

Views on Taiwan's Adoption of the UNCAC

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I. Foreword

Transparency International released the 2021 Corruption Perceptions Index (CPI) ranking of 180 countries and regions worldwide on January 25, in which Taiwan moved up three places to the 25th place. This is Taiwan's best result in years, and when compared to the 37th place ten years ago (2012), it showed an improvement of 12 places, which demonstrated a significant improvement. Compared to a global average of 43, Taiwan scored 68. Considering that two-thirds (123) of the evaluated countries scored below 50; this indicates Taiwan's clean government are among the top performing countries.

The success of Taiwan's COVID-19 epidemic prevention, digital governance, transparent communication of public policies, and the implementation of relief programs have all received international recognition during this period. The World Economic Forum, for example, highlighted Taiwan's excellent performance in providing financial assistance to businesses, medical care, and combating the epidemic. The Political and Economic Risk Consultancy (PERC) has recognized Taiwan's ability to investigate and prosecute corruption cases, and confirms that the number of corruption cases in Taiwan has been on a long-term decline. The International Institute for Management Development (IMD) has positively evaluated Taiwan's strengths in digital technology, corporate innovation, social cohesion, and government effectiveness.

The Taiwanese government has long emphasized clean governance. In 2010, the government established the Agency Against Corruption (AAC), which combines the offices of government civil service ethics and investigation to establish a sound system for anti-corruption education, corruption prevention and investigation. Although not a current member of the United Nations, Taiwan has enacted domestic legislation to implement the United Nations Convention Against Corruption (UNCAC), which was adopted by the UN General Assembly, and pledged to abide by the UNCAC's anti-corruption provisions.

After the "Act to Implement United Nations Convention against Corruption" came into force in 2015, the Taiwanese government began to formulate various regulations and policies in accordance with the UNCAC, and revised the National Integrity Building Action Plan. In 2018, the first National Report on the UNCAC was published and an international review conference was held. The second National Report will be completed this year (2022), and international anti-corruption experts will continue to be invited to attend an international review

conference. As a professional organization that assists and oversees governmental integrity agencies, we are pleased to present this parallel report to the public.

II. Review and Suggestions on the Current Status of Implementation

In recent years, the Taiwanese government has promoted a number of innovations in integrity policies, which are indeed beneficial to the enhancement of integrity governance; however, there is still room for further improvement to comply with the norms and principles of the UNCAC. We would like to present our observations and suggestions as follows:

1. Establishment of an Integrity Platform for Government Procurement

Since 2016, the Taiwanese government has been promoting the establishment of an integrity platform for major procurement cases across various agencies, with the aim of establishing a cross-disciplinary communication channel among government agencies, such as the Prosecutor's Office, the AAC, the Public Construction Commission, citizen groups, experts, members of the public, and contractors, in order to strengthen the oversight mechanism while protecting the reasonable rights and interests of contractors, and allowing civil servants to take up their duties and provide quality public infrastructure for all. Currently, more than 30 cases have been established throughout Taiwan, with a total procurement amount of over NT\$700 billion. We have sent our staff to participate in several of these cases and found the following issues and suggestions for improvement:

- (1) Issues: The information knowledge and demand of the participants are different, and the type and format of the information provided by the contractors are inconsistent, so the Integrity Platform seems to be only a channel to obtain information. There is still a gap in achieving the intended goal of information sharing, value-adding, and enhanced communication to reach a joint consensus.
- (2) Recommendations:
 1. The implementation of the Integrity Platform by each agency should establish a knowledge management and exchange mechanism to facilitate real-time inventory and update of information, as well as to foster communication, policy learning and dissemination of information.
 2. The AAC has set up a "single portal for the Integrity Platform", which links the information and webpages related to the procurement contracts of each agency and presents public information about each tender case. The single portal is a convenient way for the public to download and obtain information, thus achieving the goal of

universal participation in promoting transparent and clean government procurement.

