

# 聯合國反貪腐公約第二次國家報告國際審查委員補充問題清單回應

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補 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
第 2 章 第 6 條	Could you send me a pdf copy of the Taiwan Anti-Corruption Agency's annual report of 2020? How many staff work at the agency? How many investigators?	請傳送一份 2020 年度工作報告副本。 另請問該機構員工人數及調查人員人數為何？

中文回應：

1. 統計至 2022 年 8 月 23 日止，廉政署在職人數為 217 人，其中辦理肅貪業務人員計 136 人；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，廉政署指揮督導設置於中央與地方機關（構）及公營事業機構內部之政風機構，推動反貪、防貪業務，並辦理機關（構）內有關貪瀆或不法事項之行政處理，統計至 2022 年 8 月，政風機構計有 1,184 個（中央行政機關政風機構計有 380 個，地方機關政風機構計有 594 個，事業機構計有 210 個）；政風人員計有 3,165 人（中央行政機關政風人員 1,083 人；地方機關政風人員 1,585 人，事業機構政風人員 497 人）。廉政署 2020 工作年報下載路徑：廉政署官網英文版/Publications/1.AAC Annual Repor 2020。
2. 調查局於 2022 年 7 月員工人數為 2,615 人，其中調查人員人數為 2,280 人。調查局 2020 廉政工作年報英文版下載路徑：調查局官網英文版/E-Books/YearBooks/Anti-Corruption YearBook。

英文回應：

1. As of August 23, 2022, there are 217 in-service staff, including 136 corruption investigators in the Agency Against Corruption of Ministry of Justice (hereinafter referred to as AAC). 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. Under this single whip ethics system design, the AAC commands and supervises Government Employee Ethics Units in central and local agencies (institutions) and public

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enterprises to be in charge of the advocacy of anti-corruption, corruption prevention, as well as to deal with relevant corruption and illegal matters in real time. As of August 2022, there are 1,184 Government Employee Ethics Units, 380 of which are in central administrative agencies, 594 in local government agencies and 210 in public enterprises; while there are 3,165 Government Employee Ethics, 1,083 of which are in central administrative agencies, 1,585 in local government agencies and 497 in public enterprises. (AAC 2020 Annual Report : AAC english version website /Publications/1.AAC Annual Report 2020)

- As of July 2022, the Ministry of Justice Investigation Bureau (hereinafter referred to as MJIB) has 2,615 employees 2022, including 2,280 investigators. (MJIB english version website /E-Books/YearBooks/Anti-Corruption YearBook.)

補 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
第 2 章 第 7 條	<b>Access to information: Can you provide information on the number of access to information requests received by the state administration? How long did it take to respond? How many requests were refused and on what grounds?</b>	政府資訊取得：請問行政機關受理之政府資訊申請案件數量、回覆期程、駁回申請及其原因為何？

### 中文回應：

- 有關人民申請政府資訊之案件統計，係各政府機關依申請案件及提供與否等情形予以辦理，且行政院已於 2011 年指示各部會，應主動公開人民申請政府資訊遭拒絕之案件統計資料 (例如:法務部將法務部及所屬機關申請政府資訊案件之統計資料，置於法務部全球資訊網 <https://nservice.moj.gov.tw/arqs>)。
- 有關人民申請政府資訊之處理期間，《政府資訊公開法》第 12 條規定：「政府機關應於受理申請提供政府資訊之日起 15 日內，為准駁之決定；必要時，得予延長，延長之期間不得逾 15 日。」。
- 有關人民申請政府資訊遭駁回申請及其原因部分，考量政府資訊之內容、所欲保護之利益

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各有不同，且可能涉及其他法律特別規定，例如《檔案法》，係由各受理申請之資訊保有機關依法就具體個案情形審酌判斷有無限制公開或不予公開之事由。

### 英文回應：

3. Statistics on cases of people applying for government information are handled by each government agency based on the application cases and whether they are provided or not. In 2011, the Executive Yuan has instructed its ministries and agencies take the initiative to publicize statistics on cases where people's requests for government information have been rejected. ( e.g. Ministry of Justice also complies with the instruction to post the statistics on its global website <https://nservice.moj.gov.tw/arqs>).
4. About the people's application for government information processing period, paragraph 1 of Article 12 of The Freedom of Government Information Law stipulates that within fifteen days of receiving the request for government information, the government agency determine whether to approve such a request ;the time may be extended for no longer than fifteen days if necessary.
5. About the rejections and reasons which people's application for government information, considering the content of government information and the interests to be protected are different or other special provisions of laws may be involved (e.g. Archives Act) .Whether the government information containing materials that are restricted from making available to the public or provision is determined by the government agency for receiving the application for government information on a case-by-case basis according to the law.

