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## 聯合國反貪腐公約 第二章 預防措施

### UNCAC Chapter II. Preventive measures

2.1		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	According to the National Integrity Building Action Plan, how is the overlapping of functions between this agencies avoided? Is there a formal instance of coordination and planification among all the agencies involved in preventing and fighting corruption?	依據國家廉政建設行動方案，如何避免重複的工作內容？機關間是否有合作預防及打擊貪腐的案例？

#### 中文回應：

1. 行政院新設中央二級機關「海洋委員會」於 2018 年 4 月 28 日成立，原二級機關行政院海岸巡防署改隸屬於海洋委員會，更名為「海洋委員會海巡署」。我國反貪腐體系組織架構圖（首次國家報告圖 1），因應機關改制，更新如附錄 1。
2. 《國家廉政建設行動方案》（下稱《行動方案》）以協調各機關落實執行符合《聯合國反貪腐公約》（以下稱 UNCAC）所列各項廉政建設工作，展現首長清廉執政決心為宗旨，依據《行動方案》第陸點第五項：「本方案績效考核作業方式及分工由國家發展委員會會同法務部訂之，各辦理機關依限提報績效指標達成情形及推動成效送法務部，由法務部併同檢討績效指標達成情形，綜整方案年度整體執行成果陳報行政院。」，《行動方案》所包括的 9 項具體策略、46 項執行措施，各主辦機關擇定與主管業務有關部分，執行相關廉政措施，每年由法務部會同國家發展委員會召開研商會議協調各部會檢討執行成效並設定績效目標值，已陸續完成多項重大廉政政策，本項機制除積極推動及確保我國各級政府機關行使職權，各司其職分工進行之管理方式，亦可避免重複工作內容情形。機關間依《行動方案》合作預防及打擊貪腐的案例，摘列如下：
  - (1) 法務部廉政署(下稱廉政署)係肅貪專責機構，惟貪瀆犯罪之調查亦為法務部調查局(下稱調查局)職掌之一，為統整我國之肅貪能量，法務部於 2013 年 8 月 1 日函頒《法務部廉政署與法務部調查局肅貪業務聯繫作業要點》，廉政署與調查局間依該要點設置聯繫窗口，避免重複立案，並結合各自資源合作貪瀆案件偵辦。統計 2013 年至 2018 年 5 月止，經協調聯繫由廉政署或調查局專責辦理案件計 390 件，由廉政署與調查局共同合作偵辦案件計 72 件。

- (2) 法務部為提升重大公共建設施工品質、強化保障採購人員機制，2016 年 11 月 29 日函頒《機關採購廉政平臺實施計畫》，依據機關首長需求，配合國家巨額採購採最有利標方式辦理，責由廉政署協助各政風機構配合首長需求成立「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，使全民獲得優質公共建設。目前廉政署配合辦理者，計有交通部臺灣鐵路管理局車輛汰換採購案(約新臺幣(以下同)997 億)及臺北市政府捷運工程局 C1/D1 土地開發案(約 700 億)等案；另各地方政府亦積極推動，例如臺中市政府擇定水湳國際會展中心等重大採購案、臺北市政府針對 100 億元以上採購案件、新竹市政府針對 5,000 萬元以上重大工程案件，規範應成立「廉政平臺」，廉政署督請政風機構協助辦理，共同促進採購流程之公開透明。
- (3) 廉政署督同政風機構協助各機關，從潛存高風險因子之違失個案中，導入專案稽核作為，並提列防弊興利建議，以消弭風險或避免再次發生是類案件。2017 年度辦理「各機關昇降設備(電梯)維護保養勞務契約專案稽核」及「消防裝備專案稽核」等 2 件全國性專案清查，並督導政風機構辦理專案稽核計 102 案，經統計稽核成果、發現疑涉不法情事 15 案、追究行政責任 21 人次、研修法規或作業程序 24 種，節省國家公帑或增加國庫收入 5,384 萬 4,445 元。

#### 英文回應：

1. The new central second-level agency set up by Executive Yuan, namely the “Ocean Affairs Council”, was established on April 28, 2018. The formerly second-level agency, Coast Guard Administration of Executive Yuan, is affiliated with the Ocean Affairs Council instead, and renamed as “Coast Guard Administration, Ocean Affairs Council” accordingly. To be in line with the reform of agencies, anti-corruption organizational Framework of the Republic of China (R.O.C) (Taiwan) (Fig. 1 of the initial report) is updated as Appendix 1.
2. The “National Integrity Building Action Plan” (hereinafter referred to as the “Action Plan”) is dedicated to coordinating various government agencies to fulfill and execute the various integrity building operations referred to in the “UNITED NATIONS CONVENTION AGAINST CORRUPTION” (hereinafter referred to as the “UNCAC”), for the purpose of demonstrating the leadership’s determination for integrity governance. According to Item 5 of Paragraph VI of the Action Plan, the performance evaluation method and the division of work for the plan are to be established by the National Development Council along with the Ministry of Justice;

implementing authorities shall report their progress in the accomplishment of performance indicators and the effectiveness of their implementation to the Ministry of Justice before the deadline; the Ministry of Justice shall review all the progress in accomplishing performance indicators, submitting an annual report to the Executive Yuan on overall achievements in the enforcement of the plan. The Action Plan consists of 9 specific strategies and 46 enforcement measures. Each authority-in-charge shall decide the aspects related to its key responsibilities and execute the related integrity policies. Ministry of Justice shall work with the National Development Council to organize a discussion meeting once a year to coordinate each ministries/commissions to discuss the result of execution and set the performance target value. So far, multiple important integrity policies have already been finalized. This mechanism not only implements and ensures the various level government agencies' exercise of power to perform their respective functions, but also avoids repeating the same operations. The inter-organizational guiding cases for cooperative prevention and countering of corruption under the "Action Plan" are summarized as following:

- (1) The Agency Against Corruption, Ministry of Justice (hereinafter referred to as the "AAC") is a government agency dedicated to anti-corruption. Notwithstanding, investigation on offenses against corruption is also one of the functions to be performed by the Investigation Bureau, Ministry of Justice (hereinafter referred to as the "MJIB"). In order to consolidate this country's energy in anti-corruption, Ministry of Justice promulgated the "Ministry of Justice Agency Against Corruption and Investigation Bureau Collaboration Guidelines" on August 1, 2013. According to the Guidelines, AAC and MJIB shall set up the liaison to avoid repeated prosecution, and shall work together to investigate on cases of corruption by integrating their respective resources. According to the statistics gathered from 2013 until May 2018, AAC or MJIB has been dedicated to processing a total of 390 cases through negotiation and communication, and both have worked together to investigate on a total of 72 cases.
- (2) In order to upgrade the construction quality of major public work projects and strengthen the procurement personnel's protection mechanism, Ministry of Justice promulgated the "Government Entity Procurement Integrity Platform Implementation Plan" on November 29, 2016, per request of the entity head and in line with the most advantageous tender adopted by the national large procurement, AAC was ordered to help various ethics entities establish the "integrity platform" per request of the entity heads and build the multi-disciplined

communication channels to urge the collaboration between administrative and judicial authorities, and strengthen the government supervision mechanism and maintain suppliers' reasonable interests and rights by external declaration, disclosure of information, periodic gathering and provision of opinion to build the working environment in which all colleagues brave to take responsibility and to secure fine-quality public works for all of the nationals. For the time being, the projects with aid from AAC include Taiwan Railway Administration's vehicle renovation procurement project (about NTD99.7 billion) and the C1/D1 Land Development Project of Department of Rapid Transit Systems, Taipei City Government (about NTD70 billion). Meanwhile, various local governments also work hard to implement the platform. For example, the Taichung City Government, with respect to such major procurement project as the Shuinan International Convention Exhibition Center Project, Taipei City Government, with respect to the procurement in the amount of more than NTD10 billion, and Hsinchu City Government, with respect to the major public work projects in the amount of more than NTD50 million, decided that an "integrity platform" should be established. For this, AAC asks ethics entities to help with it to boost disclosure and transparency of the procurement process.

- (3) AAC works with ethics entities to help the various agencies to implement the special audit in malpractice cases with potential high risk factors, and also provide the suggestions about corruption prevention and revenue generation to mitigate risk or avoid recurrence of the same cases. In 2017, it conducted two nation-wide special audits, including the "Special Audit on Various Agencies' Lifter (Elevator) Maintenance Service Agreement" and "Special Audit on Fire Safety Equipment", and guided ethics entities to process 102 special audits. The statistics on audit results show 15 malpractices, 21 persons accused of breaching administrative liability, and 24 laws or operating procedures enacted or amended; as a result, the public treasury or national treasury receipt was saved or increased by NT\$53,844,445 relatively.

2.2		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	Who is the national leader in fighting against corruption ?	誰是打擊貪腐的領導者？

中文回應：

3. 行政院設置中央廉政委員會，由院長擔任召集人，統籌法務部、教育部、國防部、經濟部、公共工程委員會等中央部會，從各方面共同打擊公部門及私部門的貪腐等廉政政策，讓防制貪腐沒有死角。而依據《刑事訴訟法》規定，檢察官係偵查主體，指揮廉政署、調查局、內政部警政署(下稱警政署)等司法警察官進行貪瀆案件之偵查。為使檢察官提早介入貪瀆案件之偵查，法務部遴選優秀檢察官派駐廉政署，指揮廉政官即時偵辦貪瀆案件，並參與情資審查小組複審貪瀆情資、定期檢視廉政官調查計畫等偵辦作為，以期偵查階段精緻化，提升偵辦貪瀆案件之效能與定罪率。

**英文回應：**

3. Our Executive Yuan established the Central Integrity Committee with the Premier as the convener, who leads central agencies including the Ministry of Justice, Ministry of Education, Ministry of National Defense, Ministry of Economic Affairs, and Public Construction Commission to fight corruption comprehensively in the public and private sectors. According to the Code of Criminal Procedure, prosecutors play the leading role in the criminal investigation, who direct such judicial police as AAC, Investigation Bureau, and National Policy Agency, Ministry of Interior (hereinafter referred to as the “National Policy Agency”) to investigate cases of corruption. In order to enable prosecutors to intervene into investigation on cases of corruption as early as possible, the Ministry of Justice selects and sends excellent prosecutors to serve in AAC and direct the agents to investigate cases of corruption in a timely manner, and also participate in the intelligence review committee's re-examination on intelligence about corruption and review the agents' investigation plans periodically, in hopes of refining the investigation stage, and upgrading the performance of investigation on cases of corruption and the conviction rate.

2.3		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	Who is in charge of evaluating periodically the efficiency of instruments and measures to fight corruption ?	誰負責評量打擊貪腐手段的有效性？

**中文回應：**

4. 法務部中程施政計畫(2017 年至 2020 年)及年度施政計畫中訂有「積極查辦貪瀆犯罪」、「提升貪瀆定罪率」等 2 項關鍵績效指標(KPI)，分別以廉政署移送檢察署經有罪認定而為

起訴、緩起訴及職權不起訴之比例，以及貪瀆案件經法院判決有罪之比例為衡量標準，定期由國家發展委員會評量績效目標達成情形，以確保打擊貪腐手段之有效性。

英文回應：

4. The mid-term program (2017~2020) and annual program of Ministry of Justice define the two KPIs including “active investigation on offenses against corruption” and “upgrading conviction rate for corruption”, measured based on the proportion of bills of indictment, deferred prosecutions and rulings not to prosecute rendered by the prosecutors’ offices against the cases transferred by AAC to the prosecutors’ offices and the proportion of cases of corruption convicted guilty by courts. The National Development Council will evaluate the achievement of performance target periodically to ensure the validity of the anti-corruption approaches.

2.4		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	Who is in charge of recruiting, training and supervising the volunteers work ?	誰負責招募、訓練與監督志工的工作？

中文回應：

5. 廉政署係《志願服務法》第 4 條及第 5 條規定之中央目的事業主管機關，負責廉政志工業務之整合規劃、研究及協調等相關事宜，並輔導及協助志願服務運用單位；另依《志願服務法》第 7 條規定，由各主管機關政風機構成立廉政志工隊，並負責招募、訓練與監督志工等事宜。

英文回應：

5. AAC refers to the central industrial competent authority identified in Article 4 and Article 5 of the “Volunteer Service Act”, responsible for integration and planning, research and coordination of integrity volunteer services. Meanwhile, according to Article 7 of the same Act, the various competent authorities’ ethics entities shall establish their own integrity volunteer service teams, and shall be responsible for recruitment, training and management of the volunteers.

2.5		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	Evaluation results (regular / annual / final, if any) of National Integrity Building Action Plan(NIBAP), 2008 and the Golden Decade (2008-2018) ?	2008 年至 2018 年國家廉政建設行動方案執行結果？

中文回應：



6. 強化《國家廉政建設行動方案》並落實 UNCAC 規定，參見首次國家報告總論貳、四(一)。
7. 依國際透明組織公佈 2017 年清廉印象指數 (Corruption Perceptions Index,CPI)，我國在全球 180 個國家中排名第 29 名，較 2008 年在全球 180 個國家中排名第 39 名，名次進步 10 名。CPI 名次提升或可說明，自《國家廉政建設行動方案》生效後至 2017 年國際間對我國公部門清廉印象已明顯提升。
8. 自 2000 年 7 月至 2017 年 12 月貪瀆案件確定判決定罪率為 63.38%，比較自 2009 年 7 月《國家廉政建設行動方案》實施至 2017 年 12 月，貪瀆案件總計起訴 9,854 人次，判決確定者有罪及無罪計 5,891 人次，其中判決有罪確定者 4,146 人，確定判決定罪率達 70.38%，顯示偵辦貪瀆案件之定罪率，因不同階段之相對措施實施而提升。另 2002 年每十萬期中人口中，有 4.8 人以貪瀆罪名起訴，2008 年最高為 6.4，之後大致呈現下降趨勢，至 2017 年已降為 2.3。貪瀆犯罪率下降、定罪率提升證明我國近年打擊貪腐確有成果。
9. 行政院於 2009 年實施《國家廉政建設行動方案》，於 2016 年 8 月 24 日函頒修正，2017 年度由行政院列管 46 項績效目標，達成 42 項、未達成 4 項、達成率 91.3%，詳如附錄 2。

**英文回應：**

6. Strengthen the National Integrity Building Action Plan and implement the UNCAC regulations. See the First National Report, General Remarks, II 4(a).
7. In the international Corruption Perceptions Index (CPI) 2017, published by Transparency International, Taiwan ranks 29th among 180 countries in the world, 10 places up from 39th in 2008. Its rise in the CPI rankings may reflect that from the National Integrity Building Action Plan taking effect until 2017, the impression of the cleanness of Taiwan's public sector has significantly improved.
8. 63.38% of corruption cases from July 2000 to December 2017 concluded with a guilty verdict. Since the National Integrity Building Action Plan's taking effect until December 2017, 9,854 corruption cases have been prosecuted, resulting in 5,891 acquittals and 4,146 guilty verdicts, representing a conviction rate of 70.38%. This enhanced conviction rate in prosecuted corruption cases reflects the implementation of various measures at different stages. In 2002, 4.8 in 100,000 people were prosecuted for corruption, reaching a peak of 6.4 in 2008, after which an overall downward trend set in, falling to 2.3 by 2017. The decrease in the crime rate for corruption and the increase in related conviction rates together prove that Taiwan's crackdown on corruption in recent years is producing clear results.

9. On 24 August 2016, the Executive Yuan amended the National Integrity Building Action Plan. Since 2017, the Executive Yuan manages 46 performance targets, of which 42 were reached and 4 were not—an achievement rate of 91.3%, as detailed in Appendix 2.

2.6		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 5 條	NIBAP follow up document (2018~).	國家廉政建設行動方案在 2018 年後的規劃或其他相關文件。

**中文回應：**

10. 《國家廉政建設行動方案》提出 9 項具體策略，每年由法務部召集各部會訂定績效衡量指標，並於隔年提出執行成效並檢討。每年依據各機關權責及目前推行政策，係動態、滾動式設定年度績效目標值，取得共識後彙整成摘要報告，將執行成效及年度績效目標值陳報行政院核定後供各機關參處。2018 年《國家廉政建設行動方案》之績效目標值已由法務部召集跨部會研商完成，並陳報行政院，每年爾後將賡續協調各機關依權責及政策規劃每年落實績效管考及目標設定。
11. 《國家廉政建設行動方案》2018 年績效目標值，將持續推動各項廉政政策，例如：強化機關廉政經營責任制度，落實風險控管作為，各機關提出廉政風險評估並採取適當的措施達 70%。在促進公開透明，防止利益衝突方面，推動行政院審查完竣《公職人員財產申報法》修正草案及積極協調立法院配合修正通過《公職人員利益衝突迴避法》修正草案(《公職人員利益衝突迴避法》業於 2018 年 6 月 13 日修正公布)。在落實公務員行為規範，建立政府典範方面，推動《公務員廉政倫理規範》修正草案陳報行政院。增修肅貪法令，強化肅貪能量，落實揭弊者保護方面，積極辦理公、私部門揭弊者保護法制事宜，研擬合併之單一專法草案條文等。

**英文回應：**

10. The National Integrity Building Action Plan proposes nine specific strategies. Each year, the Ministry of Justice convenes the ministries and national-level commissions to set performance measurement targets, and presents implementation outcomes and reviews of these every other year. Each year, based on the powers and responsibilities of various agencies and the implementation of current policy, dynamic and rolling annual performance targets are set. After consensus has been reached, a summary report is compiled and the performance outcomes and annual performance targets are reported to the agencies concerned for their reference and further

action. The performance targets for 2018 under the National Integrity Building Action Plan were set by an interdepartmental conference convened by the Ministry of Justice and submitted to the Executive Yuan. Every year since then, the Ministry has coordinated with agencies concerned to plan, in accordance with their powers and responsibilities, their targets to be implemented and annual audits of their performance.

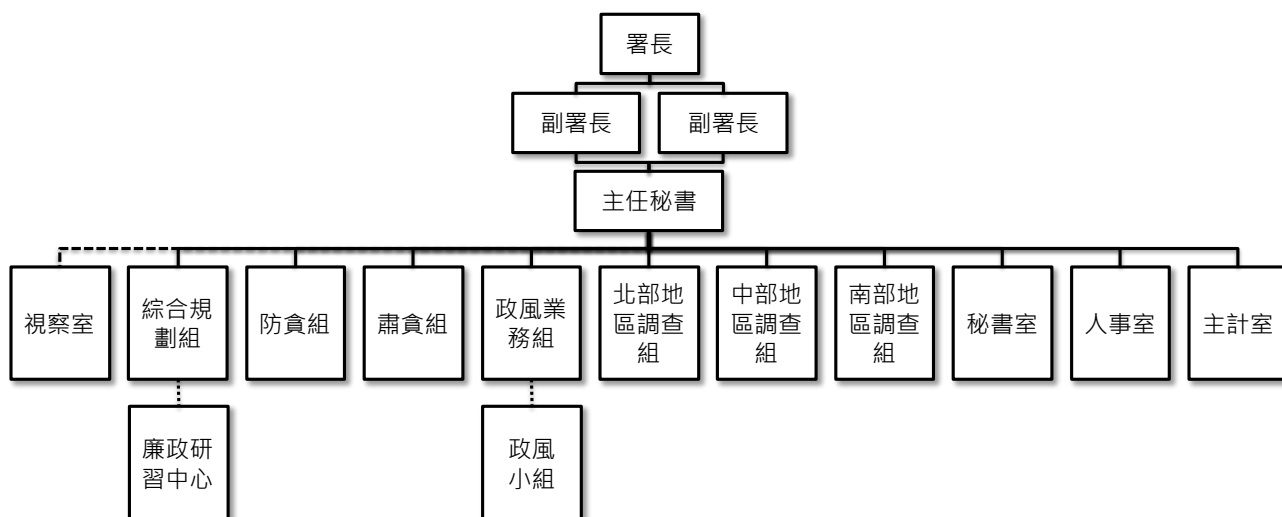
11. The 2018 performance targets of the National Integrity Building Action Plan will continue to drive various integrity policies, such as strengthening the accountability system for clean government operations and risk management practices. Each agency will publish its integrity risk assessment and take appropriate measures to achieve 70%. With regard to promoting openness and transparency and preventing conflicts of interest, the Executive Yuan has reviewed the Act on Property-Declaration by Public Servants and actively coordinated with the Legislative Yuan to help amend the Act, which was passed and promulgated on 15 June 2018. With regard to the implementation of public servants' behavioral norms and a government model for these, the ministry is promoting an amended Ethics Guidelines for public servants, which has been submitted to the Executive Yuan. Regulations relating to the investigation of corruption have been strengthened. With regard to the protection of whistleblowers, the ministry actively pushes for a legal system to protect whistleblowers in the public and private sectors and a single draft law to cover all of those.

2.7		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 6 條	<b>How is the AAC structured ? Who appoints the leadership ? To whom does the agency report ? How is the necessary independence to avoid undue influence assured ? Budgeting ?</b>	廉政署的架構是什麼？署長是如何指派的？廉政署向誰報告？如何保持獨立，避免干預？預算如何？

中文回應：

12. 廉政署設置於法務部之下，係隸屬於行政院之中央三級機關。廉政署掌理國家廉政政策規劃與執行反貪、防貪及肅貪等業務，設置「綜合規劃組」、「防貪組」、「肅貪組」、「政風業務組」及北、中、南部等 3 個地區調查組，合計 7 個業務單位，並設秘書室、人事室、主計室等 3 個輔助單位，及以任務編組成立「視察室」、「政風小組」及「廉政研習中心」（如圖 2-1）；至 2018 年 5 月，現有員額 212 人（其中 128 人具司法警察權）。

圖 2-1 廉政署組織架構圖



13. 廉政署署長由行政院院長任命，屬國家考試任用之常任文官（含司法官），受各該相關公務員法令所規範。
14. 廉政署為法務部下設置之機關，有關法務政策、刑事偵查之檢察行政等受法務部督導；至預算、決算及法案，同行政院(法務部)均受立法院監督。
15. 我國刑事訴訟制度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；法務部調派檢察官直接派駐廉政署(至 2018 年 6 月，駐署檢察官計 17 名)，指揮偵辦貪瀆案件，本即具有超然之獨立性。且因同屬法務部，在偵辦貪瀆案件時，檢察官可先期指導、審查案件調查之進行，於統籌偵辦人力、資源結合等方面，較隸屬於其他機關更具效率。廉政署及各地區調查組之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的精神，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。
16. 廉政署於 2011 年 7 月 20 日成立，2011 年無編列預算資料，2012 年至 2018 年預算編列情形如表 2-1。

表 2-1 廉政署 2012 年至 2018 年預算編列情形

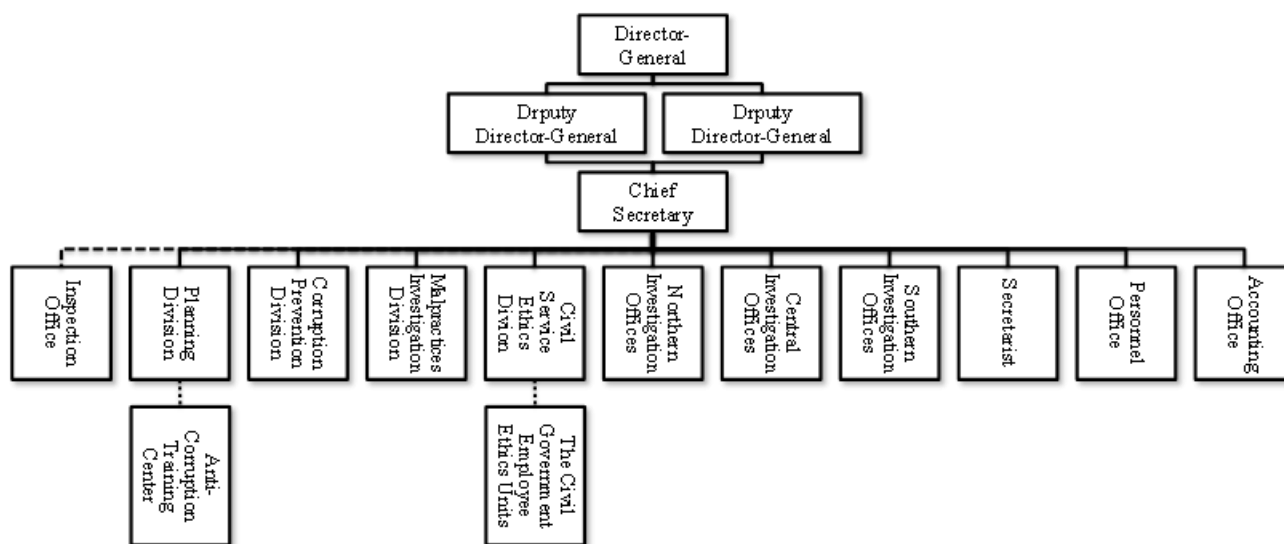
單位：新臺幣千元

年度	人事費	業務費	設備費	獎補助費	總計
2012	268,346	87,200	1,297	15,110	371,953
2013	290,167	115,293	3,977	12,249	421,686
2014	298,343	112,491	12,648	10,150	433,632
2015	301,795	106,061	2,170	10,132	420,158
2016	316,467	109,957	128,838	14,244	569,506
2017	324,765	78,214	5,346	14,218	422,543
2018	319,096	75,681	11,392	14,230	420,399

英文回應：

12. AAC is subordinated to the Ministry of Justice, which is a central third-level agency of Executive Yuan. AAC is responsible for planning the national integrity policy and executing anti-corruption, corruption prevention and corruption investigation operations. Its organization consists of “Planning Division”, “Corruption Prevention Division”, “Investigation Division”, “Civil Service Ethics Division”, and Northern, Central and Southern Investigation Office, namely 7 business units, and Secretariat, Personnel Office and Accounting Office, namely a total of 3 staff units, and such task forces as “Inspection Office”, “Ethics Units” and “Anti-Corruption Training Center” (see Fig. 2-1). Until May 2018, its active employees have attained 212 persons (128 persons out of them own the authority of judicial police).

**Figure 2-1 Organization of the Agency Against Corruption**



13. The Director-General of AAC is appointed by the Premier of Executive Yuan, namely, a permanent public servant appointed through the national examination (including the judicial police officer), and shall be governed by the relevant regulations governing public servants.
14. AAC is an agency subordinated to the Ministry of Justice. It shall process the inspection administration affairs, including legal affairs and policies, and criminal investigation, under supervision of Ministry of Justice, while it, together with Executive Yuan (Ministry of Justice), shall be under supervision of Legislative Yuan when processing the affairs related to budget, final accounting and acts.
15. According to Taiwan's criminal procedure system, prosecutors play the leading role in the criminal investigation. The prosecuting apparatus where the prosecutors work shall be

subordinated to the Ministry of Justice. The Ministry of Justice sends prosecutors to serve in AAC directly (17 prosecutors have been sent to AAC until June 2018) to direct investigation on cases of corruption. Therefore, the prosecutors' independence is clear and definite. Besides, as AAC is also subordinated to the Ministry of Justice, the prosecutors may take lead to direct and review the investigation during investigation on cases of corruption and, therefore, may consolidate personnel and resources in investigation more efficiently if subordinated to AAC, rather than any other agencies. AAC and the agents of various regional investigation offices both hold the authority of judicial police. The prosecutors serving for 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 AAC's operations.

16. AAC was established on July 20, 2011. Notwithstanding, no information about budget preparation was available in 2011. The information about budget preparation from 2012 to 2018 is detailed in Schedule 2-1.

**Table 2-1 2012-2018 Agency Against Corruption Budget Planning**

Unit : NT thousand dollars

Year	Personnel Expense	Business Expense	Facility Expense	Bonus Expense	Total
2012	268,346	87,200	1,297	15,110	371,953
2013	290,167	115,293	3,977	12,249	421,686
2014	298,343	112,491	12,648	10,150	433,632
2015	301,795	106,061	2,170	10,132	420,158
2016	316,467	109,957	128,838	14,244	569,506
2017	324,765	78,214	5,346	14,218	422,543
2018	319,096	75,681	11,392	14,230	420,399

2.8		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 6 條	Who appoints the Advisory Committee of the ACC ? Since the committee was	誰指派廉政審查會委員？委員有沒有提供任何建議？

	introduced has it produced any recommendations ?	
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中文回應：

17. 廉政署廉政審查會係依據《法務部廉政署廉政審查會設置要點》設置，該會置委員 11 人至 15 人，由法務部部長聘任；其中 1 人為召集人，由廉政署署長兼任，副召集人 1 人，由廉政署副署長兼任。其餘委員就下列人員聘任之：(1)法務部檢察司司長或其指派之代表。(2)《政府採購法》主管機關指派之代表。(3)審計部指派之代表。(4)法律、財經、工程、醫療、建築管理等學識經驗之專家學者或有關機關代表。(5)社會公正人士。執行方式係定期召開會議，委員出席與會，除評議廉政署存查列參情資，就其處理情形及時程提供諮詢及建議，並就廉政署廉政業務之執行提供諮詢及建議，迄今提出多項關於防貪、反貪、肅貪業務之建議。廉政審查會歷次會議評議案件統計詳如表 2-2。

表 2-2 廉政審查會歷次會議評議案件統計表

會議名稱	當期存查列參案件數	提會評議案件數	評議結果
100 年第 1 次會議 (100 年 10 月 13 日)	566 案	9 案	同意備查 566 案。
100 年第 2 次會議 (100 年 12 月 8 日)	267 案	15 案	1 案續辦、1 案移地檢署，其餘 265 案同意備查。
101 年第 1 次會議 (101 年 3 月 8 日)	364 案	14 案	2 案續辦，其餘 362 案同意備查。
101 年第 2 次會議 (101 年 6 月 15 日)	332 案	17 案	1 案續辦，其餘 331 案同意備查。
101 年第 3 次會議 (101 年 9 月 10 日)	269 案	28 案	同意備查 269 案。
101 年第 4 次會議 (101 年 12 月 13 日)	310 案	13 案	同意備查 310 案。
102 年第 1 次會議 (102 年 3 月 14 日)	218 案	21 案	同意備查 218 案。
102 年第 2 次會議 (102 年 6 月 13 日)	159 案	19 案	同意備查 159 案。
102 年第 3 次會議 (102 年 10 月 30 日)	308 案	23 案	3 案續辦，其餘 305 案同意備查。
103 年第 1 次會議 (103 年 2 月 19 日)	214 案	14 案	同意備查 214 案。
103 年第 2 次會議 (103 年 7 月 14 日)	225 案	20 案	同意備查 225 案。
103 年第 3 次會議 (103 年 11 月 6 日)	217 案	10 案	同意備查 217 案。
103 年第 4 次會議 (103 年 12 月 24 日)	175 案	19 案	同意備查 175 案。



104 年第 1 次會議 (104 年 4 月 1 日)	108 案	30 案	2 案續辦，其餘 106 案同意備查。
104 年第 2 次會議 (104 年 7 月 3 日)	102 案	25 案	1 案續辦，其餘 101 案同意備查。
104 年第 3 次會議 (104 年 11 月 2 日)	158 案	41 案	同意備查 158 案。
105 年第 1 次會議 (105 年 2 月 24 日)	79 案	17 案	同意備查 79 案。
105 年第 2 次會議 (105 年 6 月 30 日)	114 案	29 案	1 案續辦，其餘 113 案同意備查。
105 年第 3 次會議 (105 年 9 月 29 日)	111 案	20 案	同意備查 111 案。
105 年第 4 次會議 (105 年 12 月 22 日)	119 案	20 案	同意備查 119 案。
106 年第 1 次會議 (106 年 3 月 27 日)	112 案	33 案	同意備查 112 案。
106 年第 2 次會議 (106 年 6 月 22 日)	89 案	3 案	同意備查 89 案。
106 年第 3 次會議 (106 年 9 月 29 日)	73 案	23 案	1 案續辦，其餘 73 案同意備查。
106 年第 4 次會議 (106 年 12 月 29 日)	69 案	16 案	同意備查 69 案。
107 年第 1 次會議 (107 年 4 月 2 日)	65 案	20 案	同意備查 65 案。
<b>合 計</b>	<b>4,823 案</b>	<b>499 案</b>	

**英文回應：**

17. AAC's Advisory Committee was established in accordance with the "Guidelines Government Establishment of Advisory Committee of Agency Against Corruption, Ministry of Justice". The Committee consists of 11~15 members who shall be appointed by Minister of Justice, including 1 convener acted by the Director-General of AAC concurrently, and 1 vice convener acted by the Vice Director-General of AAC concurrently. The other members shall be appointed from and among the following persons: (1) Director-General of Department of Prosecutorial Affairs, Ministry of Justice, or the representative delegated by the Director-General. (2) The representative delegated by the competent authority referred to in the "Government Procurement Act". (3) The representative delegated by National Audit Office. (4) Experts, scholars, or representatives from relevant agencies specialized in laws, finance & economy, engineering, medical treatment and construction management. (5) Fair and just public figures. The Committee will hold meetings periodically, which the members shall attend, in order to review the intelligence recorded and identified by AAC, and also provide advice and suggestion about



the status and time schedule, and also on AAC's implementation of integrity policies. So far, it has provided multiple suggestions about corruption prevention, anti-corruption and corruption investigation. The statistics for the cases reviewed at the Advisory Committee meetings in the past years are shown in Table 2-2.

