber security talents, to effectively upgrade the reinforcement of international cyber security."

220. In order to develop an flourishing network society, promote a high-value innovative economy, and build a digital country of cornucopia, this program will serve as a solid cornerstone of the aforementioned two major digital economic plans at this stage; and will be combined with the promotional strategies formulated by the prominent cyber security industry development plan, one of the six core strategic industries; and greatly strengthen the impulse of the various digital economy in a stable and informationally-secured environment. In 2021, the Executive Yuan proposed the "National Cyber Security Program of Taiwan (2021-2024)." With the vision of "building a safe and resilient Taiwan," we hope to create a smart, safe and reliable society.
221. Taiwan has been excluded from INTERPOL since China's admission as a member in 1984. The political issue creates a gap in intelligence sharing and a loophole for criminal activity, but we still make every effort to combat transnational crime to and try to make the world safer.
222. The Cyber Security Division of the MJIB follows the strategy set by the Department of Cyber Security of the Executive Yuan, and participates in international organization activities, seminars and forums. In terms of international mutual legal assistances undertaken according to the regulations of the Ministry of Justice, due to the COVID-19 pandemic, for the past 2 years only the GCTF forum and information security exchange in Bahrain, France have been both conducted online.
223. Thanks for your commendation, and please support our participation in INTERPOL. A seamless global security network can be ensured only if Taiwan participates with our worldwide counterparts in the fight against cross-border crime.

4.8		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 4 章 第 50 條	Which is the current status of the drafts of “Science and Technology Investigation Act” and “Undercover Investigation Act” (ROC’s Second Report, p.235)	請問《科技偵查法》與《臥底偵查法》草案的現況為何？ 【第二次國家報告第 145 頁】

中文回應：

224. 《科技偵查法》

為避免科技犯罪難以查緝，造成國家安全及社會治安之威脅，並為保障人民隱私權、秘密通訊自由等相關基本權，規範並確保執法機關實施科技偵查作為之合法性，法務部於 2020 年 9 月 8 日提出《科技偵查法》草案並辦理預告，期滿後再於 9 月 26 日持續刊載於眾開

講，開放民眾留言提供建議，法務部並於 12 月 10 日綜整回應。後續法務部參與不同機關（構）舉辦之《科技偵查法》草案相關公聽會、研討會及座談會，朝發動門檻更嚴格及加強法官保留之方向調整，並預計再召集執法機關、學者專家討論，凝聚共識後，儘速推出新修正草案。

225. 《臥底偵查法》

法務部於 2019 年 8 月 6 日召開「臥底偵查法草案研商會議」，邀集國防部憲兵指揮部、內政部警政署、海洋委員會海巡署、法務部調查局及法務部廉政署等司法警察機關，就法務部研提之《臥底偵查法》草案提供意見。另於會後函詢調查局、警政署自實務面向提出建議。經綜合司法警察機關所提建議，於我國推動臥底偵查制度，尚有臺灣幅員狹小人口稠密，不利於臥底偵查員之身分保密，隱藏身分較其他國家困難等疑慮，實務上尚有諸多窒礙難行之處，仍持續研議中。

英文回應：

224. Science and Technology Investigation Act

The MOJ has proposed the “Science and Technology Investigation Act” draft and made the proper notices on September 8, 2020. The goal of the legislation is to prevent science and technology crimes from being difficult to detect and pose a threat to national security and social order; protect the people’s right to privacy, freedom of secrecy of correspondence, and other constitutional rights, to regulate and ensure the legality of law enforcement agencies’ implementation of science and technology investigations. After the notice expires, the MOJ continued to publish the draft and held public-hearings to collect public opinions on September 26, 2020. The MOJ also made a comprehensive response on December 10, 2020. Subsequently, the MOJ has participated in public hearings, seminars, and symposiums held by different organizations (agencies) for the draft of the “Science and Technology Investigation Act.” The MOJ then made adjustments to tighten the activation threshold and strengthen the statutory reservation. It is expected to invite law enforcement agencies, scholars, and experts for further discussions. After reaching the consensus, a new draft amendment will soon be launched.

225. Undercover Investigation Act

On August 6, 2019, the MOJ held the “Research and Discussion Meeting on the Draft for the Undercover Investigation Act.” The Military Police Command, National Police Agency of the Ministry of the Interior, the Ocean Affairs Council, the Investigation Bureau, MOJ, the Agency Against Corruption, and other judicial police agencies were invited to advise on the draft for the “Undercover Investigation Act.” After the meeting, a letter was later sent to the Investigation Bureau and the National Police Agency of the Ministry of the Interior for further advice. Based on the recommendations made by the judicial police agency, there are concerns about promoting an undercover investigation system because Taiwan is small and densely populated, which makes

it more difficult to keep the undercover's identities confidential, compared to other countries. The underlying obstacles are still under discussion.

