

# 聯合國反貪腐公約第二次國家報告國際審查結論性意見

## 30 項建議權責機關分工表

項次	內容	主辦機關	協辦機關
<b>第二章 預防措施</b> <b>Preventive Measures</b>			
1	廢除未來在國防採購中的工合條款，以確保國防採購廉潔度，因為大多數 G20 國家已經廢除這種作法。(第 5 條) Abolish offset clauses in future defense acquisition to ensure the integrity of the defense procurement, as the majority of G20 countries have abolished that practice.	國防部、 經濟部	行政院公共工程 委員會
2	建立「全球反貪腐大使」的職位，可以讓臺灣與國際夥伴間的關係更加密切，以提升反貪腐策略，並藉由分享臺灣的最佳反貪腐實務，讓全球受益。(第 5 條) Introduce a global anti-corruption ambassador' position that can work closely with international partners to improve Taiwan's anti-corruption policy and to spread Taiwan's good practices in this field for the benefit of global society.	法務部廉政署	法務部(檢察司)、 外交部
3	透過提供廉政署必要的資源，讓廉政業務更有成效。(第 6 條) Strengthen the AAC's performance by providing necessary resources. 檢視任命廉政署署長的程序，以確保該角色的獨立性。(第 6 條) Review the process for appointing the head of the AAC in order to assure independence of that role.	法務部廉政署、 法務部(人事處)	行政院人事行政 總處、 行政院主計總處
4	確保政治獻金公開、透明，並有金額上限。受法規管轄的政治獻金應受到審查，以確保其完整符合國際規範。(第 7 條) Ensure that political donations are open, transparent and with limited amounts. Legislation governing political donations should be reviewed to meet best international standards.	內政部	監察院
5	增加公私部門的匿名檢舉管道。(第 8 條) Increase anonymous reporting channels across both the public and private sectors.	法務部廉政署、 法務部調查局、 金融監督管理 委員會	

6	<p>需公布《遊說法》第二條中標示出的多種重要人物之日誌，尤其是對法律和政策有強烈影響力或是決策力的人物。(第8條)</p> <p>Require published diaries for one or more categories of those identified in Article 2 of the Lobbying Act, in particular those with the power to significantly influence or make decisions on law and policy.</p>	內政部	
7	<p>修正政府採購要求，增加投標廠商揭露實質受益人的規定。(第9條)</p> <p>Amend government procurement requirements to require that bidding companies disclose their beneficial ownership.</p>	行政院公共工程委員會	法務部廉政署、 法務部(檢察司)、 行政院洗錢防制辦公室
8	<p>各機構應採用更有系統的方法，定期進行廉政風險評估。(第10條)</p> <p>Introduce a more systematic approach by each agency to regularly undertake an Integrity System Risk assessment.</p> <p><u>*委員會提出之意見(含引言、主要觀察與發現及最佳實務作法)</u></p> <p>➤ 許多國家對企業給予補貼和核發許可證時均發生嚴重的貪腐問題，包括核可開發自然資源。臺灣能否確保其對於防止濫用此領域之程序，訂定適當規範，便顯得至關重要。</p> <p>Corruption in the grant of subsidies to business and licences is also a serious problem in many countries, including licencing of natural resource exploitation. It is critical that Taiwan ensure it has adequate regulations preventing the misuse of procedures in this domain.</p> <p>➤ 臺灣已經實行多項公部門提升廉正及透明的措施，其中包括：《國家廉政建設行動方案》，並透過科技與跨域合作建構機關採購廉政平臺；此外，臺灣也修正了《公職人員利益衝突迴避法》等法案。而源自廉政風險評估的透明品質獎更是具樹立典範作用的制度，鼓勵各機關建構系統性的方法來進行廉政風險評估。</p> <p>Taiwan has implemented public service integrity and transparency programmes, including: the National Integrity Building Action Plan; the Procurement Integrity Programme, with improved agency collaboration through the use of a technology platform. It has also implemented several legislative</p>	(各政府機構) 法務部廉政署	經濟部、 交通部、 金融監督管理委員會、 行政院農業委員會、 衛生福利部、 勞動部、 國家通訊傳播委員會、 中央銀行、 內政部、 行政院公共工程委員會、 財政部、 教育部