**Table 2-2 The statistics for the cases reviewed at the Advisory Committee meetings in the past years**

<b>Meeting Name</b>	<b>Number of cases recorded and identified in the current period</b>	<b>Number of cases reviewed by the meetings</b>	<b>Review result</b>
1st meeting in 2011 (October 13, 2011)	566 cases	9 cases	Agreed 566 cases to be recorded
2nd meeting in 2011 (December 8, 2011)	267 cases	15 cases	1 case was continued, 1 case transferred to the district prosecutors office, and the other 265 cases agreed to be recorded.
1st meeting in 2012 (March 8, 2012)	364 cases	14 cases	2 cases were continued, and the other 362 cases agreed to be recorded.
2nd meeting in 2012 (June 15, 2012)	332 cases	17 cases	1 case was continued, and the other 331 cases agreed to be recorded.
3rd meeting in 2012 (September 10, 2012)	269 cases	28 cases	Agreed 269 cases to be recorded
4th meeting in 2012 (December 13, 2012)	310 cases	13 cases	Agreed 310 cases to be recorded
1st meeting in 2013 (March 14, 2013)	218 cases	21 cases	Agreed 218 cases to be recorded
2nd meeting in 2013 (June 13, 2013)	159 cases	19 cases	Agreed 159 cases to be recorded
3rd meeting in 2013 (October 30, 2013)	308 cases	23 cases	3 cases were continued, and the other 305 cases agreed to be recorded.
1st meeting in 2014 (February 19, 2014)	214 cases	14 cases	Agreed 214 cases to be recorded
2nd meeting in 2014 (July 14, 2014)	225 cases	20 cases	Agreed 225 cases to be recorded
3rd meeting in 2014 (November 6, 2014)	217 cases	10 cases	Agreed 217 cases to be recorded
4th meeting in 2014 (December 24, 2014)	175 cases	19 cases	Agreed 175 cases to be recorded

1st meeting in 2015 (April 1, 2015)	108 cases	30 cases	2 cases were continued, and the other 106 cases agreed to be recorded.
2nd meeting in 2015 (July 3, 2015)	102 cases	25 cases	1 case was continued, and the other 101 cases agreed to be recorded.
3rd meeting in 2015 (November 2, 2015)	158 cases	41 cases	Agreed 158 cases to be recorded
1st meeting in 2016 (February 24, 2016)	79 cases	17 cases	Agreed 79 cases to be recorded
2nd meeting in 2016 (June 30, 2016)	114 cases	29 cases	1 case was continued, and the other 113 cases agreed to be recorded.
3rd meeting in 2016 (September 29, 2016)	111 cases	20 cases	Agreed 111 cases to be recorded
4th meeting in 2016 (December 22, 2016)	119 cases	20 cases	Agreed 119 cases to be recorded
1st meeting in 2017 (March 27, 2017)	112 cases	33 cases	Agreed 112 cases to be recorded
2nd meeting in 2017 (June 22, 2017)	89 cases	3 cases	Agreed 89 cases to be recorded
3rd meeting in 2017 (September 29, 2017)	73 cases	23 cases	1 case was continued, and the other 73 cases agreed to be recorded.
4th meeting in 2017 (December 29, 2017)	69 cases	16 cases	Agreed 69 cases to be recorded
1st meeting in 2018 (April 2, 2018)	65 cases	20 cases	Agreed 65 cases to be recorded
<b>Total</b>	<b>4,823 cases</b>	<b>499 cases</b>	

2.9		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 6 條	On page 36 of the Initial Report, it was mentioned that an “advisory committee” was formed to “perform the function of external monitoring.” What is the composition of this committee and how many cases has it reviewed to date? Has this committee made any recommendations for enhancing the independence and impartiality of the MJIB and AAC?	國家報告第 36 頁提到，廉政審查會主要功能是外部監督，請問廉政審查會的委員組成？至今審查過多少案件？廉政審查會是否有作成任何關於加強廉政署和調查局獨立性與公平性的建議？

中文回應：

18. 廉政審查會委員組成參見第 17 點，該會自 2011 年設置迄今業審查 4,823 件案件，並提出多項關於防貪、反貪、肅貪業務之建議；迄今尚無就廉政署和調查局獨立性及公平性建議。

英文回應：

18. For the Advisory Committee members' structure, please see Point 17. Since the Committee was established in 2011, it has reviewed 4,823 cases and also provided multiple suggestions about corruption prevention, anti-corruption and corruption investigation. So far, it has not yet provided any suggestion about independence and fairness of AAC and Investigation Bureau.

2.10		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 6 條	Role division and differences between AAC and Central Integrity Committee ?	如何區分廉政署和行政院中央廉政委員會的角色定位？

中文回應：

19. 行政院於 2008 年訂定《中央廉政委員會設置要點》，設中央廉政委員會，該委員會屬一級機關任務編組，由行政院院長兼任召集人，委員由院長派（聘）行政院政務委員、秘書長及內政部部长、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、經濟部部長、交通部部長、人事行政總處人事長、國家發展委員會主任委員公共工程委員會主任委員金管會主任委員國家通訊傳播委員會，及專家學者及社會公正人士等擔任委員，其中法務部部長兼任委員會執行長，秘書業務由法務部(即廉政署)負責，委員會原則每 6 個月召開會議 1 次，諮詢及審議廉政決策及重大措施，並督導考核行政院所屬各部會廉政工作之執行情形，係促進廉能政治之重要平臺。而廉政署隸屬於法務部，為行政院三級機關，專責辦理國家廉政政策規劃、執行反貪、防貪及肅貪業務。如表 2-3。

表 2-3 廉政署及行政院中央廉政委員會比較表

	廉政署	行政院中央廉政委員會
組織性質	法定機關	任務編組
人員組成	公職人員(2018 年計 212 人)	公職人員、專家學者及社會公正人士計 20 至 22 名委員。
組織任務	辦理國家廉政政策規劃、執行反貪、防貪及肅貪業務。	諮詢及審議廉政決策及重大措施，督導考核行政院所屬各部會廉政工作之執行情形。

英文回應：

19. In 2008, the Executive Yuan adopted the Directions for the Establishment of a Central Integrity Committee. This committee is a task force at the first tier of government convened by the President of the Executive Yuan. Its members are Ministers without Portfolio and the

Secretary-General of the Executive Yuan, and the Ministers of the Interior, Foreign Affairs, National Defense, Finance, Education, Justice, Economic Affairs, and Transport and Communications, the Director-General of the Personnel Administration, the Minister of the National Development Council, the Minister of the Public Construction Commission, the Chairperson of the Financial Supervisory Commission, the National Communications Commission, scholars and experts and outstanding members of society, all designated or appointed by the President of the executive Yuan. Among them, the Minister of Justice serves as chief executive officer of the commission. The secretarial services are handled by the Ministry of Justice (Agency Against Corruption). In principle, the commission convenes once every six months to discuss and advise on major policies and measures, and supervise and evaluate the implementation of the National Integrity Building Action Plan by the ministries and commissions under the Executive Yuan. It is an important platform for the promotion of clean government. The Central Integrity Committee falls under the Ministry of Justice and is a third-tier agency under the Executive Yuan. It is responsible for implementing the National Integrity Building Action Plan and overseeing the work of fighting, preventing, and investigating corruption. See Table 2-3.

**Table 2-3 Comparison table of Agency Against Corruption (AAC) and the Central Integrity Committee, Executive Yuan**

	<b>Agency Against Corruption</b>	<b>Central Integrity Committee, Executive Yuan</b>
<b>Nature of organization</b>	Statutory authority	Task forces
<b>Manpower</b>	Public servants (212 in 2018)	20-22 public servants, experts, scholars and outstanding members of society.
<b>Organization's tasks</b>	Implement the National Integrity Building Action Plan and oversee the work of fighting, preventing, and investigating corruption.	Discuss and advise on major policies and measures, and supervise and evaluate the implementation of the National Integrity Building Action Plan by the ministries and commissions under the Executive Yuan.

<b>2.11</b>		
<b>涉及公約條文</b>	<b>問題內容(原文)</b>	<b>中文參考翻譯</b>
<b>第 2 章 第 6 條</b>	<b>Independency of the Agency Against Corruption (AAC) under the Ministry of Justice.</b>	<b>請說明廉政署在法務部之下的獨立性。</b>

中文回應：

20. 廉政署的獨立性不在其位階，在於職權配置如何不受政治干預。設置廉政署首在於賦予其政策角色，負責國家廉政政策的規劃設計與推動功能，而非僅在執行而已，故具有非常重要的職責，並結合行政院之中央廉政委員會來補強其對各部會的協調能力，為國家廉政政策的規劃機關。
21. 我國檢察制度下，依《司法人員人事條例》第3條規定，檢察官與法官同列為司法官，且刑事程序中檢察官係依法定原則行使職務，負有客觀性義務，為偵查主體，並擁有起訴與否之決定權。檢察官所屬之檢察機關隸屬於法務部，於法務部下設置廉政署，以我國曾由檢察官辦理臺灣高等法院司法官貪瀆案及其它重大案件為例，均未有層級不足的問題。在肅貪工作方面，由派駐檢察官(詳第3點及第15點)於廉政署及各地區調查組辦案，駐署檢察官協助分案、貪瀆案件之蒐證及構成要件的審查，各調查組與轄區地方檢察署間亦能充分配合，完全貫徹檢察官為偵查主體的精神，並對廉政署辦案建立適當的監督機制，可以確保廉政署的獨立超然性。
22. 另廉政署設有廉政審查會(詳第17點)，聘請各界專業及公正人士加入監督。

**英文回應：**

20. The independent of AAC is not about its rank, but its authority configuration is not subject to political interference. The foremost task of the AAC is its policy role, taking charge of the planning, design, and promotion of the country's clean government policies, rather than just implementing them. Therefore, the agency wields great authority. It works closely with the Central Integrity Committee, Executive Yuan to exert its coordinating power over all ministries and commissions. It is the national planning agency for clean government.
21. Under Taiwan's prosecutorial system, in accordance with Article 3 of the Regulation Governing Judicial Personnel, prosecutors and judges are categorized as judicial officers, and prosecutors in criminal procedures perform their duties in accordance with the principles established by law. Their duties include objectivity toward their subjects of investigation, and they have the right to decide whether to prosecute or not. The prosecutorial organ to which the prosecutors belong, fall under the Ministry of Justice, and the AAC falls under the Ministry of Justice as well. For instance, in previous cases where the prosecutor handled corruption of judicial officers in the Taiwan High Court and other major cases, there were no problems issuing from insufficient rank of the AAC. With regard to corruption prevention, public prosecutors are seconded to the AAC and its regional investigation teams (details given under Point 3 and 15) to assist with the division of cases, collection of evidence in corruption cases, and reviewing the required

constitutive elements. In these reviews, the investigation teams and the local public prosecutor's offices closely cooperate with each other to fully implement the prosecutorial spirit of investigation. They also form an appropriate supervision mechanism for the way the AAC handle its case, which further ensures the independence and detachment of the AAC.

22. In addition, the AAC has an Clean Politics Advisory Committee (details given under Point 17) constituted of impartial experts from all walks of life to exercise supervision.

2.12		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	When do you expect to have identified and listed positions particularly vulnerable to corruption in the public ?	什麼時候可以列出特別容易發生貪腐的政府職位？

中文回應：

23. 《公職人員財產申報法》及《公職人員利益衝突迴避法》為我國落實 UNCAC 第 7 條第 4 項規範之具體法制，分別要求適用對象需揭露財產，及防止利益衝突；該 2 部法律已針對特別容易發生貪腐之政府職位人員，如較具有利益輸送之虞及高度政策決定權限者，列為適用對象，如表 2-4。

表 2-4 《公職人員財產申報法》及《公職人員利益衝突迴避法》適用對象

	《公職人員財產申報法》	《公職人員利益衝突迴避法》
規範目的	要求申報揭露財產。	防止利益衝突，遏阻不當利益輸送。
適用對象	公職人員，範圍如下： 1. 總統、副總統。 2. 行政、立法、司法、考試、監察各院院長、副院長。 3. 政務人員。 4. 有給職之總統府資政、國策顧問及戰略顧問。 5. 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；公營事業總、分支機構之首長、副首長及相當簡任第十職等以上之主管；代表政府或公股出任私法人之董事及監察人。 6. 各級公立學校之校長、副校長；其設有附屬機構者，該機構之首長、副首長。 7. 軍事單位上校編階以上之各級主官、副主官及主管。 8. 依公職人員選舉罷免法選舉產生之鄉	公職人員及其關係人(如配偶、二親等以內親屬...等)；公職人員範圍如下： 1. 總統、副總統。 2. 各級政府機關（構）、公營事業總、分支機構之首長、副首長、幕僚長、副幕僚長與該等職務之人。 3. 政務人員。 4. 各級公立學校、軍警院校、矯正學校校長、副校長；其設有附屬機構者，該機構之首長、副首長。 5. 各級民意機關之民意代表。 6. 代表政府或公股出任其出資、捐助之私法人之董事、監察人與該等職務之人。 7. 公法人之董事、監察人、首長、執行長與該等職務之人。 8. 政府捐助之財團法人之董事長、執行長、秘書長與該等職務之人。



	<p>(鎮、市)級以上政府機關首長。</p> <p>9. 各級民意機關民意代表。</p> <p>10. 法官、檢察官、行政執行官、軍法官。</p> <p>11. 政風及軍事監察主管人員。</p> <p>12. 司法警察、稅務、關務、地政、會計、審計、建築管理、工商登記、都市計畫、金融監督暨管理、公產管理、金融授信、商品檢驗、商標、專利、公路監理、環保稽查、採購業務等之主管人員；其範圍由法務部會商各該中央主管機關定之；其屬國防及軍事單位之人員，由國防部定之。</p> <p>13. 其他職務性質特殊，經主管府、院核定有申報財產必要之人員。</p>	<p>9. 法官、檢察官、戰時軍法官、行政執行官、司法事務官及檢察事務官。</p> <p>10. 各級軍事機關（構）及部隊上校編階以上之主官、副主官。</p> <p>11. 其他各級政府機關（構）、公營事業機構、各級公立學校、軍警院校、矯正學校及附屬機構辦理工務、建築管理、城鄉計畫、政風、會計、審計、採購業務之主管人員。</p> <p>12. 其他職務性質特殊，經行政院會同主管府、院核定適用本法之人員。</p>
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24. 未來將透過研析公務人員涉及貪腐之司法案件進行辨識，如認係屬特別容易發生貪腐之政府職位人員，將依《公職人員財產申報法》第 2 條第 1 項第 13 款「其他職務性質特殊，經主管府、院核定有申報財產必要之人員」之規定，報請核定。

**英文回應：**

23. The Act on Property-Declaration by Public Servants and Act on Recusal of Public Servants Due to Conflict of Interest refer to the concrete legal systems intended to fulfill the requirements under Paragraph 4 of Article 7 of the UNCAC. Both of said Acts require that the subject shall disclose his/her property and recuse himself/herself from corruption. Both Acts identify the public servants who are very likely to engage in corruption, e.g. those likely to engage in benefit transactions and hold the high-level authority to make decision, as the subject. Please see Table 2-4.

**Table 2-4 The subject under the Act on Property-Declaration by Public Servants and Act on Recusal of Public Servants Due to Conflict of Interest**

	<b>Act on Property-Declaration by Public Servants</b>	<b>Act on Recusal of Public Servants Due to Conflict of Interest</b>
<b>Purpose</b>	Require declaration and disclosure of property	Prevent conflict of interest and stop unjustified benefit transactions.
<b>Subject</b>	<p>public servants:</p> <ol style="list-style-type: none"> <li>1. President and Vice President ;</li> <li>2. Premier and Vice Premier of the Executive Yuan, and President and Vice President of the Legislative Yuan, Judicial Yuan, Examination Yuan, and Control Yuan;</li> <li>3. Officers of political affairs;</li> <li>4. Senior Advisors, Policy Consultants, and Strategy Consultants of the Office of the</li> </ol>	<p>The public servants and their related parties (e.g., spouse, and relatives within 2nd degree of kinship, etc.). The definitions of public servants are stated as following:</p> <ol style="list-style-type: none"> <li>1. President and Vice President of the R.O.C.;</li> <li>2. Heads, deputy heads, chiefs of staff, deputy chiefs of staff, and equivalents of the headquarters and branches of the governments and agencies (entities) at all</li> </ol>

	<p>President with gainful-positions;</p> <p>5. Chiefs, Chief Deputies at all levels, 10th rank and above Chiefs of Staff and administrators; Chairpersons, Vice Chairpersons, equivalent 10th rank and above administrators of the headquarters and branches of the state-owned enterprises; directors and supervisors representing the government or the state-owned shares in private juristic entities;</p> <p>6. Principal and Vice Principal of public schools at all levels; Chairpersons and Vice Chairpersons of the subsidiary institutions of the schools;</p> <p>7. Chief officers, deputy chief officers, and administrators at all levels above the rank of colonel in the military;</p> <p>8. Governors at above village (town, city) level elected pursuant to the Public Officials Election and Recall Act;</p> <p>9. Legislators/councilors in the Legislative Yuan/councils at all levels;</p> <p>10. Judges, prosecutors, enforcement officers, and judge advocates;</p> <p>11. Government ethics officers and military superintendents;</p> <p>12. Administrators of judicial police affairs, taxation, customs, land administrations, accounting, auditing, civil engineering management, company registrations, urban planning, financial supervision and management, public property management, banking crediting, merchandise examinations, trademarks, patents, motor vehicle administrations, environmental protection inspections, and procurement affairs; the scope shall be decided by the Ministry of Justice in collaboration with other relevant central competent authorities; for personnel subject to national defense and the military, the scope shall be decided by the Ministry of National Defense;</p> <p>13. Other personnel approved necessary by the competent office and yuans to declare properties due to the special nature of services.</p>	<p>levels.</p> <p>3. Political appointee</p> <p>4. Presidents and vice presidents of public schools, military and police academies/schools, and reformatory schools, and heads and deputy heads of entities affiliated with them, if any.</p> <p>5. Elected representatives of democratic bodies and works at all levels.</p> <p>6. Directors, supervisors and equivalents representing the government or the state-owned shares in private juristic entities.</p> <p>7. Directors, supervisors, heads, CEOs and equivalents of public juristic entities.</p> <p>8. Chairmen of the board, CEOs, secretary-general and equivalent of the juristic entities donated by governments.</p> <p>9. Judges, prosecutors, war-time military judges, enforcement officers, judicial associate officers, and prosecutor investigators.</p> <p>10. Chief officers and deputy chief officers above the rank of colonel in the military agencies (entities) at all levels.</p> <p>11. Chief officers in charge of public work, civil engineering management, urban planning, ethics, accounting, audit and procurement of governments and agencies (entities), state-owned entities, public schools, military/police academies/schools, reformatory schools and affiliated entities thereof at all levels.</p> <p>12. Other personnel authorized by Executive Yuan together with the competent governments/ministries to apply the Acts due to the special nature of their functions.</p>
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24. In the future, the public servants likely to engage in corruption will be identified through research and analysis of the judicial cases involving public servants' suspicion of corruption, and reported as the "other personnel authorized by the competent governments/ministries to declare property due to the special nature of their functions" referred to in the subparagraph 13, Paragraph 1 of Article 2 of the "Act on Property-Declaration by Public Servants" for approval.

2.13		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	Do you have in mind special and adequate procedures to select individuals for these positions ?	現在有沒有合適的方法可以認定出這些職位？

中文回應：

25. 同第 23、24 點之說明。

英文回應：

25. Same as Point 23 and Point 24.

2.14		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	How serious is the gap between public-sector and private sector salaries in Taiwan today and what is its impact on attracting and retaining talented individuals in the civil service as young Taiwanese are dissatisfied with their low-paying jobs in recent years ?	臺灣公部門與私部門的薪資差距有多大？臺灣年輕人近年來對於低薪的情況不滿意，請問這對於吸引、招募有能力的人進入公部門，有什麼衝擊嗎？

中文回應：

26. 依原行政院人事行政局於 2010 年委託財團法人中華勞資關係研究所就「公私部門員工薪資調查與比較」進行之研究，以及行政院人事行政總處歷年來就公私部門相當職務之薪資水準所做比較之資料均顯示，以公私部門相當層級職務來看，公務人員薪資存有雙重不平衡情形，即相對於民間企業來說，中、高階公務人員待遇偏低及基層公務人員待遇略高，以 2017 年最新調查資料顯示，公部門簡任層級職務（司【處】長、副司【處】長等主管）對照私部門經理階級薪資而言，相較約低於 80%；基層公務人員總薪資則較私部門初任人員之總薪資高出 22%。此外，公私部門組織特性與組織目標不同，且公私部門所能提供的工作條件與保障也有極大差異，故吸引年輕人進入公部門內之條件尚難僅以薪資為斷。另查銓敘部統計年報，年資 5 年以下且年齡 30 歲以下之公務人員，2015 年約 2 萬 9 千人、

2016 年約 3 萬人、2017 年約 3 萬 2 千人，顯示臺灣年輕人選擇進入公部門服務之人數並無下降趨勢。

27. 我國工業及服務業受僱員工每人每月薪資統計如表 2-5。

表 2-5 我國工業及服務業受僱員工每人每月薪資統計

年 別	總薪資 (元)	年增率(%)	經常性薪資 (元)	年增率(%)
1998 年	39 673	3.08	31 989	3.26
1999 年	40 842	2.95	33 068	3.37
2000 年	41 861	2.49	33 953	2.68
2001 年	41 960	0.24	34 489	1.58
2002 年	41 530	-1.02	34 746	0.75
2003 年	42 065	1.29	34 804	0.17
2004 年	42 680	1.46	35 096	0.84
2005 年	43 159	1.12	35 382	0.81
2006 年	43 488	0.76	35 724	0.97
2007 年	44 392	2.08	36 319	1.67
2008 年	44 367	-0.06	36 387	0.19
2009 年	42 182	-4.92	35 629	-2.08
2010 年	44 359	5.16	36 214	1.64
2011 年	45 508	2.59	36 689	1.31
2012 年	45 589	0.18	37 151	1.26
2013 年	45 664	0.16	37 527	1.01
2014 年	47 300	3.58	38 208	1.81
2015 年	48 490	2.52	38 716	1.33
2016 年	48 790	0.62	39 238	1.35
2017 年	49 989	2.46	39 953	1.82

註：1. 每人每月總薪資係指受僱員工（不含執行業務所得者）每月經常性薪資（含本薪與按月給付之固定津貼及獎金）及非經常性薪資（含加班費、年終獎金、非按月發放之績效獎金與全勤獎金等）之報酬總額；但不含雇主負擔或提撥之保險費、退休金與資遣費等非薪資報酬。歷年薪資統計係按當年度各月薪資，以受僱員工人數加權平均編算。

2. 本統計對象為具營利性質的公、民營廠商，行業範圍不含農林漁牧業、教育服務業與公共行政業及國防等行業，惟自 98 年 1 月起涵蓋「教育服務業之其他教育及教育輔助服務業」。

#### 英文回應：

26. The research on “The survey and comparison of the salaries in public sector and private sector” by Institute of Industrial Relations, commissioned by Central Personnel Administration (The former Directorate-General of Personnel Administration) in 2010 and the yearly comparison conducted by Directorate-General of Personnel Administration of the salary levels for those who do the similar work in public sector and private sector all reveal some gaps do exist in the salaries between the two sectors. Take the latest survey in 2017 for instance, the senior civil servants would find they got paid 80% lower compared to their counterpart in private sector; while the juniors received 22% higher pay than those working in private sector. But since the

organizational characteristics and goals of the public sector are quite different from those of private sector, and even the job securities the government and the enterprises provide are also different, it's still hard to conclude that salary is the only factor that would have impacts on attracting and retaining the talents. In addition, from the yearly statistics conducted by Ministry of Civil Service, the number of the employees who possess less than 5-year experience in government agencies and are below 30 years old are approximately 29,000 people in 2015, 30,000 people in 2016, and 32,000 people in 2017, which also indicates no downward trend for the number of young Taiwanese who are attracted to work in the public sector.

27. Average Monthly Earnings in the Industrial and Services sector:

**Table 2-5 Average Monthly Earnings in the Industrial and Services sector**

Year	Total Earnings (NT\$)	Annual rate of change (%)	Regular Earnings (NT\$)	Annual rate of change (%)
1998	39 673	3.08	31 989	3.26
1999	40 842	2.95	33 068	3.37
2000	41 861	2.49	33 953	2.68
2001	41 960	0.24	34 489	1.58
2002	41 530	-1.02	34 746	0.75
2003	42 065	1.29	34 804	0.17
2004	42 680	1.46	35 096	0.84
2005	43 159	1.12	35 382	0.81
2006	43 488	0.76	35 724	0.97
2007	44 392	2.08	36 319	1.67
2008	44 367	-0.06	36 387	0.19
2009	42 182	-4.92	35 629	-2.08
2010	44 359	5.16	36 214	1.64
2011	45 508	2.59	36 689	1.31
2012	45 589	0.18	37 151	1.26
2013	45 664	0.16	37 527	1.01
2014	47 300	3.58	38 208	1.81
2015	48 490	2.52	38 716	1.33
2016	48 790	0.62	39 238	1.35
2017	49 989	2.46	39 953	1.82

Note 1. Total monthly earnings refers to sum of the regular earnings (including contracted wage/salary and regular allowance paid by month) and the irregular earnings (including overtime pay and year-end bonuses, non-monthly paid performance bonus, attendance bonus, etc.) of employees (excluding those who perform business) and exclude those non-earnings payment such as premium, pension, and severance paid by employer. The earnings statistics of each year are calculated by monthly earnings weighted by the number of employees.

2. The survey objects are those for-profit public or private companies and the scope of industries does not include agriculture, forestry, fishing, and animal husbandry, education industries, public administration and national defense organizations. However, since January 2009, it has included "other education, and educational support activities in education industry".

2.15		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	Even though the MJIB's ACD and AAC are inadequately staffed, have both agencies faced difficulty in recruiting and retaining talented personnel? What is the current staff turnover of both agencies?	調查局廉政處和廉政署人力配置不足，請問兩個機關在招募方面有面臨任何困難嗎？這兩個機關的人員流動率有多高？

中文回應：

28. 廉政署在人力招募上沒有困難。廉政署 2018 年預算員額 232 人，現有員額為 212 人(至 2018 年 5 月止)，因設置於全國行政機關之政風機構設置及人員管理，均由法務部辦理(即廉政署辦理)，故廉政署目前人力原則由各政風機構人員擇優調進，而廉政署之肅貪人力，有自政風機構遴選，亦有公開徵選檢察事務官、調查人員、警察人員調進。
29. 另因廉政署人員及全國政風機構人員之管理，均由廉政署辦理，廉政署為增加人員職務歷練及避免久任，於《政風人員陞遷甄審作業要點》第 12 點第 1 項定有職期調任規範，主管人員職期為 3 年，期滿得連任 1 次，佐理人員之職期為 6 年；故廉政署人員之流動多為任期調動，且這類人員流動之職缺遞補作業，均可由廉政署先期規劃處理補實。廉政署 2012 年至 2017 年人員流動率如表 2-6。

表 2-6 廉政署 2012 年至 2017 年人員流動率

年度	2012	2013	2014	2015	2016	2017
年初人數(A)	151	190	205	200	212	220
年末人數(B)	190	205	200	212	220	214
調進人數	68	37	27	67	42	37
調出人數(C)	26	24	28	54	35	42
人員流動率 $C/[(A+B)/2]*100\%$	15.25%	12.15%	13.83%	26.21%	16.20%	19.35%

30. 維護國家安全與偵辦重大犯罪是調查局 2 大主軸業務，後者包含肅貪相關之廉政業務。自廉政署 2011 年 7 月成立後，調查局依業務分工投注必要的內外勤人力從事廉政工作，尚無配置不足問題。另調查局職員主要以考試院每年辦理之調查人員特考方式進用，亦無面臨人員招募困難及流動率等問題。

英文回應：

28. AAC has no trouble in recruiting personnel. AAC's budget headcount was 232 persons in 2018. The existing headcount is 212 persons (until May 2018). Considering that the ethics entities established in the administrative agencies throughout the nation and personnel management

thereof are handled by Ministry of Justice (by AAC), for the time being, AAC's staff are transferred from the excellent talents from various ethics entities, and AAC's personnel dedicated to corruption investigation are selected from ethics entities, and selected from prosecutor investigators, investigators and police officers openly.

29. Further, the personnel management of AAC and the ethics entities throughout the nation is handled by AAC. In order to enhance the personnel's functional experience and avoid long-term service, AAC provides the requirements about transfer time limit in Paragraph 1 of Point 12 of the "Guidelines Governing Promotion and Transfer of Ethics Personnel" that the chief officers shall hold the position for 3 years and may be reelected for once upon expiration of the term, and the associate personnel shall hold the position for 6 years. Therefore, the high turnover of AAC's personnel mostly results from transfer upon expiration of term of office. Meanwhile, AAC may pre-plan fill-up of the job vacancies resulting therefrom. For the turnover rate of AAC's personnel from 2012 to 2017, please see Table 2-6.

**Table 2-6 The turnover rate of AAC's personnel from 2012 to 2017**

Year	2012	2013	2014	2015	2016	2017
Number of employees - beginning (A)	151	190	205	200	212	220
Number of employees - ending (B)	190	205	200	212	220	214
Transfer-in headcount	68	37	27	67	42	37
Transfer-out headcount (C)	26	24	28	54	35	42
Turnover rate $C/[(A+B)/2]*100\%$	15.25%	12.15%	13.83%	26.21%	16.20%	19.35%

30. The two main tasks for MJIB are to maintain national security and to investigate major crimes, the latter of which includes fighting corruption. After AAC was established, MJIB has divided the tasks and provided necessary internal and external human resources to fight corruption. There is no problem of insufficient allocation. In addition, MJIB staff are mainly derived from staff responsible for special examinations annually held for investigators by the Examination Yuan, thus there are no recruitment difficulties or turnover problems.

2.16		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	Lessons learned from previous results of CPI, GCB and TI-Taiwan's Integrity	從先前清廉印象指數、全球貪腐趨勢指數和台灣透明組織

	Assessment (if any) ?	所做的廉潔評估的結果中學到了什麼？
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中文回應：

31. 由清廉印象指數(CPI)、全球貪腐趨勢(GCB)等指數可瞭解一段期間內民眾、企業界及國際等公、私部門對國家清廉的印象及期待，我們從中學到國家的廉潔非一蹴可幾，指標排名前段國家的國家廉政體系架構(National Integrity System, NIS)每一支柱均完整健全，才能建構良好的支撐與基礎，並由此理解廉政係一項系統工程，要提升各項指標或評鑑對國家清廉度的評比，尚非單一政府部門所能完成，除政府部門的分工協力外，還需要全民與公、私部門間持續合作，結合包括政府在內的社會各階層多元參與者，以共同喚起全民反貪意識，形塑對貪腐「零容忍」的社會風氣，才能進一步提升我國的廉潔程度，使我國成為高度廉潔的國家。

英文回應：

31. Indicators such as the Corruption Perceptions Index (CPI) and the Global Corruption Barometer (GCB) can offer an understanding of the expectations of the general public, the private sector, and the international community with regard to clean government. From these we learn from that a country's integrity is not built overnight. In fact, the experience of the top-ranking countries in these indexes shows us that only when each pillar of the National Integrity System (NIS) is intact and sound, can good support and a foundation be built. Thus, the AAC is to be understood as a systemic undertaking to improve various indicators. Put differently, the appraisal of our country's cleanliness level cannot be achieved by a single government agency. Besides an appropriate division of labor among government departments, it also requires continuous cooperation between the general public and the public and private sectors through a diversity of actors in the society, of which the government is only one. Only fostering anti-corruption awareness among the entire populace and creating a social atmosphere of zero tolerance for corruption can take Taiwan's integrity to the next level and build a country with very clean government.

2.17		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	Any criticism from the public against Taiwanese network of corruption, if any ?	大眾對於臺灣貪腐網絡(貪腐結構)的批評？

中文回應：

32. 以 2018 年 4 月以來最近 2 則輿論為例來說明：

- (1) 2018 年 4 月臺灣高雄地方法院一審判決，針對交通部觀光局茂林國家風景區管理處官員接受包商招待喝花酒案，認為招待官員喝花酒的請客文化存在已久，雖有悖公務員守份自持官箴，但業者為期建立「特別私交」招待的飲宴行為，非等同《貪污治罪條例》所處罰的職務上行為，如果無法證明官商間有合意對價關係，充其量只是違反公務員行政倫理範疇，依此判決無罪，可上訴。我國有學者認為法律上因欠缺「對價關係」不算貪污收賄，有民眾痛批官員接受承攬政府工程包商的花酒招待竟然沒事，豈非鼓勵不肖公務員更可肆無忌憚敢吃敢喝，何以司法判決如此悖離民眾認知？指出德國刑法第 331 條普通職務收賄罪的「職務上行為（Diensthandlung）」採納「約略的、寬鬆的對價關係」，美國聯邦法亦有處理無對價關係但仍與公務員職務有關之收賄情事，期許我國推動修法<sup>1</sup>。
- (2) 新北市汐止區公所民政課前視導王○，被控「放水」同意某祭祀公業申請規約備查，再透過「白手套」李○，協助該祭祀公業蔡○以 6 億餘元轉賣土地給建設公司，兩人索賄 2 億餘元，臺灣士林地方法院依「違背職務收賄罪」判 13 年徒刑，高等法院認為李○與蔡○簽訂土地買賣授權書時，王○並無承辦祭祀公業業務，無對價關係，不構成「違背職務收賄罪」。國內有學者認為，公務員收賄罪於「對價關係」的判斷及「職務行為」的認定困難，易造成治罪漏洞，政府推動於《刑法》增列公務員餽贈等罪，能否防制貪污或關說情事，亦尚未可知<sup>2</sup>。
33. 我國刻推動《刑法》之修法，除增訂第 134-1 條「影響力交易罪」外，另亦參考美國法制「餽贈罪(gratuity)」立法，增訂第 122-1 條「餽贈罪」，即使法院認為沒有「對價關係」，但只要錢財利益和公務員的具體職務有關聯性，雖不能認為構成賄賂罪，另得以餽贈罪處罰之。

#### 英文回應：

32. Let's illustrate this point with two instances of public opinion around corruption since April 2018:
- (1) In April 2018, the Taiwan Kaohsiung District Court passed a verdict against an official of the Maolin National Scenic Area Administration, Tourism Bureau, Ministry of Transport, who accepted dinners and entertainment from a contractor. The verdict recognized that the hospitality culture of entertaining officials with alcoholic beverages has been in existence for a

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<sup>1</sup> 2018 年 4 月 30 日自由時報第 A14A 版〈官商喝花酒 不算貪污嗎？〉作者：林鈺雄，臺灣大學法律學院教授、刑事法研究會執行長。

<sup>2</sup> 2018 年 5 月 26 日自由時報〈這樣防貪有用嗎？〉作者：吳景欽，真理大學法律系所副教授。



long time. Even though public servants must uphold their official integrity, the company's intention to establish a special private relationship through hospitality is not equivalent to the acts punishable under the Anti-Corruption Act if there is no evidence that the official and the company have the intention to enter into a quid pro quo relationship. Under such circumstances, the offering and accepting of this entertainment would only constitute a violation of civil service ethics. The verdict pronounced the official not guilty. The verdict can still be appealed. Some scholars in Taiwan believe that because the law does not categorize quid pro quo relationships as corruption or bribery, parts of the general public criticize [the legal fact] that officials accepting banquet entertainment from government construction contractors is no problem. If unscrupulous public servants are thus emboldened to accept wining and dining, how can this verdict be so detached from public opinion? The verdict pointed out that Article 331 (on corruption) of the German Criminal Law stipulates that for an act performing an official duty (Diensthandlung) to be considered corrupt requires a premeditated, broad quid pro quo relationship. U.S. federal law also considers non quid pro quo relationships that relate to the civil service as corruption. It is hoped that Taiwan will amend its laws along these lines<sup>3</sup>.