補 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 9 條	<b>Public sector financial management:</b> Could you describe the measures that ensure transparency in the management of public finances?	公部門財務管理：請說明可確保公共財務管理透明度之措施。

### 中文回應：

6. 為確保公共財務管理之透明度，我國政府依《政府資訊公開法》、《預算法》及《會計法》

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等規定，應主動公開預（決）算書及會計報告等，各機關應依上開規定於其網站定期公開預（決）算及會計相關表件，以利外界查閱，增加政府財務資訊之透明度。

7. 另依《決算法》規定，每一會計年度編造前一年度中央政府總決算暨附屬單位決算綜計表及當年度中央政府總預算暨附屬單位預算之半年結算報告，透過總決算及總預算半年結算之公告，達到政府財務資訊公開之目的。
8. 財政報表係政府為表達施政重點及相關財務規劃之最佳工具，為利民眾即時了解我國財政狀況，提升財政透明度，定期於財政部國庫署網站更新近年中央政府歲入預算、決算、收支結構相關數據外，並配合年度預算執行適時(平均每季)發布新聞稿，公布中央政府歲入執行情形。
9. 我國政府除定期於網站公布各級政府 1 年以上及未滿 1 年債務資訊外，並協調地方政府自 2012 年 7 月起，於網站公布地方債務鐘。另自 2012 年 12 月起，陸續增設中央及地方債務資訊於全國鐵路車站、監理處(站、所)、衛生福利部所屬醫療院所、國道高速公路服務區之 LED 跑馬燈宣導據點、國有財產署、關務署、國稅局、財政資訊中心、財政人員訓練所及中央登錄公債 19 家清算銀行暨各經辦行等單位約 2,000 餘處公告處所，大幅度增加國債鐘及地方債務鐘揭露地點，以落實全民監督，有助提升政府財務透明度。
10. 為提升債務透明度，並使我國債務揭露事項與國際規範一致，業依據國際貨幣基金(IMF)「政府財政統計手冊」(GFSM)之標準於財政部及國庫署網站揭露一般政府債務資訊。另配合 2019 年 4 月 10 日《財政紀律法》公布施行，中央及地方政府均依規定按季揭露向所設各項基金及專戶調度周轉金額、期間及該特種基金會計報表。
11. 行政院於年度開始前提出年度總預算案，經立法院審議後授予法定預算及執行權，行政院於年度結束後提出總決算於監察院，並經監察院交由審計部，審計部依據《審計法》行使審計權負責查核，對行政院所提出的資訊加以驗證，並依據《憲法》規定提出獨立客觀之總決算審核報告於監察院及立法院，作為提供各該院行使職權之參考，審計部並將總決算審核報告公開於網站，促進政府財務資訊之透明度，及落實公共課責。

### 英文回應：

6. Fiscal statements are the best vehicle to express the government's priorities and financial planing. In order to facilitate the knowledge of the public for the national fiscal condition and to improve our fiscal transparency, the National Treasury Administration not only periodically updates the

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general budgets, final accounts, and revenue and expenditure structure of the central government, but also duly, quarterly on average, issues press releases to disclose annual revenue performance of the central government.

7. The Ministry of Finance, R.O.C. (hereinafter referred to as MOF) posts public debt tables, including the long and short-term debts of all levels of government, on its website. In addition, the MOF has worked in co-ordination with local governments since July 2012 to publish our Local Debt Clock online. Starting from December 2012, more central and local government debt information has been disclosed in subordinate agencies of the MOF such as the National Taxation Bureaus, National Property Administration, and Customs Administration, and the Executive Yuan with public bulletins in all railway stations and bus stations, motor vehicles offices (stations), medical institutions which belong to the Ministry of Health and Welfare, and the LED Marquee in the National Freeway Service Areas. Altogether, the information is displayed in about 2,000 public places, which shows a substantial increase in locations for presenting the National Debt Clock and the latest Local Debt Clock. All the measures mentioned above contribute to improving the transparency of governmental finance.
8. To ensure transparency in the management of public finances, the government shall take the initiative to disclose budget (account settlement of budget) and accounting reports according to the “Freedom of Government Information Law,” the “Budget Act,” the “Accounting Act” and other regulations. Respective agencies shall also disclose their budget (account settlement of budget), accounting reports and related supporting documents on the official site at regular intervals in accordance with the above regulations for the examination of the general public, so as to enhance the transparency of government financial information.
9. In addition, the “Financial Statement Act,” requires that the general financial statements of the central government and affiliated units of the previous fiscal year should be compiled in each fiscal year, and the semi-annual balance statement of the central government and affiliated units of the current fiscal year shall also be prepared, so as to achieve the objective of government’s financial information to open public.
10. According to Article 59 of the Constitution, the Executive Yuan shall present the budgetary bill

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for the following fiscal year before the beginning of each year to the Legislative Yuan. After deciding by the Legislative Yuan, government agencies shall executive their legal budget. The Executive Yuan shall compile the general finanacial statement and propose it to in the Control Yuan, which will then the transfer it to the National Audit Office (NAO). According to the Audit Act, the NAO conducts audit work and certifies general finanacial statement. Finally, the NAO submits an independent and objective audit report to the Legislative Yuan and the Control Yuan for reference to conduct their duties in compliance with Article 105 of the Constitution. The audit report is available on the NAO website, to promote transparency in the Government's financial information and enhance public accountability.

11. To improve the transparency of debt information and to conform to international rules regarding debt item transparency, we have revealed information about general government debts on the website of the MOF and National Treasury Administration in accordance with the standards of the Government Finance Statistics Manual (GSFM) published by the International Monetary Fund (IMF). In addition, in conjunction with the Fiscal Discipline Law announced on April 10, 2019, both central and local governments have disclosed quarterly information about borrowings, periods, and special fund accounting statements from the special funds and accounts in accordance with the law.