聯合國反貪腐公約 第五章 追繳資產

UNCAC Chapter V. Asset recovery

5.1		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 5 章 第 51 條	Why International Cooperation has not been used for asset recovery efforts? (ROC's Second Report, p.24、238)	請問國際合作機制尚未廣泛運用於追繳資產之原因為何？ 【第二次國家報告第 14、147 頁】

中文回應：

226. 我國曾利用國際合作機制，向外國提出追繳資產之請求，例如：2010 年的陳○○二次金改賄款案及歷經 15 年的被告汪○○等有關拉法葉艦不法佣金案。另外，我國也充分滿足外國對我國提出的追繳資產請求，例如：2019 年接受某南美洲國家就其偵辦並追繳該國公務人員收賄犯罪所得一案之司法互助請求。上開例子均足以證明臺灣與他國在針對資產追繳面向，確實能充分地進行國際合作。

英文回應：

226. Taiwan has made use of international cooperation mechanisms to request foreign countries to retrieve assets, such as former Taiwan President Chen's accepting bribes from his second financial reform program in 2010 and the illegal commission incurred in Lafayette-class frigate corruption scheme lasting for 15 years. Moreover, we are devoted to satisfying foreign countries' requests for the retrieval of assets, such as a legal assistance request from a South American country to retrieval of criminal gains of corruption (receipt of bribery) committed by its government servants in 2019. These examples are enough to prove that Taiwan can indeed fully cooperate with other countries in asset recovery.

5.2		
涉及公約條文或結論性意見點次	問題內容 (原文)	中文參考翻譯
第 5 章 第 51 條 (追繳資產)	Does Taiwan maintain any civil based asset seizure programme?	臺灣是否有任何以民事為基礎的資產扣押計畫？ 【第二次國家報告第 147 頁】 【回應結論性意見報告第 57 頁】

中文回應：

227. 臺灣無民事沒收制度，但 2016 年 7 月 1 日施行之《刑法》沒收新制已導入「非以定罪為基礎的沒收」立法，其中《刑法》第 40 條第 3 項有關單獨宣告沒收規定，即係「對物訴訟」之概念，針對犯罪行為人因逃亡、死亡等事實上、法律上原因無從追訴時，得單獨聲請法院宣告沒收。

英文回應：

227. We don't have a civil forfeiture system, instead we have non-conviction-based confiscation that took place since July, 01, 2016. Art. 40(3) of the "Criminal Code," accommodates confiscation that is independent from the legal proceeding, in cases the offender is not prosecuted or convicted due to certain facts or other legal reasons.

5.3		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 5 章 第 53 條	Have there been cases of asset sharing? Please provide examples or information of the most relevant ones (ROC's Second Report, p.245)	請問有無追繳資產分享的案例嗎？請提供最相關的案例或資訊。 【第二次國家報告第 151 頁】

中文回應：

228. 我國目前已收到一件外國要求資產分享之請求，另有一件向外國請求資產分享的案件，上開個案均仍在協商中。

英文回應：

228. Till now we have received one a request for asset sharing from a foreign country, and filed one for asset sharing to a foreign counterpart. The cases are still under negotiation.

聯合國反貪腐公約 第六章 技術援助和訊息交流

UNCAC Chapter VI. Technical assistance and information exchange

6.1		
涉及公約條文或結論性意見點次	問題內容（原文）	中文參考翻譯
第 6 章 第 60 條	<p>Appears to be extensive training opportunities available for judges, prosecutors, investigators and others.</p> <p>1. How is cyber security training integrated into these programmes</p> <p>2. Are any training needs analysis/surveys undertaken with personnel across these areas?</p> <p>3. Is risk assessment undertaken to identify gaps in training?</p>	<p>臺灣對於法官、檢察官、調查人員或其他人員提供廣泛的訓練機會。</p> <p>1. 資通安全相關訓練如何整合納入這些訓練計畫中？</p> <p>2. 是否對這些領域的人員進行訓練需求的分析或調查？</p> <p>3. 是否有做風險評估，以瞭解培訓落差（期望的表現與實際的表現存在落差）？</p> <p>【第二次國家報告第 157 頁】</p> <p>【回應結論性意見報告第 57-62 頁】</p>

中文回應：

229. 臺灣重視資通安全相關議題，為積極推動國家資通安全政策，加速建構國家資通安全環境，以保障國家安全，維護社會公共利益，訂有《資通安全管理法》與相關法規，並由各政府機關每年度訂定資通安全維護計畫據以辦理各項資通安全措施，依相關法規辦理資訊安全教育訓練（含網路安全等）課程，分析與調查資通安全相關的最新趨勢，提供適切的課程，因此職司調查之司法院、法務部、調查局等機關，皆有授予執行業務人員資通安全等訓練教育課程。
230. 針對各類專業屬性不同之調查人員，辦理特殊資通安全訓練，以符合特殊業務需求，例如調查局針對現場搜扣人員講授有關數位蒐證、雲端取證之標準作業程序與工具使用等教育訓練、針對資安事件現場調查人員，亦經常舉辦相關內部教育訓練或外部資安廠商培訓課程；司法院每年亦辦理與資訊安全相關課程，如「網路犯罪數位證據之鑑識」、「數位證據與資安鑑識」、「人工智慧與個人資料保護」、「區塊鏈數位證據與雲端取證」等內容。
231. 依《資通安全管理法》與相關法規，各政府機關每年度訂定資通安全維護計畫，依機關業務需求，擬定資通安全認知宣導及教育訓練計畫，建立職員資通安全認知，提升機關資通安全水準，並實施評量制度，評測參訓人員知識與技能，以瞭解相關資安課程是否有效提升人員應備之資安能力，降低資安風險，或依據資通安全維護計畫之控制措施，採行相應之風險預防措施。