- (2) Former supervisor X of the Civil Affairs Section, Xizhi District Office, New Taipei City Government was accused of colluding by consenting to an investigation of a funerary company that used a strawman to help Y of the funerary company sell a plot of land worth more than NTD 600 million (about USD 20 million) to a construction company. Two officials accepted bribes amounting to NTD 200 million. The Taiwan Shilin District Court sentenced them to 13 years' imprisonment for the crime of accepting bribes with breach of official duties. In its verdict, the court stated that when Z and Y signed the power of attorney documents for the land sale, X was not in charge of the affairs of the funerary company, there existed no quid pro quo relationship, and thus the acts did not constitute accepting bribes with breach of official duties. Some scholars in Taiwan hold that the difficulty in ascertaining a quid pro quo relationship and official duties may easily create loopholes in fighting this crime. The government promotes

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<sup>3</sup> 30 April 2018, Liberty Times, version A14A, Government officials wining and dining isn't corruption? Author: Yu-Hsiung Lin, professor at National Taiwan University College of Law and executive director of the Taiwan Criminal Law Society.



addition of provisions on gifting to public servants to the Criminal Code. Whether this will prevent or halt corruption or intercession remains to be seen<sup>4</sup>.

33. As Taiwan is moving to amend its Criminal Code, it may, besides amending Article 134-1 regarding the crime of influence trading, consider adding the concept of “gratuity” taking reference from the American legal system. Under this concept, the court does not need to be convinced of a quid pro quo relationship but only of a relationship between an official’s duties and financial benefits received. Even when it does not constitute bribery (or cannot be proven as such), the gifting element can be penalized.

2.18		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	Political donations from private companies / organizations ?	請說明來自私部門(公司或組織團體)的政治獻金的情形？

中文回應：

34. 《政治獻金法》第 7 條第 1 項對得捐贈政治獻金者訂有限制，其中對於私部門(公司或組織團體)捐贈政治獻金亦受有規範，例如：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等，不得捐贈政治獻金。除上述情形外，私部門(公司或組織團體)，均得在其可捐贈額度範圍內捐贈政治獻金與政黨、政治團體或擬參選人。依《政治獻金法》第 21 條規定，收受及支出政治獻金之內容均應公開於電腦網路<sup>5</sup>。

35. 《政治獻金法》第 17 條及第 18 條設有捐贈金額限制，如表 2-7。

表 2-7 《政治獻金法》規範之捐贈金額限制

單位：新臺幣元

對象 來源	政黨、政治團體		擬參選人	
	同一政黨、政治團體	不同政黨、政治團體	同一擬參選人	不同擬參選人
個人	300,000	600,000	100,000	300,000
營利事業	3,000,000	6,000,000	1,000,000	2,000,000
人民團體	2,000,000	4,000,000	500,000	1,000,000

<sup>4</sup> 26 May 2018 Liberty Times. Does Preventing Corruption in This Way Work? Author: Wu Jingqin, associate professor of the College of Law, Aletheia University.

<sup>5</sup> 監察院網站政治獻金專區：

<https://sunshine.cy.gov.tw/GipOpenWeb/wSite/ct?xItem=3126&ctNode=345&mp=2>。

英文回應：

34. Article 7, Paragraph 1 of the Political Donations Act lists categories of individuals, organizations and for-profit enterprises, including in the private sector, that are not allowed to make political donations. Examples include public enterprises or private enterprises in which the government holds at least 20% of the capital; enterprises that have signed a government procurement contract of a large amount or have signed a major public infrastructure investment contract are performing the contract; profit-seeking businesses that have an accumulated deficit and that have not taken steps to make up the deficit in accordance with relevant provisions; foreign, People's Republic of China, Hong Kong or Macao citizens/residents, juridical persons, associations or other institutions; and juridical persons, associations or other institutions mainly composed of members that are foreign/ People's Republic of China/Hong Kong or Macao citizens/residents, juridical persons, associations or other institutions.—Except for the aforementioned, private sector entities, including corporations and civil associations, may make political donations within the allowable amounts to political parties, political associations, and persons planning to participate in a campaign. In addition, in accordance with Article 21 of the same Act, the accounting report (including income and expenditures) of political donations shall be posted online<sup>6</sup>.
35. In Articles 17 and 18 of the same Act, maximum amounts of political donations are also prescribed.

**Table 2-7 The restriction of the donation from Political Donations Act**

Unit:NT dollars

Targeting People  Original	Political party or political associations		Person planning to participate	
	Same political parties or political associations	Different political parties or political associations	Same person planning to participate	Different person planning to participate
Individuals	300,000	600,000	100,000	300,000
Profit-seeking Businesses	3,000,000	6,000,000	1,000,000	2,000,000
Civil Associations	2,000,000	4,000,000	500,000	1,000,000

<sup>6</sup> A special webpage of political donation in Control Yuan :  
<https://sunshine.cy.gov.tw/GipOpenWeb/wSite/ct?xItem=3126&ctNode=345&mp=2>。

2.19		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 7 條	How to avoid/prevent conflict of interest of public officials (any criticism ?)	如何避免或預防公職人員利益衝突？(有無招致任何批評？)

**中文回應：**

36. 公職人員因具有職權或職務影響力，於職務行為涉及本身或親屬之利益時，不論舉措如何，均可能招致其職務之廉潔與機關公務運作之公平公正遭民眾質疑，故《公職人員利益衝突迴避法》要求有利益衝突之人員迴避不參與之，以擔保程序客觀上之公平公正。除公職人員執行有利益衝突之職務行為應自行迴避之核心規範外，亦規範公職人員不得假借職務圖利、關係人不得關說請託等規定，並進一步立法禁止公職人員或其關係人與公職人員服務之機關或受其監督之機關交易，以貫徹《公職人員利益衝突迴避法》遏阻不當利益輸送之立法意旨。
37. 然預先禁止《公職人員利益衝突迴避法》之公職人員或其關係人，與公職人員服務之機關或受其監督之機關為買賣等交易行為，此規範多有遭批評侵害財產權之虞。我國於 2018 年 6 月 13 日修正公布《公職人員利益衝突迴避法》，將以公告方式辦理之採購因較無不當利益輸送之虞，排除受規範之範疇。

**英文回應：**

36. When a public servant has power or influence due to their position, and their duties touch upon the interests of themselves or their relatives, regardless of how they conduct themselves, it may arouse doubt among the general public with regard to their personal integrity or the fairness and impartiality of the operations of agency. Therefore, the Act on Recusal of Public Servants Due to Conflicts of Interest requires that personnel with conflicts of interest recuse themselves from participation in processes concerned to guarantee that these processes remain fair and impartial. In addition to the core norm that public servants recuse themselves to avoid conflicts of interest, they also stipulate that public servants refrain from unlawful enrichment through their positions, their related persons must not accept requests for intercession, etc. New legislation will prohibit public servants and their related persons to engage in transactions with the agencies of the public servants or organizations overseen by them in order to achieve the legislative objective of the Act on Recusal of Public Servants Due to Conflicts of Interest to prevent inappropriate benefits.
37. Public servants or their related persons that engage in transactions with the agencies of the public servants or organizations overseen by them may incur criticism and suspicion of harming

public assets under the Act on Recusal of Public Servants Due to Conflicts of Interest. On 13 June 2018, Taiwan amended the Act on Recusal of Public Servants Due to Conflicts of Interest to exclude from its normative scope the public handling of any suspicions of unlawful enrichment during procurement processes.

2.20		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 8 條	Can you provide statistics of the percentage of public officials that comply with the reporting system of conflict of interest ?	是否可提供公務員被舉報涉及利益衝突的比例？

中文回應：

38. 《公職人員利益衝突迴避法》之適用對象約 4 萬餘人，自廉政署 2011 年 7 月成立迄今，各政風機構將疑涉違反《公職人員利益衝突迴避案件》提報審議者計 174 件，占適用對象約 0.4%。

英文回應：

38. The subjects identified under the “Act on Recusal of Public Servants Due to Conflict of Interest” totals about more than 40,000 persons. Since AAC was established in July 2011, various ethics entities have reported 174 cases suspected of violating the “Act on Recusal of Public Servants Due to Conflict of Interest”, accounting for 0.4% of the subjects.

2.21		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 8 條	Can you provide statistics of how many public servants have been sanctioned for this reason ?	是否可提供公務員涉及利益衝突被處罰的數據？

中文回應：

39. 自廉政署 2011 年 7 月成立至 2018 年 5 月，各機關政風機構將疑涉違反公職人員利益衝突迴避案件提報審議者共 174 件，審議後遭裁罰者共 98 件，占提報案件 56%，裁罰金額計 8 億 3,681 萬元。

英文回應：

39. Since AAC was established in July 2011, various ethics entities have reported a total of 174 cases suspected of violating the “Act on Recusal of Public Servants Due to Conflict of Interest”. 98 cases were fined upon review, accounting for 56% of the total cases. The fine amounted to NTD836.81 million.

2.22		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 8 條	Is there a central registry for public servants sanctioned for this reason ?	這些被處罰的公務員，有沒有被中央登錄？

中文回應：

40. 違反《公職人員利益衝突迴避法》之裁罰處分機關係法務部及監察院，依該法罰鍰確定者，由處分機關公開於資訊網路或刊登政府公報或新聞紙。

英文回應：

40. The competent authorities for rendering the punishment against violation of the “Act on Recusal of Public Servants Due to Conflict of Interest” refer to the Ministry of Justice and Control Yuan. Once the punishment sustains pursuant to the Act, said authorities will disclose the same online, or run the same in the government gazette or press release.

2.23		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 8 條	As codes of conduct are only effective in deterring misconduct if violators are punished, data on the number of Taiwanese civil servants violating these codes of conduct and details of their punishment should be provided.	只有在違反公職人員行為準則會被處罰的情況下，才能遏止不當行為。請提供臺灣公職人員違反公職人員行為準則的人數以及他們受到處罰的細節。

中文回應：

41. 例舉我國制定相關公職人員行為準則中，有關違反《公職人員利益衝突迴避法》、《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》之資料：

- (1) 廉政署 2011 年 7 月成立至 2018 年 5 月止，因違反《公職人員利益衝突迴避法》遭裁罰案件計 98 件，占提報案件 56%，裁罰金額計 8 億 3,681 萬元。違法行為態樣有公職人員知有利益衝突時未自行迴避、公職人員假借職務上之權力圖本人或關係人之利益、公職人員之關係人向有關機關請託關說圖本人或公職人員之利益、公職人員或其關係人與公職人員服務之機關或受其監督之機關為買賣交易行為等；依法罰鍰確定者，由處分機關公開於資訊網路或刊登政府公報或新聞紙。
- (2) 《公務員廉政倫理規範》第 19 點規定：「公務員違反本規範經查證屬實者，依相關規定懲處；其涉及刑事責任者，移送司法機關辦理。」。《行政院及所屬機關機構請託關說登錄查察作業要點》第 9 點規定，本要點規範對象就受請託關說事件未予登錄，經查證

屬實者，應嚴予懲處；第 10 點規定，受理登錄人員或機關首長，如有故意隱匿、延宕或積壓不報，經查證屬實者，各機關或其上級機關應懲處相關人員；前點或前項違失人員如為政務人員，得視其情節輕重，移送監察院審查。

(3) 《行政院及所屬機關機構請託關說登錄查察作業要點》自 2012 年 9 月 7 日實施以來，廉政署依《請託關說登錄事件抽查作業原則》督同政風機構按季就登錄案件實施抽查，迄 2018 年 3 月止，辦理計 29 次抽查作業；就各機關登錄 559 件請託關說事件中，計抽查 208 件，具體執行成效如下：

- A. 當事人（被請託關說人及請託關說人）疑涉不法計 20 件，後續處理結果涉刑責或行政懲處者：請託關說人經法院以行求賄賂罪判決有罪確定者 2 案；被請託關說人遭行政懲處並調整職務者，計 1 案 1 人；被請託關說人遭行政懲處者，計 3 案 3 人；請託關說人遭調整職務者，計 1 案 1 人。
- B. 針對請託關說所涉業務，函請政風機構協調被請託關說人所屬機關研擬或修訂相關作業流程，計 8 案。
- C. 為降低機關同仁輕忽廉政倫理事件之相關法令風險，請政風機構適時協助被請託關說人所屬機關辦理廉政教育訓練，計 5 案。

**英文回應：**

41. For example, the information about violations of the “Act on Recusal of Public Servants Due to Conflict of Interest”, “Integrity and Ethics Directions for Civil Servants” and “Guidelines Governing Recordation and Inspection of Request by Executive Yuan and Its Affiliated Agencies/Entities for Lobby” among the related public servants’ codes of conduct established in Taiwan:
- (1) Since AAC was established in July 2011 until May 2018, a total of 98 cases have been fined for malpractices in violation of the “Act on Recusal of Public Servants Due to Conflict of Interest”, accounting for 56% of the total cases. The fine amounted to NTD836.81 million. The types of malpractice include that a public servant fails to recuse himself/herself for conflict of interest which he/she is clearly aware of, a public seeks interests for himself/herself or for his/her related persons by manipulating his/her official power, related persons of a public servant seeks interests for himself or for said public servant by requesting relevant agencies, or a public servant and his/her related persons conduct transactions such as sales with the agency with which the public servant serves or the agency under his/her supervision. Once the

punishment sustains pursuant to the Act, the agencies responsible for rendering the punishment shall disclose the same online, or run the same in the government gazette or press release.

- (2) According to Point 19 of the “Integrity and Ethics Directions for Civil Servants”, “the civil servant violating the Directions and verified true after investigation will receive a punishment according to relevant regulations; if criminal liability is involved, the matter will be transferred to the justice unit for prosecution”. According to Point 9 of the “ “Guidelines Governing Recordation and Inspection of Request for Making an Intercession to the Executive Yuan and Its Affiliated Agencies/Entities”, the subject regulated herein who is proven to fail to record the request for making an intercession shall be punished strictly. Point 10 of the same Guidelines provides that where the registrar, or the head of the relevant agency responsible for accepting the request is proven to conceal, defer or cover the same intentionally, the agency or its supervising agency shall punish the relevant personnel, provided that where the malpracticing personnel referred to in the preceding Point or paragraph is an administrative officer, he/she shall be transferred to the Control Yuan, subject to the severity of the situation.
- (3) Since the “Guidelines Governing Recordation and Inspection of Request for Making an Intercession to Executive Yuan and Its Affiliated Agencies/Entities” was implemented as of September 7, 2012, AAC has worked with ethics entities to conduct random check on the recordation cases in accordance with the “Operational Principles for Random Check on Recordation of Request for Making an Intercession” on a quarterly basis. Until March 2018, 29 random checks have been conducted. The concrete results of the random checks on 208 cases out of 559 cases recorded by various agencies are stated as following:
  - A. For the 20 cases involving the suspicion of malpractices by the concerned parties (the requested party and requesting party), the resolutions involved criminal liability or administrative sanction are stated as following: 2 cases in which the requesting parties were convicted guilty by the courts for the offense against bribery; 1 case in which the requested party was subject to the administrative sanction and transferred from his post; 3 cases in which the requested parties were subject to the administrative sanction; 1 case in which the requesting party was transferred from his post.
  - B. 8 cases in total: With respect to the operations involved in the requests for making an intercession, AAC asked ethics entities in writing to negotiate with the agencies affiliated with the requested party for enactment of or amendment to related operating procedures.



C. 5 cases in total: In order to mitigate the legal risk over the agency staff's ignorance of integrity and ethics matters, the ethics entities were requested to help the agencies affiliated with the request party carry out the integrity educational training.

2.24		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 8 條	Number of cases of conflict of interest declaration in authorities ?	官方的公職人員利益衝突迴避案件統計？

中文回應：

42. 自廉政署 2011 年 7 月成立至 2018 年 5 月，各機關政風機構將疑涉違反公職人員利益衝突迴避案件提報審議者共 174 件，審議後遭裁罰者共 98 件，占提報案件 56%，裁罰金額計 8 億 3,681 萬元。

英文回應：

42. Since the establishment of the AAC in July 2011 through May 2018, the Government Employee Ethics Units of all government organs have reported 174 cases of suspected violations of the recusal norms for public servants. After deliberation, 98 cases (56%) have been concluded with penalties imposed, for a total of NTD 36.81 million (USD 1.2 million).

2.25		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	Public reputation about the Government E-Procurement System ?	公眾對於政府電子採購網的評價？

中文回應：

43. 行政院公共工程委員會(下稱工程會)曾經對於政府電子採購網的使用者，於 2018 年 3 月辦理滿意度調查，調查結果如下：感到滿意者占 97.5%；不滿意者占 2.5%。

英文回應：

43. Public Construction Commission (PCC) conducted an user satisfaction survey of Government E-Procurement System in March 2018. The survey results were the following : 97.5% of respondents are satisfied; 2.5% of respondents are dissatisfied.

2.26		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	Civil participation (inclusiveness) in public procurement ('integrity pact' or similar tools) ?	請說明公共採購的公民參與(廉潔協議或類似的工具)？



**中文回應：**

44. 《政府採購法》第 27 條規定，機關辦理公開招標或選擇性招標，應將招標公告或辦理資格審查之公告刊登於政府採購公報並公開於政府電子採購網。
45. 《政府採購法》第 61 條規定，機關辦理公告金額（100 萬元）以上採購，除有特殊情形者外，應於決標後於政府採購公報刊登決標公告，並以書面通知各投標廠商（無法決標者，亦同）。同法第 62 條規定，機關辦理未達公告金額但逾公告金額十分之一（10 萬元）採購，其決標結果仍應傳輸至政府電子採購網。
46. 《政府採購法》第 75 條規定，廠商對於機關辦理採購之招標、審標、決標，如認為違反法令致損害其權利或利益者，得依該條規定以書面向招標機關提出異議。另廠商如認為機關違反法令，得向採購稽核小組、廉政署或採購機關之政風單位檢舉。
47. 法務部為提升重大公共建設施工品質、強化保障採購人員機制，2016 年函頒《機關採購廉政平臺實施計畫》，依據機關首長需求，配合國家巨額採購採最有利標方式辦理，由廉政署協助各政風機構配合首長需求成立「廉政平臺」，秉持跨域治理、機關相互協力的理念，邀集檢察、調查、廉政、審計機關、工程會、相關廠商、利害關係人等公私部門，建立聯繫溝通機制，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，協助完善採購案件之規劃與執行。辦理案例詳參第 135、136 點。

**英文回應：**

44. According to Article 27 of the Government Procurement Act , for open tendering procedures or selective tendering procedures, an entity shall publish a notice of invitation to tender or of qualification evaluation on the Government Procurement Gazette and also make it available on the Government E-Procurement System.
45. According to Article 61 of the GP Act, for a procurement of a value reaching the threshold for publication (NT\$1 million), except for extraordinary circumstances, an entity shall publish the outcome of an award on the Government Procurement Gazette and notify all tenderers in writing after award of contract (the same procedure for the contract that cannot be awarded). According to Article 62, for a procurement of a value not reaching the threshold for publication but exceeding one tenth of such threshold (i.e.NT\$100,000) , an entity shall also send the award data to the Government E-Procurement System.
46. According to Article 75 of the GP Act, a supplier may file a protest in writing with an entity if the supplier deems that the entity is in breach of laws and regulations in the stages of the

invitation to tender, the evaluation of tender, the award of contract so as to impair the supplier's rights or interests in a procurement. Besides, if the supplier deems that the entity is in breach of laws and regulations, the supplier may report to the procurement control units, Agency Against Corruption, or the government ethics office of the Entity.

47. In order to improve the construction quality of major public works and strengthen the mechanism for safeguarding procurement personnel, the Ministry of Justice drafted the Implementation Plan for Clean Government Procurement in 2016. Under the plan, the AAC assists the heads of the Government Employee Ethics Units in every government agency to build a clean government platform in accordance with the needs of the heads of agencies and in line with the country's procurement method based on the "most advantageous" principle. Adhering to the concepts of cross-functional governance and mutual cooperation among agencies, the AAC invites representatives from the public and private sectors such as prosecutorial, investigative, clean government, and auditing personnel, engineering associations, manufacturers, and stakeholders to make public statements, disclose information, convene regular meetings, offer opinions, etc., in order to strengthen the government supervision mechanism, safeguard companies' reasonable rights and interests, and help improve the design and implementation of procurement processes. For case studies, see Point 135 and 136.

2.27		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	Grand corruption cases (including policy capture) in RoC, if any ?	臺灣重大貪腐案件(包含政策綁架) ?

中文回應：

48. 2017 年檢察機關指揮調查局及廉政署偵辦案件，經媒體關注之貪瀆或相關指標案件計 39 件，如表 2-8。

表 2-8 2017 年媒體關注之貪瀆或相關指標案件

序號	案由
1	中央研究院院長翁○涉嫌不法案。
2	臺北市中正區南福里里長鄒○涉嫌向建商索賄案。
3	嘉義市議員洪○涉嫌詐領議員助理補助費案。
4	苗栗縣通霄鎮鎮長徐○涉犯對主管事務圖利、經辦公用工程收取回扣罪等案。
5	屏東縣琉球鄉公所前後任鄉長辦理工程發包涉嫌不法案。
6	新北市政府副市長許○，於辦理土地都市更新案審議階段涉嫌不違背職務收受賄賂案。
7	高雄市政府警察局行政科專勤組林○涉嫌收賄案。

8	彰化縣議員陳○涉嫌詐領議員助理補助費案。
9	南投林管處張○等人涉嫌違背職務收受不正利益等案。
10	高雄市桃源區公所農觀課課長高○與前約僱人員曾○核發不實之同意伐運公文涉犯對主管事務圖利罪案。
11	臺南市議員楊○涉嫌詐領議員助理補助費案。
12	桃園市議員張○涉嫌詐領議會助理補助費案。
13	新北市汐止區公所科員王○涉嫌索賄案。
14	立法院資訊處人員辦理 102 年憑證系統更新採購涉嫌不法案。
15	內政部移民署專勤事務第一大隊連江縣專勤隊隊長歐陽○審查民眾申請大陸地區配偶來臺團聚涉犯不違背職務收受不正利益案。
16	陸軍第十軍團步兵一〇四旅第○營中校營長，購買禮品浮報價額涉犯利用職務上機會詐取財物罪案。
17	財政部北區國稅局新莊稽徵所稅務員姜○涉嫌收受賄賂案。
18	法務部矯正署高雄監獄主任管理員徐○夾帶違禁品涉嫌違背職務收受賄賂案。
19	新竹縣五峰鄉鄉長秋○涉嫌索賄案。
20	經濟部水利署第五河川局政風室主任翁○涉嫌貪瀆案。
21	台灣中油股份有限公司煉製事業部大林廠工程師王○配合廠商違法訂定限制競爭規範及開決、標，涉嫌違背職務收受賄賂案。
22	新北市政府環境保護局環保稽查科稽查員陸○涉犯利用職務上機會詐取財物罪案。
23	新北市政府消防局科員蔡○等人涉嫌藉勢藉端勒索財物案。
24	臺東縣警察局大武分局偵查佐李○涉犯洩密、包庇賭博及違背職務收受不正利益案。
25	屏東縣長治鄉鄉長許○等人辦理觀摩研習活動涉嫌指定廠商並收取賄賂案。
26	雲林縣崙背鄉鄉長李○涉嫌圖利及利用職務上機會詐取財物案。
27	遠雄建設事業股份有限公司負責人趙○涉嫌行賄新北市議員周○、新北市都市計畫委員及新北市政府城鄉發展局公務員案。
28	前內政部營建署城鄉發展分署長洪○涉嫌期約及收受賄賂案。
29	桃園市議員邱○涉嫌詐領議員助理補助費案。
30	臺中市政府教育局學生事務室主任林○涉嫌向軍訓教官索賄案。
31	臺南市政府警察局員警黃○包庇色情業者涉嫌違背職務收賄案。
32	臺北市府警察局中正二、信義分局員警朱○等人涉嫌栽槍枉法等案。
33	高雄市政府警察局督察室維新小組督察員蔡○、仁武分局行政組組長齊○及巡官林○等人涉嫌收受賄賂案。
34	嘉義縣政府水利處水土保持科技士田○等人涉嫌利用職務上機會詐取財物案。
35	花蓮空軍 401 聯隊譚○辦理採購涉嫌瀆職案。
36	花東防衛指揮部韓○等人涉嫌利用職務上機會詐取財物案。
37	臺南市議員陸○涉嫌詐領議員助理補助費案。
38	前臺南市議員陳○涉嫌詐領議員助理補助費案。
39	臺北市府建築管理工程處工程員戴○涉嫌向建商索賄案。

#### 英文回應：

48. 39 Cases, which were investigated by both MJIB and AAC commanded by prosecutors, were paid attention by the media in 2017.

**Table 2-8 Corruption or related cases that were paid attention by the media in 2017**

No.	Cases
1	Won X, Director of the Academia Sinica, is suspected of corruption.
2	Zou X, Chief of Nanfu Village, Zhongzheng District, Taiepi City is suspected of soliciting bribes toward a constructor.
3	Hong X, City council member of Chiayi City, is suspect of assistant-subsidy fraud.
4	Hsu X, Chief of Tongxiao Township, Miaoli County, has been charged with corruption of public construction.
5	Present and former Chief of Liuqiu Township, Pingtung County, is suspected of construction corruption.
6	Hsu X, Deputy Mayor of New Taipei City, is suspect of accepting bribes in the audit of urban regeneration.
7	Lin X, agent of Kaohsiung Police Department, Kaohsiung City, is suspect suspected of bribes.
8	Chen X, City council member of Changhua County, is suspect of assistant-subsidy fraud.
9	Chang X, agent of Nantou Forest District Office, is suspected of corruption.
10	Kao X, Chief of Taoyuan Agricultural Course, Kaohsiung City, and former contractor Tseng X have been charged with corruption of agreeing illegal cutting.
11	Yang X, City council member of Tainan City, is suspected of assistant-subsidy fraud.
12	Chang X, City council member of Taoyuan City, is suspected of assistant-subsidy fraud.
13	Wang X, agent of Xizhi District, New Taipei City, is suspected of soliciting bribes.
14	Agent of Information Division in Legislative Yuan is suspected of corruption of 2013 system-update procurement.
15	Ouyang X, Captain of Lianjiang County Brigade, Immigration Agency, Ministry of Interior, is suspected of accepting bribes when examining the visit of spouses from China.
16	Captain of the ○ team, No. 104, the 10 <sup>th</sup> Camp of National Army is suspected of corruption when purchasing gifts.
17	Jiang X, agent of Xinzhuang Branch, National Taxation Bureau of Taipei, Ministry of Finance is suspected of accepting bribes.
18	Hsu X, Director Manager of Kaohsiung Prison, Ministry of Correction is suspected to accepting bribes in carrying the forbidden cargoes.
19	Chiu X, Chief of Wufeng Township, Hsinchu County, is suspected of soliciting bribes.
20	Won X, Director of Civil Service Ethics Office, the 5 <sup>th</sup> River Bureau, Water Resources Agency, Ministry of Economic Affairs is suspected of corruption.
21	Wang X, engineer of the Dalin Refinery Plant of the Refining Business Division, CPC Corporation, Taiwan, suspected for illegally designating vendor and accepting bribes to supply unusual convenience for vendor when performing the official or commissioned duties.
22	Lu X, inspector of Environmental inspection division of the Environmental Protection Bureau, New Taipei City Government suspected for constituting fraud by abusing his position for personal gain.
23	Tsai X, officer of the Fire department, New Taipei City Government, and others suspected for Obtaining properties through extortion by misusing his power and influence.
24	Li X, a detective of Dawu Police precinct, Taitung County Police Bureau, suspected for leaked confidential information to cover gambling, receiving bribes or other illegal profits in return for supplying unusual convenience when performing the official or commissioned duties.
25	Xu X, the Chief of Changjhih Township, Pingtung County, and others suspected for accepting bribes from a designated vendor in a public event hosted by a government institution.

26	Li X, the chief of Lunbei Township, Yunlin County, suspected for Obtaining properties by committing fraudulence through his position.
27	Zhao X, Chairman of Farglory Land Development Co., Ltd, suspected for dealing or offering bribes to New Taipei City council member Chou X、Members of New Taipei City urban planning commission and Civil servants of the Urban and Rural Development Bureau, New Taipei City.
28	Hong X, former Deputy Director-general of construction and planning agency, ministry of the interior, suspected for accepting bribes.
29	Chiu X, council member of Taoyuan city, suspected for committing fraudulence on member assistant allowance.
30	30. Lin X, chief of student affairs division, Education Bureau, Taichung city government, suspected for solicited bribes from Military Education instructor.
31	Huang X, police officer of the Police department, Tainan City, suspected for accepting bribes to cover illegal prostitution.
32	Chu X, police officer of Zhongzheng Second Precinct, Taipei City Police Department, suspected for frame guns to other people.
33	Tsai X, junior inspector of the inspector's office, Chi X, Section Chief of General Affairs Section, Renwu Precinct, and Lin X, second lieutenant of Kaohsiung City Police department, suspected for accepting bribes.
34	Tien X, technical Specialist of soil and water conservation section, department of water resource, Chiayi County government, suspected for obtaining properties by committing fraudulence through his position.
35	Chen X, member of Hualien Airforce 401 Group, suspected for accepting bribes in return for acquisition contract.
36	Han X, member of ROC Army Hua-tung Defense Command, and others suspected for obtaining properties by committing fraudulence through his position.
37	Lu X, council member of Tainan city government, suspected for committing fraudulence on member assistant allowance.
38	Chen X, former council member of Tainan city government, suspected for committing fraudulence on member assistant allowance.
39	Tai X, engineer of Taipei City construction management office, suspected for solicited bribes from the construction contractor.

2.28		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	Media and civil society organizations' responses or statements on those Grand corruption cases (including policy capture) ?	媒體和社會組織對於重大貪腐案件(包含政策綁架)的回應?

中文回應：

49. 以桃園縣副縣長收受○建設公司等建商交付之賄賂案為例：

- (1) 案情：桃園縣副縣長葉○於擔任內政部營建署署長期間，涉嫌於經辦新竹眷改土地案及桃園縣政府主辦之八德合宜住宅等案期間，透過臺北科技大學蔡○教授向符合投標資格

之○建設公司索取賄款，以協助其取得標案，並隱匿大量不明來源財產。嗣後於擔任桃園縣副縣長期間，仍於 2014 年某日透過蔡○取得○建設公司交付之賄款現金 1,600 萬元。案經廉政署於 2014 年 5 月 30 日凌晨向臺灣臺北地方法院聲請核發搜索票獲准，隨後由承辦檢察官率廉政官於同日上午至葉○住所及辦公室、○建設公司等相關人員處所執行搜索，總計扣得現金 1,840 萬餘元，並於○建設公司扣得上開 1,600 萬元賄款出帳紀錄等資料。

- (2) 民間團體回應：「社會住宅推動聯盟」及「無殼蝸牛聯盟」與立法委員 2014 年 6 月 4 日舉行記者會表示，合宜住宅是政商合謀的糖衣毒藥，理由包括：對紓解高房價問題完全無效、本質是不公不義的「國有土地標售及濫徵」、造成住宅資源「所得逆分配」不合理現象、擺明圖利建商等，要求政府停止辦理。
- (3) 另鑑於輿論質疑桃園縣副縣長葉○貪污，臺灣高等法院判重判 21 年，卻仍可照領退休金，我國修正《公務人員退休法》並於 2016 年 5 月 11 日公布施行，增訂公務員任職期間涉貪，判 7 年以上重罪確定者，不得領退休金，若已支領，也須全數追回。

**英文回應：**

49. As example of the deputy commissioner of Taoyuan County accepted bribes from construction companies such as X Construction Co., Ltd:

- (1) Content: During his tenure as Director-General of the Planning and Construction Agency, Ministry of the Interior, Y, deputy governor of Taoyuan County, was suspected of accepting bribes, through Professor Z of National Taipei University of Technology, from eligible bidder X Construction Co., Ltd. during his management of the Hsinchu Veterans Village Land Reform Project and the Bade Co-Housing Project of the Taoyuan County Government and help this company win those bids. Yeh was also suspected of concealing a large amount of assets of unclear origin. During his tenure as deputy commissioner of Taoyuan County, he later obtained cash payment of NTD 16 million from construction company X through Cai in 2014. The Agency Against Corruption presented the case before the Taiwan Taipei District Court on 30 May 2014 to request a search warrant, which was granted. The same day, the prosecutor led a team of civil service ethics officials to search Yeh's home and office, X Construction Co., and other places of related persons. A total of NTD 18.4 million in cash was seized as well as records at X Construction Co. detailing NTD 16 million in bribery payments.
- (2) In response from a construction company, the Social Housing Advocacy Consortium, the Shell-less Snail Alliance, and lawmakers held a press conference 4 June 2014 stating that the

Bade Co-Housing Project is a sugar-coated poison enticing government and enterprises to collude, the reasons being that the project has zero effect on high real estate prices; by its very nature it is a fundamentally unjust “tender and abuse of state-owned land”; it leads to housing allocation that is income-regressive and unreasonable; and it clearly and unfairly enriches companies. They demanded that the government halt the project.

- (3) In the context of public opinion and criticism of the corruption case of Taoyuan County deputy commissioner Yeh, the Taiwan High Court handed him a heavy sentence of 21 years imprisonment, but ruled that he would still be entitled to his retirement pension. After amendments to the Public Functionaries Retirement Act promulgated on 11 May 2016, public servants involved in corruption during their tenure in office and convicted of a major crime punishable by more than seven years imprisonment no longer receive their retirement pensions. Pensions already received are to be fully recovered.

2.29		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	People’s perception on high ranking officials’ integrity / accountability (other than GCB) ?	民眾對於高階官員的廉潔度和信賴度(除了 GCB 提供的資料之外)?