2. Promoting Government Agency Integrity Assessments

In order to motivate government agencies to pursue better governance and build a good image of integrity within the government, the AAC began implementing integrity assessments in 2014, which were later transformed into the Integrity Awards. This policy aims to encourage integrity innovation among agencies and serve as a benchmark and model for them to follow.

The integrity assessment and Integrity Award programs promoted by the AAC are generally governed by the provisions of UNCAC Chapter 2, "Preventive Measures," which require systems, policies, mechanisms, and procedural actions. The evaluation process starts with a detailed review of the data and reports produced by each government agency, and then the winners are selected through an analysis that is consistent with scientific and research methods. This method can be considered to be stringent and fair. The 15 outstanding agencies selected over the past three years have indeed accomplished worthy deeds that deserve being named the "best practice" among the peers in terms of innovation in integrity.

The first international review of the national report under the UNCAC, in its 13 concluding comments, highlighted that the purpose of integrity assessment is to stimulate the pursuit of better governance and a good image within the government. Therefore, it is important to make the results of the efforts of these Integrity Award-winning agencies more widely known across the private sector and to the general public through information technology, media coverage, and social media, in order to create a culture of social demand for clean government. Therefore, it is recommended that the AAC strengthen its research and planning on how to improve the marketing of policies in this facet.

3. Legislation to protect whistleblowers

In 2019, the Executive Yuan took into account international legislative standards and developed an integrated public-private sector version of the Whistleblower Protection Act, which was sent to the Legislative Yuan for consideration. As the legislative term limit expired by February 2020, the related legislation was not formalized. The draft legislation is still currently under review by the Executive Yuan, and has not yet been sent to the Legislative Yuan for consideration due to divergent views.

The soundness of the whistleblower protection system is pertinent to the successful disclosure of corruption cases, the appropriateness of reporting and investigation procedures, the confidentiality of the identity of the whistleblower, the protection of personal safety and job security, etc. It can be considered a

powerful tool to enhance the integrity of governance and anti-corruption in organizations, and is mentioned in Point 29 of the Concluding Observations of the First International Review of the National Report Under the UNCAC. Therefore, we urge the executive and legislative branches of the government to actively integrate the views of all parties so that the third reading of the law can be completed as soon as possible.

4. Development of a Private Sector Anti-Corruption Mechanism

Point 5 of the Concluding Observations of the First International Review of the National Report Under the UNCAC mentions that "since current preventive measures are mainly focused on the public sector, Taiwan should pay more attention to private sector interventions to address the growing threat of private sector corruption."

In November 2018, Executive Yuan President Lai Ching-te noted, while presiding over the 21st meeting of the Central Integrity Committee, that integrity is fundamental to government administration and an important key to improving administrative efficiency, and that "prevention is better than cure" when it comes to anti-corruption initiatives. He also pointed out that the government was set to propose the introduction of ISO 37001 corporate anti-bribery management mechanisms as a reference for the promotion of anti-corruption in public and private sectors in Taiwan. The Ministry of Justice, the Ministry of Economic Affairs, and the Financial Supervisory Commission have jointly conducted an "external study on the establishment of a corruption prevention mechanism for the private sector" and submitted the results of the study to the Executive Yuan for reference by relevant authorities. During this period, the "Ethical Corporate Management Best Practice Principles for TWSE/GTSM Listed Companies" and "The Handbook of Business Principles of Integrity for Small and Medium Enterprises" has been revised by adopting ISO 37001 standards.

There are ISO international standards for anti-bribery management practices in both public and private sector organizations to follow, and many international governments encourage enterprises and even government departments to obtain ISO certifications. In Taiwan, Taiwan Cement Corporation already received ISO certification in 2021, and several listed companies are expected to receive certification in 2022. It is necessary and urgent to encourage private sector organizations to establish a complete anti-corruption mechanism and organizational culture through the systematic regulation of ISO. It is recommended that regulatory authorities should still encourage relevant listed companies to obtain the certification.