英文回應：

229. We place great importance to matters related to information security. In order to vigorously promote the national information security policy, accelerate the construction of a nationwide informationally-secured environment, in order to protect national security and safeguard societal and public interests, the “Cyber Security Management Act” and other rules of laws have been legislated. Based upon, each year, the government agencies formulate customized information security maintenance plan to implement various information security measures, conduct education and training (including network security, etc.), analyze and investigate information security-related issues. According to the latest trends, courses are provided. Therefore, the Judicial Yuan, the Ministry of Justice, the Bureau of Investigation and other agencies that conduct investigations have all provided training and education courses on information security.
230. We have customized courses designed to fit the different needs of various professional attributes, for example, we provide both internal courses as well as invite experts from external information security firms to teach digital evidence-collecting of the search and seize staffs, the standardized procedures for forensics operations on cloud drive, onsite investigators of the information security incidents. The courses provided by the Judicial Yuan include "Digital forensics of cyber-crime," "Digital evidence and forensics," "Artificial intelligence and personal data protection," "Blockchain digital evidence and collecting evidence on cloud drive" and so on.
231. According to the “Cyber Security Management Act” and other rules of laws and regulations, each year, the government agencies formulate own information security maintenance plan, and to fit the specific needs and expertise of the agencies, devise an information security awareness propaganda campaign, as well as education and training plan, in order to establishes employees' information security awareness, improve the information security of the organization, and implement assessments to evaluate the knowledge and skills of trainees to determine the effectiveness of the courses, thus reduce information security risks or take pre-emptive actions comport with the plan drawn.

附錄 1:《國家廉政建設行動方案》-具體策略與執行措施

具體策略	執行措施
<p>一、強化機關廉政經營責任制度，落實風險控管作為。</p>	<p>(一) 各級機關首長對機關廉政風險管理投入足夠人力與經費資源，每年依據廉政風險評估採取適當的措施，親自主持廉政會報或相關會議，列管評估廉政舉措之有效性，對於已發生之違失案件結合新聞發布機制，主動說明查處預防作為及打擊貪腐的決心，並落實獎勵與課責。</p>
	<p>(二) 推動機關設計及執行內部控制制度，並落實內部控制監督作業，據以評估整體內部控制制度之有效程度，出具內部控制制度聲明書，以強化機關自我課責。</p>
	<p>(三) 結合各機關廉政風險評估結果，針對貪腐高風險業務實施稽核清查及追蹤管考，並研提興利防弊作法，簽報機關首長列管執行。</p>
	<p>(四) 辦理政府採購稽核及公共工程施工品質查核，促使機關確實依法辦理採購或施工案件，建構公平、公開之採購環境，並確保公共工程施工品質。</p>
<p>二、促進公開透明，防止利益衝突。</p>	<p>(一) 加強宣導「公職人員財產申報法」及「公職人員利益衝突迴避法」，並執行案件審核調查。</p>
	<p>(二) 修正「公職人員財產申報法」及「公職人員利益衝突迴避法」，俟法律修正通過後，配合研修相關法規(含公職人員財產申報法施行細則等子法及公職人員利益衝突迴避法施行細則)。</p>
	<p>(三) 強化政治獻金監督及公開機制，促進政治環境之公平、公正。</p>
	<p>(四) 辦理遊說法宣導活動及教育訓練工作，落實遊說登記制度。</p>
<p>三、持續指標研究，掌握民意脈動與國際趨勢。</p>	<p>(一) 建置「行政院政府計畫資訊檢視平臺」，以圖表化方式呈現中央各機關施政內容、計畫執行情形及成果等資訊，並提供民眾下載意見及表達意見之功能，策進施政透明治理。</p>
	<p>(二) 辦理國際廉政評比趨勢研究，瞭解國際社會及各項國際指標可能評鑑人對我國清廉程度的評價。</p>
	<p>(三) 執行廉政民意調查研究，藉由民眾對於政府廉政的主觀感受，長期觀察及研究廉政趨勢，得悉我國近年來貪污情形變化的認知，並進一步研擬對策方案，激發民間社會的反貪腐能量，提升政府的廉政透明度。</p>
	<p>(四) 全面推動所有行政機關實施廉政評鑑，並會同專家學者，有系統地蒐集 3 年各效標之數據資料，統計分析後產出「評分衡量基準」，據以計算各機關得分，以建構合理的評分衡量基準與指標，並滾動式檢討指標的合理性，使該機制確實具可行性。</p>