中文回應：

50. 2017 年廉政民意調查結果，受訪者對「中央政府首長及主管」清廉程度評價之平均數為 4.8 分(以 0 至 10 分表示，愈高分表示愈清廉；在 26 類公務員中排名 17 名)，受訪者對「縣市政府首長及主管」清廉程度評價的平均數為 4.9 分(在 26 類公務員中排名 16 名)。詳參附錄 3。

英文回應：

50. In a 2017 survey by the AAC, the general public gave heads and supervisors in the central government an average cleanness rating of 4.8 points (on a scale of 10 points; the cleaner the impression, the higher the score). Among 26 categories, public servants ranked number 17. The interviewees gave heads and supervisors in county and city governments an average cleanness score of 4.9 points (ranking 16th among the 26 categories). Details are given in Appendix 3.

2.30		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 9 條	Recording and denouncing “entreaty or lobbying” received during the procurement	17.(5)A. 請託關說不得作為評選之參考，並「宜以」書面



	process shouldn't be mandatory instead of "preferred" ? (17, 5 A, pg. 55 of the report)	為之或做成紀錄，其中「宜以」是否指這項程序不是必要的？
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中文回應：

51. 依《政府採購法》第 16 條第 1 項規定，請託或關說，宜以書面為之或作成紀錄，未規定應以書面為之或作成紀錄之原因，係因部分請託或關說之行為，非以書面為之且難以作成紀錄。

英文回應：

51. According to Article 16 of the Government Procurement Act, entreating or lobbying is preferred to be in writing or to be recorded. The reason for not prescribing being mandatory to be in writing or to be recorded is because that there might be instances that entreating or lobbying behavior is not in writing and is hard to be recorded.

2.31		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Can you provide statistics of how many requests under the Freedom of Government Information Act have been rejected and for which reasons ?	是否可提供依照《政府資訊公開法》申請而被拒絕的統計數據，以及拒絕的原因？

中文回應：

52. 目前並無依照《政府資訊公開法》申請而被拒絕之件數統計及拒絕原因資料。

英文回應：

52. There are currently no statistics on the number of rejected and reasons for rejection.

2.32		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Is there an independent authority in charge of supervising and enforcing the implementation of the FGIA ?	是否有獨立的機關負責與監督《政府資訊公開法》的執行？

中文回應：

53. 目前並無負責與監督《政府資訊公開法》執行之獨立機關。

英文回應：

53. There is currently no independent agency responsible for overseeing the implementation of The Freedom of Government Information Law.



2.33		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Sanctions are provided for those public officials that do not comply with the law ?	如果公務員不遵守《政府資訊公開法》，會受到什麼處罰？

中文回應：

54. 《政府資訊公開法》第 23 條規定：「公務員執行職務違反本法規定者，應按其情節輕重，依法予以懲戒或懲處。」

英文回應：

54. Articles 23 of the “Freedom of Government Information Law”, government employees shall be punished or reprimanded according to law and the severity of the offense if they violate the relevant provisions set forth in this Law when performing duty.

2.34		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Is there a shared understanding of the likely main sources of money to be laundered in RoC (ie which types of crime generate the most illicit money to be laundered) ?	是否有眾所皆知的主要洗錢來源(例如哪一種犯罪最容易產生洗錢)？

中文回應：

55. 我國於 2018 年 4 月完成首次國家洗錢風險評估報告，依照國家洗錢風險評估報告顯示，我國主要的洗錢威脅為毒品犯罪、詐欺犯罪、證券犯罪、走私犯罪、稅務犯罪、組織犯罪、貪污犯罪、專業洗錢等。

英文回應：

55. Taiwan issued its first report on national money laundering risk assessment in April 2018. According to the report, the threats of money laundering to Taiwan mainly originated from drug crimes, frauds, securities crimes, smuggling, tax crimes, organized crimes, corruption crimes and professional money laundering.

2.35		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Is there publicly available information on corruption risks in the RoC Government (eg are particular agencies at higher risk – such as police) ?	是否有公開可獲得的政府貪腐風險的資料(即指特定的高風險機關，例如警察局？)？

中文回應：

56. 各機關之貪腐風險資料係彈性賦予該政風機構依規定辦理。廉政署及政風機構依《政風機構人員設置管理條例》、《政風機構人員設置管理條例施行細則》及《機關廉政風險人員提列作業原則》等規定，設有「機關廉政風險評估報告」之機制，各政風機構應於每年年初將機關廉政風險評估報告，摘要簽陳機關首長核示後，送請有關業務單位參考辦理；政風機構應追蹤辦理情形，並得提報廉政會報報告。
57. 另法務部於行政院每年定期召開 2 次之中央廉政委員會會議，均提出各檢察署近 6 個月至近 1 年間之「檢察官偵辦貪瀆案件之起訴案件分析資料，內容包含該期間起訴案件涉案人員之官等(分為簡任、薦任、委任)、服務機關(分為中央行政機關、地方行政機關、中央民意機關、地方民意機關)及涉案類別<sup>7</sup>。歷次中央廉政委員會議資料，均公開於法務部及廉政署網站。

**英文回應：**

56. The information about various agencies' corruption risk will be provided to ethics entities in a flexible manner per requirements. According to the Act of the Establishment and Management of the Government Employee Ethics Units and Officers, Enforcement Rules of the Act of the Establishment and Management of the Government Employee Ethics Units and Officers, and Principles for Agency Integrity Risk Personnel's Provision Operations, AAC and ethics entities set up the "Agency Integrity Risk Assessment Report" mechanism. Each ethics unit shall submit the summary of the agency integrity risk assessment report to the head of the relevant agency for approval at the beginning of each year, and then hand the same over to the relevant business unit for reference. The ethics entities shall follow up the report, and report it to the meeting for integrity affairs.
57. The Ministry of Justice will organize two meetings of the Central Integrity Committee at Executive Yuan periodically each year. The meetings will provide the information collected by various prosecutors offices available from the most recent six months until the most recent one year about the "analysis on indictment rendered by prosecutors against malpractices, including grades of the accused during the relevant period (senior, associate or junior), employer (central administration agency, local administration agency, central democratic body and work, or local

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<sup>7</sup> 依法務部統計處於 2015 年 3 月 27 日函修訂「法務部辦理貪瀆案件涉案類別及特殊註記歸類原則」，其研定之涉案類別（弊端項目）共分為「工商監督管理」、「金融保險」、「稅務」、「關務」、「電信監理」、「公路監理」、「運輸觀光氣象」、「司法」、「法務」、「警政」、「消防」、「營建」、「民戶役地政」、「移民與海岸巡防」、「環保」、「衛生醫療」、「社會福利」、「教育」、「農林漁牧」、「河川及砂石管理」、「軍方事務」、「外交事務」、「國家安全情報」、「國有財產管理」、「國營事業」、「行政事務」、「其他」等 27 類，依案件性質分類。

democratic body and work), and types of malpractice<sup>8</sup>”. The historical Central Integrity Committee meeting minutes will be posted on the official websites of Ministry of Justice and AAC.

2.36		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Would it be possible, and desirable, to share some of this information on corruption risks with banks and DNFBPs to help them to make risk-based management of PEP accounts ?	是否可以將貪腐風險資訊與銀行及指定之非金融事業或人員分享，以協助他們進行重要政治性職務人士的風險管理？

中文回應：

58. 我國由行政院洗錢防制辦公室統籌規劃，訂定適合我國國情之風險評估程序及方法論，嗣據以進行並業已完成國家洗錢及資恐風險評估。該程序旨在辨識並評估「洗錢與資恐威脅」及「洗錢與資恐弱點」，以瞭解我國洗錢及資恐相關「固有風險」；據該評估程序與報告結論，貪污賄賂為我國洗錢最高風險威脅犯罪類型之一。行政院於 2018 年 5 月 2 日公開發表「國家洗錢及資恐風險評估報告」，相關風險資訊亦經相關目的事業主管機關傳達轉知我國金融機構及依《洗錢防制法》指定之非金融事業或人員參處，俾其採取相應措施以管理並抵減相關風險。
59. 調查局每年均彙整年度工作成果統計資料，編製廉政工作年報、經濟犯罪防制工作年報、毒品犯罪防制工作年報、洗錢防制工作年報，並分送相關單位參考，使其檢視業務職掌內相關犯罪發展趨勢，分析並掌握犯罪行為態樣等。
60. 調查局洗錢防制處作為我國金融情報中心，扮演國家防制洗錢及打擊資恐相關金融情報迴圈之協調聯繫樞紐。如國內執法機關或其他權責機關掌握具體貪腐風險情資，規劃利用我國反洗錢機制監控或蒐集特定重要政治性職務人士相關金融情資，調查局洗錢防制處有意願亦有權責受理各該機關請求，並協助指導金融機構及指定之非金融事業或人員定向蒐報

<sup>8</sup> According to the Guidelines for the Categorization of Corruption Offenses and Special Annotations of the Ministry of Justice stipulated by the Department of Statistics, Ministry of Justice on September 1, 2014, the 27 categories (malpractice items) include "industrial and commercial supervision and management", "finance and insurance", "taxation revenue", "customs", "telecommunication regulation", "Road Supervision", "transportation, tourism, and weather", "Judiciary", "legal affairs", "police", "firefighting", "construction", "civil affairs, household registration, military service, & land administration", "immigration and coast guard", "environmental protection", "healthcare", "social welfare", "education", "agriculture, forestry, fishery, & animal farming", "river and gravel management", "military affairs", "foreign affairs", "national security intelligence", "national property management", "state-owned enterprises", "administrative affairs", and "others", sorting by the nature of cases.

相關金融情資，實際案例如與調查局合作調查內政部消防署前署長黃○涉嫌貪瀆案、立法院秘書處前秘書長林○涉嫌貪瀆案、基隆市議會前議長黃○等涉嫌詐領公款案等。

61. 金融情報中心如需重要政治性職務人士之風險資料，廉政署可運用「機關廉政風險評估報告」機制(參見第 56 點)，將相關風險資料提供金融情報中心。
62. 依《公職人員財產申報法》、《公職人員利益衝突迴避法》、《政治獻金法》處罰確定者，由處分機關公開於資訊網路或刊登政府公報或新聞紙；又於執行案件調查(查核)時，如發現被調查(查核)人(含重要政治性職務人士)涉有其他行政違失，則移送監察院監察業務處辦理，如發現涉刑事不法、稅務等，則予以移送司法、稅務等機關。《公職人員財產申報法》及《政治獻金法》規定受理申報機關應彙整財產申報資料、政治獻金會計報告書資料供人查閱，一定職務以上人員財產申報資料需刊登公報並公開於電腦網路，政治獻金會計報告書應公開於電腦網路，達到公眾監督目的。
63. 財政部於辦理所屬國營事業銀行(臺灣銀行股份有限公司、臺灣土地銀行股份有限公司及中國輸出入銀行)負責人、經理人之遴派作業前，該人選如曾具公務人員身分，財政部政風處可瞭解有無相關貪腐風險資訊，以作為是否遴派之參考。另前揭銀行均設有政風單位，該等人員經派任後，各該政風單位仍將續行必要之風險管理。

**英文回應：**

58. The Anti-Money Laundering Office, Executive Yuan planned and established risk evaluation procedures and methodology suitable to our national context. On this basis, it has completed the national assessment of money-laundering and terrorist-financing risks. The procedure aims to identify and assess the “money-laundering and terrorist-financing threats” and “weaknesses in money-laundering and terrorist-financing,” in order to learn about the “existing risks” in money-laundering and terrorist-financing in Taiwan. According to the assessment procedure and report conclusions, corruption and bribery are among the greatest money-laundering threats in Taiwan. On May 2, 2018, the Executive Yuan published the “National Money-Laundering and Terrorist-Financing Risk Assessment Report.” The relevant risk information has also been forwarded through competent authorities to financial institutions and non-financial enterprises or personnel designated by the Money Laundering Control Act, so that they can take corresponding measures to manage and reduce risk.
59. Each year, MJIB compiles statistics on its annual work accomplishments, as well as the Anti-Corruption Yearbook, the Yearbook of Prevention and Investigation of Economic Crime, the Yearbook of Drug Crime Prevention and Control, and the Yearbook of Money Laundering

Prevention and Control, which are distributed to related organizations for reference. These organizations can then examine the trends of criminal development in their respective fields, to analyze and understand the types of criminal activity.

60. As the national financial information center, the Anti-Money Laundering Division of MJIB is the key point for coordination and contact for the financial information loop relating to the control and prevention of money laundering as well as efforts to fight terrorist financing in Taiwan. If domestic law enforcement agencies or other competent authorities receive specific intelligence on corruption risk, and plans to use Taiwan's anti-money laundering mechanisms to monitor or collect financial information on important persons in political office, the Anti-Money Laundering Division of MJIB intends to and is authorized to process requests from the authorities, assist and guide financial institutions and designated non-financial enterprises or personnel to collect financial intelligence. Actual cases include collaborative with MJIB to investigate corruption by X, the former director-general of the National Fire Agency; corruption by Y, former secretary general of the Secretariat of Legislative Yuan; and fraudulent collection of public funds by Z, former speaker of the Keelung City Council.
61. Where the Financial Intelligence Unit needs the politically exposed persons (PEPs) risk information, AAC may apply the "agency integrity risk assessment report" mechanism (please refer to Point 56) to provide the related risk information to the Financial Intelligence Unit.
62. The Act on Property-Declaration by Public Servants, Act on Recusal of Public Servants Due to Conflicts of Interest, and Political Donations Act all stipulate that when violations are determined and punishment/penalties meted out, the action agencies should be published online, in the government bulletin or in newspapers. In addition, during an investigation (examination), if it is discovered that there have been other suspected administrative violations or misconduct, the case should be transferred to the Control Yuan's Department of Supervisory Operations for handling. If suspected criminal violations or tax violations are discovered, the case should be transferred to judicial authorities or tax authorities, respectively. The Act on Property-Declaration by Public Servants and Political Donations Act also stipulate that the government agencies/institutions responsible for receiving property declarations and political donation accounting reports should compile these declarations and reports and make them accessible to the public. The amended Political Donations Act also stipulates that the compiled political donation accounting reports should be published online. In addition, the

property-declaration information of government officials above a certain rank shall be published in the government bulletin or online. These stipulations can achieve a public-monitoring goal.

63. Before proceeding with the selection from the candidate responsible persons/general managers of the state-owned banks subordinated to us (Bank of Taiwan, Land Bank of Taiwan and the Export-Import Bank of the Republic of China), if a candidate is found to have held a position as a public servant before, we may ask the department of civil service ethics to verify whether or not any corruption risk information is available through the integrity evaluation system to provide a reference that will help make a decision for the selection. Meanwhile, all of the said banks have set up their own ethics units. Therefore, upon the appointment of the said personnel, the ethics units will still continue the necessary risk management.

2.37		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Do foreign people, or entities, seek to place or launder proceeds of corruption within RoC ?	是否有外籍人士或外籍企業試圖在臺灣進行貪腐洗錢？

中文回應：

64. 在我國「國家洗錢及資恐風險評估報告」中，境外金融業務包括國際金融業務分行(OBU)、國際保險業務分公司(OIU)、國際證券業務分公司(OSU)均為較高風險弱點，惟就執法機關經驗發現，主要的利用人仍為本國人或本國企業。
65. 調查局洗錢防制處為我國金融情報中心，係參與艾格蒙聯盟(Egmont Group)之唯一窗口，依法律與國際組織規約，與其他國家與地區金融情報中心進行國際金融情資交換，主動分享或被動受理貪腐或洗錢相關金融情資，及受理國內執法、權責機關或境外金融情報中心協查跨境金融情資請求。調查局洗錢防制處確曾受理其他司法管轄體金融情報中心代表該轄內執法或檢察機關，向我國提出協查貪腐洗錢相關金融情資之請求，惟迄未查獲具體個案發現有外籍人士或外籍企業因涉入貪腐洗錢，而移轉入境或在臺持有可疑資產事例。
66. 調查局目前偵辦外籍人士或外籍企業試圖在臺灣行賄私部門之案件，均係以代理或仲介抽佣金方式，透過中間白手套公司，行賄私部門集團內掌握採購權限之高階經理人。

英文回應：

64. MJIB investigations of attempted bribery in Taiwanese private sectors by foreign persons or businesses have found that bribes for senior managers with procurement authorities take the form of agency or intermediary commissions through go-between companies.

65. The Anti-Money Laundering Division of MJIB is the only Taiwanese participant in the financial intelligence center Egmont Group. Pursuant to laws and international conventions, it can exchange international financial intelligence with financial information centers of other states and territories, actively share or passively receive financial intelligence on corruption or money laundering, and process transnational financial intelligence requests from domestic law enforcement or competent authorities or foreign financial intelligence centers. The Anti-Money Laundering Division of MJIB has indeed handled requests from financial intelligence centers of other jurisdictions representing their law enforcement or prosecutorial agencies to Taiwan for assistance in investigating financial intelligence relating to corruption and money laundering. However, as of now, no cases have been discovered in which foreign individuals or businesses have engaged in corruption or money laundering, in turn transferring assets into Taiwan or holding suspicious assets in Taiwan.
66. The national money laundering risk assessment showed offshore financial units including OBU, OIU and OSU contain high-risk vulnerabilities, even though the experience of law enforcement agencies has indicated that R.O.C. nationals or companies have been the primary users of such units.

2.38		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	If so, would it be useful to share this information with banks and DNFBPs to improve their effectiveness?	承上題，如果有，是否可以與銀行及指定之非金融事業或人員分享資訊，以增進效益？

中文回應：

67. 承上題，目前我國風險評估相關資料尚未有明確資料認為有外國人或外籍人士試圖在臺灣進行貪腐洗錢。如有，我國金融情報中心可以分享給金融機構及非金融事業或人員。

英文回應：

67. As mentioned above, the current information of our risk assessment still lacks any clear indication that foreigners or foreign companies attempted or are attempting to engage in corruption or money laundering within the territory of Taiwan. If information with such indication appears, our FIU can share it with financial institutions and designated nonfinancial businesses or professions.



2.39		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Are real estate agents covered by DNFBP AML laws, and to what extent do they fulfil their obligations ?	房地產經理人是否屬於指定之非金融事業或人，受到《洗錢防制法》的規範？他們需要履行什麼義務？

**中文回應：**

68. 依《洗錢防制法》，不動產經紀業從事與不動產買賣交易有關之行為者，係該法指定之非金融事業或人員，依該法應訂定並建立內部防制洗錢相關政策、程序、計畫與內部控制，並進行確認客戶身分程序、留存必要交易紀錄及申報疑似洗錢或資恐交易報告，並由金融機構或指定之非金融事業指定專責人員協調監督洗錢作業程序之進行。我國不動產經紀業之中央目的事業主管機關為內政部，內政部為監理不動產經紀業相關防制洗錢及打擊資恐工作，就不動產經紀業相關法定義務細節性、技術性事項，訂定《地政士及不動產經紀業防制洗錢辦法》、《地政士及不動產經紀業防制洗錢及打擊資恐注意事項》等授權法規，俾不動產經紀業憑以執行。

**英文回應：**

68. According to the Money Laundering Control Act, those engaged in real estate brokerage, purchase, and sale are non-financial businesses or personnel designated by the Act. Pursuant to this Act, they should establish policies, procedures, plans, and internal controls to prevent money laundering; they should also confirm customer identities, retain necessary transaction records, and report suspected money-laundering or terrorist-financing reports. Financial institutions and designated nonfinancial businesses shall appoint persons responsible for coordinating and supervising the implementation of the procedures. The national competent authority for business objectives of the real estate brokerage industry is the Ministry of the Interior. In order to supervise and manage money-laundering prevention and to fight terrorist-financing in the real estate brokerage industry, the Ministry of the Interior has established “Regulations of Money-Laundering Control for Land Administration Agents and Real Estate Brokers” and “Important Matters in Control of Money-Laundering and Terrorist-Financing for Land Administration Agents and Real Estate Brokers” covering the details and technical matters for statutory obligations of the real estate brokerage industry for its compliance and implementation.



2.40		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 10 條	Any risk mapping experiences among ministries/agencies (beside corruption risk events and people database) ?	各部會、機關是否有辨識風險信息的經驗(除了貪瀆風險事件和貪瀆風險人員資料庫) ?

中文回應：

69. 廉政署暨政風機構依《政風機構人員設置管理條例》第 4 條第 3 款及《政風機構人員設置管理條例施行細則》第 6 條第 1、2 款與《政風機構預警作為案件分案處理原則》等規定，設有「預警作為」機制。當機關出現潛存違失風險事件或人員，經查有貪瀆不法或違失之虞，惟尚未構成刑事犯罪，而有下列情形之一者，政風機構應即時簽陳首長，或循政風體系陳報主管機關政風機構及廉政署，機先採取防範作為。
- (1) 員工參加與其職務有利害關係者之飲宴應酬，或接受不當招待。
  - (2) 涉足不妥當場所或與其職務有利害關係之相關人員為不當接觸。
  - (3) 接受與其職務有利害關係者餽贈財物。
  - (4) 涉及請託關說事件。
  - (5) 員工承辦案件延宕、藉機刁難、未經授權查詢公務資料或個人資料、不依法規辦理等作業違常。
  - (6) 員工違法經營商業、收支顯不相當、參與合會積欠會款或惡性倒會、財務困窘、交往關係複雜等生活違常。
  - (7) 業務稽核、監辦（會辦）採購、會同業務檢核發現異常者。
  - (8) 受理檢舉、媒體報導、上級交查、民代質詢機關員工疑有違失之案件。
  - (9) 違反《公務員服務法》、《公職人員利益衝突迴避法》等廉政法規。
  - (10) 其他出現嚴重影響機關聲譽之風險。
70. 各部會、機關之政風機構，對於機關內如有重大、違常預警性及員工貪瀆徵兆等可能使外界對施政產生負面評價、影響機關形象之異常狀況，應即填寫「政風狀況反映報告表」，適時向機關首長及上級政風機構通報，以即時掌握機關政風狀況徵兆，採取各項因應作為。
71. 我國自 2004 年起開始推動行政機關風險管理機制，於 2008 年 12 月修訂函頒《行政院所屬各機關風險管理及危機處理作業基準》，並於 2009 年 3 月訂頒《風險管理及危機處理作業手冊》，作為各行政機關推動整合性風險管理及危機處理之依據及作業參考，並引導各行政機關以組織整體之觀點，系統性建立背景系絡、辨識風險、評估風險(包含分析

風險及評量風險)、處理風險、監視與檢討、溝通與諮詢之持續循環過程，將風險管理納入政策考量，以達成機關施政目標。因此，多年來我國各行政機關已依據此機制，進行機關整體之風險管理，亦累積許多經驗，尤其將「風險辨識」視為關鍵步驟，全面辨認對機關產生影響之潛在風險，以避免遺漏任何潛在施政風險，並採取適當處理方式。

72. 內部控制係風險管理中的一部分，是降低風險的重要工具，我國政府為強化各機關內部控制，已於政府內部控制規範中明定各機關應針對可能影響施政目標達成之重大風險加以控管，尤其在風險辨識過程中，對於涉及人民權利或義務之業務，應注意辨識影響政府公信力之風險來源，例如可能發生受賄或濫用職權等，以避免遺漏機關潛在施政風險。故實務上各機關已就所推動業務辨識及評估所面臨的風險，採取相關內部控制機制，並定期檢討內部控制執行情形，以有效控管施政風險。

**英文回應：**

69. The AAC and the Government Employee Ethics Units have established an early warning mechanism in accordance with Article 3, paragraph 4 of the Act of the Establishment and Management of the Government Employee Ethics Units and Officers; Article 6, paragraphs 1 and 2 of the Enforcement Rules of the Act of the Establishment of the Government Employee Ethics Units and Their Officers; Principles for the Allocation and Handling of Cases from the Civil Service Ethics Early Warning Mechanism. When a potential risky event or person is identified in an agency and investigation finds there is potential of unlawful conduct such as corruption or dereliction of duty, that does not yet constitute a criminal offense. However, in one of the following circumstances, the civil service ethics unit must immediately formally notify the head of the agency or in accordance with the civil service ethics system report it to the civil service ethics unit of the competent authority and the AAC and take immediate precautions.
- (1) Personnel accept banquet entertainment from stakeholders in their duties or accepts improper entertainment.
  - (2) Personnel are involved with improper venues or improper contacts.
  - (3) Personnel receive valuable gifts from stakeholders in their duties.
  - (4) Personnel are involved in intercession.
  - (5) Personnel delay a case, make errors on purpose, accesses official data or personal data without authorization, or contravenes normal operations in violation of laws and regulations.

- (6) Personnel illegally run a business, their income and expenditure are clearly out of balance, participates in saving and lending clubs or makes such a club collapse, have financial difficulties, have suspicious contacts, and other irregular lifestyle elements.
  - (7) Operational audits, supervision of procurement, or inspections find anomalies.
  - (8) Colleagues or citizens file reports, media publishes reports, higher-level unit investigates, people's representatives are asking questions about suspicious cases of public servants relinquishing their duties.
  - (9) Personnel violate the Civil Service Act, the Act on Recusal of Public Servants Due to Conflicts of Interest, and other acts and provisions relating to clean government.
  - (10) Other risks that may seriously impact the reputation of the agency.
70. The civil service ethics unit of every ministry and agency completes a Civil Service Ethics Situation Reporting Form whenever a major anomaly occurs, such as an early warning type of event or a public servant displaying signals of corruption, which may cause society to give the agency negative ratings or otherwise impact its reputation. The form must be promptly submitted to the head of the agency and the civil service ethics unit at the next-higher level in order to control the situation as quickly as possible and take response measures.
71. An administrative risk management system was established in 2004. The Practice Statement on Risk Management and Crisis Management of the Executive Yuan Affiliated Agency was revised in December 2008. The Handbook of Risk Management and Crisis Management was enacted in March 2009, with the purpose of being the reference for administrative agencies when they promote integrated risk management and crisis management. The handbook instructs each administrative agency to build a cycle that includes understanding systematically the background and context of a potential risk, identifying, managing, evaluating, dealing with, monitoring and reviewing, communicating and consulting risks, bringing the concept of risk management in policy making in order to achieve policies objectives. The government thus has a long-time experience on using this system to manage risks, considering risks identification as a key step that can recognize hazards and solve them with proper measures beforehand.
72. The internal control is part of the risk management and an important tool to reduce risk. For strengthening the internal control of each agency, the government has formulated some internal control regulations in requiring all agencies manage significant risks which affect the objectives of government. Especially in the risk identification process, in regard the business involve

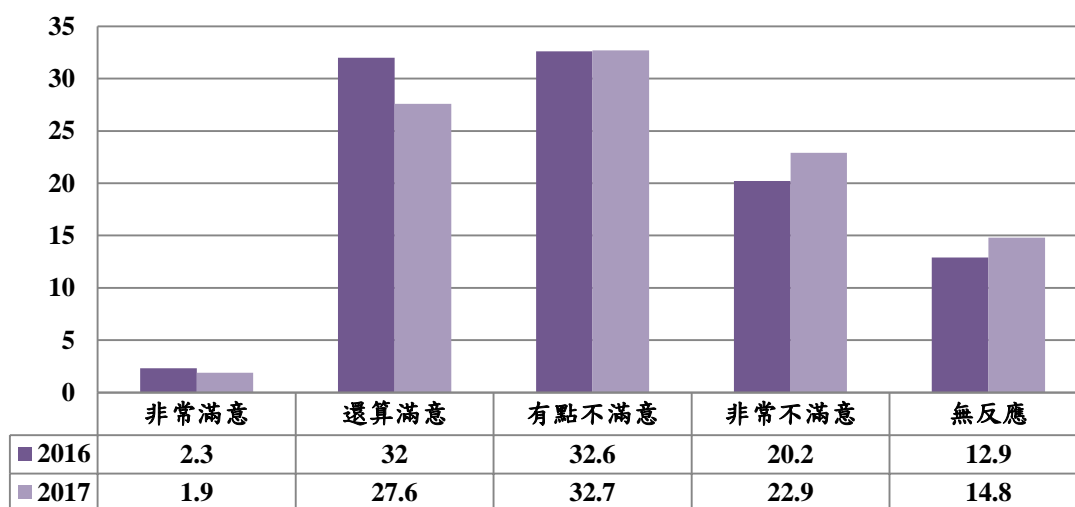
people's rights or obligations, agencies should focus on identifying the sources of risk that affect the credibility of the government, e.g. the risk of bribery or abuse authority, to avoid missing potential risks of organizations. In practice, agencies have identified and assessed risks in terms of their own business, adopted relevant internal control mechanisms, and regularly reviewed the implementation of internal controls to effectively control the risk of governance.

2.41		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 11 條	Citizen's perception on the performance of the judiciary / prosecutorate (not individual judges / prosecutors) ?	民眾對於審判、起訴表現的觀感如何（不是對於個案審查、起訴）？

中文回應：

73. 2016 年及 2017 年廉政民意調查結果，民眾對於政府調查起訴貪污表現的看法<sup>9</sup>，如圖 2-2。

圖 2-2 民眾對於政府調查起訴貪污表現的看法



英文回應：

73. The results of the Clean Government Opinion Polls conducted in 2016 and 2017 mapping the general public's views on the government's investigation and prosecution of corrupt practices<sup>10</sup>, as shown in Figure 2-2.

Figure 2-2 People's Views on the Government's Investigation and Prosecution of Corrupt

<sup>9</sup> 2015 年以前年度無本項調查。

<sup>10</sup> No such surveys were held before 2015.

## Practices



2.42		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 11 條	Any assumptive reasons of dissatisfaction (55.6% - highly dissatisfied) with investigation and prosecution of corruption by the government ?	對於政府調查起訴貪腐不滿意(55.6%-非常不滿意)的原因？

中文回應：

74. 承上題，2017 年廉政民意調查結果，民眾對政府調查起訴貪污表現有 55.6% 受訪者偏向不滿意，但從統計數據已顯示我國貪瀆犯罪率下降、定罪率提升，形成民眾主觀認知與政府統計數據呈現不一致，可能是因政府未能讓民眾瞭解其政策作為或是預防貪腐的成效有時間延遲性的問題。

英文回應：

74. The Clean Government Opinion Poll 2017 found that 55.6% of interviewees were dissatisfied with the government's investigation and prosecution of corrupt practices. However, statistics clearly show that corruption in Taiwan has been decreasing and conviction rates increasing. The divergence between the general public's subjective views and the government's statistical figures may be due to the government's failure to make the general public understand the effectiveness of its policies or the time lag in the results of decreasing corruption thanks to corruption prevention.

2.43		
涉及公約條文	問題內容(原文)	中文參考翻譯

第 2 章 第 12 條	In view of the growing importance of private sector corruption in Taiwan, what has the MJIB done to promote corruption prevention among private sector companies?	有鑑於臺灣私部門貪腐問題越來越重要，調查局有做任何關於加強私部門防制貪腐的措施嗎？
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中文回應：

75. 調查局為推廣企業誠信及社會責任，摒除過往被動受理民眾檢舉案件，及傳統教條式宣講方式，改以創新的思維，主動走入企業，建立夥伴關係，以實際案例提醒企業，重視內稽、內控，強化教育訓練，協助企業落實公司誠信治理，降低犯罪風險發生，企業一旦發現不法，即可經由調查局聯繫窗口的協助，即早介入調查，儘速偵辦，以避免損害擴大，保障企業的健全發展與國家整體經濟秩序。參見首次國家報告第 25 點(4)。

英文回應：

75. In order to promote corporate integrity and social responsibility, MJIB has evolved from the passive acceptance of complaints and traditional lectures to using innovative thinking to actively engage corporations, form partnerships, and use actual cases to remind corporations that they should emphasize internal auditing and internal control, strengthen educational training, and implement good-faith governance to reduce the risk of crime. As soon as corporations discover unlawful activity, the MJIB windows can assist by early intervention and investigation to prevent additional damage, ensure robust corporate development, and maintain the overall economic order. Please reference our initial report 25.(4).

2.44		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Paragraph 23 in the Initial Report focuses on the relevant regulations in Securities and Exchange Act, Civil Servants Work Act, Company Act, and the draft Foundations Act but does not discuss how effective these regulations and the recommended procedures are in preventing private sector corruption.	第 23 點著重於證券交易法、公務員服務法、公司法、財團法人法草案等，但並沒有討論這些法條的有效性，以及防制私部門貪腐的建議措施。

中文回應：

76. 依據《證券交易法》相關罰則，調查局積極偵辦上市（櫃）公司背信及非常規交易等案件，成效斐然，並在一定程度上，成功嚇阻不肖投機份子在私部門內從事非法貪腐情事。

英文回應：

76. Pursuant to the punitive rules relating to Securities and Exchange Act, MJIB has actively investigated breach of trust and unconventional transactions at listed companies with excellent achievements. To a certain extent, this has successfully deterred opportunistic elements from engaging in illegal corruption in the private sector.