If we consider the ability to absorb the cost of certification for the majority of

SMEs and non-profit organizations in Taiwan, we can effectively build a comprehensive anti-corruption mechanism for the private sector. In addition to the various seminars, workshops, and forums that should be held by integrity and government ethics-related agencies, we recommend that lectures be held to raise the awareness of integrity among those in charge. We suggest that a credible professional association, institute, or university department should leverage the ISO standards as the teaching material to conduct short-term integrity training programs and award certificates thereto for completing the program. Trainees pay for attending, and the competent authorities of enterprises or non-profit organizations should provide various incentives to support them. With awareness of legal, ethical, and institutional norms against bribery, the trainees will be able to spread the seeds of integrity awareness back to the business or organization, which will have a more substantial effect on the private sector's anti-corruption mechanism than a seminar.

5. Registration of Lobbyists and Lobbying Firms

As mentioned in Point 16 of the Concluding Observations of the International Review of the First National Report Under the UNCAC, "the government should consider making it mandatory for civil servants to report to the AAC in the event of any misconduct by lobbyists or other unscrupulous lobbyists against civil servants."

The government of Taiwan has established the "Ethics Guidelines for Civil Servants" and the "Guidelines for the Registration and Inspection of Lobbying Requests by the Executive Yuan and its Subordinate Agencies", which stipulate that civil servants should register lobbying requests for investigation with their respective Government Employee Ethics Units. If the content of the request involves the risk of violating the law, the request should be compiled and forwarded by each agency to the AAC for further investigation.

According to Transparency International's Global Corruption Barometer 2020, a survey of 1,000 people in Taiwan who responded to the question, "How often did you use your personal connections to get the official documents you needed in the past year?", the percentage of those who answered "once or twice, occasionally or often" was 13.9%. Another question was, "How often did you pay a bribe, give a gift or offer a favor in exchange for a service in the past year?", to which the percentage of those who answered "once or twice, occasionally or often" was 17%, an increase of 11% from 6% in 2017.

However, according to the statistics, there were only 359 cases of registration of lobbying requests by the central authorities and local governments in Taiwan. This figure does not seem to reflect the real situation. Why are there so few cases

reported by civil servants? Is this regulation not effectively implemented? Are there grey areas in the law itself that make it impossible for civil servants to comply with it? What are the definitions of "normal social norms" and "civil service norms"? Is there a difference between the standards of different agencies and different regions? Do the heads of agencies actually report to the Government Employee Ethics Units they manage? Are there a lot of unnecessary investigation procedures added to the registration process? Or even involve the disclosure of secrets? All of these are subject to constant review and revision of the norms and key points in order to implement the system.

6. Enhancement of the Reporting Function of Each Agency's Integrity Committee Meeting

Points 2 and 24 of the Concluding Observations of the International Review of First National Report under the UNCAC affirm the role of the Central Integrity Committee in ensuring and coordinating anti-corruption efforts and cooperation among central and local government agencies. The Integrity Committee Meeting of each agency supervises the integrity work of each agency. In principle, the head of an agency is the chair of the committee, and all first-level directors are members in the committee, and academics and experts in the field are invited to participate for discussions.

In 2020, 1,206 integrity committee meetings were held across all agencies to avoid the lack of priority in integrity work by some agency heads resulting in the meetings becoming a mere formality and failing to perform the actual assessment, consultation, coordination and supervision functions for the agency's anti-corruption measures.

It is recommended that the central government's Integrity Committee Meeting requires integrity reports by relevant agencies, which should review and analyze the various corruption risks faced by each respective agency and supervise the implementation of policies and measures to prevent corruption risks, similar to the "Integrity Detailed Guidelines" approach that the AAC has promoted so effectively in recent years. In addition, the Integrity Committee Meeting of each agency is also responsible for conducting integrity promotion and education (including the aforementioned private sector anti-corruption training) of specific enterprises, citizen groups, and social organizations under its supervision, so that the anti-corruption culture and integrity education of the entire nation is a concerted effort of all agencies, not just the AAC's