具體策略	執行措施
四、落實公務員行為規範，建立政府典範。	<p>(一) 加強請託關說、受贈財物、飲宴應酬及其他廉政倫理事件登錄，及請託關說案件抽查，以正確引導是類案件循法定程序辦理，並定期公開相關資訊。</p> <p>(二) 就「公務員廉政倫理規範」及「行政院及所屬機關機構請託關說登錄查察作業要點」中，有關請託關說定義分歧、法規適用疑義等進行檢討，並研提修正草案。</p> <p>(三) 針對各類業務分析貪瀆成因及內部控制弱點，檢視作業流程及法規，研編倫理指南或防貪指引，導引同仁認同倫理價值及建立典範。</p> <p>(四) 檢討公務人員旋轉門條款，完成「公務人員基準法」立法。</p>
五、鼓勵社會參與，促進透明與貪腐零容忍的共識。	<p>(一) 推動全民教育，提高公眾對貪腐的存在、根源、嚴重性及其所構成威脅的認識。</p> <p>(二) 針對民眾權益相關事項，採行透明措施，提高審駁過程之透明度，促進民眾監督之可及性。</p>
六、推動校園誠信，深化學子品格教育。	<p>(一) 鼓勵各大專院校開設法治教育相關課程，將誠信、品德及反貪腐等廉政題材納入課程教學參據。</p> <p>(二) 依據「加強學校法治教育計畫」及「教育部品德教育促進方案」，落實校園法治教育，鼓勵發展具有特色之品德校園文化。</p> <p>(三) 於高級中等學校課綱中納入「公民與社會」必修科目，辦理提升教師人權法治及品德教育知能研習，蒐集相關教案持續配合年度研發計畫辦理相關法治教育，補助各直轄市、縣（市）政府辦理友善校園人權法治教育相關研習。</p>
七、強化企業誠信，凝聚私部門反貪腐共識。	<p>(一) 為辦理公司評鑑機制，成立公司治理中心，下設諮詢委員會，進行上市（櫃）公司治理評鑑，並透過對整體市場公司治理之比較結果，協助投資人及企業瞭解各上市（櫃）公司治理成效。</p> <p>(二) 為推動企業社會責任，強化資訊揭露，督請上市（櫃）公司編製企業社會責任報告書，強化企業對環境、社會與經濟議題的重視，加強與利害關係人溝通，藉此輔助企業強化其內部控制、倫理規範及供應鏈的管理機制。</p> <p>(三) 結合市場機制，促進股東行動主義，鼓勵機構投資人積極參與公司事務、協助公司瞭解股東及利害關係人之意見，並透過指數之編製，藉由市場影響力促使公司重視公司治理及企業社會責任。</p> <p>(四) 藉由督導證交所及櫃買中心執行上市（櫃）公司各季財務報告實質審閱及內部控制制度查核，以加強對上市（櫃）公司財務、業務及內部控制制度之監理，並就可能涉及之財務報告不實或非常規交易等移送司法檢調機關。</p>

具體策略	執行措施
	<p>(五) 邀集公股投資事業召開業務研討會，就其經營之公股事業經營管理情形提出專案報告，並建立公股董事、監察人、經理人等監督事業課責機制。</p> <p>(六) 各公股股權管理機關邀請公股投資事業及國營事業之董事長或總經理等參與廉政會報，並提報所任企業經營違常情事及處理建議。</p> <p>(七) 推動優質企業(AEO)認證及管理機制。</p> <p>(八) 跨域協同各地方檢察機關，就企業誠信與倫理專題分區邀集全國「公糧業者」舉辦倡議研討座談會。</p>
<p>八、增修肅貪法令，強化肅貪能量，落實揭弊者保護。</p>	<p>(一) 配合「獎勵保護檢舉貪污瀆職辦法」修正，並接續修訂「法務部審核貪瀆案件檢舉獎金委員會設置要點」、「法務部審核貪瀆案件檢舉獎金給獎審查基準」、「法務部發放檢舉貪污瀆職案件獎金注意事項」等3項行政規則。</p> <p>(二) 研議制定「揭弊者保護法」草案，積極鼓勵檢舉貪瀆不法。</p> <p>(三) 定期召開審查會，審核貪瀆案件檢舉獎金申請案。</p> <p>(四) 掌握偵辦貪瀆犯罪狀況，並研析偵辦貪瀆案件之定罪率。</p> <p>(五) 各地方檢察署加強「肅貪執行小組」運作，由各該檢察署檢察長指定主任檢察官或檢察官、檢察事務官、書記官各若干人、各該署政風室主任、法務部廉政署各地區調查組組長及其指定人員、法務部調查局各地調查處處長、調查站主任或機動工作站主任及其指定人員組成之，以檢察長為召集人，主任檢察官或檢察官一人為執行秘書，定期召開會議，負責依法偵辦肅貪案件。必要時，應密集召集會議，隨時檢討，儘速偵結。</p> <p>(六) 各地方檢察署查察貪瀆不法，依法偵辦。</p> <p>(七) 優先察符合重大危害政府廉能之目標案件【指簡任第十職等(或相當簡任第十職等)以上公務員、集團人數三人以上、不法所得金額新臺幣一千萬元以上】，以維護國家廉能。</p> <p>(八) 貫徹行政肅貪及追究行政責任，以健全機關風紀。</p> <p>(九) 加強檢舉人保護、保密宣導及落實受理檢舉案件追蹤考核。</p> <p>(十) 鼓勵檢舉，加強對證人及關係人之保密與保護，循線調查偵辦企業貪瀆(侵占、詐欺、背信等)案件，並加強國際跨境合作打擊犯罪及司法互助工作。</p>
<p>九、推動國際合作與資產追繳，建構國家間互惠機制。</p>	<p>(一) 研商「外國法院委託事件協助法」與「國際刑事司法互助法」草案之整併事宜，俾建立完整之刑事司法互助法制架構，擴大刑事司法互助範疇，促進國際合作。</p> <p>(二) 加速我國「引渡法」修法進程，並致力與各國洽簽引渡條約或協定，或於個案洽簽引渡備忘錄。</p>