補 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 12 條	<b>Beneficial ownership transparency, Para 119 et seq – Is there a register of beneficial ownership information? Is it accessible to the public?</b>	實質受益人資訊透明化 (段落 119 以下)：請問有無實質受益人登記制度並供大眾使用？

### 中文回應：

12. 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，增加公司之透明度，依《公司法》第 22 條之 1，公司應每年定期以電子方式申報相關資料至中央主管機關建置或指定之資訊平臺。此資訊平臺，係為配合防制洗錢而設，不對外公開，關於資訊之



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處理及利用，並非漫無限制，依《公司法》規定授權訂有子法《公司法第 22 條之一資料申報及管理辦法》規定。依前開辦法第 11 條規定，為辦理、調查或審理洗錢防制之案件之行政機關、檢察機關或法院或相關金融機構、其指定之非金融事業或人員為依《洗錢防制法》進行確認客戶身分之程序時，均可依法查調該平臺之資訊。又考量為公開發行公司依掛牌之交易市場法制已具高度透明，依《公司法第 22 條之一資料申報及管理辦法》第 7 條，公開發行公司不適用本辦法之規定。

13. 依《公開發行公司年報應行記載事項準則》第 7 條規定，年報編製內容應記載公司治理報告，次依同準則第 10 條第 1 項第 2 款規定，公司治理報告應記載董事、監察人等資料，對董事及監察人之揭露規定已要求，董事、監察人屬法人股東代表者，應註明法人股東名稱及該法人之股東持股比例占前十名之股東名稱及其持股比例；各該前十名股東屬法人股東者，應註明法人股東名稱及該法人之股東持股比例占前十名股東之名稱及其持股比例。另依同準則第 23 條規定，公開發行公司應於股東會開會前將年報電子檔上傳公開資訊觀測站提供股東參考。另尚無實質受益人登記制度。
14. 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，並未訂定實質受益人登記制度。

### 英文回應：

12. To comply with the Anti-Money Laundering (AML) policies, construct well-planned AML systems, bolster AML measures, and enhance corporate transparency, according to Article 22 Bis of the Company Act, companies shall report the information to the information platform established by the central competent authority. The platform is for AML policies, and it is not accessible to the public. The processing and use of information are regulated by the Regulations Governing Reporting and Management of Information on Article 22 Bis of the Company Act (hereinafter referred to as "Act"). According to Article 11 of the Act, the administrative authority, prosecutors' offices, or courts have the right to use the information on the platform if they need to handle, investigate or trail any money laundering-related cases. According to the same Article, financial institutions or designated non-financial businesses or professionals can use the information if they

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have to verify the identities of customers in accordance with the Money Laundering Control Act. Considering that the regulation of public companies in the listed trading market has been highly transparent, according to Article 7 of the Act, public companies are not subject to the Act.

13. For Public companies : According to subparagraph 3, article 7 and subparagraph 2, article 10 of the Regulations Governing Information to be Published in Annual Reports of Public Companies, the annual report of a public company shall include a corporate governance report containing information regarding the its directors and supervisors. For directors and supervisors acting as the representatives of a company’s institutional shareholders, the company is required to disclose the names of the institutional shareholders, and shall further indicate the names of its 10 largest shareholders and the holding percentage of each. If any of those 10 largest shareholders is an institutional shareholder, the name of the corporate shareholder and the names of its 10 largest shareholders and the holding percentage of each shall be noted. In addition, the company shall upload an electronic file containing its annual report to the information disclosure website (the Market Observation Post System) in compliance with article 23 of the above regulation.It’s accessible to the public.
14. For Banks and Financial holdy company : 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 the FSC of beneficiary owners/ultimate controllers for supervisory purposes their shareholdings. There is no register of beneficial ownership information.

補 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
第 2 章 第 14 條	<b>Anti-money laundering: Have there been any improvements in Taiwanese systems since the FATF mutual evaluation report on Taiwan in October 2019?</b>	洗錢防制：臺灣自 2019 年 10 月完成 FATF 相互評鑑報告以來，是否仍有其他精進作為？

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### 中文回應：

15. 依 APG 章程規定，獲得「一般追蹤」之國家，每隔兩年須提交一次後續追蹤報告 (Follow-Up Report, FUR)，針對 40 項建議中「部分遵循」(Partially compliant, PC) 以下等級之點次說明改善情形。行政院洗錢防制辦公室(下稱洗錢防制辦公室)自 2019 年 12 月起，平均每年一次舉辦跨部會缺失改善大型會議及指定之非金融事業人員缺失改善會議，並持續邀集公、私部門共同進行國家洗錢、資恐及資助武器擴散之風險評估工作，期間大型會議共 4 次，47 個公部門機關及 29 個各業別及機構與會。期間洗錢防制辦公室統合、溝通、協調後續追蹤報告之進度時程及翻譯統籌規劃，並與法務部、金管會、經濟部、財政部、內政部及其他相關部會共同努力，合力完成本次我國第三輪相互評鑑 FUR。奉行政院核定後，於 2021 年 10 月 1 日經由我國金融情報中心 (Financial Intelligence Unit, FIU)，調查局洗錢防制處提交 APG 秘書處，並於 12 月 2 日在 APG 相互評鑑委員會 (Mutual Evaluation Committee) 線上會議時，我國 FUR 獲正式追認、採納，持續維持「一般追蹤」之最佳等第，顯示我國於 2019 年後，仍持續精進洗錢防制與打擊資恐政策之推動與改善。
16. 法務部針對 APG 第三次相互評鑑所列缺失，涉及法制面部分積極推動《洗錢防制法》修正，已於 2021 年 12 月 28 日辦理《洗錢防制法》修正草案預告 (預告期間 60 日)，復於預告期滿後，接續於 2022 年 5 月 3 日及同年月 18 日召開預告修正草案後修法會議，針對預告期間所蒐集之各界意見進行討論，積極推動修法。