2.45		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Regarding the efforts to strengthen corporate governance, how many TWSE/TPEX listed companies have complied with the amended Corporate Governance Best Practice Principles for these companies? By December 2017, it was reported that 38 institutional investors had signed the Stewardship Principles for Institutional Investors (p. 59). How many institutional investors have still not signed this document? What are the findings of the corporate governance reviews of 1,496 TWSE/TPEX-listed companies conducted in 2016? Similarly, what are the findings of the review of 469 financial reports and auditing of the internal control systems of 252 TWSE/TPEX-listed companies from 2016 to 2017? (p. 59). Were any significant weaknesses in corporate governance uncovered by these reviews and audits?	有關第 24 點(1)，有多少上市上櫃公司有遵守公司治理實務守則的規定？有關第 24 點(3)，有多少機構投資人尚未完成簽署？有關第 24 點(5)，在治理評鑑結果中有何發現？有關第 24 點(6)，在完成財務報告實質審閱及內部控制制度查核之後，有何發現？經由這些審查作業，是否有發現公司治理上的任何重要問題？

中文回應：

77. 我國《上市上櫃公司治理實務守則》係為協助上市(櫃)公司建立良好公司治理制度，及促進證券市場健全發展，並採遵循或解釋方式，所有上市(櫃)公司均應遵循該守則規定辦理公司治理相關事項，若未遵循辦理，應於年報揭露其公司治理運作與該守則之差異情形及原因。
78. 具備資產所有者或資產管理者身份之法人投資人均可簽署盡職治理守則，截至 2018 年 6 月 30 日止已有 88 家機構投資人簽署機構投資人盡職治理守則，金融監督管理委員會(下稱金管會)將持續鼓勵機構投資人簽署盡職治理守則。



79. 在治理評鑑結果中之發現：

(1) 依我國 2016 年度公司治理評鑑結果，受評之上市櫃公司在誠信相關指標得分情形如下：

A.指標 3.17「公司是否揭露其所訂定之誠信經營守則及企業社會責任實務守則？」，得分公司(占全體受評公司)比例為 52.01%。

B.指標 5.12「公司是否訂定並詳細於公司網站揭露公司內、外部人員對於不合法(包括貪汙)與不道德行為的檢舉制度？」，得分公司(占全體受評公司)比例為 36.16%。

(2) 另我國自 2014 年起實施公司治理評鑑以來，上市櫃公司於公司治理各構面皆持續進步，其中針對受評之上市櫃公司最近 3 年度(2015 年度至 2017 年度)在誠信相關指標得分情形之進步情形如表 2-9：

表 2-9 公司治理評鑑誠信相關指標得分情形

指標	得分公司(占全體受評公司)比例		
	2015 年	2016 年	2017 年
3.17「公司是否揭露其所訂定之誠信經營守則及企業社會責任實務守則？」	40.57%	52.01%	59.71%
5.12「公司是否訂定並詳細於公司網站揭露公司內、外部人員對於不合法(包括貪汙)與不道德行為的檢舉制度？」	30.75%	36.16%	47.89%

(3) 證交所公司治理中心每年度均頒獎表揚評鑑結果排名前 5% 之公司，另證交所及櫃買中心將就評鑑表現較差之公司持續加強輔導及定期追蹤改善情形，並每年持續舉辦公司治理評鑑宣導會與上市櫃公司溝通及加強宣導。

80. 截至 2017 年底，證交所及櫃買中心審閱上市(櫃)公司之財務報告(469 家)及內控制度(252 家)，尚未發現其公司治理有重大缺失。

81. 經由相關審查作業，未發現公司治理上的重要問題。

**英文回應：**

77. Corporate Governance Best Practice Principles for TWSE/TPEx Listed Companies (hereinafter the “Code”) aims at assisting TWSE/TPEx listed companies to establish good corporate governance mechanism and promoting the sound development of the securities market. The code adopts the “comply or explain” approach. All TWSE/TPEx listed companies should comply with the code or if they do not comply, include the disclosure in their annual reports of the reason why they do not comply and any departure of their implementation of corporate governance from the Code.

78. Any institutional investor who acts as an asset owner or an asset manager can sign the Stewardship Principles (hereinafter the “Principles”). There are 88 signatories of the Principles



as of June 30, 2018. The FSC will continue to encourage institutional investors to sign the Principles.

79. What are the findings of the corporate governance reviews of 1,496 TWSE/TPEX-listed companies conducted in 2016 ?

(1) According to the corporate governance evaluation (hereinafter the “Evaluation”) of 2016, listed companies had performed well regarding ethical corporate management:

A. Indicator 3.17 “Did the company disclose the ethical corporate management best practice and corporate social responsibility best practice adopted by the company ? ”: 52.01% of listed companies were evaluated as “yes”.

B. Indicator 5.12 “Did the company adopt and disclose in details on its website a whistleblower system for company insiders and outsiders to report illegal behavior (including corruption) and unethical behavior ? ”: 36.16% of listed companies were evaluated as “yes”.

(2) Listed companies have made continuous progress since the implementation of the Evaluation in 2014. The improvements regarding ethical corporate management from 2015 to 2017 are show in Table 2-5.

**Table 2-9 Ethical corporate management of corporate governance evaluation**

Indicator	Percentage of listed companies evaluated as “yes”		
	2015	2016	2017
3.17 “Did the company disclose the ethical corporate management best practice and corporate social responsibility best practice adopted by the company ? ”	40.57%	52.01%	59.71%
5.12 “Did the company adopt and disclose in details on its website a whistleblower system for company insiders and outsiders to report illegal behavior (including corruption) and unethical behavior ? ”	30.75%	36.16%	47.89%

(3) The top 5% companies of the Evaluation will be rewarded by the Corporate Governance Center. TWSE and TPEX will provide further guidance and periodical follow-up for companies which seek further improvement. TWSE and TPEX hold educational seminars every year to communicate with listed companies, regarding corporate governance evaluation.

80. TWSE and TPEX didn’t find any significant weaknesses in corporate governance through the reviews of 469 financial reports and the audits of the internal control systems of 252 companies by 31 December 2017.

81. There were no significant weaknesses in corporate governance uncovered by these reviews and audits.

2.46		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Details of the 118 corporate integrity events conducted from 2012 to 2017 should be provided.	有關第 25 點(1)，118 場企業誠信宣導的細節為何？

中文回應：

82. 2012 年起，廉政署暨政風機構結合金管會，以企業及廠商為對象，辦理企業誠信宣導活動，詳如表 2-10。

表 2-10 企業誠信宣導活動

年度	場次	說明
2012	5	例如結合金管會辦理「上市上櫃公司誠信經營及企業社會責任」座談會，邀請國內 12 家推動誠信經營及企業社會責任著有成效之上市櫃公司進行實務經驗分享及座談。
2013	21	例如結合嘉義縣政府舉辦「2013 年廉政學術論壇」，跨域整合產官學及公私部門(長春集團、台灣佳能股份有限公司、嘉義檢察署、國立中正大學等)，針對產業開發過程多項議題深入探討，創造優質廉政效能環境。
2014	24	例如結合科技部新竹科學工業園區管理局舉辦「2014 科技部企業誠信論壇—營業秘密法」研討會，使該園區廠商及相關人員瞭解營業秘密法，加強保護國內產業營業秘密，維護產業倫理與競爭秩序。
2015	13	例如結合經濟部工業局辦理「企業誠信論壇—『向上的力量--企業誠信』」，參與對象為各政府機關、非政府組織及民間企業等。
2016	16	例如結合臺中榮民總醫院舉辦「醫療採購與企業誠信」廉政論壇，邀請產、官、學界及其他團體代表參與，探討醫療院所面對醫療採購如何依法辦理，避免廠商利益誘惑與落實內部控制機制，凝聚社會誠信價值共識，達到醫院永續經營與創造乾淨政府、誠信社會的願景。
2017	39	例如結合財政部辦理「2017 年關務論壇新世代國際關務趨勢與展望—便捷.透明.安全.永續」研討會，邀請產、官、學界人士參與，研討關務未來發展與挑戰。

英文回應：

82. Since 2012, AAC and ethics entities have worked with Financial Supervisory Commission (“FSC”) to organize the ethical corporate management promotional activity for such subjects as enterprises and suppliers. For details, please see Table 2-8.

Table 2-10 Ethical corporate management promotional activity

Year	Session	Notes
2012	5	For example, work with the FSC to organize the seminar for “TWSE/TPEX Listed

		Companies' Ethical Management and Corporate Social Responsibility" in which 12 domestic TWSE/TPEX listed companies which received remarkable achievement in boosting ethical management and corporate social responsibility were invited to share and talk about their practical experience.
2013	21	For example, work with the Chiayi County City Government to organize the "2013 Integrity Academic Forum" engaged in the multi-disciplined integration of the industry, government and academic circles and public and private sectors (Chang Chung Group, Canon, Chiayi District Prosecutors Office, and National Chung Cheng University, etc.) to probe into multiple motions for industrial development process and create the fine-quality integrity performance environment.
2014	24	For example, work with Hsinchu Science Park Bureau, Ministry of Science and Technology to organize the "2014 Ministry of Science and Technology Ethical Corporate Management Forum - Trade Secrets Act" Workshop to enable the suppliers stationed in the Park and related personnel to verify the Trade Secrets Act, strengthen protection of domestic industries' trade secrets, and maintain the industrial ethics and competition order.
2015	13	For example, work with the Industrial Development Bureau, Ministry of Economic Affairs to organize the "Ethical Corporate Management Forum - Rising Power - Ethical Corporate Management" attended by various government agencies, non government organizations, and private enterprises, et al..
2016	16	For example, work with the Taichung Veterans General Hospital to organize the "Medical Procurement and Ethical Corporate Management" Integrity Forum which invited the representatives from the industry, government and academic circles and other groups to probe into how the hospitals/medical institutions should carry out the medical procurement pursuant to laws, avoid the inducement provided by suppliers and fulfill the internal control mechanism, and unify the society's mutual agreement on the ethical value to achieve the hospitals' sustainable operation and create the vision for a clean government and an ethical society.
2017	39	For example, work with the Ministry of Finance to organize the "2017 Custom Affairs Forum New-Generation International Custom Affairs Trend and Outlook - Rapid, Transparent, Safe and Sustainable" Workshop which invited the representatives from the industry, government and academic circles to discuss about the development and challenge of custom affairs.

2.47		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	As the MJIB has relied on case studies to conduct exchanges with major industrial	有關第 25 點(4)，基於調查局仰賴案例分析，與重要工商團

	and commercial enterprises, details of these case studies and the 482 events attended by 36,668 employees of 8,965 companies by 2017 should be provided.	體企業進行交流，請提供這些重要案例分析的細節，以及482場企業肅貪交流的細節。
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中文回應：

83. 企業肅貪交流對象及內容說明如表 2-10。

表 2-11 企業肅貪交流對象及案例說明

對象	內容說明
新上市櫃公司（IPO）董監事、企業經理人	進行防範內部貪腐講習，並以鴻海集團高階經理人收受賄賂為案例。
高科技產業、科學園區	強調建立內部稽控制度重要性、強化營業秘密保護及反制商業間諜作法，以大連化工營業秘密遭侵害為案例。
金融機構	強調資安、駭客等相關案例實務，健全防制舞弊及資安措施，以第一商業銀行遭國際駭客攻擊 ATM 提款機為案例。
民間專業團體	綜整企業貪瀆案例，分析常見企業掏空行為，使企業能機先防範相關貪腐風險情事發生。

英文回應：

83. Corporate corruption targets and the content of instructions , please reference table 2-6。

Table 2-11 Corporate corruption targets and the content of instructions

Targets	Content of instructions
The directors, supervisors, and corporate managers at IPO companies	Preventative internal corruption lectures, with the acceptance of bribes by a senior manager at Hon Hai as case study.
High-tech industries and science and technology parks	Stress the importance of establishing internal auditing and control systems, as well as strengthening trade secret protections and resisting commercial espionage. The infringement of trade secrets at Dairen Chemical Corporation was used as the case study.
Financial institutions	Stress the cases involving information security and hackers to improve measures to prevent corruption and to protect information security. The international hacker attack on ATMs of First Commercial Bank was used as the case study.
Private professional organizations	Summarize corporate corruption cases and analyze common corporate embezzlement actions, so that corporations can prevent the risks of corruption.

2.48		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Cooperation between the Government and private sector associations ?	請說明公、私部門的合作？

**中文回應：**

84. 廉政署暨政風機構結合金管會，以企業及廠商為對象，辦理企業誠信宣導活動，詳如第 82 點、表 2-10 及首次國家報告第 88 點至第 91 點。
85. 調查局推廣企業誠信及社會責任，參見第 75 點及首次國家報告第 25 點(4)。
86. 為強化企業誠信凝聚私部門反貪腐共識，經濟部藉輔導企業自發性編製及依循 GRI 準則 (GRI Standards)發行 CSR 報告書、定期辦理企業社會責任相關議題研討會及教育訓練，並針對相關國際規範進行研究，使企業瞭解國內外企業社會責任最新趨勢與具體作法，強化企業對於社會責任的重視。具體作法例如推動「社會創新企業產品採購獎勵機制」，將社會創新產品納入共同供應契約；新創事業獎將「企業社會責任」納為評審指標之加分項目，並將「企業社會責任」納入「小巨人獎」、「國家磐石獎」之評審項目。

**英文回應：**

84. The AAC and Government Employee Ethics Units hold information and awareness activities for enterprises and companies, as described in Point 82, Table 2-10 and our initial report point 88 to 91.
85. MJIB promote corporate integrity and social responsibility, please reference Point 75 and initial report 25.(4).
86. Ministry of Economic Affairs (MOEA) provides assistance to encourage enterprises put emphasis on anti-corruption and improve integrity. Assistance includes assisting enterprises to publish Corporate Social Responsibility report that aligns with GRI's Sustainability Reporting Guidelines, organizing Corporate Social Responsibility and related topic seminar and training, and studying latest Corporate Social Responsibility standards. By providing assistance, MOEA encourages enterprises to promote Corporate Social Responsibility and enhances anti-corruption management approach disclosures. For instance, promoting "Purchase Reward Program", which assists products of social enterprise/social innovation enterprise to be included in the government procurement, and Business Startup Award has included "corporate social responsibility" in the evaluation standards of "National Award of Outstanding SMEs" and "Rising Star Award" to encourage enterprises to emphasize social responsibility.

2.49		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Any criticism against revolving door (public – private collusion / trading influence) ?	對於旋轉門條款的批評(公私共謀、交易上造成影響等)？

**中文回應：**

87. 《公務員服務法》第 14 條之 1 旋轉門條款係採「特定職務禁止」，因僅限制離職公務員禁止擔任特定之職務，如藉由其他職務名稱或名義，與其原任職機關進行交易或接觸，反不為法律禁止。銓敘部將參酌相關意見，作為研修旋轉門條款之參考。

英文回應：

87. According to current Article 14-1 of the Civil Servant Work Act, the revolving door provision, is based on the “prohibition of specific positions”, which only restricts civil servants from serving specific duties after resignation. However, it may result in the situation that resigned civil servants deal or contact with former agencies by using other job titles and that isn't prohibited by the Civil Servant Work Act on the contrary. Therefore, the Ministry of Civil Service will take relevant opinions as reference when amending the revolving door provision.

2.50		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 12 條	Could Taiwan provide more detailed information on the application of the measures??	有關報告第 23 點(5)，臺灣可以提供更多相關措施應用的細節資訊嗎？

中文回應：

88. 《財團法人法》雖經立法院於 2018 年 6 月 27 日三讀通過，並於 2018 年 8 月 1 日經總統公布，且該法係自公布後 6 個月施行，故目前尚無《財團法人法》第 25 條第 3 項主動公開規定之相關措施應用之細節資訊。

英文回應：

88. Although the Foundation Act was passed by the Legislative Yuan on June 27, 2018 and promulgated by President on August 1, 2018, the Act has not come into force. Therefore, there is no more detailed information on the application about Article 25 of the Foundation Act. As to the application of the current transparency measures and detailed information, it is necessary for AAC to contact the competent authorities.

2.51		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	Channels for raising corruption risks / proposing prevention mechanism, beside reporting channels, and any rewards for those input ?	除了公開報告和獎勵機制外，有無其他改善貪腐風險、強化預防機制的管道？



中文回應：

89. 廉政署暨政風機構落實「預警作為」機制，參見第 69 點。
90. 依《政風機構人員設置管理條例》第 4 條第 5 款及《政風機構人員設置管理條例施行細則》第 6 條與《政風機構再防貪案件分案處理原則》等規定，設有「再防貪作為」機制，政風機構對於立法院或監察院關注重大案件、經媒體顯著披露之重大社會矚目案件、經檢察官提起公訴、為緩起訴處分或職權不起訴處分、經法院判決後有重新檢討之必要或其他經廉政署署長指定分案者，應研編再防貪報告，針對弊案發生事實經過、原因、內部控制重大缺失、興革建議等進行研討，專報於報經主管機關政風機構審核後陳報機關首長，並將興革建議送請權責機關或單位參採；專報適時提機關廉政會報。
91. 廉政署暨政風機構不定期舉辦社會參與活動，以多元管道向民眾宣導反貪觀念，並建立客觀防貪機制。同時鼓勵採取客製化宣導策略，結合機關業務特性與資源，掌握特有弊端態樣，針對廉政風險業務採取多元宣導方式，包含貪瀆或廉政法規等不同類型的宣導內容。相關措施及實例如表 2-12。

表 2-12 廉政署暨政風機構推動改善貪腐風險、強化預防之措施及實例

措施	實例
研編客製化廉政教材	2017 年完成 26 項業務宣導教材，如：國軍人員倫理指南、水利業務防貪宣導參考教材、工程廉政指引、「填滿幸福」廉政法令及倫理手冊、「區公所開口契約注意事項手札」、「達『道』宜居」廉政指引手冊等；另為強化公務員對圖利相關法令的認識，鼓勵勇於任事，編印圖利案例廉政宣導手冊。
辦理廉政法令教育訓練	協調國家文官學院將廉政課程分別納入「薦任公務人員晉升簡任官等訓練」、「晉升官等（資位）訓練」及「考試錄取人員基礎訓練」，2017 年受訓班次計 239 班，計 1 萬 0,878 人次。
製作數位學習課程	1. 廉政署與行政院人事行政總處公務人力發展學院、工程會合製「工程倫理概述及案例解析」數位課程於 2017 年上線。 2. 廉政署製作「公務員法律責任及案例說明」、「聯合國反貪腐公約簡介」、「公務機密維護」等 12 門數位學習課程，掛置於「e 等公務園+學習平臺」等學習平臺，2017 年總認證人次 14 萬 8,562 人，總認證時數 21 萬 9,865 小時。
製作廉政宣導影片	包括「獎勵保護檢舉貪污」、「企業誠信與倫理規範」、「貪污治罪條例-行賄公務員」及「公務員廉政倫理規範」等短片。
推動校園誠信	廉政署協同教育部辦理「全國高級中等學校誠信研習營」，參加對象為全國公私立高中職學校學生計 160 人，藉由與學子切身相關誠信議題，從資料蒐集、意見討論、政策方案之提出，培養思辨的能力，增強誠信意識，由內而外深化學子誠信品格的價值觀。

<b>辦理廉政議題 辯論比賽</b>	廉政署協同臺北市政府政風處於 2017 年 10 月 20 日至 22 日間，辦理「第 11 屆廉政盃大專校院校際辯論比賽」，邀請全國各大專校院學生及海外學生組隊報名參加辯論競賽活動，總計 24 支隊伍參賽，並以「我國政風人員於機關內應具有獨立地位」為題，啟發參與者對於廉政議題之關注與重視。
<b>主題式重點防 貪工作</b>	2017 年擇定「廉政宣導」及「全民督工路平專案」等 2 項主題式重點防貪工作，完成廉政故事（話劇）校園巡迴宣導 992 場、協助巡查道路及工程督工投入 1,226 人次。
<b>推動廉政志工</b>	詳參第 94、95 點。

**英文回應：**

89. The AAC and Government Employee Ethics Units operate an early warning mechanism, described under Point 69.
90. There is a Corruption Prevention Practice in place, established in accordance with Article 4, paragraph 5 of the Act of the Establishment and Management of the Government Employee Ethics Units and Officers; Article 6, paragraphs 1 and 2 of the Enforcement Rules of the Act of the Establishment of the Government Employee Ethics Units and Their Officers; and the Principles for the Allocation and Handling of Cases from the Civil Service Ethics Early Warning Mechanism. The Government Employee Ethics Units must submit reports regarding major cases that have the attention of the Legislative Yuan or the Examination Yuan; major cases uncovered by the media that have attracted significant public interest; prosecutions filed by prosecutors; prosecutions canceled or mitigated in combination with disciplinary action; cases requiring a new investigation after a court verdict; and other cases designated by the AAC. Those reports must include the facts of the corruption cases, their causes, the major gaps in internal control, proposals for reform, etc. The reports must be submitted to the Government Employee Ethics Units of the competent authorities, which will review them and submit them to the head of the competent authority along with proposals for reform measures to be taken by the competent authority or the agency concerned. The AAC also must be kept informed throughout the process.
91. The AAC and the Government Employee Ethics Units will from time to time hold events for the general public to participate in, in order to reach the general public through various channels, raise their anti-corruption awareness, and build an objective anti-corruption mechanism. They also encourage the use of customized publicity strategies, depending on the characteristics and resources of the agency's business to leverage their specific disadvantages and adopt diverse publicity methods to disseminate information on corruption and clean government. Relevant measures and examples are shown in Table 2-11.



**Table 2-12 Measures and Examples for Promoting Improvement of Corruption Risks and Strengthening Prevention by the Agency Against Corruption and Government Employee Ethics Units**

<b>Measure</b>	<b>Example</b>
<b>Customized materials were created</b>	In 2017, 26 operational guidance materials were completed, such as: Armed Forces Personnel Ethics Guidelines; Water Resources Corruption Prevention Reference Materials; Guidelines for Clean Administration of Construction Works; “Happiness Is Enough” Handbook on Clean Government Regulations and Ethics; Points of Attention for Oral Agreements by District Offices; “Good Neighborliness” Clean Government Manual; and more. A booklet with unlawful enrichment cases and clean government principles was compiled and printed to strengthen public servants' understanding of laws and regulations regarding unlawful enrichment and to encourage them to be courageous in their service.
<b>Education and training on clean government laws and regulations were provided</b>	Clean government modules have been incorporated into the curriculum of the National Academy of Civil Service: Training for public servants Selected for Promotion from Junior Rank to Senior Rank, Training for Promoted public servants, Basic Training for Personnel Selected Through Examinations. 2017 saw 239 sessions given to 10,878 participants.
<b>Online courses were made</b>	<ol style="list-style-type: none"> <li>1. The Agency Against Corruption; the Civil Service Development Institute, Directorate-General for Personnel, Executive Yuan; and the Public Construction Commission, Executive Yuan jointly created the digital course Overview and Case Studies in Construction Ethics, which went live in 2017.</li> <li>2. The Agency Against Corruption produced 12 digital courses, including Case Studies in Legal Liability of public servants; Introduction to the United Nations Convention against Corruption (UNCAC); and Confidentiality for Public Servants. These courses were placed on the learning platform E-Learning for public servants, where 148,562 people watched 219,865 hours of educational content.</li> </ol>
<b>Videos on clean government were produced</b>	Videos produced included short films such as Rewards and Protection for Reporters of Corruption; Corporate Integrity and Codes of Conduct; Anti-Corruption Act- Bribery Public Servants; and Ethics Guidelines for Civil Servants.
<b>Campus integrity was promoted</b>	The Agency Against Corruption and the Ministry of Education jointly organized a National Senior High School Integrity Study Camp attended by 160 students from public and private senior high schools. The participants were presented with integrity issues, for which they devised policies after collecting information and discussing the issues. It helped sharpen their analytical skills, strengthened their understanding and awareness of integrity, and deepened their value system around integrity and character.
<b>A clean government debate contest was held</b>	In collaboration with the Department of Government Ethics, Taipei City Government, the Agency Against Corruption held the 11 <sup>th</sup> Anti-Corruption Cup Inter-University Debate Competition 20-22 October 2018, in which 24 teams from colleges and universities from the length and breadth of Taiwan as well as from overseas debated the topic “Taiwanese civil service ethics officers must have independent positions within their agencies.” The event helped raise participants’ and spectators’ concern and respect for the issue of clean government.
<b>Anti-corruption</b>	In 2017, two key themes were selected for the Agency Against Corruption’s

<b>work carried out along thematic lines</b>	anti-corruption work, namely Raising Awareness of Clean Government and The People Supervise Smooth Road Works Project. The first theme was packaged into a stage play that was performed 992 times on campuses around the country, while the second theme attracted 1,226 people to come out and oversee road works in progress.
<b>Anti-corruption volunteers were recruited and deployed</b>	Details given in point 94 and 95.

2.52		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	<b>How are the members of the civil servants ethics commissions appointed ?</b>	各級政府機關廉政會報的委員是如何指派的？

中文回應：

92. 依《中央機關及地方政府設置廉政會報作業要點》，推動中央機關及地方政府設置廉政會報，會報置召集人 1 人，由該機關首長兼任；副召集人 1 人，由該機關副首長兼任，由政風機構綜理秘書業務。會報應置委員 7 人以上，由下列人員派（聘）兼之：(1)該機關一級單位主管或所屬一級機關首長。(2)專家學者及社會公正人士 1 人以上。

英文回應：

92. According to the “Guidelines Governing Establishment of Meeting for Integrity Affairs by Central Government Agencies and Local Governments”, urge the central government agencies and local governments to establish the meeting for integrity affairs. The meeting for integrity affairs shall delegate 1 convener acted by the head of the relevant agency concurrently, 1 deputy convener acted by the deputy head of the relevant agency, and the ethics unit to take charge of secretary affairs. The meeting for integrity affairs shall delegate 7 members or more assigned (appointed) from the following persons concurrently: (1) the chief officer of any of the first-level units of the relevant agency or the head of the first-level agency-in-charge. (2) One expert/scholar and fair and just public figure, or more.

2.53		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	<b>Do anticorruption civil society organizations receive any specific or financial support from central or local authorities ?</b>	民間反貪腐團體是否有受到中央或地方機關的補助？

中文回應：

93. 依「各機關單位預算執行要點」第 20 點規定，中央政府各機關對民間團體及個人之補(捐)助，應依「中央政府各機關對民間團體及個人補(捐)助預算執行應注意事項」之規定辦理。另地方政府部分，係由各地地方政府參照上開應注意事項之規定，對民間團體及個人之補(捐)助事項，按補(捐)助事項性質，訂定明確、合理及公開之作業規範，據以執行。對所屬機關辦理前述補(捐)助業務，並應訂定管考規定，切實督導其強化內部控制機制及執行成效考核。
94. 各機關對民間團體及個人之補(捐)助，應主動公開，並應強化內部控制機制：
- (1) 依「政府資訊公開法」第 7 條，政府機關支付或接受之補助，應主動公開。
  - (2) 依「中央政府各機關對民間團體及個人補(捐)助預算執行應注意事項」第 7 點，核定民間團體或個人之補(捐)助案件，包括補(捐)助事項、補(捐)助對象與其所歸屬之直轄市或縣(市)、核准日期及補(捐)助金額(含累積金額)等資訊應按季公開；主管機關對其管考結果應於年度終了後 3 個月內公開。
  - (3) 依「中央政府各機關對民間團體及個人補(捐)助預算執行應注意事項」第 5 點，運用政府科技發展計畫預算對民間團體或個人辦理科技研究計畫之補(捐)助資訊，應登載於政府研究資訊系統(GRB)，並透過該系統查詢計畫內容有無重複等情形，作為辦理核定作業之參據。其他對民間團體之補(捐)助資訊，應登載於民間團體補(捐)助系統(下稱 CGSS)，並透過該系統查詢補(捐)助案件有無重複或超出所需經費等情形，作為辦理核定、撥款及核銷作業之參據。
95. 為利主管機關有效管理跨機關間民間團體補(捐)助案申請流程及申請情況，進一步強化源頭管理，以強化對民間團體補(捐)助案件控管機制，各機關對民間團體及個人之補(捐)助，應登載 CGSS 系統，並透過該系統查詢補(捐)助案件有無重複或超出所需經費等情形，作為辦理核定、撥款及核銷作業之參據。CGSS 系統於 2015 年 1 月上線供各機關使用，截至 2018 年 5 月，共 335 個機關申請使用、76 個機關介接，上傳案件數量已超過 27 萬件。

**英文回應：**

93. According to Article 20 of the “Directions for the Unit Budget Implementation”, the various central government agencies shall process the subsidies (donations) to private organizations and individuals in accordance with the “Guidelines for the Budget of Subsidies (Donations) for Private Organizations and Individuals Implemented by Central Government Agency”. Meanwhile, local governments shall establish the operating procedures for subsidies (donations) for private organizations and individuals to be followed, subject to the nature of the subsidies (donations), expressly, reasonably and openly, in accordance with said Guidelines. Local

governments shall also establish their own oversight and evaluation systems against said subsidies (donations) processed by their subordinated agencies, in order to precisely oversee and evaluate the these agencies' performance on enhancement of their internal control mechanism and execution thereof.

94. The various agencies shall make the information about the subsidies (donations) for private organizations and individuals available to the public proactively and shall enhance their internal control mechanism:
- (1) According to Article 7 of the “The Freedom of Government Information Law”, the information about subsidies that are paid or accepted by government agencies shall be made available to the public proactively.
  - (2) According to Article 7 of the “Guidelines for the Budget of Subsidies (Donations) for Private Organizations and Individuals Implemented by Central Government Agency”, the information about authorized subsidies (donations) for private organizations or individuals, including the contents of subsidies (donations), subsidized parties (donees) and special municipality or county (city) which the same shall vest in, date of approval, and amount of subsidies (donations) (including accumulated amount), shall be made available to the public on a quarterly basis. The result of the competent authorities' oversight and evaluation on the agencies shall be made available to the public within 3 months at the end of the year.
  - (3) According to Article 5 of the “Guidelines for the Budget of Subsidies (Donations) for Private Organizations and Individuals Implemented by Central Government Agency”, the information about subsidies (donations) for private organizations or individuals under the budget for the government's science and technology development programs shall be posted on the Government Research Bulletin (GRB), and the agencies shall check whether any programs overlap with each other via the GRB, as a part of the determination about authorization of the subsidies (donations). The information about the other subsidies (donations) for private organizations shall be posted on the Civil Group Subsidy System (CGSS), and the agencies shall check whether the subsidies (donations) overlap or exceed the budget as required, as a part of the determination about authorization, allocation and verification of the subsidies (donations).
95. In order to help the competent authorities manage cross-agency application procedures and status of applications for subsidies (donations) for private organizations, further strengthen the

source management and enhance the control mechanism about subsidies (donations) for private organizations, the information about various agencies' subsidies (donations) for private organizations and individuals shall be posted on the CGSS, and the agencies shall check whether the subsidies (donations) overlap or exceed the budget as required, as a part of the determination about authorization, allocation and verification of the subsidies (donations). The CGSS was made available to various agencies as of January 2015. As of May 2018, 335 agencies have applied for access to the System, and 76 agencies have interfaces with the System, and more than 270,000 cases have been uploaded to the System.

2.54		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	Are there any legal provisions in place that establish special rules for civil society organizations ?	有沒有任何對民間反貪腐團體的規範？

中文回應：

96. 我國社會團體之組織與活動，主要以《人民團體法》為規範依據，該法對於人民團體之設立、會員、職員、會議、經費、監督與處罰等均有規定。
97. 社會團體之成立制度，主要係採許可制。其設立程序主要為：(1)許可籌組，由發起人檢具應備文件申請設立；(2)召開發起人暨籌備會議及成立大會；(3)核准立案，發給立案證書及圖記。

英文回應：

96. The organization and activities of Taiwan's social groups are mainly based on the "Civil Associations Act". This Act stipulates the establishment, members, personnel, meeting, funds, supervision and punishment of the civil associations.
97. The current establishment system of social groups is mainly based on the licensing system. The procedures for its establishment are: (1) Licensing and preparation, and the sponsor will inspect and apply for the establishment of the required documents; (2) The sponsors and the preparatory meetings and the establishment of the general assembly; (3) The approval of the case, and the issuance of the certificate and the record.

2.55		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章	What is the profile of these volunteers and	廉政志工的背景？他們是如

第 13 條	how were they recruited? A table should be provided on the number of volunteers recruited since September 2011 and an analysis of their backgrounds.	何被招募的？請以表格提供 2011 年 9 月迄今招募志工人數，以及背景資料分析。
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中文回應：

98. 依《志願服務法》第 7 條規定，各主管機關政風機構成立廉政志工隊，並負責招募、訓練與監督志工等事宜。

99. 2011 年至 2017 年廉政志工人數及背景資料統計如表 2-13<sup>11</sup>。

表 2-13 2011 年至 2017 年廉政志工人數及背景資料統計表

年度	隊數	總人數	性別		年齡			
			男性	女性	30 歲以下	30 歲至 50 歲	50 歲至 65 歲	65 歲以上
2011	16	744	217	527	48	207	376	113
2012	25	1,046	311	735	94	229	575	148
2013	28	1,707	496	1,211	96	370	998	243
2014	27	1,360	396	964	82	264	752	262
2015	28	1,302	366	936	62	214	728	298
2016	28	1,307	355	952	47	218	708	334
2017	28	1,279	353	926	48	182	683	366

英文回應：

98. According to Article 7 of the “Volunteer Service Act”, the various competent authorities’ ethics entities shall establish their own integrity volunteer service teams, and shall be responsible for recruitment, training and management of the volunteers.

99. For the statistics about number of integrity volunteers and their background from 2011 to 2017, please see Table 2-10<sup>12</sup>.

Table 2-13 The statistics about number of integrity volunteers and their background from 2011 to 2017

Year	Number of teams	Total headcount	Gender		Age			
			Male	Female	Under 30 years old	30 years old ~ 50 years old	50 years old ~ 65 years old	Above 65 years old
2011	16	744	217	527	48	207	376	113
2012	25	1,046	311	735	94	229	575	148

<sup>11</sup> 本統計未含非屬《志願服務法》定義之志工隊(稱義工隊)，及由他機關管理之共用志工隊。

<sup>12</sup> The statistics exclude the volunteers beyond the definitions of volunteer team (namely volunteer service team) referred to in the “Volunteer Service Act”, and co-volunteers managed by any other agencies.

<b>2013</b>	28	1,707	496	1,211	96	370	998	243
<b>2014</b>	27	1,360	396	964	82	264	752	262
<b>2015</b>	28	1,302	366	936	62	214	728	298
<b>2016</b>	28	1,307	355	952	47	218	708	334
<b>2017</b>	28	1,279	353	926	48	182	683	366

<b>2.56</b>		
<b>涉及公約條文</b>	<b>問題內容(原文)</b>	<b>中文參考翻譯</b>
<b>第 2 章 第 13 條</b>	<b>What is the impact of this programme in enhancing the effectiveness of the AAC's efforts in corruption prevention ?</b>	<b>廉政志工的做法，對於加強預防貪腐工作有什麼影響？</b>

**中文回應：**

100. 廉政志願服務工作項目以「協助政府施政」及「廉政行銷宣導」為主軸，協助各機關辦理「廉政宣導」、「廉政故事」、「透明檢視」、「全民督工」、「民情反映及問卷訪查」等 5 項服務工作。藉由民眾投入廉政志願服務工作，有效結合民間力量與資源，鼓勵全民投入反貪腐行列，發揚公民參與精神，帶動廉潔風氣，讓預防貪腐工作不僅侷限於政府，更擴大至社會上每一個人，使民眾積極參與預防和打擊貪腐，並提高公眾對腐敗的存在、根源、嚴重性及其所構成威脅的認識。

**英文回應：**

100. The integrity volunteer service consists of “helping government with policy enforcement” and “integrity marketing promotion” as its key points to help various agencies offer the five services including “integrity promotion”, “integrity story”, “transparent inspection”, “public supervision”, and “reflection of public opinion and questionnaire”. By the public participating in the integrity volunteer service, combine the power and resource from the private sectors effectively, encourage all civilians to join the anti-corruption activity, promote the spirit of public participation, and drive the integrity trend, to extend the anti-corruption operations not only to governments but also to each person in the society, urge the public to participate in the prevention and countering of corruption, raise the public awareness toward existence, root cause, severity and treatment of corruption.