具體策略	執行措施
	<p>(三) 積極參與國家或非政府組織活動及相關廉政論壇，如亞洲太平洋經濟合作 (APEC) 之反貪污及透明化專家工作小組、國際反貪局聯合會年會及研討會、國際透明組織年會暨國際反貪腐研討會及跨境有組織犯罪暨恐怖主義國際研討會 (ICTOCT)」之反貪腐倡議會議等及其他相關會議。</p>
	<p>(四) 積極追查貪瀆犯罪財產，強力執行扣押貪瀆案件不法所得，逐案迅速查扣貪瀆犯之財產，並尋求跨國司法互助，循線追蹤境外洗錢所得，積極請求跨國查扣貪瀆犯罪資產。</p>
	<p>(五) 建立全面性之國內管理及監督制度，以利遏制並監測各種形式之洗錢或跨境轉移，並進行跨國合作或交換訊息。</p>
	<p>(六) 為有效打擊貪腐，持續依「通訊保障及監察法」暨相關規定執行、辦理通訊監察，並配合各級院檢機關查核通訊監察執行情形。</p>
	<p>(七) 強化追緝外逃重大犯罪歸案，以維司法威信。</p>

Appendix 1: National Integrity Building Action Plan (Specific Actions and Enforcement Measure)

Specific Strategy	Enforcement Measure
<p>1. Strengthen the accountability system for management of government agencies with integrity and implement risk control and management practices.</p>	<p>(1) Heads of government agencies at all levels are to invest sufficient manpower and funds into the management of integrity risks in their respective agencies, adopting appropriate measures every year according to the results of evaluation of integrity risks, presiding over integrity or related meetings personally, evaluating the effectiveness of measures taken, proactively explaining investigation and preventive actions and the determination to combat corruption through news releases describing violations that have occurred and putting rewards and accountability into effect.</p>
	<p>(2) Push for government agencies to design and enforce internal controls, as well as carry out the supervision of internal controls so as to evaluate the degree of effectiveness of the overall internal control system. Provide statements on the internal control system to reinforce the self-accountability of government agencies.</p>
	<p>(3) Integrate results of evaluation of integrity risks for various government agencies, conduct audits and inspections on high-risk affairs as well as keeping track for management and evaluation and propose measures for improvement and corruption prevention that are to be signed by heads of government agencies for administration and implementation.</p>
	<p>(4) Conduct government procurement audits and construction quality inspections on public projects to impel government agencies to carry out procurement and construction projects in accordance with the law, building an open and fair procurement environment and ensuring the quality of public construction projects.</p>
<p>2. Facilitate openness and transparency to prevent conflicts of interest.</p>	<p>(1) Strengthen the promotion of the “Act on Property-Declaration by Public Servants” and the “Act on Recusal of Public Servants Due to Conflicts of Interest” as well as enforcing case examination and investigation.</p>
	<p>(2) Amend the “Act on Property-Declaration by Public Servants” and the “Act on Recusal of Public Servants Due to Conflicts of</p>

	<p>Interest” and, following the passage of such amendments, revise related regulations (including the “Enforcement Rules of the Act on Property-Declaration by Public Servants” and the “Enforcement Rules of the Act on Recusal of Public Servants Due to Conflicts of Interest”).</p>
	<p>(3) Strengthen the mechanisms for supervision and openness of political donations and facilitate the fairness and impartiality of the political environment.</p>
	<p>(4) Conduct events promoting the Lobbying Act as well as education and training programs; implement the lobbying registration system.</p>
<p>3. Continue indicator research and take the pulse of public opinion as well as international trends.</p>	<p>(1) Establish the “Government Project Management” Platform, using tables and figures to present information on the measures of central government authorities, the implementation and outcomes of projects, and enabling the public to download and to express comments to enhance transparent governance.</p>
	<p>(2) Conduct research on the trends in international integrity ratings and understand the appraisal of the international community and potential assessors of various international indicators regarding the level of integrity in Taiwan.</p>
	<p>(3) Conduct public opinion surveys, carrying out long-term observation and study of ongoing trends through public perceptions of government integrity, to learn about the changes in Taiwan’s corruption situation in recent years and to further draw up strategies to urge anti-corruption efforts in the private sector to increase the transparency of public integrity.</p>
	<p>(4) Conduct integrity assessments on all administrative agencies, collaborate with experts and scholars to systematically collect data on various criteria for three years, come up with “scoring criteria” following statistical analysis to calculate the scores for various agencies in order to establish reasonable scoring criteria and indicators and carry out a rolling review of the reasonableness of the indicators to make the mechanism truly feasible.</p>
<p>4. Put the code of conduct for civil servants into effect and</p>	<p>(1) Strengthen the registration of incidents involving lobbying, acceptance of valuables as gifts, invitations to banquets, and other ethics issues and the spot checking of lobbying cases to</p>