	changes including the Recusal Act. The Integrity Award trial is a worthwhile initiative to recognise good practice. The origin of the award was the Integrity Risk Assessment which proposed a systematic approach by each agency to regularly undertake an integrity risk assessment.		
9	<p>創立一個獨立機構處理有關《政府資訊公開法》投訴和遵循事項。(第 10 條)</p> <p>Create an independent body to consider complaints and compliance with the Freedom of Government Information Act .</p>	法務部(法律事務司)	司法院、 考試院、 監察院、 行政院人事行政總處、 行政院主計總處、 數位發展部
10	<p>實施實質受益人的集中登記制，以利充分識別對私部門擁有實質控制權之人。(第 12 條)</p> <p>Implement a central register of beneficial ownership that sufficiently identifies those who have substantial control over private entities.</p>	經濟部	行政院洗錢防制辦公室、 金融監督管理委員會、 法務部(檢察司)
11	<p>私部門在反貪腐工作中普遍缺乏主動性，因此公部門需要與私部門推動更多的合作，以鼓勵公司和企業瞭解提升誠信和反貪意識及作法的價值（包含良善治理、聲譽和成功經營），並與政府機關合作發展這些價值。(第 12 條)</p> <p>However the private sector has generally lacked initiative in anti-corruption work. A more collaborative approach with the private sector is needed to encourage companies and businesses to understand the value (good governance, reputation and business success) of increasing integrity and anti-corruption awareness and practices, and to develop those in collaboration with the government.</p>	經濟部、 金融監督管理委員會、 法務部調查局、 法務部廉政署	
12	<p>延續 2019 年的 APG 相互評鑑報告，必須確保所有與貪污相關的洗錢防制案件均有提供給廉政署和調查局，且調查局跟廉政署間應強化此類案件的合作。(第 14 條)</p> <p>Consistent with the 2019 APG Mutual Evaluation, ensure all corruption-related reports of the Anti-Money Laundering Division (FIU) are provided to the (AAC) and</p>	法務部調查局	法務部廉政署

	the MJIB and the AAC to strengthen cooperation against corruption-related money laundering.		
<b>第三章 定罪和執法</b> <b>Criminalisation and Law Enforcement</b>			
13	建立賄賂、侵占及挪用財物等犯罪行為之明確定義，以符合《聯合國反貪腐公約》。(第 15、17 條) Establish with greater clarity the offences of bribery, embezzlement and other diversion of property in line with the UNCAC. (Articles 15 and 17)	法務部(檢察司)	
14	對於國外或國際組織公務員有賄賂行為時，必須要視為優先處理事項，並且要確保有管轄權。(第 16 條) Introduce as a matter of high priority the offence of bribery of foreign public officials and officials of public international organizations and ensure there is jurisdiction over the offence. (Article 16)	法務部(檢察司)	
15	對於私部門的賄賂必須被視為單一犯罪行為，並予以定罪。(第 21 條) Criminalise private sector bribery as a separate offence. (article 21)	法務部(檢察司)	司法院
16	《刑法》中應增加有關對證人採取威脅、強迫或利誘方式干擾其作證之相關規範。(第 25 條) Include obstruction of justice through threats, force or bribery of witnesses to interfere with their testimony and other clarifications of the provisions in the Criminal Code. (article 25)	法務部(檢察司)	
17	建構一個清楚且全面性的架構來規範貪腐案件的法人刑事、民事或行政責任，尤其可參酌英國反賄賂法規定，針對法人未妥善控管致使發生賄賂之行為科以刑事責任。(第 26 條) Urgently establish a clear and comprehensive legal framework for the liability of legal persons in corruption cases, whether criminal, civil or administrative, and give serious consideration to introducing criminal liability of legal persons. In particular, consider introducing the offence of failure of a legal person to prevent bribery, as in the UK Bribery Act. (article 26) 確保法人於涉犯貪污案件時受到有效、適度及具有警	法務部(檢察司)、 經濟部、 金融監督管理委員會、 衛生福利部、 行政院環境保護署、 勞動部	行政院公共工程委員會