<b>2.57</b>		
<b>涉及公約條文</b>	<b>問題內容(原文)</b>	<b>中文參考翻譯</b>
<b>第 2 章 第 13 條</b>	<b>How effective are these story-telling sessions in spreading the anti-corruption message among the participants ?</b>	<b>廉政故事的活動(廉政故事志工)，對於傳播反貪腐資訊有多大幫助？</b>



**中文回應：**

101. 廉政署著重廉政觀念之扎根教育，秉持教育從小開始之理念，招募對學童品德教育有服務熱忱及興趣之志工，透過故事宣講方式，深入校園對國小學童及幼稚園學童傳達「正義、公平、誠信」理念，建立學童基礎廉政觀念，落實推動校園誠信，深化學子品格教育，活動深受參與師長及學童之喜愛。
102. 為推廣廉政與誠信扎根教育，廉政署擇選新北市政府政風處、高雄市政府政風處出版之「廉政故事集 1、2、3」及中、英文有聲書等優良廉政故事教材再版編印，作為廉政故事志工宣講題材，提供各機關廉政故事志工宣講運用，以培養學童廉能意識及品德觀念。

**英文回應：**

101. AAC values the sprouting and growing of education about the concept of integrity, and adheres to the philosophy believing that education should start from childhood, recruits volunteers with passion and interest in child students' ethical education to communicate the philosophy about "justice, fairness and ethics" to elementary school and kindergarten students, in order to build child students' basic concept about integrity, fulfill the promotion of ethics in school and deepen students' ethical education. The relevant activities are well received by participating teachers and students.
102. In order to promote the integrity and ethics sprouting and growing education, AAC chose to adapt and compile such excellent integrity teaching materials as the "Integrity Story Collection 1, 2 and 3" and Chinese & English sound books published by Civil Service Ethics Office of New Taipei City Government and Department of Civil Service Ethics of Kaohsiung City Government as the materials applied by the integrity volunteers for promotion. The materials will also be distributed to the integrity volunteers of various agencies to help them promote and train child students' awareness toward integrity and ethics concepts.

2.58		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	This paragraph (27.(2)) is vague and does not provide details of the anti-corruption education programmes initiated by the universities and schools in Taiwan. How many universities and schools in Taiwan have introduced the teaching of anti-corruption courses ? More	有關第 27 點(2)，臺灣各級學校反貪腐教育方案的細節，有多少大學和學校教授反貪腐的課程？請提供更多關於反貪腐課程的細節，包括課程數量及參與的學生數。



	<b>information on these anti-corruption courses should be provided, including the number of courses and students attending these courses.</b>	
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中文回應：

103.基於不同年齡層的學生需求及特性，任何國家都無法以單一、包裹式的方式設計並執行反貪腐教育策略，在融和傳統文化、品德、法治等教育考量，教育部透過訂定相關計畫、方案、課程或活動等方式，將反貪要素融於其中。說明如下：

(1) 加強法治教育及品德教育，辦理情形如表 2-14。

表 2-14 法治教育及品德教育辦理情形

類別	計畫/方案	年份	辦理情形
法治教育	加強學校法治教育計畫	2016	1. 普通型高級中等學校公民與社會學科中心辦理法治教育相關研習計 3 場、100 人次。 2. 補助國立臺灣海洋大學等 23 所大學院校辦理中小學及社區法治教育，總計 3 萬 536 人次參與。
		2017	1. 辦理「提升教師人權法治、品德教育知能研習」2 場合計 384 人次。 2. 補助國立臺灣海洋大學等 24 所大學院校辦理，總計 2 萬 8,516 人次參與。
品德教育	教育部品德教育促進方案	2016	1. 普通型高級中等學校國文學科中心辦理品德教育相關研習計 1 場、23 人次。 2. 辦理「青年學子廉政宣導及社會參與反貪教育活動」8 場計約 6,270 名學生參與。
		2017	1. 普通型高級中等學校國文學科中心辦理品德教育相關研習計 5 場、310 人次。 2. 補助高級中等以下學校推動品德教育深耕計 193 所。 3. 辦理「全國高級中等學校誠信研習營」，計 100 名學生參加。

(2) 將反貪腐相關議題納入高中(職)課程綱要：

- A. 普通高級中學必修科目「公民與社會」課程綱要列有「道德與法律規範」單元；現行職業學校群科課程綱要「公民與社會 B」教學綱要列有「法律與生活」單元。2016 學年度開設「公民與社會」科目之高中(職)計 391 校。
- B. 各學校均須依課程綱要教授人權及法制相關主題與內容，例如「道德與個人發展」、「公德心與公共倫理的培養及實踐」等。

(3) 鼓勵大專校院開設「民主法治廉政」相關議題課程，開設情形統計如表 2-15。

表 2-15 大專院校開設「民主法治廉政」相關議題課程

學年度		2015 學年度 (2015.8.1~2016.7.31)	2016 學年度 (2016.8.1~2017.7.31)
大專院校			
一般院校	開設校數	71 校	69 校
	開設課程數	2,208 門	2,726 門
	修習人次	9 萬 4,356 人次	15 萬 1,812 人次
技職校院	開設校數	84 校	84 校
	開設課程數	2,735 門	2,585 門
	修習人次	13 萬 0,172 人次	12 萬 2,132 人次

英文回應：

103. Given the different needs and characteristics of students at different age levels, no administration would be able to design a single uniform program to implement its anti-corruption education policies. The Ministry of Education has formulated a series of associated programs, projects, courses, and activities that integrate key anti-corruption elements, taking into consideration and properly incorporating education about traditional culture, morality, and the rule of law. Described as bellows:

- (1) Strengthen Law-Related education and Character education, the processing situation as table 2-14.

**Table 2-14 processing situation of Law-Related Education and Character education**

Item	Plan/Program	Year	processing situation
<b>Law-Related Education</b>	Program to Strengthen Law-Related Education in Educational Institutions	2016	1. The General Senior High School Civics and Society Education Resource Center organized three training workshops on law-related education, with a total of 100 participants. 2. National Taiwan Ocean University and 22 other tertiary institutions received subsidy assistance to arrange these legal education programs, with a total participation of 30,536 attendees.
		2017	1. Two Teachers' Knowledge & Skills Regarding Human Rights & the Rule of Law, and Character Education Enhancement workshops were held, with a total participation of 384 people. 2. National Taiwan Ocean University and 22 other tertiary institutions received subsidy assistance to arrange these legal education programs, with a total participation of 28,516 attendees.
<b>Character education</b>	MOE Character Education Promotion Program	2016	1. The General Senior High School Chinese Education Resource Center organized a training workshop on character education and 23 people participated. 2. Eight Young Student Anti-Corruption Campaign and Social Involvement in Anti-Corruption Education

			Activities events were held, with a total of approximately 6,270 students participating.
		2017	1. The General Senior High School Education Resources Center organized five character education related training workshops, with a total of 310 participants. 2. A total of 193 schools at elementary and secondary level received subsidies to implement the thorough development of character education. 3. The first National Senior Secondary School Integrity Study Camp was organized and 100 students participated.

(2) Bring anti-corruption issues into Senior Secondary Curriculum Guidelines :

A. Civics and Society is a compulsory subject in all general senior high schools, and the curriculum guidelines list Ethics and Legal Norms as a module. The current Vocational School Study Area Course Outlines for Civics and Society B list The Law and Life as a module. In the 2016 school year, a total of 391 senior secondary schools taught Civics and Society subjects.

B. Every school must teach the topics and content related to human rights and the legal system that are set out in their curriculum guidelines. These include Morality and Personal Development, and Cultivation and Practice of Public Virtue and Public Ethics.

(3) Encourage Universities, and Technological(Vocational ) Colleges(Universities) ran courses on democracy, rule of law, and clean government related topics, the statistical data is exhibited in Table 2-15.

**Table 2-15 Universities, and Technological(Vocational ) Colleges(Universities) ran courses on democracy, rule of law, and clean government related topics**

Academic year		2015 (2015.8.1~2016.7.31)	2016 (2016.8.1~2017.7.31)
Universities/ Technological(Vocational) Colleges(Universities)			
<b>Universities</b>	Run institution numbers	71	69
	Run course numbers	2,208	2,726
	Learning people	94,356	151,812
<b>Technological (Vocational) Colleges (Universities)</b>	Run institution numbers	84	84
	Run course numbers	2,735	2,585
	Learning people	130, 172	122,132

2.59		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 13 條	How many of these anti-corruption seminars and symposia have been conducted to date by these organisations ? Apart from Transparency international's Chinese Taipei Chapter, what are the other CSOs that the AAC and MJIB have worked with since 2011 to promote corruption prevention and education among the population in Taiwan ?	有關第 27 點(7)，這些組織總共辦理多少場反貪腐研討會、座談會？除了臺灣透明組織以外，廉政署和調查局是否有與其他民間組織合作推動反貪腐及教育？

中文回應：

104. 廉政署暨政風機構辦理研討會、論壇或參訪等活動，依其活動內容及性質，適時邀請國際透明組織、TAF 實驗室、社區調解委員會等民間團體，共同與會，以架構公私部門之對話平臺，引導正確廉政觀念。例如：

- (1) 司法院政風處 2017 年與紙風車劇團合作辦理「清明司法-兒童廉政劇場」、與吳兆南相聲劇藝社合辦「清明司法-相聲說廉政」，也邀請地方意見領袖、里長及民眾親身走訪法院辦理「逗陣繞法院」活動。
- (2) 廉政署結合中央及地方政府共同響應「聯合國國際反貪日」暨強化公私部門對反貪腐的參與，2016 年由 13 個行政機關分別以專業學術性論壇、行政機關及業者零距離實務溝通座談、兒童劇場、展演、辯論賽、嘉年華等方式舉辦 17 場次「1209 國際反貪日系列活動」，包含 151 位機關正副首長、629 位廠商及 358 位專業技術人士參與。

105. 另廉政署暨政風機構針對機關風險業務，辦理廉政座談會及論壇，促成學術界與實務界對話交流，共同關注廉政議題，尋求可協力合作的策略共識。2016 年至 2017 年辦理情形如表 2-16。

表 2-16 2016 年至 2017 年廉政署暨政風機構辦理廉政座談會及論壇

時間	共同辦理單位	活動
2016 年 5 月	國立臺北大學	台灣公共行政的自省與躍升：學術與實務整合學術研討會議
2016 年 10 月	法務部司法官學院	2016 年廉能學術研討會—地方政府廉能政治的扎根與深化
	台灣政治學會、世新大學行政管理學系	2016 年台灣政治學會年會暨『民主的深化與挑戰：台灣新政局的契機』國際學術研討會
2017 年 6 月	國防部、澎湖縣政府	「公共地方治理與廉能能力建構」國際論壇
2017 年 11 月	臺中市政府	中彰投苗區域推動優質廉能透明治理—公共工程廉能高峰論壇
	桃園市政府	北北桃道路鋪面工程盲樣試驗行政透明論壇

106.調查局積極與臺灣舞弊防治與鑑識協會、臺灣誠正經營暨防弊鑑識學會、中華民國內部稽核協會、中華民國會計師公會全國聯合會、臺灣加工出口區電機電子工業同業公會、中華民國全國工業總會、各科學園區同業公會、金融業同業公會、各地區廠商聯誼會、各地方扶輪社、獅子會等民間組織，共同推動私部門反貪腐活動。

**英文回應：**

104.AAC works with ethics entities to organize seminars, forums or visits. Subject to the contents and nature of the activities, such private groups as Transparency International, TAF and community mediation committee will be invited to attend the same in a timely manner to build the conversational platform between the public and private sectors and lead the correct concept about integrity. For example:

- (1) In 2017, the Department of Civil Service Ethics of Judicial Yuan worked with Paperwindmill Theatre to organize the “Clean Justice System - Children Clean Politics Show”, and worked with Wu Zhao Nan Xiang Sheng & Theater Association to organize the “Clean Justice System - Clean Politics Talk Show”, and also organize the “Walking Around Court” to invite the locally elected representatives, chiefs of village and civilians to visit courts for personal experience.
- (2) AAC worked with the central and local governments to respond to the “UN International Anti-Corruption Day” and strengthen the public/private sectors’ participation in anti-corruption. In 2016, 13 administrative agencies organized 17 sessions of “1209 International Anti-Corruption Day activity series” in the form of professional academic forum, seminar for communication between administrative agencies and suppliers, child theater, show, debate competition and carnival, which were attended by a total of 151 agency heads and deputy heads, 629 suppliers and 358 experts.

105.Meanwhile, AAC and ethics entities organized the integrity seminar and forum with respect to the agencies’ risk business to contribute to the exchange between the academic circle and practice circle and both circles’ concerns about the integrity issue, to reach common agreement on available collaborative strategies. For the status from 2016 to 2017, please see Table 2-11.

**Table 2-16 Integrity seminars and forums organized by AAC and Ethics Entities from 2016 to 2017**

Time	Co-organizer	Activity
May 2016	National Taipei University	Introspection and Jump of Public Administration in Taiwan: Academic Theories and Practical Management Integration

		Workshop
October 2016	Academy for the Judiciary, the Ministry of Justice	2016 Integrity Workshop - Sprouting and Deepening Local Government Integrity Governance
	Taiwanese Political Science Association, and Department of Public Policy and Management, Shih Hsin University	2016 Taiwanese Political Science Association and International Workshop for “Deepening and Challenge of Democracy: Chance for New Political Situation in Taiwan”
June 2017	Ministry of National Defense and Penghu County Government	International Forum for “Public Local Governance and Integrity Ability Construction”
November 2017	Taichung City Government	Promotion of Excellent Integrity Transparency Governance in Taichung, Changhua, Nantou and Miaoli - Public Work Integrity Summit Forum
	Taoyuan City Government	Taipei & Taoyuan Road Pavement Work Blind Test Administrative Transparency Forum

106.MJIB proactively works with the Taiwan Chapter of the Association of Certified Fraud Examiners, Taiwan Institute of Ethical Business and Forensics, the Institute of Internal Auditors – Chinese Taiwan, National Federation of Certified Public Accountants Associations of the Republic of China, Taiwan Export Processing Zone Electrical and Electronic Manufactures Association, Chinese National Federation of Industries, the associations for science park industries, the financial industry associations, the business associations in various regions, and the Rotary Clubs and Lions Clubs of various regions, to jointly promote anti-corruption activities in the private sector.

2.60		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	<b>Which are the sanctions provided for those companies that fail to comply disclosing beneficial ownership ?</b>	對於不揭露實質受益人的公司，有何處罰？

中文回應：

107.為強化防制洗錢之法令制度，經濟部參考「防制洗錢金融行動特別工作組織」(FATF)之標準及法務部的建議，於《公司法》修法草案中納入公司組織透明化之規定。該法草案要求公司負責人應定期至主管機關指定的資訊平臺，申報公司之董事、監察人、經理人及持股超過 10% 股東之名單資料，且主管機關得定期查核公司之申報情形。

108.《公司法》修正草案進一步規定，若公司違反申報規定或申報之資料不實，經中央主管機關限期通知改正，屆期未改正者，處代表公司之董事 5 萬元以上 50 萬元以下罰鍰。經再



限期通知改正仍未改正者，按次處 50 萬元以上 500 萬元以下罰鍰。其情節重大者，得廢止公司登記。

**英文回應：**

107. In order to strengthen institutions of anti-money laundering, Ministry of Economic affairs referred to FATF's recommendations and suggestions from Ministry of Justice, and proposed to amend the Company Act by establishing a reporting system for greater company transparency. This amending proposal provides company's responsible persons obligations to report information of company's directors, supervisors, managers and shareholders holding more than 10% of total company's issued shares to designated information hub periodically, as well as competent authority's power to inspect or to check company's compliance.

108. The amending article states that a company which fails to fulfill reporting obligations hereinabove and to rectify the violation within a given time limit shall be imposed with a fine of not less than NT\$ 50,000 but not more than NT\$ 500,000; and if fails to rectify the violation within the re-given time limit, those directors shall be imposed with a fine of not less than NT\$ 500,000 but not more than NT\$ 5,000,000 consecutively for each time of incompliance until the law violating act is rectified, each and every lapse may be subject to additional separate penalties; where the violation is of a severe nature, the central competent authority may, ex officio, nullify the registrations of the company.

2.61		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Has the government of Taiwan considered implementing a public open registry of beneficial ownership (not only available to law enforcement) ?	臺灣政府有沒有考慮公開登記實質受益人（不只是法律強制）？

**中文回應：**

109. 承上題，鑒於申報的資料可能涉及個人資料保護議題，目前正評估該資訊系統是否可以供公開查詢。為確保申報資料之使用的正當必要，《公司法》修正草案授權主管機關另訂辦法，以規範該等資料之利用。

**英文回應：**

109. Considering most of the aforementioned reported information is of personal data nature, Ministry of Economic Affairs is assessing whether the proposed designated information hub is good for public access. With a view to the necessary justified use of such information, the

amending article of Company Act empowers the central competent authority to codify regulations on further utilization of such information.

2.62		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	<b>Do banks and DNFBPs regularly provide suspicious transaction reports on bribery or corruption to the Anti-Money Laundering Division ?</b>	銀行及指定之非金融事業或人員是否定期提供可疑的賄賂或貪腐的交易報告給反洗錢組織？

**中文回應：**

- 110.依據《洗錢防制法》規定，銀行等金融機構及指定之非金融事業或人員應向調查局申報疑似洗錢或資恐交易報告，申報的內容包含與貪污有關之洗錢犯罪，我國之可疑交易申報義務內容要求與 FAFT 40 項建議所定規範一致，符合國際標準。
- 111.金融機構係以客戶與交易審查為基礎，依金融目的事業主管機關法規命令、產業公會自律規範暨機構內防制洗錢及打擊資恐政策、程序及內部管控措施等，辨識洗錢或資恐交易並決定向調查局申報可疑交易；指定之非金融事業或人員則係依中央目的事業主管機關訂定之授權辦法規定，向調查局申報符合規定監控態樣之交易。金融機構或指定之非金融事業或人員，依主管機關命令，均應於發現可疑交易 10 日內向調查局申報，係隨時立即性申報，而非定期之批次報告。

**英文回應：**

- 110.Pursuant to the Money Laundering Control Act, financial institutions such as banks and designated non-financial businesses or personnel shall submit reports on suspected money-laundering or terrorist-financing to MJIB. The reports shall contain information on crimes of corruption-related money laundering. This requirement is in conformity with international standards, in particular the 40 recommendations of the Financial Action Task Force (FATF).
- 111.Financial institutions identify suspicious money-laundering or terrorist-financing transactions and report them to MJIB based on review of customers and transactions in accordance with regulations and orders of the national competent authorities for financial objectives, self-regulations by industrial associations, and their internal policies, procedures, and measures against money-laundering and terrorist-financing. Designated non-financial businesses or personnel comply with the authorized rules and regulations established by central competent authorities to report transactions that meet monitoring criteria to MJIB. Pursuant to orders from



authorities, financial institutions or designated non-financial businesses or personnel should report to MJIB within 10 days after suspicious transactions are discovered. Therefore, immediate reporting, rather than regular batch reporting, is conducted.

2.63		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Does the Anti-Money Laundering Division (FIU) provide corruption-related money laundering reports or assessments to the Agency Against Corruption ?	反洗錢組織(金融情報中心)是否有提供貪腐相關的洗錢報告或評估給廉政署?

中文回應：

112.調查局洗錢防制處受理、分析金融情報，未必能於研析階段即明確辨識其交易原因與情報價值，如經研認有續查價值，為便於後續協調聯繫，會優先分送調查局外勤單位進行調查，確認是否涉嫌不法活動及其案件本質，惟就特定對象，經分析比對確認其為特定機關偵查對象，或與特定機關職掌有關，則會設法聯繫該特定機關探詢情報分送必要性，或直接將該情資分送予該特定機關參處。

113.調查局洗錢防制處主動分送及被動接受請求後提供金融情報，協助執法機關偵辦貪污賄賂案件統計如表 2-17。

表 2-17 調查局洗錢防制處提供金融情報協助執法機關偵辦貪污賄賂案件統計

單位：件

年度	主動分送	被動接受請求後提供
2015	27	4
2016	43	6
2017	24	18

114.受限於《刑事訴訟法》偵查不公開規定要求，執法機關不得公開偵查中案件、對象及相關資訊，調查局洗錢防制處無法瞭解廉政署調查對象與偵辦案件，惟調查局洗錢防制處據媒體報導，如獲悉特定案件為廉政署偵辦者，仍據以分送案件相關金融情報予廉政署參處，2015 年分送 1 件、2017 年分送 2 件。

115.調查局洗錢防制處依法受理、保管達一定金額以上通貨交易資料庫、疑似洗錢或資恐交易資料庫及海關通報旅客或隨交易工具人員出入境攜帶或以貨物運送、快遞、郵寄或以其他相類之方法運送洗錢防制物品出入境之資料庫，並開放國內執法機關查詢，廉政署因偵辦

貪腐案件，查詢達一定金額以上通貨交易資料，2015 年計 5,317 筆、2016 年計 7,505 筆、2017 年計 11,171 筆。

**英文回應：**

112.The Anti-Money Laundering Division of MJIB processes and analyzes financial intelligence, but it may not be possible to clearly identify transaction reasons and the value of intelligence at this stage. If research yields further investigation value, it would be sent to the field units of MJIB for investigation and to facilitate subsequent coordination and contacts. Field units then confirm whether unlawful activities are involved as well as the nature of the case. When specific targets involved are confirmed to be under investigation or the authority of specific agencies, the agencies would be inquired regarding the necessity of intelligence, or the intelligence would be directly sent to the agencies for their reference.

113.The Anti-Money Laundering Division of MJIB actively distributes and received requests then provided financial intelligence to help law enforcement agencies investigate corruption and bribery cases, please reference table 2-17.

**Table 2-17 The statistics of The Anti-Money Laundering Division of MJIB provided financial intelligence to help law enforcement agencies investigate corruption and bribery cases**

Unit:case

Year	Actively distributes	Received requests then provided financial intelligence
2015	27	4
2016	43	6
2017	24	18

114.Constrained by the domestic requirement of non-disclosed investigations pursuant to the Code of Criminal Procedure, law enforcement agencies may not disclose cases, subjects, and related information under investigation. Therefore, it is not possible for the Anti-Money Laundering Division of MJIB to learn about the subjects and cases of investigation by the AAC. However, if the Anti-Money Laundering Division of MJIB learns from media reports on cases being investigated by the AAC, it would still deliver financial intelligence to the AAC for its reference; financial intelligence was delivered for 1 case in 2015 and 2 cases in 2017.

115.The Anti-Money Laundering Division of MJIB lawfully processes and safeguards a database for currency transactions above a certain amount, a database on suspected money-laundering or terrorist-financing transactions, and a database on customs reports of controlled

money-laundering objects carried by passengers or instrumental personnel, or transported by freight, express, or post across the border. These databases are open to searches by domestic law enforcement agencies. The AAC made 5,317 searches in 2015, 7,505 searches in 2016, and 11,171 searches in 2017 for currency transactions over a certain amount in corruption investigations.

2.64		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	<b>Has the Agency Against Corruption conducted investigations that originated with financial intelligence reports ?</b>	廉政署是否有根據金融情報的報告來進行調查？

中文回應：

116. 廉政署係我國專責廉政機關，依《法務部廉政署組織法》職司貪瀆或相關犯罪之調查及處理，基於勿枉勿縱、發現真實之職責，均會使用金融情資來進行調查。目前廉政署可取得之金融情資包括：(1)以法務部單一窗口查詢金融、財稅及大額通貨檔案等相關資料。(2)向金融機構函調金融帳戶開戶、銀行、保險及其他衍生性金融商品之交易紀錄。(3)向調查局調取「可疑交易報告」等，上揭方式取得之金融情資對於洗錢及貪瀆相關前置犯罪之調查，具有相當參考價值。

英文回應：

116. AAC refers to the dedicated integrity authority in Taiwan. The agents shall fulfill their responsibilities for investigating and processing malpractices or related offenses in accordance with the “Organic Act of the Agency Against Corruption, Ministry of Justice”. To adhere to the “no spoil and no mis-accuse” principle and find the truth, AAC is used to conducting the investigation based on financial intelligence. For the time being, the financial intelligence accessible by AAC includes: (1) information about finance, tax and significant cash transaction files accessible by the single liaison of Ministry of Justice. (2) The record for financial account opening, bank, insurance and other financial derivatives transactions requested from a financial institution in writing. (3) Access to the “suspicious transaction report” from the Investigation Bureau. The financial intelligence accessed in said manners serves as very important reference able to help the investigation on predicate offenses for ML and malpractices.

2.65		
涉及公約條文	問題內容(原文)	中文參考翻譯

<p><b>第 2 章</b> <b>第 14 條</b></p>	<p><b>Do the Anti-Money Laundering Division and the Agency Against Corruption, receive, or have easy access to, Asset Declarations ?</b></p>	<p><b>反洗錢組織和廉政署是否有收到或可以獲得財產申報資料？</b></p>
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**中文回應：**

117. 《公職人員財產申報法》將具高度政策決定權限之人列為適用對象，例如：總統及副總統、政務人員、各級民意代表、民選機關首長、一定職級以上之主管人員等人員，每年均須將其本人、配偶及未成年子女之財產狀況予以申報，應申報內容有不動產、汽車、存款、有價證券、債權、債務等項目。公職人員如有故意隱匿財產或故意申報不實者，將處以行政罰鍰。公職人員財產申報資料分為「主動公開」和「被動公開」2 種，「主動公開」部分係指須主動申報財產並於網路公開，「被動公開」資料則開放成年民眾申請查詢，且受理申報的機關需每年主動辦理查核。廉政署、調查局或其他機關司法調查人員，如因案件需要均可以函文向各受理申報之主管機關調閱財產申報資料。
118. 調查局洗錢防制處曾受理公職人員競選活動政治獻金專戶相關金融情資，經分析研認有續查價值，分送受理政治獻金申報之監察院調查處研處。

**英文回應：**

117. The Act on Property-Declaration by Public Servants identifies the persons who hold the high-level authority to make decision as the subjects, e.g., President and Vice President, administrative officers, elected representatives at all levels, heads of democratic bodies and works, and chief officers of specific rank or above. Said persons shall declare the property of themselves and their spouses and minor children each year. The contents of declaration shall specify real property, cars, deposits, negotiable instrument, obligation and debt. Public servants who conceal property intentionally or make false declarations intentionally shall be imposed of an administrative fine. The property-declaration by public servants includes “voluntary declaration” and “involuntary declaration”. The “voluntary declaration” information means the information of property declared voluntarily and disclosed to the public online. The “involuntary declaration” information will be made available for access by adult civilians. Meanwhile, the agency responsible for accepting the declaration shall audit the information voluntarily each year. If necessary, AAC, MJIB or other agencies investigators may ask the competent authority accepting the declaration in writing for access to the property declaration information.
118. The Anti-Money Laundering Division of MJIB has processed financial intelligence relating to political campaign contributions accounts for public office. The intelligence was analyzed and

deemed to have value for further investigation, and was delivered to the Department of Supervisory Investigation, Control Yuan for research and processing.

2.66		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Any measurement on the performance of FIU ?	如何衡量金融情報中心的績效？

**中文回應：**

119. 調查局洗錢防制處係我國國家金融情報中心，其組織、運作、任務及功能係依據「防制洗錢金融行動工作組織(FATF)」建議設計，作為我國在金融情報中心艾格蒙聯盟之唯一窗口，亦須遵循艾格蒙聯盟章程及情資交換原則等國際組織規約。
120. 我國係「亞太防制洗錢組織(APG)」會員，須遵循 FATF 訂定有關防制洗錢及打擊資恐之 40 項建議，調查局洗錢防制處與國內法制、執法、司法及其他權責機關，在 APG 架構下，均須定期接受 APG 關於技術與效能遵循之相互評鑑，而查我國於 2007 年接受亞太防制洗錢組織第 2 輪相互評鑑時，調查局洗錢防制處獲得「完全遵循」的評鑑成果。
121. 調查局洗錢防制處每年定期出版年報，除提供國內相關權責機關、金融機構等實務界與大學院校、研究所、智庫等學術機構參考外，亦主動寄發予相關國際組織及其他國家金融情報中心，以對外公開展現其工作成果。

**英文回應：**

119. As the national financial information center, the Anti-Money Laundering Division of MJIB along with its organization, operations, tasks, and functions were recommended and designed by the Financial Action Task Force. As the only Taiwanese participant in the financial intelligence center, Egmont Group, the Anti-Money Laundering Division must also comply with international conventions such as the Egmont Group Charter and Principles of International Exchange.
120. Taiwan is a member of the Asia/Pacific Group on Money Laundering, and must comply with the forty recommendations on money-laundering and terrorist-financing from the Financial Action Task Force. The Anti-Money Laundering Division of MJIB is an important component of Taiwan's mechanisms to fight money-laundering and terrorist-financing. Along with domestic legal, law enforcement, judicial, and other competent authorities, and under the framework of Asia/Pacific Group on Money Laundering, Taiwan is also required to regularly submit to mutual assessment of its technical compliance and effectiveness. In the second round of mutual

assessment in 2007 by the Asia/Pacific Group on Money Laundering, Taiwan's Anti-Money Laundering Division of MJIB demonstrated complete compliance.

121. Each year, the Anti-Money Laundering Division of MJIB publishes yearbooks, which serve as references for relevant domestic authorities, financial and higher education institutions, and think tanks. Moreover, yearbooks are actively sent to related international organizations and the financial intelligence centers of other countries in order to publicly demonstrate the Anti-Money Laundering Division's work accomplishments.

2.67		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Could Taiwan clarify the application of the 25% threshold versus 10% and when will the revised Companies Act come into force.	有關報告第 29 點(4)，臺灣能否清楚闡釋有關 25%與 10%兩種門檻的比較及差異，以及修訂後的《公司法》何時生效？

中文回應：

122. 《公司法》修正草案已於 2018 年 7 月 6 日經立法院三讀通過，即將完成立法程序，其中增訂第 22 條之 1，促進公司透明化。《公司法》施行日期將另由行政院決定。

123. 關於《公司法》增訂要求公司申報持股超過 10%股東資料部分與各國多以持股 25%作為實質受益人認定門檻一節，差異說明如下：

- (1) 《公司法》的規定是參考證券交易法關於公司負責人、經理人及大股東的申報規定，其中對於大股東的認定標準是採取持股超過 10%作為認定門檻。
- (2) 各國對於公司實質受益人之認定標準則之一多是以股東是否持股達 25%。
- (3) 從持股多寡作為判斷公司實質受益人的角度而言，《公司法》新增規定將比其他國家的認定標準更嚴謹

英文回應：

122. The amendments to Company Act, including but not limited to company transparency rules of Article 22 bis, was been passed by the legislative body on July 6 and would complete the required legislative process soon. According to Company Act, the implementation date will be decided by Executive Yuan once the amendments bill is promulgated.

123. Regarding to the application of 25% threshold vs. 10%'s, some clarifications are as followed:

- (1) The new rule of company's reporting obligation on information of its responsible persons, management and major shareholders is referred to a similar rule on Securities Exchange Act which defines major shareholders are those hold more than 10% of company's total shares.



- (2) One of the standards for identifying beneficial ownership among most countries practices is whether its shareholding reaches to 25% or not.
- (3) With respect to controlling a company by shareholding, the new rule of company transparency in Company Act would be more demanding than other countries’.

2.68		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Has the level of compliance by FIs and DNFBPs improved? Please provide evidence, examples.	有關報告第 29 點(5)，金融機構及特定非金融事業體與專業人員的提升是否達標？請提供具體事證或個案供參考。

中文回應：

124. 近年來金管會透過增訂法令強化要求、採取措施提升金融機構對銀行業防制洗錢及打擊資恐（AML/CFT）之認知與資源投入、及實地檢查提列檢查意見要求改善等方式，持續督促金融業提升其 AML/CFT 組織架構、人力專業、系統建置及資源投入，以增進金融機構之遵循程度，並強化相關作業能力及品質。尤其近年金管會將 AML/CFT 列為監理重點，其所轄行業在風險認知、資源投入及執行成效上，均有明顯提升。
125. 金管會已於 2017 年 6 月 26 日訂定發布《會計師防制洗錢辦法》及《會計師防制洗錢注意事項》，會計師為客戶準備或進行特定之交易型態時，應遵守客戶身分審查、資料留存及可疑交易通報等規定。金管會並以風險為基礎執行事務所問卷、非實地檢查及實地檢查等監理措施。
126. 近 2 年金管會加強對高風險產業進行專案檢查，觀察受檢機構在 AML/CFT 遵循程度均已明顯提升，例如本國銀行之遵循平均評分，由前次檢查（於 2016 或 2017 年執行）之相當有效，提升至高度有效（2018 年上半年執行檢查）。
127. 金管會透過對金融機構進行面談、實地訪查、要求獨立第三人查核、裁罰及將 AML/CFT 遵循情形納入核照或核准業務之考量等方式，以瞭解 AML/CFT 工作效能及其履行義務之執行情形，並藉以提升其法令遵循程度。
128. 相關案例：
- (1) 銀行因應金管會 2017 年之規定，對其 OBU 客戶重新辦理審查及確認實質受益人，對於未能完成審查之客戶，則視情形通知銷戶或暫停交易，經暫停交易之客戶，如未能於金融機構所定期限內配合完成審查，亦會進行銷戶。案例顯示該銀行的高階管理層通過制定明確的政策，將銀行的合規性作為銀行的核心價值來推動，對於 ML/TF 風險過高且無法有效抵減風險之客戶，銀行將不會繼續維持業務關係。

- (2) 金管會查核 A 證券公司發現該公司所訂防制計畫及相關內規未完善、推出新產品及服務前未進行洗錢風險評估、對客戶交易模式有異常者，未進一步瞭解註記原因以釐清是否有申報疑似洗錢交易之必要性等缺失，遭金管會處以警告處分，該公司已函報缺失改善辦理情形，經核該公司已改善相關內控制度。

**英文回應：**

124. In order to improve the organization structures, human resources, database establishments, and resource inputs designated to AML/CFT of FIs through on-going supervision, to enhance the compliance of FIs, and to strengthen related operational abilities and qualities, the FSC has promulgated and amended related laws and regulations to strengthen compliance, adopted a number of measures aimed at increasing the awareness and resources dedicated to AML/CFT of FIs, and raised examination findings and corrective actions on onsite examination reports over these years. As the FSC has prioritized AML/CFT as its supervisory focus in recent years, the financial institutions supervised by the FSC have made significant progress in terms of risk understanding, inputs and effectiveness of implementation.
125. The FSC has promulgated “Regulations Governing Anti-Money Laundering for Certified Public Accountants” and “Directions Governing Anti-Money Laundering for Certified Public Accountants” on June 26, 2017. CPAs preparing for or carrying out specific transactions are obligated to perform customer due diligence, keep records and report suspicious transactions. The FSC applies a risk-based approach to conduct supervision activities (questionnaires, off-site inspections and on-site inspections, etc.)
126. The FSC has conducted targeted examination on higher-risk sectors in recent year. Based on the on-site observations, FIs have significant improvement in AML/CFT compliance. For example, the average score of domestic banks in compliance has enhanced from “substantial level of effectiveness” for the previous examination (performed in 2016 or 2017) to “high level of effectiveness” (examination performed in the first half of 2018).
127. In order to actually understand how well banking sector understand and manage their AML/CFT risks and fulfill their AML/CFT obligations, the FSC has adopted several measures such as the one-on-one face-to-face communications with financial institutions, onsite visiting, requiring external and independent agent to perform AML/CFT examinations, sanctions and incorporating the implementation AML/CFT into license or approval considerations. These measures have enhanced the compliance level of financial institutions.