<p>establish a government model.</p>	<p>properly guide these cases in following appropriate legal procedures; regularly reveal related information to the public.</p>
	<p>(2) Review discrepancies in the definition of “lobbying,” as provided in the “Ethics Guidelines for Civil Servants” and the “Regulations on Lobbying Registration and Inspection of the Executive Yuan and Its Subordinate Organs,” and questions concerning the applicability of the laws, as well as proposing draft amendments.</p>
	<p>(3) Analyze the causes of corruption and the weaknesses of internal controls for various affairs, examine operating procedures and laws and regulations, compile ethics or corruption prevention guides, lead fellow civil servants to identify with ethical values and set an example.</p>
	<p>(4) Review the revolving door provision concerning civil servants and finalize the "The Fundamental of Governing Civil Servants."</p>
<p>5. Encourage social participation and facilitate a consensus for transparency and zero tolerance against corruption.</p>	<p>(1) Promote citizen education and raise public awareness of the existence, the origin, the seriousness and the threat of corruption.</p>
	<p>(2) Adopt transparent measures on matters related to the rights and interests of the public, enhance the transparency of trial and dismissal processes and facilitate the accessibility of public supervision.</p>
<p>6. Promote campus integrity and deepen character education of students.</p>	<p>(1) Encourage colleges and universities to offer legal education-related courses and incorporate integrity, character and anti-corruption materials into the lessons.</p>
	<p>(2) Push forward law-related education in schools and encourage the development of a distinctive campus culture of character according to the Project for Strengthening Law-related Education in Schools and the Character Education Promotion Program of the Ministry of Education.</p>
	<p>(3) Include “Citizen and Society” as a required course in the senior high school curriculum, hold workshops to enhance teachers’ knowledge on human rights, laws, and character education, collect related lesson plans to conduct law-related education in keeping with the annual R&D project and subsidize special municipal, county and city governments to hold workshops</p>

	related to friendly campus, human rights, and law-related education.
7. Strengthen corporate integrity and build an anti-corruption consensus in the private sector.	(1) In order to implement the corporate assessment mechanism, establish the Corporate Governance Center under which an advisory committee is set up, conduct corporate governance assessment on listed companies and, through the results of corporate governance comparison of the market overall, help investors and corporations understand the effectiveness of governance for various listed companies.
	(2) To promote corporate social responsibility, strengthen the disclosure of information, supervise and ask listed companies to prepare corporate social responsibility reports, have corporations pay increasing attention to environmental, social and economic issues and enhance the communication with stakeholders, thereby helping corporations to reinforce their internal controls, codes of ethics and supply chain management mechanisms.
	(3) Incorporate market mechanisms, promote shareholder activism, encourage institutional investors to actively participate in company affairs, help companies understand shareholders' and stakeholders' opinions and use market influence to make companies value corporate governance and corporate social responsibility through the compilation of indices.
	(4) By overseeing the substantial review of quarterly financial reports by listed companies and the inspection of internal control systems by the TWSE and TPEX, strengthen the supervision of listed companies' finances, operations and internal control systems and transfer suspected false financial reports or irregular trading activities to judicial and prosecutorial agencies.
	(5) Invite state-invested enterprises to meetings, present special reports on the operation and administration of state-owned enterprises under supervision and establish the supervisory accountability mechanism regarding directors, supervisors, and managers appointed by the government.
	(6) Agencies in charge of the administration of government-owned shares invite chairpersons or presidents of state-invested and state-owned enterprises to participate in integrity meetings, as