	<p>惕性之刑事或非刑事處罰，包括金錢處罰。(第 26 條)</p> <p>Ensure that legal persons are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions for corruption offences, including monetary sanctions. (article 26)</p>		
18	<p>考慮將複雜的貪污案件之共謀定為犯罪。(第 27 條)</p> <p>Consider introducing a conspiracy offence to improve enforcement against complex corruption schemes. (article 27)</p>	法務部(檢察司)	
19	<p>考慮對較小型的貪腐犯罪採取較輕微的制裁，確保所定之犯罪受到與其嚴重性相當之處罰，並確保裁量準則允許法官有考慮具體情況的空間。(第 30 條)</p> <p>Consider introducing lower sanctions for smaller scale corruption offences, to ensure that sanctions take into account the gravity of offences and consider the introduction sentencing guidelines that allow judges room for taking into account specific circumstances. (article 30)</p>	法務部(檢察司) 司法院	
20	<p>鼓勵臺灣執法機關積極偵查國際貪污犯罪行為，例如定期檢視臺灣公司營運所在地國家的媒體報導及司法資料庫。(第 30 條)</p> <p>Taiwanese enforcement authorities are encouraged to take a proactive approach to detection of international corruption offences, such as regularly checking media reports and enforcement databases of countries in which Taiwanese companies operate. (article 30)</p>	法務部調查局	金融監督管理委員會
21	<p>將公私部門揭弊者保護立法納入優先修法，以符合最高國際標準。(第 33 條)</p> <p>Adopt as a matter of priority comprehensive whistleblower protection legislation for the public and private sectors, corresponding to the highest international standards (article 33).</p>	法務部廉政署	
22	<p>考慮修正刑事及民事訴訟法中貪腐被害人之定義，並將間接損害及集體損害納入，以確保他們在程序中的法律地位。(第 35 條)</p> <p>Consider including a broad definition of a victim of corruption in its Criminal and Civil Procedure Codes, taking into account cases of indirect damage and collective victims in order to assure their legal standing in such proceedings. (article 35)</p>	司法院 法務部(檢察司)	

<b>第四章 國際合作</b> <b>International cooperation</b> <b>The following steps could further strengthen existing anti-corruption measures</b>			
23	修正完成及公布《引渡法》修正草案。（第 44 條） Finalise and enact the revised draft law on extradition. (article 44)	法務部(國際及兩岸法律司)	
24	持續推動《臥底偵查法》草案，以及在授權調查期間從電腦系統獲取證據及情資的法律手段。（第 50 條） Proceed with consideration of the draft “Undercover Investigation Act” and to legal means by which evidence and intelligence can be obtained from computer systems during authorized investigations. (article 50) 完成《科技偵查法》及《臥底偵查法》立法，並促使法案條文的制定及實施與《聯合國反貪腐公約》相互一致的有效措施。（第 50 條） Complete the drafts of the “Science and Technology Investigation Act” and the “Undercover Investigation Act,” and facilitate the enactment and implementation of such provisions consistent with the effective implementation of UNCAC. (article 50)	法務部(檢察司)	
<b>第五章 追繳資產</b> <b>Asset Recovery</b>			
25	考慮避免外交限制發生的新方法。（第 51 條） Consider new ways to circumvent diplomatic restrictions. (article 51) 修訂和其他國家簽署之協議，以納入資產追繳條文。（第 51 條） Amend the signed agreements with other countries to include provisions on asset recovery. (article 51)	法務部(國際及兩岸法律司)	
26	依據《聯合國反貪腐公約》，律定法人與自然人造冊準則，並明定帳戶與交易應受到嚴格監督。（第 52 條） Consistent with UNCAC, define clear criteria of the profile of legal and natural persons, accounts and transactions that shall be subject to enhanced scrutiny. (article 52) 建立應受嚴格監督的法人與自然人登記制度，並訂定相關政策，定期將該名單通知臺灣金融機構。（第 52 條） Create a registry of persons (legal and natural) that	法務部(檢察司)	金融監督管理委員會