### 英文回應：

15. According to the regulations of APG, countries that have obtained the "regular follow-up" must submit a follow-up report (hereinafter referred to as FUR) every two years, and explain the improvement situation for the points below the Partially compliant (PC) level in the 40 recommendations. Since December 2019, the Anti-Money Laundering Office, Executive Yuan (hereinafter referred to as AMLO) has held several large-scale cross-ministerial meetings on deficiencies improvement once a year and DNFBPs deficiencies improvement meetings, and has continued to invite public and private sectors. Jointly carry out the risk assessment of national money laundering, terrorism financing and weapons proliferation. During the period, there were 4 large-scale conferences, 47 public sector agencies and 29 various industries and institutions

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participated in the conference. During this period, the AMLO of the Executive Yuan integrated, communicated and coordinated the progress schedule and translation planning of the follow-up report, and will work together with the Ministry of Justice, the Financial Supervision and Administration Commission, the Ministry of Economic Affairs, the Ministry of Finance, the Ministry of the Interior and other relevant ministries. Work together to complete the third round of mutual evaluation FUR in our country. After being approved by the Executive Yuan, it was submitted to the APG Secretariat on October 1, 2021 through the AMLD of the Investigation Bureau of the Ministry of Justice, and was submitted to the APG Mutual Evaluation Committee on December 2. During the online meeting of the Evaluation Committee, which was deeply affirmed by APG and representatives of member states present. It was officially ratified and adopted Taiwan's FUR, and continued to maintain the best ranking of "regular follow-up". It shows that after 2019, Taiwan has continued to improve the promotion and improvement of AML/CFT policies.

16. The MOJ had actively promoted the amendments to the "Money Laundering Control Act" and announced the draft notice on December 28th, 2021 for sixty days in response to legal deficiencies put forward from the third mutual evaluation. After the notice period, the MOJ successively held councils of revision posterior to draft notice on May 3, 2022 and May 18, 2022 for discussion on comments from all walks of life solicited during the notice period to promote the amendments.

補 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、16 條	<p>1. There is no data provided on foreign bribery cases, even concerning individuals. Can the Ministry of Justice provide some unofficial information about the number of such cases, what the charges were and what were the outcomes?</p> <p>2. The statistics on pages 91- 93 indicate that no fines have been imposed. Why is that?</p>	<p>1. 本報告並無海外賄賂(含外國人賄賂)案件資料,請法務部針對是類案件提供非官方資料,如案件數量、對價金額及判決結果。</p> <p>2. 第 91 頁至第 93 頁之統計資料並無罰款,請問原因為何?</p> <p>3. 請問有無列出因案沒收之賄賂(如有的話)及貪污所得?</p> <p>4. 請問有無針對貪污案件統計凍結、扣押及沒收之貪污所得?如有的話,請提供相關資料。</p>

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	<p>3. Were the bribe (if any) and proceeds of corruption confiscated in the cases listed?</p> <p>4. Are there statistics on freezing, seizing and confiscation of proceeds of corruption in corruption cases? If so, can you please provide them?</p> <p>5. The statistics refer to two categories “exempt from prosecution” and “exempt from punishment”. In which cases does this apply?</p> <p>6. Is there any progress in developing sentencing guidelines?</p>	<p>5. 統計資料包含「免訴」及「免除其刑」兩類，請問分別適用於哪些案件呢？</p> <p>6. 請問訂定判決原則之進度為何？</p>
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中文回應：

17. 海外賄賂之案件數量、對價金額及判決結果

(1) 有關《貪污治罪條例》第 11 條第 3 項賄賂外國公職人員罪之部分，我國目前尚無起訴或判決之案件。

(2) 有關外籍人士犯《貪污治罪條例》第 11 條第 1 項、第 2 項行賄罪之部分，統計數據如下：

表 1 地方檢察署辦理外籍人士違反《貪污治罪條例》第 11 條第 1 項、第 2 項起訴及有罪人數  
單位：人

項目別	偵查終結起訴		執行裁判確定有罪	
	第 11 條第 1 項	第 11 條第 2 項	第 11 條第 1 項	第 11 條第 2 項
2017 年至 111 年 5 月	5	-	1	-
2017 年	1	-	1	-
2018 年	-	-	-	-
2019 年	2	-	-	-
2020 年	2	-	-	-
2021 年	-	-	-	-
2022 年 1-5 月	-	-	-	-

資料提供：法務部統計處

18. 該統計資料有關罰金部分，係指被告被判處罰金者，並不包括裁判結果為有期徒刑併科罰金之情形，另我國就有關賄賂案件之法定刑部分，並無單獨可判處罰金之刑度，故統計資料中並無被告被判處罰金之資料。

19. 我國並未依犯罪所得之性質區分「賄賂」或「犯罪所得」分開統計。(針對犯罪所得查扣、沒收統計數據詳參表 2 與表 3)。個案中，如有賄賂或貪污之犯罪所得，法院依法會予以沒

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收，並於裁判書之主文及理由中說明，惟司法院現行統計資料並未統計此部分。

20. 我國關於貪污案件犯罪所得查扣、沒收統計數據如下：

表 2 地方檢察署辦理偵審中貪污、瀆職罪查扣案件統計

單位：件、新臺幣萬元

項目別	查扣件數	查扣金額
2017 年至 111 年 5 月	480	69,607
2017 年	72	9,104
2018 年	87	7,067
2019 年	70	5,141
2020 年	104	5,469
2021 年	84	39,479
2022 年 1-5 月	63	3,347