	<p>well as to report on any operation irregularities in their respective corporations.</p>
	<p>(7) Implement the AEO Certification and Management Mechanism.</p>
	<p>(8) Collaborate with local prosecutorial agencies across regions to invite “contracted public stock keepers” in the nation to seminars on corporate integrity and business ethics.</p>
<p>8. Add and amend laws on corruption investigation, enhance investigation capacity and put whistleblower protection into effect.</p>	<p>(1) In coordination with the “Anti-Corruption Informant Rewards and Protection Regulation,” follow with the revision of the Directions for the Establishment of the Corruption Exposure Rewards Review Committee of the Ministry of Justice, the Criteria for Granting Corruption Exposure Rewards of the Ministry of Justice and the Notes on the Issuance of Corruption Exposure Rewards by the Ministry of Justice.</p>
	<p>(2) Discuss the enactment of the draft “Whistleblower Protection Act” to actively encourage the reporting of corruption.</p>
	<p>(3) Regularly conduct review meetings to examine reward applications for reporting corruption.</p>
	<p>(4) Have a good grasp of corruption crimes investigated and analyze the conviction rate of corruption cases investigated.</p>
	<p>(5) District prosecutors’ offices are to strengthen the operation of the Corruption Investigation Implementation Task Forces, consisting of head prosecutors or prosecutors, prosecutor investigators and clerks appointed by the chief prosecutors of their respective prosecutor’ offices, directors of ethics offices of various prosecutors’ offices, directors of regional investigation offices of the AAC and appointed personnel, and directors of field offices and mobile offices of the MJIB and appointed personnel. With the chief prosecutor as the convener and one head prosecutor or prosecutor as the executive secretary, the task force is to hold meetings regularly, investigating corruption cases as provided by law, and should convene meetings intensively when necessary to review cases at any time in order to close an investigation as soon as possible.</p>
	<p>(6) District prosecutors’ offices are to investigate corruption as provided by law.</p>
	<p>(7) The investigation of targeted cases that seriously endanger the integrity of the government (referring to cases involving civil servants of senior positions grades 10 [or equivalent of] and</p>

	<p>above, a group of 3 or more civil servants, and illegal gains in the sum of NT\$10,000,000 or more) is to take precedence in order to safeguard the integrity of the country.</p> <p>(8) Carry out the removal of corruption from administrative operations and look into administrative responsibilities to establish sound discipline within agencies.</p> <p>(9) Strengthen whistleblower protection and confidentiality promotion and carry out follow-up evaluations of reported cases.</p> <p>(10) Encourage the reporting of corruption, reinforce the confidentiality and protection of witnesses and related persons, follow leads to investigate corporate corruption (e.g. embezzlement, fraud, and breach of trust) and strengthen international, cross-border cooperation in crime-fighting and mutual legal assistance.</p>
<p>9. Promote international cooperation and asset recovery and establish a mutually beneficial mechanism with countries.</p>	<p>(1) Deliberate over the consolidation of draft “The Law in Supporting Foreign Courts on Consigned Cases” and “International Mutual Assistance in Criminal Justice” in order to establish a complete and integrated legal framework for mutual legal assistance in criminal matters, expanding the scope of mutual legal assistance and promoting international cooperation.</p> <p>(2) Speed up the amendment of the “Law of Extradition” and commit to signing extradition treaties or agreements with other countries or signing extradition memoranda for individual cases.</p> <p>(3) Actively participate in government or NGO activities and related anti-corruption forums, such as anti-corruption initiative meetings and other related meetings of the APEC Anti-Corruption and Transparency Experts’ Working Group, the Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities, the Annual General Meeting of Transparency International and International Anti-Corruption Conference and the International Conference on Transnational Organized Crime and Terrorism (ICTOCT).</p> <p>(4) Actively pursue property linked to crimes of corruption and forcefully seize illegal gains obtained from corruption, case by case, rapidly seizing the property of persons who committed</p>

	<p>corruption. Also, seek transnational mutual legal assistance, follow leads to track down gains laundered overseas and actively request the transnational seizure of assets gained through corruption.</p>
	<p>(5) Establish a comprehensive system for domestic control and supervision to better contain and monitor various forms of money laundering or cross-border transfer, and carry out transnational cooperation or the exchange of information.</p>
	<p>(6) In order to effectively combat corruption, continue to carry out communication surveillance in accordance with the Communication Protection and Surveillance Act and related regulations and cooperate with the courts and prosecutorial authorities to inspect the implementation of communication surveillance.</p>
	<p>(7) Strengthen the pursuit of suspects for serious offenses who have fled abroad in order to maintain judicial prestige.</p>

附錄 2：釋字第 627 號解釋-總統之刑事豁免權

《憲法》第 52 條規定，總統除犯內亂或外患罪外，非經罷免或解職，不受刑事上之訴究。此係《憲法》基於總統為國家元首，對內肩負統率全國陸海空軍等重要職責，對外代表中華民國之特殊身分所為之尊崇與保障，業經司法院釋字第 388 號解釋在案。