128.Cases :

- (1) In accordance with the FSC's new regulations in 2017, banks have reviewed the customers of OBU and verified the customer's beneficial owners. Banks will inform customers to close accounts or suspend transactions, if the process of CDD remains incomplete. If the customer is unable to cooperate with the bank to complete the CDD under certain period of time, the bank will terminate the account. There is a case also shows that this bank's senior management promotes compliance as a core value of the bank by setting up a clear policy. The bank will not maintain business relationships that are associated with excessive ML/TF risks which cannot be mitigated effectively.
- (2) The FSC conducted examination on securities firm A and discovered that the company has had several deficiencies within their AML/CFT policies and procedures, did not conduct a ML/TF risk assessment before launching a new product/service, did not take enough actions to clarify whether to file STR where there' s an irregular trading pattern of a customer. The FSC issued a warning letter against securities firm A. The company has filed with the FSC for their remedial actions and completed the correction of their deficiencies.

2.69		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Regarding the RBA, could examples or evidence of implementation be provided.	有關報告第 29 點(5)，是否可以提供金融機構運用風險基礎方法的執行情形案例或證據？

中文回應：

129. 依據金管會發布各業別之防制洗錢及打擊資恐內部控制要點規定，金融機構之內部控制制度應包括下列事項：就洗錢及資恐風險進行辨識、評估、管理之相關政策及程序；依據洗錢及資恐風險、業務規模，訂定防制洗錢及打擊資恐計畫，以管理及降低已辨識出之風險，並對其中之較高風險，採取強化控管措施。
130. 目前金融機構已依其風險評估結果，發展防制洗錢及打擊資恐計畫，並提報董事會通過。藉上開計畫於日常作業執行，降低其洗錢及資恐風險，嗣後並定期重新辦理機構風險評估，並依照本身風險胃納，檢視防制洗錢及打擊資恐計畫是否適足，並適時調整。
131. 相關案例：
  - (1) 銀行對防制洗錢金融行動工作組織(FATF)所辨識之高風險國家交易所為之強化控制措施，對於自高風險國家匯入款，應瞭解交易目的與性質，取得客戶相關交易實質文件以供檢

核，以確保所進行之交易與客戶及其業務、風險相符，並依規留存相關檢核結果與佐證文件。

- (2) A 證券商採取降低風險措施方式係將客戶之風險等級劃分為 4 個等級：極高風險、高風險、中風險及低風險。對於經評估屬極高風險之客戶者，婉拒其開戶或交易，以完全杜絕其風險；對於經評估屬高風險之客戶者，則採取下列 4 種降低風險措施：
- A. 縮短客戶定期審查頻率：對於經評估高風險之客戶，應每 1 年重新進行風險評估作業。
- B. 進行加強客戶審查措施：對於經評估為高風險之客戶，營業人員應加填「加強客戶審查措施調查表」，以進一步取得客戶開戶與往來目的、資產評估、商業資訊等相關資料。
- C. 由更高階之管理階層核准高風險客戶之帳戶存續或開戶作業。
- D. 加強監控措施：經評估為高風險之客戶，其每一筆交易，無論金額大小均將列示於該公司之高洗錢及資恐風險客戶檢核表，由相關人員評估該客戶之交易是否屬疑似洗錢或資恐交易而需向主管機關申報。
- (3) 一般而言，人壽保險公司高風險業務包括高保價金商品(如:躉繳型、年金型保險、投資型保險等高保價金或高現金價值商品)，人壽保險公司所採取抵減措施作法如下：針對購買高風險產品之客戶採取加強監控措施，如：提升客戶風險係數以評估是否進行加強客戶審查、限制保險商品投保額度、交易管道（如高風險客戶不得以網路方式辦理投保）或給付方式（如特定高風險商品不得以現金給付），並對於異常之投保、繳費或退費等交易進行加強監控；另亦有人壽保險公司對於非面對面之電話行銷通路，限定僅得對客戶銷售中、低風險保險商品。

**英文回應：**

129.The AML/CFT internal control system directions issued by the FSC for various types of FIs require that each FI's AML/CFT internal control systems shall contain of the following : the policies and procedures to identify, assess and manage its ML/TF risks, an AML/CFT program established based on ML/TF risks and business size to manage and mitigate identified risks, which also includes enhanced control measures for higher risk situations.

130.FIs have implemented the AML/CFT programs to mitigate potential risks, and considered the risk appetite of themselves, FIs reviewed and adjusted the AML/CFT program and preventative measures.

131.Cases :

- (4) Banks undertake enhanced measures on transactions involved higher risk countries identified by FATF. Banks should understand the transaction purpose and nature towards the inward

remittances from such higher risk countries. Documents associated with the underlying trade should be required from the customers for verifying the remittance is commensurate with the customer's nature and risk. The verification and the foregoing documents should be retained for record.

- (5) Securities Firm B adopts risk mitigation measures by classifying customer risks into 4 categories: extremely high risk, high risk, moderate risk, and low risk. For customers rated as extremely high risk, their account opening applications or transactions are declined so risks can be completely mitigated; for customers rated as high-risk, the following 4 risk mitigating measures are adopted:
- A. Increase frequency of periodic CDD: Annual risk assessments are conducted on customers rated as high-risk.
  - B. Conduct EDD: For customers rated as high-risk, front line personnel fill out the "Enhanced Customer Due Diligence Survey Form" to obtain related information such as purposes of the business relationship with the customer, asset evaluation and business information.
  - C. Approval from a higher management level is obtained to authorize the continual existence of accounts of high-risk customers or opening accounts for them.
  - D. Strengthen monitoring and control measures: All transactions of customers rated as high risk, regardless of the amount, are included on the company's inspection list of high ML/TF risk customers for related personnel to evaluate whether the transactions of the customer are suspected of ML/TF and whether it is necessary to file STRs thereon.
- (6) In general, life insurance companies' high-risk businesses include products with high cash value (e.g. single-premium policies, annuities, investment-linked insurance). The risk mitigation measures adopted by life insurance companies are as follows : Products with high cash value: Life insurance companies adopt enhanced monitoring measures for customers who purchase high-risk products. For example, raise customer risk coefficient to determine whether to conduct EDD, limit the sum assured per policy, or restrict the transaction channels (e.g. high-risk customers are not allowed to purchase insurance online) or payment method (e.g. premium payment in cash is not allowed for some high-risk products), conduct enhanced monitoring of abnormal transactions of purchase, payment or refund. Some life insurance companies offer only medium and low-risk products for non-face-to-face selling insurance over the phone.

2.70		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 2 章 第 14 條	Could more detailed information about numbers of STRs be provided?	有關報告第 30 點(1)，是否可以提供有關洗錢防制可疑交易報告數量的更多詳細資訊？

中文回應：

132. 調查局洗錢防制處一方面積極主動分送加值之金融情報，另一方面亦依檢察及執法機關請求，分送該洗錢防制處資料庫相關及分析之資料，以協助洗錢、前置犯罪及資恐之調查，洗錢防制處自 2015 年至 2018 年上半年共計主動分送 3,179 案，依請求分送共計 557 案，詳如表 2-18。

表 2-18 2015 年至 2017 年洗錢防制處主動及受理請求後分送金融情報之案數

單位：案

期間	2015 年	2016 年	2017 年	2018 年 1-6 月
<b>主動分送</b>	<b>524</b>	<b>619</b>	<b>1,129</b>	<b>907</b>
貪污賄賂類型案件	27	43	24	19
企業肅貪類型案件	78	60	78	47
<b>被動分送</b>	<b>68</b>	<b>88</b>	<b>219</b>	<b>182</b>
貪污賄賂類型案件	4	6	18	23
企業肅貪類型案件	20	21	49	37

英文回應：

132. MJIB Anti-Money Laundering Division proactively provides value-added financial intelligence. In response to prosecution and law enforcement agencies, the division also provides relevant data and analysis from the database of the Anti-Money Laundering Division to assist with tackling money laundering, pre-crime preparation, and financing of terrorism. Anti-Money Laundering Division proactively provided intelligence concerning 3,179 cases from 2015 to the first half of 2018, while intelligence on a further 557 cases was provided on request (see Table 2-18).

**Table 2-18 Number of Cases Where Financial Intelligence Was Provided Proactively or On Request by the Anti-Money Laundering Division from 2015 to the First Half of 2018**

Unit: case

Period	2015	2016	2017	2018 Jan.-Jun
<b>Provided Proactively</b>	<b>524</b>	<b>619</b>	<b>1,129</b>	<b>907</b>
Corruption and Bribery Cases	27	43	24	19

	Enterprise Corruption Cases	78	60	78	47
<b>Provided Following Request</b>		<b>68</b>	<b>88</b>	<b>219</b>	<b>182</b>
	Corruption and Bribery Cases	4	6	18	23
	Enterprise Corruption Cases	20	21	49	37

## 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	問題內容(原文)	中文參考翻譯
第 3 章 第 16 條	Why does the Anticorruption Act only consideres as an offense the bribing of public servants of Mainland China, Hong Kong or Macao and not other countries ?	《貪污治罪條例》為何只規定到大陸地區、香港、澳門，而不包含其他國家？

中文回應：

133. 《貪污治罪條例》第 11 條規定「對於外國、大陸地區、香港或澳門....」，已規範「外國」，非僅規定到「大陸地區、香港、澳門」。

英文回應：

133. Article 11 of the “Anti-corruption Act” applies to public servants in “a foreign nation, Chinese mainland, Hong Kong, Macao...”. This stipulation covers not only “Chinese mainland, Hong Kong, Macao” but also “a foreign nation”.

3.2		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 16 條	The ROC Criminal Code does not admit criminal liability of taiwanese citizens that commit crimes abroad ?	臺灣刑法不承認國人在國外犯罪嗎？

中文回應：

134. 我國《刑法》第 5、6、7 條均規定國人在國外犯罪之處罰，並無「臺灣刑法不承認國人在國外犯罪」之情形。

英文回應：

134. Articles 5 to 7 of the Criminal Code all stipulate that crimes committed by R.O.C. (Taiwan) nationals in a foreign country are punishable. The claim that “the Criminal Code of Taiwan does not apply to crimes committed by its nationals outside the country” is not true.

3.3		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 18 條	Can you explain what is “still a matter of debate” regarding the application of articles	有關影響力交易是否該當《貪污治罪條例》第 4 條至第 6

	<b>4 – 6 of the ACA ? (41, pg. 83 of the report)</b>	<b>條，請解釋什麼是「尚無統一見解」？(41 點)</b>
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中文回應：

135.法院對於《貪污治罪條例》規定之「職務」的認定，有僅認定公務員之「法定職權」，始足當之；亦有認包括具有「實質影響力」或「被認為具有影響力」者，均含括之。不同法院間有不同之見解，故謂「尚無統一見解」。目前我國已啟動修法，將影響力交易明文化。

英文回應：

135.Court opinions differ regarding the interpretation of “official duties” under the “Anti-corruption Act”. Some limit its scope to a public servant’s “legal functions and power”; some think the application of the term extends to any public servant with “substantial influence” or “deemed to have influence”. Interpretations vary with the courts, so there is “yet to be a uniform interpretation”. We have begun the process of amending the law in order to codify transactions conducted through exertion of influence.

3.4		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 21 條	Will the Agency Against Corruption routinely receive reports provided under the Private-Sector Whistleblower Protection Act ?	廉政署是否會定期收到私部門依據揭弊者保護法所提出的報告？

中文回應：

136.廉政署刻積極研擬公私合併之《揭弊者保護法》草案，因此尚未能收到私部門依法提出之報告。另廉政署職掌公部門貪瀆或相關犯罪之調查，只要是涉及公部門弊端之案件，無論何單位提出均會依法受理。

英文回應：

136.AAC is now working on a draft of the “Whistleblower Protection Act”. So far, it has not yet received any report made by private sectors pursuant to laws. Meanwhile, AAC is in charge of the investigation on malpractices or related offenses by public sectors. Any cases involving public sectors’ corruption shall be accepted and processed pursuant to laws, irrelevant with the whistleblower’s identity.

3.5		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章	Has the ROC furnished copies of its laws on	臺灣是否有提供聯合國關於



第 23 條	laundering of proceeds of crime to United Nations ?	洗錢相關法律的複本？
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中文回應：

137.我國並非聯合國的會員國，亦無任何機制可與聯合國為文件交換。

英文回應：

137.We are not a member of the United Nations (UN), and there isn't any mechanism for exchange of documents between Taiwan and the UN.

3.6		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 23 條	Please flesh out the specific amendments.	請補充修正法案的具體內容。 (按：應係指修正公布之《洗錢防制法》)

中文回應：

138.請參考《洗錢防制法》第 2 條及第 3 條規定：

(1)《洗錢防制法》第 2 條：

本法所稱洗錢，指下列行為：

- A. 意圖掩飾或隱匿特定犯罪所得來源，或使他人逃避刑事追訴，而移轉或變更特定犯罪所得。
- B. 掩飾或隱匿特定犯罪所得之本質、來源、去向、所在、所有權、處分權或其他權益者。
- C. 收受、持有或使用他人之特定犯罪所得。

(2)《洗錢防制法》第 3 條：

本法所稱特定犯罪，指下列各款之罪：

- A. 最輕本刑為 6 月以上有期徒刑以上之刑之罪。
- B. 刑法第 121 條第 1 項、第 123 條、第 201 條之 1 第 2 項、第 268 條、第 339 條、第 339 條之 3、第 342 條、第 344 條、第 349 條之罪。
- C. 懲治走私條例第 2 條第 1 項、第 3 條第 1 項之罪。
- D. 破產法第 154 條、第 155 條之罪。
- E. 商標法第 95 條、第 96 條之罪。
- F. 廢棄物清理法第 45 條第 1 項後段、第 47 條之罪。
- G. 稅捐稽徵法第 41 條、第 42 條及第 43 條第 1 項、第 2 項之罪。
- H. 政府採購法第 87 條第 3 項、第 5 項、第 6 項、第 89 條、第 91 條第 1 項、第 3 項之罪。
- I. 電子支付機構管理條例第 44 條第 2 項、第 3 項、第 45 條之罪。

J. 證券交易法第 172 條第一項、第 2 項之罪。

K. 期貨交易法第 113 條第 1 項、第 2 項之罪。

L. 資恐防制法第 8 條、第 9 條之罪。

M. 本法第 14 條之罪。

**英文回應：**

138. Please refer to Article 2 & 3 of the Anti-Money Laundering Act.

(1) Article 2:

As used in this Act, the crime of money laundering is committed by any person who—

- A. knowingly disguises or conceals the origin of the proceeds of specified unlawful activity, or transfers or converts the proceeds of specified unlawful activity to help others avoid criminal prosecution;
- B. disguises or conceals the true nature, source, the movement, the location, the ownership, and the disposition or other rights of the proceeds of specified unlawful activity; or
- C. accepts, obtains, possesses or uses the proceeds of specified unlawful activity committed by others.

(2) Article 3:

As used in this Act, “specified unlawful activity” includes the following:

- A. Any offense with a minimum punishment of imprisonment for a term of six months or more.
- B. Offenses listed in paragraph 1 of Article 121, Article 123, paragraph 2 of Article 201-1, and Articles 268, 339, 339-3, 342, 344 and 349 of the Criminal Code.
- C. Offenses described in paragraph 1 of Article 2, and paragraph 1 of Article 3 of the Smuggling Penalty Act.
- D. Offenses defined in Articles 154 and 155 of the Bankruptcy Law.
- E. Offenses described in Articles 95 and 96 of the Trademark Act.
- F. Offenses described in the third item of paragraph 1 of Article 45, and Article 47 of the Waste Disposal Act.
- G. Offenses listed in Articles 41 and 42, and paragraphs 1 and 2 of Article 43 of the Tax Collection Act.
- H. Offenses listed in paragraphs 3, 5 and 6 of Article 87, Article 89, and paragraphs 1 and 3 of Article 91 of the Government Procurement Act.

- I. Offenses listed in paragraphs 2 and 3 of Article 44, and Article 45 of the Act Governing Electronic Payment Institutions.
- J. Offenses described in paragraphs 1 and 2 of Article 172 of the Securities and Exchange Act.
- K. Offenses described in paragraphs 1 and 2 of Article 113 of the Futures Trading Act.
- L. Offenses defined in Articles 8 and 9 of the Terrorist Financing Suppression Act.
- M. Offenses described in Article 14 of this Act.

3.7		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 26 條	Besides fines, are there any other criminal sanctions provided for legal persons that incur in criminal liability ?	除了罰金，有沒有其他對於法人犯罪行為的懲罰？

中文回應：

139. 對於法人犯罪之處罰，目前僅得科以罰金。

英文回應：

139. The penalty for crimes committed by a juridical person is currently limited to fines.

3.8		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 26 條	Please flesh out the specific measures.	請補充有關法人責任之重要措施及作法部分。

中文回應：

140. 我國《刑法》現採與德國相同立法政策，即於《刑法》中承認有意識之自然人之行為始可成立犯罪行為而成為刑罰評價對象，處罰不法及有責之自然人之行為。另我國已於 2017 年司法改革國是會議決議檢討法人刑事責任之可能性暨主、客觀構成要件成立之標準。因此，未來針對 UNCAC 所定犯罪，應如何制定法人處罰方式及種類等相關規範，將積極探討研議。

141. 《民法》第 26 條規定：「法人於法令限制內，有享受權利、負擔義務之能力。但專屬於自然人之權利義務，不在此限。」第 28 條規定：「法人對於其董事或其他有代表權之人因執行職務所加於他人之損害，與該行為人連帶負賠償之責任。」以上為法人民事責任之一般性規定，至於對法人民事責任之重要措施及作法，則應視具體個案情形而定。

142. 《公司法》有關法人責任之相關規定如下：

- (1) 民事責任：《公司法》較少規定公司的民事責任，主要是在於關係企業間責任。例如第 369 條之 4 規定控制公司對於從屬公司為不合營業常規之經營而受有之損害負賠償責任。反之，同法第 369 條之 5 規定，從屬公司對於控制公司受有之損害，負賠償責任。另《公司法》第 23 條第 2 項規定公司對他人應負侵權行為損害賠償責任時，公司負責人如違反法令執行職務致他人受損害，對他人應與公司負連帶賠償責任。
- (2) 刑事責任：《公司法》關於刑事處罰規定，原則僅限於自然人之情形，惟若是針對股東所為刑事處罰之罰金，若股東為法人時，則自得適用而亦屬法人之刑事責任規定。
- (3) 行政責任：《公司法》的行政責任多直接賦予公司負責任或代表公司之董事。但仍有部分行政法上義務的違反，會導致公司被處以行政罰。例如《公司法》第 17 條規定公司之許可業務經目的事業主管機關撤銷或廢止確定者，應由各該目的事業主管機關，通知中央主管機關，撤銷或廢止其公司登記或部分登記事項即屬之。
- 143.為強化勸阻性效果，我國 2016 年修正公布《洗錢防制法》，業將金融機構違反相關規定之罰度，由原來之 20 萬元以上 100 萬元以下，提高至 50 萬元以上 1,000 萬元以下。《銀行法》亦規劃作調整，將銀行之罰鍰上限由 1,000 萬元提高至 5,000 萬元。

**英文回應：**

- 140.The legislation policy of the Criminal Code in Taiwan currently is the same as is in Germany. Under such policy, only the conscious act of natural persons may be substantiated as an act of crime and punishable by the Criminal Code. Accordingly, only natural persons who exhibit this kind of behavior shall be legally liable and punishable. The resolution of the National Conference on Judicial Reform in 2017 required the review of the subjectivity and objectivity of criminal liabilities of the offenders and the standard of the substantiation of the acts of crimes. As such, the legislation of the penalty for legal persons and the types of punishments in alignment with the crimes as stated in UNCAC will be a matter of serious concern for further study.
- 141.Article 26 of the Civil Code stipulates that: "Within the limits prescribed by acts and regulations, a juridical person is capable of enjoy rights and assume duties with the exception of those rights and obligations which are exclusively appertaining to natural persons." Article 28 stipulates: "A juridical person is jointly liable with the wrongdoer for the injury caused by its directors or other persons who are entitled to represent the juridical person in the performance of their duties." The above is the general provisions of civil liability of juridical person. As for the important measures and practices of civil liability of juridical person, it should be based on specific

circumstances. For the individual cases, it is necessary for AAC to contact the competent authorities.

142. Responsibilities of juridical person could be divided as civil responsibility, criminal responsibility and administrative responsibility.

- (1) In terms of company's civil responsibility, article 369-4 and 369-5 could be examples which state that the controlling company shall reimburse year-ended losses of its subsidiary if it was not due to normal business practices, not profitable and not compensated by the controlling company at the end of a fiscal year. Similarly, the subsidiary would be liable to reimbursement to the losses of its controlling company vice versa. Moreover, article 23 states that company's responsible persons shall be liable, jointly and severally, for the damage to such other person for their illegal behaviors in conducting the business operations if the company is liable for damages of wrongdoing to other person.
- (2) In terms of company's criminal responsibility, almost relevant regulations are upon natural persons only, provided that it is about shareholder's criminal pecuniary punishment and those liable shareholders are legal persons as well.
- (3) In terms administrative responsibility, most rules are upon responsible persons of a company except to certain violations of legal person's nature. For instance, article 17 provides that the government authority in charge of the relevant enterprise shall advise, by a notice, the central competent authority to cancel or to nullify the company registrations, in whole or in part, previously made by the said company where revocation or rescission of a business permit granted under the preceding Paragraph becomes final.

143. Taiwan has amended and promulgated Money Laundering Control Act in 2016 to strengthen its deterrent effect. Fines that formerly ranged from NTD\$200,000 to NTD\$1 million now raises to between NTD\$500,000 and NTD\$10 million. Amendments are also planned for the Banking Act. The upper limits of the fines are proposed to increase from NTD\$10 million to NTD\$50 million for banks.

3.9		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 30 條	Please explain the regime of immunities and other jurisdictional privileges in the ROC for public servants.	請說明臺灣公務員在司法上的豁免權或其他特權。

中文回應：

144.臺灣除總統外，一般公務員在司法上並無豁免權或其他特權。《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。

145.司法院大法官釋字第 627 號解釋文「一、總統之刑事豁免權」如附錄 4。

英文回應：

144.Except for the President, public servants in Taiwan do not enjoy immunity or other privileges under the law. Article 52 of the Constitution of R.O.C. stipulates that the President shall not, without having been recalled, or having been relieved of his functions, be liable to criminal prosecution unless he is charged with having committed an act of rebellion or treason.

145.J.Y. Interpretation No. 627 “I. Presidential Criminal Immunity”, Please see the attached files 2.

3.10		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 30 條	Is there a balance between those immunities and privileges and the right to investigate, prosecute and adjudicate corruption offences?	在這些豁免權和特權中，是否有其制衡，並且有權力調查、起訴、判決？

中文回應：

146.臺灣除總統外，一般公務員在司法上並無豁免權或其他特權。《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，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。

英文回應：

146.Except for the President, public servants in Taiwan do not enjoy immunity or other privileges under the law. Article 52 of the Constitution of R.O.C. stipulates that the President shall not, without having been recalled, or having been relieved of his functions, be liable to criminal prosecution unless he is charged with having committed an act of rebellion or treason. Such

privileges and protection are due to the fact that the President is the head of state, that internally the President discharges important duties including acting as the Commander-in-Chief of the Army, Navy and Air Force, and that externally the President represents R.O.C. According to Interpretation No. 388 of the Judicial Yuan, where the President commits a crime other than rebellion or treason, prosecution of the crime is barred temporarily while the application of the provisions of the Criminal Code or other relevant laws with respect to punishment is not totally excluded. 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... be liable to criminal prosecution” under Article 52 of the Constitution shall mean that criminal investigation agencies and courts may not treat the President as a criminal suspect or defendant and proceed with any investigation, prosecution or trial of the President during his/her tenure of office for any crime committed by him/her other than rebellion or treason. The restriction however does not apply to any measure not directly related to the privileged status of the President and execution of his/her duties, or to instant inspection and investigation of the crime scenes.

3.11		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 31 條	Which is the legal treatment of assets that have been converted or intermingled with assets that have been acquired from legitimate sources ?	政府經由合法管道查獲的資產(有可能經轉換或混合)，合法的處置方式是什麼？

**中文回應：**

- 147.依我國《刑法》第 38-3 條規定，犯罪所得（包括違法行為所得、其變得之物或財產上利益及其孳息）之所有權或其他權利，於沒收裁判確定時移轉為國家所有。
- 148.依《刑事訴訟法》第 141 條規定，得沒收或追徵之扣押物，有喪失毀損、減低價值之虞或不便保管、保管需費過鉅者，得變價之，保管其價金。另依同法第 473 條規定，沒收物、追徵財產，於裁判確定後 1 年內，由權利人聲請發還者，檢察官應發還或給付之；其已變價者，應給予變價所得之價金。
- 149.依《刑事訴訟法》第 475 條規定，扣押物之應受發還人所在不明，或因其他事故不能發還者，檢察官公告滿 2 年，無人聲請發還者，以其物歸屬國庫。

**英文回應：**

147. According to Article 38-3 of the Criminal Code, the ownership and other rights of criminal proceeds (including proceeds of an illegal act, and the interests and fructus of the property



derived from the proceeds) shall be transferred to the government when the judgment on confiscation is finalized.

148. According to Article 141 of “The Code of Criminal Procedure”, if it is apprehended that seized property which may be forfeited will be lost or damaged, or if it is inconvenient to preserve it, it may be sold at an auction and the proceeds retained. According to Article 473 of “The Code of Criminal Procedure”, if a right holder requests for return of confiscated object or forfeited property within 1 year after a final and binding judgment is rendered, the prosecutor shall return the object or property or pay an amount equivalent to its value. If the object or property is already sold, the right holder shall receive the proceeds of the sale.

149. According to Article 475 of the Code of Criminal Procedure, if the location of the right holder of the seized property is unknown or where a return is not possible for other causes, a prosecutor shall make a public announcement; if no one requests for a return after 2 years since the announcement lapses, the seized property shall belong to the national treasury.

3.12		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 31 條	If known, what is the value of proceeds of bribery or corruption confiscated by RoC ?	臺灣因賄賂或貪腐而沒收的金額？

中文回應：

150. 貪污賄賂犯罪沒收犯罪所得金額統計，詳表 3-1。

表 3-1 檢察署執行經法院判決確定應沒收犯罪所得金額-貪污賄賂案件

單位：新臺幣元

犯罪類型		法條	執行裁判確定應沒收金額			
			2014 年	2015 年	2016 年	2017 年
貪 污 賄 賂	貪污治罪條例	第 4 條、第 5 條、第 6 條、第 12 條	1,485,099,867	141,526,414	212,435,195	156,802,509
	刑法(瀆職罪)	第 121 條、第 122 條、第 123 條、第 131 條	550,000			
	公職人員選舉罷免法	第 97 條		20,000	1,000,000	8,100,000

資料提供：法務部統計處

英文回應：

150. For statistics of the amount of criminal proceeds confiscated in corruption and bribery cases, see Table 3-1. (Department of Prosecutorial Affairs)

**Table 3-1 The amount of criminal proceeds confiscated by District Prosecutors Offices pursuant to final and binding judgments rendered by courts - Corruption and bribery cases**

Unit: NT dollars

Type of offenses		Provision	Amount confiscated pursuant to final and binding judgments			
			2014	2015	2016	2017
Corruption and bribery	Anti-corruption Act	Article 4, Article 5, Article 6, Article 12	1,485,099,867	141,526,414	212,435,195	156,802,509
	Criminal Code (Offenses of malfeasance)	Article 121, Article 122, Article 123, Article 131	550,000			
	Civil Servants Election And Recall Act	Article 97		20,000	1,000,000	8,100,000

Source: Department of Statistics, Ministry of Justice

3.13		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 31 條	Is it common for bribery or corruption or investigations to include financial investigation ?	對於賄賂或貪腐的調查，包含金錢調查，是否普遍？

中文回應：

151. 我國執法機關在調查賄賂或貪腐等犯罪案件時，均會對相關犯罪嫌疑人併行財務調查，比對案關對象基資、財產、稅務或工商登記資料清查背景，辨識主要嫌疑對象、犯罪方法及範圍，另依案件進程需要，向相關金融機構調取帳戶資料、交易紀錄、傳票、支票、保管箱租用、信用卡申請及消費紀錄等，以完整釐清涉嫌事實，並於偵辦前或偵辦期間掌握資金流向，進而形成證據，以利查扣不法所得。

152. 我國對於賄賂或貪腐的調查，除了金錢調查以外，也包含對於不正利益的調查，例如債務減免、接受不當飲宴或性招待等。

英文回應：

151. When the law enforcement agencies of Taiwan investigate bribery or corruption cases, they also undertake financial investigation of the suspects. The suspects' basic information, property, taxes, or industrial/commercial registration information are compared to understand their background and to identify key suspects, criminal methods, and scope. In addition, as necessary

in case development, account details, transaction records, summonses, checks, safety deposit box rentals, credit card applications, and spending records are retrieved from related financial institutions to fully clarify the facts under suspicion. Before or during the investigation, we would learn about the flow of capital in order to form evidence, in turn to facilitate the seizure of unlawful proceeds.

152. Other than financial investigation, Taiwanese investigations of bribery or corruption also include improper benefits, such as reduction in debt or the acceptance of improper free treatment or prostitution.

3.14		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 31 條	Is RoC satisfied with its systems to manage frozen or confiscated property – including physical assets ?	臺灣對於被徵收與被凍結財產的管理體系是否滿意，包含實體資產？

中文回應：

153. 我國於 2016 年 7 月 1 日施行沒收新制，落實無人能因犯罪獲利之司法正義，對於被徵收與被凍結財產的管理體系，已逐漸完善，對於管理體系完善的過程、進度，尚屬滿意。

英文回應：

153. On July 1, 2016, we began to implement new rules for confiscation to build a justice system where no one is able to gain from crimes. The management system for expropriated and frozen property is increasingly improving. The process and progress of the improvement are satisfactory.