資料提供：法務部統計處

說明：1.本表不含查扣外幣金額。2.金額單位為新臺幣萬元，因尾數採四捨五入計算，故細項之和與其總數間偶有些微差異。

表 3 地方檢察署執行貪污、瀆職罪案件經法院判決確定應沒收犯罪所得統計

單位：件、新臺幣萬元

項目別	沒收件數	應收金額
2017 年至 111 年 5 月	642	1,586,302
2017 年	119	30,936
2018 年	116	26,669
2019 年	105	65,855
2020 年	132	957,810
2021 年	112	13,165
2022 年 1-5 月	58	491,867

資料提供：法務部統計處

說明：金額單位為新臺幣萬元，因尾數採四捨五入計算，故細項之和與其總數間偶有些微差異。

21. 「免訴」及「免除其刑」分別適用之案件

- (1) 有關免除其刑適用之案件部分：如法律規定符合特定條件，得免除其刑者，法院得為免除其刑之宣告，例如：《貪污治罪條例》第 8 條第 1 項規定：犯第 4 條至第 6 條之罪，於犯罪後自首，如有所得並自動繳交全部所得財物者，減輕或免除其刑；因而查獲其他正犯或共犯者，免除其刑。
- (2) 有關免訴適用之案件，例如：《刑事訴訟法》第 302 條規定：案件有下列情形之一者，應諭知免訴之判決：曾經判決確定者、時效已完成者、曾經大赦者、犯罪後之法律已廢止其刑罰者。

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22. 司法院研擬之「刑事案件妥適量刑法草案」，已函請立法院審議，俟立法通過後，將設立「刑事案件量刑準則委員會」，由其訂定「刑事案件量刑準則」，以期提升量刑之妥適、公平、透明及可預測性，就貪污賄賂刑事案件之量刑法制將更趨完善。

### 英文回應：

#### 17. The case loads, consideration value and the result of judgment

- (1) In terms of bribery of foreign public officials stipulated in Paragraph 3, Article 11 of the “Anti-Corruption Act,” there have been none of such cases of prosecuted or judged in Taiwan.
- (2) In terms of foreigners who have committed the acts mentioned in Paragraph 1 and Paragraph 2, Article 11 of the “Anti-Corruption Act,” the relevant statistics are as below.

**Table 1 The Number of Foreigners Who Committed the Acts against Paragraph 1 and Paragraph 2, Article 11 of the “Anti-Corruption Act” Prosecuted by Prosecutors’ Offices and Convicted**

Unit: Person

Category	Investigation concluded and prosecuted		Convicted after judgment	
	Paragraph 1 of Article 11	Paragraph 2 of Article 11	Paragraph 1 of Article 11	Paragraph 2 of Article 11
<b>2017 to May 2022</b>	<b>5</b>	-	<b>1</b>	-
<b>2017</b>	1	-	1	-
<b>2018</b>	-	-	-	-
<b>2019</b>	2	-	-	-
<b>2020</b>	2	-	-	-
<b>2021</b>	-	-	-	-
<b>January to May in 2022</b>	-	-	-	-

Data source: Department of Statistics (MOJ)

18. In the statistical data, the so-called “fines” refers to a fine to which a defendant is sentenced solely, not including a fine with which a defendant is sentenced to imprisonment. Besides, because a sole fine is not one of the statutory penalties for bribery crimes in ROC, there is no information on “fines” in the statistical data provided by the Judicial Yuan.
19. Criminal proceeds are not categorized into “bribe” and “proceeds from crimes” in Taiwan and are not analyzed accordingly (For statistics on the seizure and confiscation of the proceeds from crimes, please refer to Table 2 and Table 3). In individual cases, the court shall confiscate any proceeds

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arising from bribery or corruption crimes in accordance with law and stipulate the confiscation in the main text and reasoning parts of court opinions. However, the Judicial Yuan does not have any statistical data on it so far.

20. The statistics on the seizure and confiscation of criminal proceeds generated from corruption cases are as below.

**Table 3 Statistics on cases of misfeasance and corruption handled, investigated and seized by district prosecutors offices**

Unit: Case / ten thousand NT dollar

Category	Number of seizure cases	Monetary amount seized
<b>2017 to May 2022</b>	<b>480</b>	<b>69,607</b>
2017	72	9,104
2018	87	7,067
2019	70	5,141
2020	104	5,469
2021	84	39,479
<b>January to May in 2022</b>	<b>63</b>	<b>3,347</b>

Data source: Department of Statistics (MOJ)

Note: 1. The monetary amount seized excludes foreign currency amount. 2. The unit for monetary amount seized is ten thousand NT dollars. There are inaccuracies between the summation of items and the total figures since the amounts are rounded off.

**Table 4 Statistics on district prosecutors offices' collection of criminal proceeds from cases with final court judgments**

Unit: Case / ten thousand NT dollar

Category	Number of seizure cases	Monetary amount confiscated
<b>2017 to May 2022</b>	<b>642</b>	<b>1,586,302</b>
2017	119	30,936
2018	116	26,669
2019	105	65,855
2020	132	957,810
2021	112	13,165
<b>January to May in 2022</b>	<b>58</b>	<b>491,867</b>

Data source: Department of Statistics (MOJ)

Note: There are inaccuracies between the summation of items and the total figures since the amounts are rounded off.

21. Cases applicable by “exempt from prosecution” and “exempt from punishment”

- (1) The cases about “exempt from punishment”: If the law stipulates that a person can be exempted from punishment if certain conditions are met, the court may make a declaration of the



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exemption from punishment. For example, according to Paragraph 1 of Article 8 of the Anti-Corruption Act: If the offender of Article 4 to 6 has surrendered himself or herself and spontaneously handed over all the unlawful gains, the penalty is commuted or exempted. If this has led to the uncovering of other principal offenders or accomplices, the penalty is exempted.