依司法院釋字第 388 號解釋意旨，總統不受刑事上之訴究，乃在使總統涉犯內亂或外患罪以外之罪者，暫時不能為刑事上訴究，並非完全不適用《刑法》或相關法律之刑罰規定，故為一種暫時性之程序障礙，而非總統就其犯罪行為享有實體之免責權。是《憲法》第 52 條規定「不受刑事上之訴究」，係指刑事偵查及審判機關，於總統任職期間，就總統涉犯內亂或外患罪以外之罪者，暫時不得以總統為犯罪嫌疑人或被告而進行偵查、起訴與審判程序而言。但對總統身分之尊崇與職權之行使無直接關涉之措施，或對犯罪現場之即時勘察，不在此限。總統之刑事豁免權，不及於因他人刑事案件而對總統所為之證據調查與證據保全。惟如因而發現總統有犯罪嫌疑者，雖不得開始以總統為犯罪嫌疑人或被告之偵查程序，但得依本解釋意旨，為必要之證據保全，即基於《憲法》第 52 條對總統特殊身分尊崇及對其行使職權保障之意旨，上開因不屬於總統刑事豁免權範圍所得進行之措施及保全證據之處分，均不得限制總統之人身自由，例如拘提或對其身體之搜索、勘驗與鑑定等，亦不得妨礙總統職權之正常行使。其有搜索與總統有關之特定處所以逮捕特定人、扣押特定物件或電磁紀錄之必要者，立法機關應就搜索處所之限制、總統得拒絕搜索或扣押之事由，及特別之司法審查與聲明不服等程序，增訂適用於總統之特別規定。於該法律公布施行前，除經總統同意者外，無論上開特定處所、物件或電磁紀錄是否涉及國家機密，均應由該管檢察官聲請高等法院或其分院以資深庭長為審判長之法官五人組成特別合議庭審查相關搜索、扣押之適當性與必要性，非經該特別合議庭裁定准許，不得為之，但搜索之處所應避免總統執行職務及居住之處所。其抗告程序，適用《刑事訴訟法》相關規定。

總統之刑事豁免權，亦不及於總統於他人刑事案件為證人之義務。惟以他人為被告之刑事程序，刑事偵查或審判機關以總統為證人時，應準用《民事訴訟法》第 304 條：「元首為證人者，應就其所在詢問之」之規定，以示對總統之尊崇。

總統不受刑事訴究之特權或豁免權，乃針對總統之職位而設，故僅擔任總統一職者，享有此一特權；擔任總統職位之個人，原則上不得拋棄此一特權。

Appendix 2: J.Y.Interpretation No. 627 : Presidential Criminal Immunity

Article 52 of the Constitution provides that the President shall not, without having been recalled, or having been relieved of his functions, be subject to criminal prosecution unless he is charged with having committed an act of rebellion or treason. The said provision is so formulated as to pay respect to and provide protection for the President, being the head of the State, for his special status as Commander of the Army, Navy and Air Force and assuming other important duties internally, and representing the Republic of China externally. This Court has so opined in J.Y. Interpretation No. 388.

It has been made clear in J. Y. Interpretation No. 388 that where the President commits a crime other than rebellion or treason, the prosecution for such crime is to be only temporarily withheld, and the application of the Criminal Code or relevant laws which provide for criminal punishment is not permanently excluded. As such, it is merely a temporary procedural barrier, rather than a substantive immunity from any criminal liability on the part of the President. Therefore, the phrase “not...subject to criminal prosecution” as provided for under Article 52 of the Constitution shall be so construed as to mean that the criminal investigation authorities and the trial courts may not treat the President as a suspect or defendant and proceed with any investigation, prosecution or trial against the President during his presidency for any criminal offense committed by him other than rebellion or treason, provided that any measure not directly concerning the esteemed status of the presidency and exercise of the presidential authorities, or prompt inspection and investigation of the crime scene may still be conducted.

Presidential criminal immunity does not extend to the evidentiary investigation and preservation directed at the President for a criminal case involving another person. However, if, as a result, the President is suspected of having committed a crime, necessary evidentiary preservation may still be conducted pursuant to the intent of this Interpretation although no investigation may be commenced against the President, regarding him as a suspect or defendant. In other words, in light of the esteemed status of the presidency and the protection of the exercise of the presidential authorities provided for under Article 52 of the Constitution, the President’s person may not be restrained when any measure and evidentiary preservation is conducted that is not subject to presidential criminal immunity. For instance, no detention or search, inspection or examination of his person may be conducted, nor should the ordinary exercise of the presidential authorities be impeded. Where it is necessary to search any particular place concerning the President so as to arrest any particular individual, or seize any specific object or electronic record, the legislative branch should formulate additional provisions regarding the President in respect of the restrictions on the places to be searched, the grounds on which the President may reject the search or seizure, as well as the specific procedures for judicial review and objections. Except with the President’s consent, prior to the implementation of such law, the competent prosecutor shall file a motion with a five-judge special tribunal at the High Court or its appropriate branch, which shall be presided over by a senior division chief judge and shall review the adequacy and necessity of

the relevant searches and seizures, irrespective of whether the aforesaid particular place, object or electronic record concerns any state secrets. Without an affirmative ruling given by the special tribunal, no such search or seizure may be conducted, provided that the places to be searched shall exclude the places where the President carries out his functions and resides. The relevant provisions of the Code of Criminal Procedure shall apply *mutatis mutandis* to the procedure for filing an interim appeal.

Furthermore, presidential criminal immunity does not extend to his duty to testify as a witness in a criminal case involving another person. Nevertheless, when the criminal investigation authorities or the trial courts consider the President as a witness in a criminal procedure involving someone else as a defendant, Article 304 of the Code of Civil Procedure shall apply *mutatis mutandis* so as to show respect for the presidency. The said provision reads, “Where the witness is the Head of the State, the examination shall be conducted at the place of his/her choosing.”

The presidential privilege or immunity from criminal prosecution is designed for the office of the President. Therefore, the President is the only person that enjoys such privilege. In principle, the individual who serves as the President may not waive said privilege.