	should be subject to enhanced scrutiny and develop a proactive policy of regular notification of such lists to the financial institutions of Taiwan. (article 52)		
27	<p>建立實質受益人集中登記機制，找出實際控制公司或其他企業經營工具的人。基此，應強化現行實質受益人相關規範，逐步調整現有辨識持有 25%以上之資本額股東的規定，改為導入「實際控制公司的自然人」概念，並應放寬實質受益人之定義，以便識別控制公司之個人；考慮使用特殊企業角色持有者識別碼(corporate role-holder identifier, CRI)，以便明確識別成為公司董事或有限合夥之普通合夥人的個人。(第 52 條第 3 項)</p> <p>Establish a central register of beneficial ownership that sufficiently identifies those who have substantial control over companies or other corporate vehicles. For this purpose, the current regulation on Beneficial Ownership shall be improved to move from the identification of shareholders with more than 25% of the capital, to the more functional concept of “natural person in real control of the company” The definition of beneficial ownership should be broadened to enable identification of persons who are in control of the company. Consider the use of unique corporate role holder identifiers for individuals who are or become directors of companies or general partners of limited partnerships. (article 52.3)</p> <p>訂定彈性政策，公開實質受益人登記資料，揭開法人面紗，以促進透明度，減少貪腐的發生與縮小免/除罪的範圍。(第 52 條第 3 項)</p> <p>Implement a flexible policy of who may have access to the registry of beneficial ownership to avoid opaque corporate veils, promote transparency and narrow the space for corrupt practices and impunity. (article 52.3)</p>	經濟部	行政院洗錢防制辦公室、 金融監督管理委員會、 法務部(檢察司)
28	<p>遵守全球資產返還論壇(GFAR)原則，以利成功追繳資產，其中包括請求成功追繳資產及處分的技術援助。(第 52、56 條)</p> <p>Follow the principles of the Global Forum on Asset Recovery (GFAR) to promote successful asset recovery, including the request of technical assistance towards successful asset recovery and disposition. (article 52, 56)</p>	法務部(國際及兩岸法律司)	

## 第六章 技術援助和訊息交流

### Technical assistance and information exchange

29	<p>誠如《聯合國反貪腐公約》第 60 條所載，臺灣可審酌是否分享多國反貪腐、洗錢與資產沒收之技巧與經驗，以加強與開發中國家之關聯與影響力。再者，臺灣毋須透過財務援助，即可透過技巧與經驗之共享的低成本方式，提供廣泛協助。(第 60 條)</p> <p>As encouraged by Article 60 of UNCAC, the Government of Taiwan may consider whether it wishes to strengthen its engagement and influence with developing countries by sharing its skills and knowledge of anti-corruption, money laundering and asset confiscation. Much of the potential greater supply of assistance from Taiwan could be in the form of lower cost skills and knowledge transfer, not necessarily financial capital.</p>	<p>法務部廉政署、 法務部調查局、 法務部(國際及兩岸法律司、檢察司)、 行政院洗錢防制辦公室</p>	<p>外交部、 經濟部、 內政部警政署 刑事警察局</p>
30	<p>第二次國家報告指出：「我國參與國際性或區域性預防或打擊貪腐之合作機制有限，致使打擊跨境貪腐犯罪與追繳資產面臨諸多挑戰。」</p> <p>Taiwan's Second Report under the United Nations Convention against Corruption states (p.24) that: "Taiwan has very limited participation in international or regional cooperation mechanisms for preventing or combating corruption, resulting in many challenges for combating cross-border corruption crimes and recovering assets."</p> <p>臺灣可審酌訂定並維持技術援助和訊息交流的策略性政策，藉以識別參與區域組織、多邊組織（APG、APEC 與 ARIN-AP）之技術援助的優先順序，並發掘透過雙邊協助參與他國技術援助之機會；進一步，另可考慮將這項任務交由簡任官等人員主導，並任命反貪腐大使。(第 62 條)</p> <p>Taiwan could consider developing and maintaining a strategic policy to guide technical assistance and information exchange to identify priorities and opportunities for Taiwan to engage in technical assistance in regional and multilateral organizations (APG, APEC, ARIN-AP) and with individual countries through bilateral assistance. Taiwan may consider assigning responsibility to a senior official to lead this work, and consider appointing an Ambassador for Anti-Corruption.</p>	<p>法務部(國際及兩岸法律司、檢察司)、 法務部調查局、 法務部廉政署</p>	<p>外交部</p>