- (2) “Exempt from prosecution” may apply in some cases. For example, Article 302 of Code of Criminal Procedure provides: Judgment of "Exempt from Prosecution" shall be pronounced if one of the following circumstances exists: A final judgment has already been given; the period of statute of limitation is completed; There is already been an amnesty; A law enacted after the commission of an offense abolishes the punishment.

22. The Judicial Yuan has prepared the draft of the Appropriate Sentencing of Criminal Cases Act and submitted it to the Legislative Yuan for deliberation. The Sentencing Guidelines Council, responsible for stipulating sentencing guidelines, will be established after the act is passed by the Legislative Yuan, so as to improve the sentencing appropriateness, transparency, fairness and reasonable predictability, ensuring the perfection of sentencing legal system regarding criminal corruption and bribery cases.

補 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、16 條	<p>1.Can you provide statistics on the number of corruption investigations by year?</p> <p>2.Can you provide statistics on enforcement against corruption-related money laundering?</p> <p>3.What is the highest fine for money laundering? (Is it about US\$ 166,000?)</p> <p><a href="https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=G0380131">https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=G0380131</a></p>	<p>1.請按年度提供貪腐調查件數資料。</p> <p>2.請提供洗錢相關之貪腐防制措施數據。</p> <p>3.請問洗錢最高罰鍰為何？(是否為美金 166,000 元?)</p> <p><a href="https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=G0380131">https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=G0380131</a></p>

中文回應：

23. 檢察機關偵辦貪污、瀆職罪案件，收案數據如下：

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表 4 地方檢察署辦理貪污、瀆職罪案件新收件數

單位：件

項目別	新收件數
<b>2017 年至 2022 年 5 月</b>	<b>3,610</b>
2017 年	667
2018 年	603
2019 年	654
2020 年	695
2021 年	679
2022 年 1-5 月	312

資料提供：法務部統計處

24. 2017 年至 2021 年，調查局偵辦及移送企業貪瀆案件(金融貪瀆、掏空資產及侵害營業秘密)

各年度件數資訊如下：

表 5 2017 年至 2021 年調查局偵辦及移送企業貪瀆案件

年度	類別	案件(件)
2017	金融貪瀆	7
	掏空資產	34
	侵害營業秘密	23
<b>總計</b>		<b>64</b>
2018	金融貪瀆	14
	掏空資產	52
	侵害營業秘密	45
<b>總計</b>		<b>111</b>
2019	金融貪瀆	10
	掏空資產	24
	侵害營業秘密	21
<b>總計</b>		<b>55</b>
2020	金融貪瀆	5
	掏空資產	14
	侵害營業秘密	25
<b>總計</b>		<b>44</b>
2021	金融貪瀆	4
	掏空資產	10
	侵害營業秘密	26
<b>總計</b>		<b>40</b>

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### 25. 洗錢相關之貪腐防制措施

- (1) 洗錢防制辦公室致力於反洗錢以及反貪腐之教育推廣，藉由舉行研討會，與各公私部門分享反洗錢以及反貪腐之法制面、政策面和執法面等相關議題，以有效提升與會人員之反洗錢/反貪腐意識，並以此作為貪腐防制措施之一環。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 5 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」以及「金融市場交易犯罪探討」，參加人數共達 2,150 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」。
- (2) 調查局洗錢防制處於 2019 年、2020 年、2021 年分送貪污賄賂、《政府採購法》相關金融情報 25 件、39 件及 72 件予權責機關參處。

26. 《洗錢防制法》有關刑事處罰之罰金部分，最高罰金額度為新臺幣 500 萬元(相當於 166,000 美元)。

### 英文回應：

23. The statistics on cases of misfeasance and corruption handled by district prosecutors offices' are as below.

**Table 5 Statistics on cases of misfeasance and corruption handled by district prosecutors offices**

Unit: Case

Category	Number of handled cases
<b>2017 to May 2022</b>	<b>3,610</b>
2017	667
2018	603
2019	654
2020	695
2021	679
<b>January to May in 2022</b>	<b>312</b>

24. From 2017 till 2021, the annual statistics of enterprise corruption cases investigated and referred by Ministry of Justice Investigation Bureau(MJIB) are as follows.

**Table 6 2017-2021 Enterprise corruption cases investigated and referred by MJIB**

Year	Category	Cases
2017	Financial corruption	7
	Tunneling assets	34

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	Infringing trade secrets	23
	<b>Total</b>	<b>64</b>
2018	Financial corruption	14
	Tunneling assets	52
	Infringing trade secrets	45
	<b>Total</b>	<b>111</b>
2019	Financial corruption	10
	Tunneling assets	24
	Infringing trade secrets	21
	<b>Total</b>	<b>55</b>
2020	Financial corruption	5
	Tunneling assets	14
	Infringing trade secrets	25
	<b>Total</b>	<b>44</b>
2021	Financial corruption	4
	Tunneling assets	10
	Infringing trade secrets	26
	<b>Total</b>	<b>40</b>

25. Statistics on measures of anti-money laundering

(1) AMLO is committed to the education and promotion of anti-money laundering and anti-corruption. By holding seminars, we share issues of anti-money laundering and anti-corruption from legal aspects, policy aspects to law enforcement aspects with various public and private sectors, so as to enhance the anti-money laundering/anti-corruption awareness of the participants, and take this as part of the corruption prevention measures. In 2021, the office has cooperated with Taiwan Insurance Institute, Securities & Futures Institute and Chinese National Futures Association, and to hold 5 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" and "Discussion on Crime of Financial Market Transactions", with more than 2,150 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".

(2) The AMLD disseminated financial intelligence related to corruption and government

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procurement to the competent authorities, including 25 reports in 2019, 39 reports in 2020 and 72 reports in 2021.

26. In terms of the fine, one of the criminal penalties, stipulated in the “Money Laundering Control Act,” the highest amount of fines is NT\$ 5 million (equivalent to US\$ 166,000).

補 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 26 條	<p><b>Para 108 et seq –It seems there is no general provision for criminal liability, but is there a general provision for administrative liability? What are the consequences for companies if they are involved in bribery, foreign bribery, money laundering?</b></p>	<p>段落 108 以下 – 刑責部分似乎並無總則內容，請問行政責任呢？請問公司涉犯賄賂、海外賄賂、洗錢之後果為何？</p>

### 中文回應：

27. 由於我國繼受歐陸法系的刑法理論，因此我國《刑法》中雖無法人刑事責任之規定，但立法實務係以附屬刑法中規範，以補《刑法》之不足。如：

- (1) 《政府採購法》2019 年 5 月 22 日修正公布，增定廠商對採購有關人員行求、期約或交付不正利益者，不發還或追繳其押標金(第 31 條)及處以停權 3 年之規定(第 101、103 條)。
- (2) 《政府採購法》第七章訂有涉及政府採購犯罪之刑事處罰，廠商之代表人、代理人、受雇人或其他從業人員，除處罰因執行業務犯該法之行為人外，對該廠商同時併科以相當刑罰之罰金(第 92 條)。
- (3) 至於公司涉犯賄賂、海外賄賂之後果，依照我國法制，仍以處罰自然人為原則，《刑法》及《貪污治罪條例》中並無對法人的處罰規定。

28. 在臺灣，就私人企業收賄行為，多以《刑法》「背信罪」及《證券交易法》「特別背信罪」(其他相關條文請見聯合國反貪腐公約第二次國家報告第 21 條，英文版第 136-137 頁)進行追訴，但「背信罪」僅能處罰企業員工「收賄」行為。惟《銀行法》第 127 條之 4 規定，除處罰行為人外，亦可同時科予法人罰鍰或罰金(條文內容請見聯合國反貪腐公約第二次國家報告第 26 條，英文版 148 頁)。

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29. 依據《洗錢防制法》第 16 條規定，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洗錢罪者，除處罰行為人外，對該法人併科以各該條所定之罰金。
30. 《公司法》主要在規範公司內部組織運作及公司登記之法律的關係，其性質屬組織法律，至於貪污、海外賄賂、洗錢等不法行為應課予何種刑事或行政責任，應回歸《刑法》、《洗錢防制法》或《行政罰法》等相關規定。
31. 依《洗錢防制法》第 6 條及第 10 條規定，銀行應建立洗錢防制內部控制與稽核制度，並於發現疑似洗錢交易時，向調查局申報，違反申報義務者，銀行之主管機關(金管會)得處銀行新臺幣 50 萬元以上 1,000 萬元以下罰鍰。至於就銀行涉及洗錢之後果部分，屬於刑事犯罪，金管會主管法令尚無相關行政責任規定。

### 英文回應：

27. Taiwan has inherited the criminal law theory of the criminal law system from mainland Europe. Therefore, although there is no provision for criminal responsibility of legal persons in Taiwan's "Criminal Code," the insufficiency of the Code will be supplemented with the norms in the subsidiary criminal laws in legislative practice. The details are as follows:
  - (1) The "Administrative Penalty Act" is a general regulation concerning administrative penalties in various administrative laws. The liability requirements for juristic persons to be punished by administrative penalties for violation of their obligations in administrative laws shall be subject to other individual administrative laws and regulations. The administrative agency acting as adjudicator shall abide by the principle of proportionality and exercise the principle of discretion (referred to Articles 7 and 10 of the "Administrative Procedure Act"). Where juristic persons are subject to punishment under an administrative act, the intention or negligence of its representatives or managers, or any other person with the authority to represent it, or any of its staff members, employees or workers who commits the act, as the case may be, shall be deemed to be an intention or negligence of such organization, as stipulated in Paragraph 2, Article 7 of the "Administrative Penalty Act."
  - (2) The "Government Procurement Act" was amended and promulgated on May 22, 2019. It was added that the tenderer offering, promising, or delivering improper benefits to the personnel in relation to procurement shall not receive the refund of the deposited bid bond (Article 31), or shall

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recover the refunded or returned bid bond, and shall be suspended for three years (Articles 101 and 103).

- (3) As for the consequences of the company's involvement in bribery and overseas bribery? According to our legal system, the punishing of natural persons is still the principle. The Criminal Law and the Anti-Corruption Act have no provisions on punishment of legal persons.
28. In most cases, commercial bribery in Taiwan is charged as an offenses of breach of trust under the “Criminal Code” and an offense of special breach of trust under the “Securities and Exchange Act.”(other related regulations, please see ROC’s Second Report under the United Nations Convention against Corruption, Article 21, p.136-137) However, as only employees of an enterprise can be the subject of punishment for the offenses of breach of trust. But under the Article 127-4 of the “Banking Act”, apart from punishing the perpetrator, the legal entity shall also be punished by the administrative fine or criminal fine described in each such article(the content of the regulation, please see ROC’s Second Report under the United Nations Convention against Corruption, Article 26, p.148).
29. According to the Article 16 of “Money Laundering Control Act”, the representative, agent, employee or other employed personnel of a legal person who commits an offence when performing his duties of business, shall be punished and the legal person shall be also charged with a fine in accordance with the provisions of the respective articles of ”Money Laundering Control Act”.
30. The Company Act is enacted for operating the organization of the companies and about the company registrations. The nature of this Act is an organic act. So if the companies are involved in bribery, foreign bribery, money laundering, or other illegal action, it should be based on the criminal law, the Money Laundering Control Act, or Administrative Penalty Act.
31. In accordance with the Article 6 and Article 10 of Money Laundering Control Act, the bank shall establish its own internal control and audit system against money laundering and shall report to the Investigation Bureau of the Ministry of Justice all suspicious transactions. For the violation of the obligation to report suspicious transactions, Competent authority of banks (FSC) is able to impose a fine of between NT\$500,000 and NT\$10,000,000 on banks. However, if banks are involved in money laundering which is a criminal crime, there is no corresponding administrative liability for

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banks in accordance with regulations made by FSC.

補 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 26 條	<p>A Taiwanese lawyer wrote the following: If a company's responsible person caused damage to a third party while conducting company business, the person and the company will be jointly and severally liable for such damages. In addition to the above-mentioned basic provisions, the following will describe the responsibilities of a managerial officer and a director, respectively.</p> <p><a href="https://law.asia/company-responsible-person-taiwan/">https://law.asia/company-responsible-person-taiwan/</a> Can you provide any examples of cases in which a company and its responsible person were held liable for damages in a corruption case?</p>	<p>一位臺籍律師曾有下列論述：公司負責人於執行公司業務時，如有侵害第三方權益，該負責人及公司對所生損害應負連帶責任，除前揭條款之外，經理人及經理之責任分述如下： <a href="https://law.asia/company-responsible-person-taiwan/">https://law.asia/company-responsible-person-taiwan/</a>。</p> <p>請提供公司及其負責人因涉犯貪污案件而對所生損害負連帶責任之相關案例。</p>

中文回應：

32. 案例：A 公司之員工 B 課長與 C 股長，為 A 公司經辦採購人員，意圖為 D 廠商不法利益，而違反其受委任之職務上義務，與 D 廠商之 E 負責人共同浮編機電儀部分之預算，並洩漏底價資料給 D 廠商，致 A 公司受有損害。A 公司依《民法》第 184 條、第 185 條及《公司法》第 23 條第 2 項之規定，起訴請求 B、C、D 及 E 連帶賠償 A 公司所受損害。（臺灣高等法院 108 年度重上字第 523 號民事判決）
33. 依據《公司法》第 23 條之規定，公司負責人應忠實執行業務並盡善良管理人之注意義務，如有違反致公司受有損害者，負損害賠償責任。公司負責人對於公司業務之執行，如有違反法令致他人受有損害時，對他人應與公司負連帶賠償之責。

英文回應：

32. Case: The Section Manager B and Section Head C of Company A were procurement personnels



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who jointly inflated budgets of electromechanical instruments and leaked the base price to supplier D in violation of their job responsibilities for illegal benefits of the supplier, causing damages to be sustained by Company A. B, C and D were prosecuted by Company A to be jointly liable for the injury in accordance with Article 184, 185 of the “Civil Code” and Paragraph 2, Article 23 of the “Company Act.” (The civil judgment of 2019 Zhong-Shang-Zi No. 523 by Taiwan High Court)

33. According to Article 23 of the Company Act, the responsible person of a company shall have loyalty and shall exercise the due care of a good administrator in conducting the business operation of the company; and if the person has acted contrary to this provision, shall be liable for the damages to be sustained by the company there-from. If the responsible person of a company has, in the course of conducting the business operations, violated any provision of the applicable laws and/or regulations and thus caused damage to any other person, he/she shall be liable, jointly and severally, for the damage to such other person.

補 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 30 條	<b>Are court judgements in corruption cases published and accessible to the public? Are they online?</b>	請問有無公開貪腐案件之法院判決並供民眾閱覽呢？請問有無上網公告判決結果呢？

### 中文回應：

34. 按《法院組織法》第 83 條第 1 項規定：「各級法院及分院應定期出版公報或以其他適當方式，公開裁判書。但其他法律另有規定者，依其規定。」各級法院裁判書以公開為原則，僅於《兒童及少年福利與權益保障法》、《少年事件處理法》、《性侵害犯罪防治法》、《國家機密保護法》、《智慧財產及商業法院組織法》等法律對裁判書公開有一定限制之特別規定，始得例外不予公開。而貪腐相關判決除有法律對裁判書之公開有一定之限制外，屬應公開之裁判書，依法均應公開。

### 英文回應：

34. According to Section 1, Article 83 Of the Court Organization Act, “All levels of Courts and their

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branches shall issue periodical Gazettes or use other appropriate methods to publish judgment. However, if it is stipulated otherwise by law, such other provisions shall apply.” In principle, judgments of all levels of court are open to the public. However, laws such as the Protection of Children and Youths Welfare and Rights Act, Juvenile Justice Act, Sexual Assault Crime Prevention Act, the Classified National Security Information Protection Act, and Intellectual Property and Commercial Court Organization Act have special provisions putting restrictions on the publication of judgments, making them the exception of such open principle. As for corruption, except for publication restrictions stipulated by laws, they are judgments that shall be published legally for public access.