3.15		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 31 條	Could additional statistics be provided.	可以提供其他統計數據嗎？

中文回應：

154. 《刑法》沒收新制施行前，2015 年 7 月至 2016 年 6 月法院裁定沒收金額為 3 億 9,468 萬餘元，已收金額為 1 億 9,072 萬餘元，實現率約為 48.32%。沒收新制施行後，截至 2018 年 3 月止，檢察機關向法院聲請沒收金額 481 億 266 萬 1,266 元、美金 10 億 5,461 萬 6,156 元、人民幣 410 萬 6,771 元、日幣 2 萬 3,000 元，各類外幣如換算為新臺幣後，合計聲請

沒收金額超過 700 億元，經法院裁定沒收金額將近 300 億元，較沒收新制施行前法院裁定沒收金額近 4 億元，大幅成長逾 75 倍，績效卓著。

155.一、二審檢察署偵查中自動繳回犯罪所得情形如表 3-2。

表 3-2 一、二審檢察署偵查中自動繳回犯罪所得彙整表

單位：新臺幣元

期間	2016 年 11 月 -2017 年 1 月	2017 年 2-4 月	2017 年 5-7 月	2017 年 8-10 月	2017 年 11 月 -2018 年 1 月	2018 年 2-4 月
自動繳回之金額	70,887,831 元 、美金 548724.09 元	30,747,133 元	121,698,756 元	77,029,127 元	53,609,808 元	85,368,698 元

156.地方檢察署辦理「偵查中變價」成效情形如表 3-3。

表 3-3 地方檢察署辦理「偵查中變價」成效彙整表

期間	辦理變價程序次數	變價物品件數	變價所得總額(新臺幣)
2016 年 7 月至 2017 年 6 月	59 次	3,690 件	63,605,037 元
2017 年 7 月至 2018 年 6 月	38 次	320 件	39,747,150 元

157.檢察機關符合《刑法》沒收新制案件提出扣押及沒收聲請情形如表 3-4。

表 3-4 檢察機關符合《刑法》沒收新制案件提出扣押及沒收聲請彙整表

單位：新臺幣元

年/月	總計 件數	犯罪所得金額		查扣標的	
		犯罪所得金額	聲請沒收金額	105.7.1 前查扣	聲請扣押標的
2016/7	67	約 183 億 2,063 萬 3,992 元、美金 3,788 萬 4,717.12 元、人民幣 241 萬 7,426 元及不動產 2 筆等	約 105 億 6,236 萬 0,687 元、美金 3,047 萬 4,717.12 元、人民幣 241 萬 7,426 元及不動產 3 筆等	約 2 億 3,365 萬 8,372 元、不動產約 96 筆、汽車 38 部、帳戶 21 個及外幣等	約 2 億 5,805 萬 1,879 元、不動產 68 筆及帳戶 61 個(其中 2 個帳戶聲請扣押金額為 5,458 萬 1,014 元)、車輛 23 部等
2016/8	77	約 3 億 3,947 萬 8,242 元、支票 230 萬元、黃金戒指 3 只、黃金項鍊 1 條、自小客車 3 輛等	約 9,570 萬 6,185 元、支票 230 萬元、美金 20 萬 4,000 元等	約 5,339 萬 7,805 元等	約 266 萬 2,286 元、不動產 98 筆、帳戶 36 個(其中 11 個帳戶聲請扣押金額為 119 萬元)、車 4 部及股票等
2016/9	83	約 9 億 9,421 萬 2,756 元、日幣 2 萬 3,000 元、人民幣 64 萬 8,800 元及自小客車 2 部(未鑑價)等	約 3,938 萬 4,198 元、日幣 2 萬 3,000 元、支票 23 萬及自小客車 2 部(未鑑價)等	GPS 追蹤器 1 組、手機門號 SIM 卡 1 張等	約 2 億 4,653 萬 2,667 元、人民幣 2 萬 6,000 元、港幣 7,000 元、不動產約 87 筆、帳戶約 50 個(其中 3 個帳戶聲請扣押金額共 52 萬 9,132 元)、車 6 部、股票、鑽石及黃金等
2016/10	95	約 61 億 5,183 萬 5,106 元、美金 5,000	約 15 億 1,934 萬 2,698 元、美金 5,000	約 5 萬 7,600 元	約 1 億 1,844 萬 4,598 元、不動產 176 筆、帳戶 312 個(其中 38

年/月	總計 件數	犯罪所得金額		查扣標的	
		犯罪所得金額	聲請沒收金額	105.7.1 前查扣	聲請扣押標的
		元等	元、帳戶 2 筆等		個帳戶聲請扣押金額為 1 億 2,590 萬 5,154 元)、車 37 部及手機等
2016/11	113	約 126 億 4,024 萬 3,188 元、美金 331 萬 6,798.37 元、支票 3 紙、本票 2 紙、紀念幣等	約 65 億 8,170 萬 9,924 元美金 1 萬元人民幣 1 萬元、不動產 5 筆、帳戶 14 個、車輛 6 部、支票 3 紙、本票 2 紙、紀念幣及禮券等	約 9,377 萬 7,392 元及茶葉 918.1 公斤	約 2,836 萬 2,145 元、美金 134 萬 2,778.37 元、不動產 102 筆、帳戶 124 個(其中 36 個帳戶聲請扣押金額為 1 億 9,328 萬 1,155 元)、汽車 4 部、機車 1 台、手機 8 支、畫 1 幅、金屬原料 5,930 公斤等
2016/12	122	約 60 億 4,562 萬 7,234 元、人民幣 31 萬 2,080.31 元、韓幣 3 萬等	約 24 億 1,338 萬 9,467 元、人民幣 31 萬 2,080.31 元、韓幣 3 萬等	約 4,688 萬 8,696 元	約 1,383 萬元、美金 505 萬 4,079.95 元、不動產 225 筆、帳戶 455 個(其中 9 個帳戶金額為 502 萬 4,385 元)、車輛 31 部、面額 6 萬 6,000 元本票、32 個自然人及法人所有之股票等
2017/1	92	約 265 億 0,775 萬 6,386 元	約 4 億 8,460 萬 3,890 元		不動產 246 筆、帳戶 187 個(其中 21 個帳戶金額為 1 億 5,518 萬 7,000 元)、汽車 24 部、重機 1 部、船舶 1 艘、股票等
2017/2	63	約 36 億 0,248 萬 5,104 元	約 32 億 9,609 萬 1,850 元	汽車 1 部及槍彈等	約 19 萬 1,706 元、美金 1,618.47 元、不動產 133 筆、帳戶 38 個(其中 4 個帳戶金額合計為 1,354 萬 0273 元)、汽車 18 部、重機 7 部、債權 2 筆、股票等
2017/3	131	約 149 億 7,726 萬 1,983 元、美金 200 元、人民幣 3 萬元等	約 149 億 3,046 萬 5,179 元、美金 200 元、人民幣 3 萬元等		約 2 億 4,460 萬 3,234 元、不動產 164 筆、帳戶 96 個(其中 21 個帳戶金額約 3,131 萬 8,099 元)、汽車 26 輛、重機 2 輛
2017/4	96	約 1 億 1,062 萬 916 元、人民幣 6,500 元等	約 763 萬 2,558 元、人民幣 6,500 元等		約 774 萬 9,000 元、不動產 60 筆、帳戶 40 個(其中 10 個帳戶金額約 431 萬 2,160 元)、汽車 7 輛、重機 1 輛、禁止處分 7,749,000 元及股票等
2017/5	111	約 3 億 9,031 萬 2,983.2 元、美金 6 萬 578.56 元、人民幣 133 萬 0,765 元、泰銖 2,900 元、25 萬本票及金飾等	約 7,256 萬 2,185 元、美金 6 萬 578.56 元、人民幣 133 萬 0,765 元、泰銖 2,900 元、25 萬本票及金飾等	162 萬 8,930.12 元	約有不動產 84 筆、帳戶 60 個(其中 11 個帳戶金額約 1291 萬 3194 元)、汽車 11 輛、重機 1 輛、股票 168 萬等
2017/6	102	約 19 億 54 萬 6,301 元	約 15 億 2,887 萬 1,767 元及採砂船 1		2,760 萬元、美金 8 萬 4,709 元、不動產 153 筆、帳戶 83 個(其中

年/月	總計 件數	犯罪所得金額		查扣標的	
		犯罪所得金額	聲請沒收金額	105.7.1 前查扣	聲請扣押標的
			艘		2 個帳戶金額為新臺幣 800 萬元、汽車 12 輛、重機 1 輛、有價證券、公司股份及社員出資權利等
2017/7	100	約 23 億 4,265 萬 3,247 元、美金 14 萬 6,403.2 元、人民幣 55 萬元等	約 2,753 萬 4,964 元及人民幣 55 萬等	約 46 萬 9,356 元	約 4,209 萬 3,077 元、不動產 44 筆、帳戶 51 個(其中 8 個帳戶金額為 939 萬 4,697 元)、美金 6 萬 6,067.89 元、汽車 6 部、股份等
2017/8	89	約 1 億 1,658 萬 4,185 元、歐元 238 萬 3,262.92 及美金 25 萬 7,554.98 元、人民幣約 2,000 元、泰幣約 1,000 元、港幣約 2,000 元等	約 7,505 萬 2,713 元、人民幣約 2,000 元、泰幣約 1,000 元、港幣約 2,000 元及手機等		約 12 萬元、不動產 46 筆、帳戶 26 個(其中 3 個帳戶金額為新臺幣 14 萬 7,232 元)及汽車 3 部等
2017/9	97	約 17 億 3,368 萬 5,493 元、機車及手機等	約 698 萬 8,990 元、機車及手機等		約 5 萬 6,660 元、澳幣 12,907.31 元、不動產 53 筆、帳戶 239 筆(其中 45 個帳戶金額為 5,417 萬 6,369 元)及汽車 7 部等
2017/10	90	約 162 億 6,457 萬 9,137 元、歐元 238 萬 3,262.92 元及美金 25 萬 7,554.98 元等	約 16 億 100 萬 5,200 元、汽車 3 部及手機等		約 3,150 萬 7,000 元、不動產 54 筆、帳戶 77 個(其中 12 個帳戶金額為 4,069 萬 6,941 元及美金 7 萬 6,000 元)、汽車 3 部及股份等
2017/11	107	約 22 億 7,859 萬 6,284 元、美金 7 萬 6,000 元	約 1 億 5,264 萬 6,262 元		約 3,636 萬 7,000 元、不動產 161 筆、帳戶 61 個(其中 26 個帳戶金額為 4,009 萬 500 元內及 1 個帳戶為美金 7 萬 6,000 元)、股票(市值 3,225 萬)及汽車 15 輛等
2017/12	116	約 7 億 0,271 萬 6,936 元	約 4,939 萬 3,554 元		約 159 萬 8,011 元、不動產 94 筆、帳戶 279 個(其中 6 個帳戶聲請扣押金額計 710 萬 5,000 元)、債權 600 萬元及汽車 34 輛等
2018/1	107	約 52 億 9,762 萬 1,718 元	約 42 億 6,540 萬 5,900 元		約 7,469 萬 2,071 元、不動產 152 筆、帳戶 40 個(其中 5 個帳戶聲請扣押金額計 614 萬 4,804 元)、汽車 9 輛及漁船 1 艘等
2018/2	61	約 2,471 萬 439 元	約 3,296 萬 7,058 元		不動產 18 筆、帳戶 27 個(其



年/月	總計 件數	犯罪所得金額		查扣標的	
		犯罪所得金額	聲請沒收金額	105.7.1 前查扣	聲請扣押標的
					中 1 個帳戶聲請扣押金額計 70 萬元)、汽車輛及鎢鋼帶鋸床等等
2018/3	80	約2億3,966萬8,361元	約1億8,257萬4,928元		不動產 97 筆、帳戶 78 個(其中 4 個帳戶聲請扣押範圍計 2,998 萬 5,400 元)、汽車 15 輛、重機 1 輛及貨櫃 1 只(內含牛樟木)、存款債權等等
2018/4	85	約 34 億 9,921 萬 8,652 元、美金 5 萬 1 元、日幣 5 萬元、人民幣 10 元	約4億9,819萬7,410元、日幣5萬元、美金1元、人民幣10元		不動產 51 筆、帳戶 164 個(其中 40 個帳戶聲請扣押範圍計 3 億 5,188 萬 422 元)、汽車 13 輛、股票 544 張、保險商品債權 2 及手機 1 等
2018/5	93	約6億4,435萬9,409元、武士刀1把、鐵桌2	約2億2,621萬2,022元、武士刀1把、鐵桌2		不動產 144 筆、帳戶 36 個(其中 13 個帳戶聲請扣押範圍計 3 億 1 萬元)、汽車 4 輛、股票 45,000 股、債權 6、存款債權 19 等
2018/6	84	約7仟804萬8,019元	約3仟85萬6,549元		不動產 29 筆、帳戶 178 個(其中 13 個帳戶聲請扣押範圍計 788 萬 21 元)、汽車 4 輛、武士刀 1、帳冊等

### 英文回應：

154. Before the implementation of the new system of confiscation, the court ruled the amount of TWD394,680,000 for confiscation in the period of July 2015 to June 2016, with TWD190,720,000 being confiscated or at the attainment rate of 48.32%. Under the new system of confiscation, the state prosecution petitioned with the court for confiscation of TWD48,126,612,660, USD1,054,616,156, CNY4,106,771, JYP23,000 and other foreign currencies by the end of March 2018, which made up the total amount of confiscation of more than the equivalence of TWD70 billion. The court ruled for the confiscation of approximately TWD30 billion. As compared with the confiscation amount of TWD400,000,000 under the old system, the new system of confiscation indicated 75 times the amount of confiscation approved by the court. The result is encouraging.

155. Voluntary surrender of proceeds of crimes in the 1<sup>st</sup> and 2<sup>nd</sup> instance of review procedure of the Prosecutors Office is shown in Table ○.

**Table 3-2 Voluntary Surrender of Proceeds of Crimes in the 1st and 2nd instance of review**



## Procedure of Prosecutors Office

Currency unit: NTD

Period	Nov. 2016 – Jan. 2017	Feb. – Apr., 2017	May – Jul., 2017	Aug. – Oct. 2017	Nov. 2017 – Jan. 2018	Feb. – Apr., 2018
<b>Voluntary surrendered amount</b>	70,887,831, USD548724.09	30,747,133	121,698,756	77,029,127	53,609,808	85,368,698

156.The result of “Liquidation in Investigation” performed by Prosecutor Offices of the District Courts is shown in Table ○

**Table 3-3 Result of “Liquidation in Investigation” performed by Prosecutor Offices of the District Courts**

Period	Instances of liquidation of assets	Number of cases in liquidation	Total liquidated amount (NTD)
Jul. 2016 to Jun. 2017	59 times	3,690 cases	63,605,037
Jul. 2017 to Jun. 2018	38 times	320 cases	39,747,150

157.The cases petitioned by Public Prosecution for seizure and forfeiture in conformity to the new system under the Criminal Code are exhibited in the table below.

**Table 3-4Cases petitioned by Public Prosecution for seizure and forfeiture in conformity to the new system under the Criminal Code are exhibited in the table below**

Year/ Month	Total cases	Amount of dirty money		Subject matter of seizure	
		Amount of dirty money	Amount petitioned for forfeiture	Seized by July 1, 2016	Subject matter petitioned for seizure
2016/7	67	Approximately NTD18,320,633,992, USD37,884,717.12, CNY2,417,426 and two in real estate.	Approximately NTD10,562,360,687, USD30,474,717.12, CNY2,417,426, and 3 in real estate.	Approximately NTD233,658,372 and 96 in real estate, 38 automobiles, 21 accounts and certain amount of foreign currencies.	Approximately NTD258,051,879, 68 in real estate and 61 bank accounts (of which 2 have been petitioned for seizure with amount of NTD54,581,014, respectively), and 23 motor vehicles.
2016/8	77	Approximately NTD339,478,242, cheque amounted to NTD 2,300,000, 3 gold rings, 1 gold necklace, and 3 automobiles.	Approximately NTD 95,706,185, cheque at the value of NTD 2,300,000, USD204,000.	Approximately NTD 53,397,805	Approximately NTD2,662,286, 98 in real estate, and 36 bank accounts (of which 11 accounts have been petitioned for seizure the amount totaled NTD1,190,000), 4 motor vehicles and stocks.
2016/9	83	Approximately NTD994,212,756, JPY23,000, CNY648,800, and 2 motor vehicles (without appraisal).	Approximately NTD39,384,198, JPY23,000, cheques at the amount of NTD230,000, and 2 motor vehicles	1 set of GPS tracer, 1 SIM card.	Approximately NTD246,532,667, CNY26,000, HKD7, 000, 87 in real estate, about 50 bank accounts (of which 3 have been petitioned for seizure totaled NTD529,132), 6 motor vehicles, stocks, diamonds, and gold.

Year/ Month	Total cases	Amount of dirty money		Subject matter of seizure	
		Amount of dirty money	Amount petitioned for forfeiture	Seized by July 1, 2016	Subject matter petitioned for seizure
			(without appraisal).		
2016/10	95	Approximately NTD6,151,835,106, USD5,000	Approximately NTD1,519,342,698, USD5,000, and 2 bank accounts.	Approximately NTD57,600	Approximately NTD118,444,598, 176 in real estate, 312 bank accounts (of which 38 have been petitioned for seizure totaled NTD125,905,154), 37 motor vehicles, and mobile phones.
2016/11	113	Approximately NTD12,640,243,188, USD3,316,798.37, 3 cheques, 2 promissory notes, and souvenir coins.	Approximately NTD6,581,709,924, USD10,000, CNY10,000, 5 in real estate, 14 bank accounts, 6 motor vehicles, 3 cheques, 2 promissory notes, souvenir coins and gift vouchers.	Approximately NTD93,777,392, and 918.1 kg of tea leaf.	Approximately NTD28,362,145, USD1,342,778.37, 102 in real estate, 124 bank accounts (of which 36 have been petitioned for seizure total NTD193,281,155), 4 motor vehicles, 1 scooter, 8 mobile phones, 1 painting, 5,930 kg of metallic substances.
2016/12	122	Approximately NTD6,045,627,234, CNY312,080.31, KRW30,000.	Approximately NTD2,413,389,467, CNY312,080.31, and KRW30,000.	Approximately NTD46,888,696.	Approximately NTD13,830,000, USD5,054,079.95, 225 in real estate, 455 bank accounts (of which 9 have deposits of NTD5,024,385), 31 motor vehicles, promissory note at NTD66,000 in face value, stocks held by 32 natural persons and institutions.
2017/1	92	Approximately \$26,507,756,386	Approximately \$484,603,890		246 in real estate, 187 bank accounts (of which 21 have deposits of NTD155,187,000), 24 motor vehicles, 1 motorcycle, 1 sea vessel, and stock.
2017/2	63	Approximately NTD3,602,485,104	Approximately NTD3,296,091,850	1 motor vehicle and firearms and ammunitions.	Approximately NTD191,706, USD1,618.47,133 in real estate, 38 bank accounts (of which 4 have deposits of NTD13,540,273), 18 motor vehicles, 7 motorcycles, 2 counts of rights over debts, and stocks.
2017/3	131	NTD14,977,261,983, USD200, CNY30,000.	Approximately NTD14,930,465,17 9, USD200, CNY30,000.		Approximately NTD244,603,234, 164 in real estate, 96 bank accounts ( of which 21 have deposits of NTD31,318,099), 26 motor vehicles, and 2 motorcycles.
2017/4	96	Approximately NTD110,62 916, CNY6,500.	Approximately NTD7,632,558, CNY6,500.		Approximately NTD7,749,000, 60 in real estate, 40 bank accounts (of which 10 have deposits of NTD4,312,160), 7 motor vehicles, 1 motorcycle, prohibited amount of NTD7,749,000 for disposition, and stock.
2017/5	111	Approximately NTD390,312,983.2, USD60,578.56, CNY1,330,765, THB2,900, promissory note of NTD25,000, and	Approximately NTD72,562,185, USD60,578.56, CNY1,330,765 THB2,900, promissory note of NTD25,000, and	NTD1,628,930.12	Approximately 84 in real estate, 60 bank accounts (of which 11 have deposits of about NTD12,913,194), 11 motor vehicles, 1 motorcycle, and stock at value of NTD1,680,000.

Year/ Month	Total cases	Amount of dirty money		Subject matter of seizure	
		Amount of dirty money	Amount petitioned for forfeiture	Seized by July 1, 2016	Subject matter petitioned for seizure
		gold ornaments.	gold ornaments.		
2017/6	102	Approximately NTD1,900,546,301	Approximately NTD1,528,871,767 and 1 dredge.		Approximately NTD27,600,000, USD84,709, 153 in real estate, 83 bank accounts (of which 2 have deposits of NTD8,000,000), 12 motor vehicles, 1 motorcycle, securities, company shares and certificates of beneficial interests of cooperatives.
2017/7	100	Approximately NTD2,342,653,247, USD146,403.2, and CNY550,000.	Approximately NTD27,534,964 and CNY550,000.	Approximately NTD469,356	Approximately NTD42,093,077, 44 in real estate, 51 bank accounts (of which 8 have deposits of NTD9,394,697), USD66,067.89, 6 motor vehicles, and shares.
2017/8	89	Approximately NTD116,584,185, EUR2,383,262.92, and USD257,554.98, approximately CNY2,000, THB1,000 and HKD2,000	Approximately NTD75,052,713, CNY2,000, THB1,000, HKD2,000, and mobile phones.		Approximately NTD120,000, 46 in real estate, 26 bank accounts (of which 3 have deposits of NTD147,232), and 3 motor vehicles.
2017/9	97	Approximately NTD1,733,685,493, scooters and mobile phones.	Approximately NTD6,988,990, scooters and mobile phones.		Approximately NTD56,660, AUD12,907.31, 53 in real estate, 239 bank accounts (of which 45 have deposits of NTD54,176,369) and 7 motor vehicles.
2017/10	90	Approximately NTD16,264,579,137, EUR2,383,262.92, and USD257,554.98	Approximately NTD1,601,005,200, 3 motor vehicles, and mobile phones.		Approximately NTD31,507,000, 54 in real estate, 77 bank accounts (of which 12 have deposits of NTD40,696,941, and USD76,000), 3 motor vehicles and shares.
2017/11	107	Approximately NTD2,278,596,284, USD76,000	Approximately NTD152,646,262		Approximately NTD36,367,000, 161 in real estate, 61 bank accounts (of which 26 have deposits of NTD40,090,500 and 1 have deposits of USD76,000), stocks (at market value of NTD32,250,000) and 15 motor vehicles.
2017/12	116	Approximately NTD702,716,936	Approximately NTD49,393,554		Approximately NTD1,598,011, 94 in real estate, 279 bank accounts (of which 6 have been petitioned for seizure totaled NTD7,105,000), bond at NTD600,000 and 34 motor vehicles.
2018/1	107	Approximately NTD5,297,621,718	Approximately NTD4,265,405,900		Approximately NTD74,692,071, 152 in real estate, 40 bank accounts (of which 5 have been petitioned for seizure totaled NTD6,144,804), 9 motor vehicles, and 1 fishing boat.
2018/2	61	Approximately NTD24,714,390	Approximately NTD32,967,058		18 in real estate, 27 bank accounts (of which 1 has been petitioned for seizure totaled NTD700,000), motor vehicles and cemented carbide sawing bed.
2018/3	80	Approximately	Approximately		97 in real estate, 78 bank account (of which

Year/ Month	Total cases	Amount of dirty money		Subject matter of seizure	
		Amount of dirty money	Amount petitioned for forfeiture	Seized by July 1, 2016	Subject matter petitioned for seizure
		NTD239,668,361	NTD182,574,928		4 have been petitioned for seizure totaled NTD29,985,400 within the scope of seizure), 15 motor vehicles, 1 motorcycle and 1 container truck (loaded with Antrodia camphorate), deposits, and rights over debts.
2018/4	85	Approximately NTD3,499,218,652, USD50,001, JPY50,000, and CNY10	Approximately NTD498,197,410, JPY50,000, USD1, and CNY10.		51 in real estate, 164 bank accounts (of which 40 have been petitioned for seizure totaled NTD351,880,422 within the scope of seizure), 13 motor vehicles, 544 stock certificates, 2 certificates of right over insured merchandises, and 1 mobile phone.
2018/5	93	Approximately NTD644,359,409, 1 Samurai sword, 2 iron tables.	Approximately NTD226,212,022, 1 Samurai sword, 2 iron tables.		144 in real estate, 36 bank accounts (of which 13 have been petitioned for seizure totaled NTD300,010,000 within the scope of seizure), 4 motor vehicles, 45,000 shares of stocks, 6 counts of rights over debts, and 19 deposit right.
2018/6	84	Approximately NTD78,048,019	Approximately NTD30,856,549		29 in real estate, 178 bank accounts (of which 13 have been petitioned for seizure totaled NTD7,880,021 within the scope of seizure), 4 motor vehicles, 1 Samurai sword, journal books.

3.16		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 36 條	Please describe the process of allocation of resources for the anticorruption agencies (who and how is it decided and how much financial and human resources are provided to the AAC and the MJIB).	請說明反貪腐機構資源分配的程序(是誰以及如何決定廉政署和調查局之間的預算及人力資源分配) ?

中文回應：

158. 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。依《預算法》及各年度中央政府總預算編製辦法，廉政署及調查局編擬預算陳報法務部，法務部審核後彙編為法務部預算送行政院主計總處，行政院主計總處彙編成中央政府總預算案後，由行政院提送立法院審議，經立法院議決後，總統公布。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。

英文回應：

158.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 Regulations for Preparing Central Government General Budget of each year, AAC and MJIB shall prepare budget 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 Directorate-General of Budget, Account and Statistics, Executive Yuan. The Directorate-General of Budget, Account and Statistics prepares the central government general budget, which will be submitted by Executive Yuan to Legislative Yuan for review. Upon resolution by Legislative Yuan on the budget, the same will be promulgated by the President. 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 Executive Yuan.

3.17		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 38 條	Besides the liaison between the Prosecutors and the Police, the AAC and the MJIB and other anticorruption agencies, are there any other formal instances and/or protocols for inter - agency cooperation at the strategic and operational level ?	除了檢察機關、司法警察、廉政署、調查局和其他反貪腐機構之間的聯繫，對於反貪腐機構間策略及執行面的合作，是否有正式的案例或協議？

中文回應：

159.法務部為提升重大公共建設施工品質、強化保障採購人員機制，2016 年 11 月 29 日函頒《機關採購廉政平臺實施計畫》，依據機關首長需求，配合國家巨額採購採最有利標方式辦理，責由廉政署協助各政風機構配合首長需求成立「廉政平臺」，秉持跨域治理、機關相互協力的理念，邀集檢察、調查、廉政、審計機關、工程會、相關廠商、利害關係人等公私部門，建立聯繫溝通機制，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，協助完善採購案件之規劃與執行，讓公務員能安心執行職務，廠商維護合理權益，民眾獲得優質公共建設，政府也能善盡監督稽核權責，有效經由跨域整合提升工程品質及廉潔效能。

160. 廉政署與檢察署跨域合作之實際案例如下：

- (1) 經濟部為改善南部地區主要水庫(曾文、南化、烏山頭水庫)營運功能，加速水庫治理及水源開發，降低缺水風險及維持水庫營運壽命，編列 540 億元經費，責成水利署南區水資源局與廉政署、臺灣臺南檢察署成立「全民顧水、臺灣足水」廉政平臺。
- (2) 臺北市政府為有效利用土地資源，促進地區發展，結合桃園機場聯外捷運系統，辦理臺北車站特定專用區 C1/D1 土地開發案，期能帶動臺北西區之風采再現，成為新的臺灣地標，開發案整體經費概估約 700 億元，承辦機關捷運工程局遂與廉政署、臺灣臺北檢察署等單位成立「臺北捷運局 C1/D1 土地開發案廉政平臺」。
- (3) 交通部臺灣鐵路管理局為推動便捷交通服務，全面提升公共運輸使用率，擬訂購置及汰換車輛計畫，預計購置客車 1,180 輛，機車 127 輛，預算金額高達 997.3 億元，為外界關注之焦點，遂與廉政署、臺北地檢署等單位成立「臺鐵購車廉政平臺」。

**英文回應：**

159. In order to upgrade the construction quality of major public work projects and strengthen the procurement personnel's protection mechanism, the Ministry of Justice promulgated the "Government Entity Procurement Integrity Platform Implementation Plan" on November 29, 2016. Per request of the entity head and in line with the most advantageous tender adopted by the national large procurement, AAC was ordered to help various ethics entities establish the "integrity platform" per request of the entity heads. By adhering to the philosophy about multi-disciplined governance and inter-agency cooperation, it invited the public/private sectors including the prosecuting, investigation, integrity and audit institutes, public construction commission, related suppliers and stakeholders to build communication channels and urge the collaboration between administrative and judicial authorities, and strengthen the government supervision mechanism, maintain suppliers' reasonable interests and rights, and help the planning and execution of solid procurement projects by external declaration, disclosure of information, periodic gathering and provision of opinion to trust the public servants performing their job duties, so that the suppliers may maintain their interest and right, the nationals may secure fine-quality public works and the governments may fulfill their responsibilities for supervision and audit and upgrade the engineering quality and performance of integrity through the effective multi-disciplined integration.

160. The physical guiding cases for the multi-disciplined collaboration between AAC and prosecutors offices are provided as following:

- (1) In order to improve operational function of the main reservoirs in Southern Taiwan (Zengwen Reservoir, Nanhua Reservoir and Wushantou Reservoir), accelerate the reservoir governance and development of water source, mitigate the risk over shortage of water supply and maintain the life circle of reservoirs, the Ministry of Economic Affairs prepared the budget of NTD54 billion and ordered Southern Region Water Resource Office, MOEA, AAC and Tainan District Prosecutors Office to establish the “All people care for water to ensure sufficient water supply in Taiwan” integrity platform.
- (2) In order to utilize the land resources effectively and boost the local development, the Taipei City Government integrated Taoyuan International Airport MRT system to carry out the Taipei Railway Station Specific Zone C1/D1 Land Development Project, in hopes of driving the economy in the northwest side of Taipei City to make it become the new landmark of Taiwan. The entire development project budget was estimated to be about NTD70 billion. The responsible entity, Department of Rapid Transit Systems, Taipei City Government, worked with AAC and Taipei District Prosecutors Office to establish the “Department of Rapid Transit Systems, Taipei City Government C1/D1 Land Development Project Anti-Corruption Platform”.
- (3) In order to boost the rapid traffic service, the Taiwan Railway Administration planned to upgrade the public transportation utilization rate comprehensively and to purchase and renovate vehicles. It scheduled to purchase 1,180 buses and 127 motorcycles with the budget amounting to NTD99.73 billion. The project caught the public eyes accordingly. The Taiwan Railway Administration decided to work with AAC and Taipei District Prosecutors Office to establish the “TaiRail Vehicle Purchase Anti-Corruption Platform”.

3.18		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 3 章 第 38 條	Is RoC satisfied with the cooperation between agencies specifically to increase the detection and seizure of proceeds of crime and corruption (eg is there a committee or group for this purpose, which may comprise, for example, the FIU, taxation authorities, investigators, prosecutors) ?	臺灣對於機關間增進偵查、扣押不法資產的合作是否滿意(指有委員會或團體以此宗旨而成立，例如金融情報中心、稅務機關、調查機關、檢察機關等) ？

中文回應：



161. 我國於 2016 年 7 月 1 日施行沒收新制，落實無人能因犯罪獲利之司法正義，法務部亦頒布《檢察機關追討犯罪所得實施要點》明定臺灣高等檢察署應建置追討犯罪所得資訊平臺，作為檢察機關與中央銀行、金管會、調查局、財政部關務署、臺灣集中保管結算所股份有限公司及其他相關機關（構）之聯繫窗口，以利追查犯罪所得。各檢察機關並應成立追討犯罪所得專組，以辦理犯罪所得之追查、扣押、禁止處分、沒收及變價。
162. 由於貪瀆犯罪者通常具有較高之智識，對不法所得常以各式手段藏匿，扣押不法資產對於偵查機關是一大挑戰。目前偵查、扣押不法資產係以檢察機關、調查局及廉政署為主要執行機關，惟扣押不法資產更需仰賴金融機構、稅務機關及國際組織間之協助。

**英文回應：**

161. On July 1, 2016, we began to implement new rules for confiscation to build a justice system where no one is able to gain from crimes. The Ministry of Justice promulgated the “Guidelines for Prosecutorial Agencies on the Recovery of Criminal Proceeds”, which stipulates that the Taiwan High Prosecutors Office shall establish an information platform for the recovery of criminal proceeds. To facilitate the tracking of criminal proceeds, the platform shall be the contact point for prosecutorial agencies, the Central Bank, the Financial Supervisory Commission, the Investigation Bureau of the Ministry of Justice, the Customs Administration of the Ministry of Finance, the Taiwan Depository and Clearing Corporation, and other relevant agencies (institutions). Every prosecutorial agency shall set up a task force to recover criminal proceeds. The task force will be responsible for the tracking, seizure, prohibition on disposition, confiscation and sale of criminal proceeds.
162. Considering that the offender committing malpractice is usually smart, the investigating apparatus often has to encounter challenges when investigating the offender’s approaches to conceal the unjustified gains and seizing unjustified assets. For the time being, the prosecuting apparatus, MJIB and AAC act as the primary execution agencies responsible for investigating and seizing unjustified assets. Notwithstanding, they also need to rely on the assistance from financial institutions, tax collection agencies and international organizations badly when seizing unjustified assets.

## 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	問題內容(原文)	中文參考翻譯
第 4 章 第 43 條	Any possible recommendations (drafts) for facilitating MLA ?	對於臺灣加速國際司法互助的建議或草案？

中文回應：

163. 法務部擬定《國際刑事司法互助法》草案時，在官方人士外，曾聘請國立大學教授擔任諮詢委員，納入人民觀點；其後更將彙整完竣之草案上網公告 2 個月，廣徵各界意見，以資周延。我國於 2018 年 5 月 2 日制定公布《國際刑事司法互助法》，作為我國執行相關事項基本法源，以利我國與外國相互進行刑事司法互助之請求與執行。《國際刑事司法互助法》及我國與其他國家簽訂之刑事司法互助協定(議)中關於 UNCAC 第 46 條之規定及說明（首次國家報告附錄 3），更新如附錄 5。

英文回應：

163. While the Ministry of Justice was drafting “Mutual Assistance in Criminal Matters Act”, we engaged professors from national universities as advisers to provide civic opinions. In order to receive comments from different field, the draft had been publicized on the Internet for two months. After that, we promulgated “Mutual Assistance in Criminal Matters Act” on May 2nd of 2018. The Act serves as the legal basis for matters related to requests for mutual assistance in criminal justice and the execution of such requests between Taiwan and foreign countries. Note to the “Mutual Assistance in Criminal Matters Act” and agreements (arrangements) on mutual legal assistance in criminal matters between Taiwan and other countries in relation to Article 46 of the UNCAC (Appendix 3 of the initial report) is updated as Appendix 5.

4.2		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 43 條	Please clarify the meaning of the last sentence “Yet, no provision is given on the same crime.”	請闡明報告內文，有關第 99 點(3)最後一句「...，然均未進一步明文規定限於相同罪名」的意思。

中文回應：

164. 意指參考司法互助之國際慣例或一般原理，對於雙重可罰性並不要求犯罪類型或罪名相同。

英文回應：

164.It means that according to general principle or customs of the international practices of mutual legal assistance, it doesn't require the same charge or category to sustain double criminality.

4.3		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 43 條	Could statistics from the FIU on exchange of information also be provided in the report? Assistance sought, and assistance provided?	有關第 101 點(2)，能否在報告中提供金融情報機構關於交換信息的統計數據？含尋求援助，並提供援助的數據。

中文回應：

165. 調查局洗錢防制處為艾格蒙聯盟(Egmont Group)會員，相當活躍，能運用艾格蒙洗錢安全網路優勢，向國外金融情報中心請求所需資訊，積極協助權責機關追查跨境不法所得流向或辨識跨境交易之最終受益人等。2015 年至 2018 年上半年洗錢防制處透過艾格蒙安全網路，協助權責機關向外國金融情報中心提出協查請求共計 123 案 547 件請求，受理外國金融情報中心協查請求共計 174 案 545 件情資，詳如表 4-1。

表 4-1 2015 年至 2017 年洗錢防制處主動及受理請求後分送金融情報之案數

期間		2015	2016	2017	2018 年 1-6 月
請求外國 FIU 協查	案	49	34	26	14
	件	228	165	94	60
受理外國 FIU 請求	案	48	50	55	21
	件	144	168	161	72

英文回應：

165.MJIB Money Laundering Prevention Department is an active member of the Egmont Group and is able to effectively use the Egmont Secure Web to request intelligence from overseas financial intelligence units. This proactively assists authorities to track the cross-border flow of illegal income and identify the ultimate beneficiaries of cross-border transactions. From 2015 to the first half of 2018, the Anti-Money Laundering Division used the Egmont Secure Web to assist authorities in making 547 requests covering 123 cases for intelligence to overseas financial intelligence units, while processing 545 requests for intelligence covering 174 cases from overseas financial units (see Table 4-1).

Table 4-1 Number of Cases Where Financial Intelligence Was Provided Proactively or On

### Request by the Anti-Money Laundering Division from 2015 to the First Half of 2018

Period		2015	2016	2017	2018 Jan.-Jun.
Requests to Overseas FIU	Cases	49	34	26	14
	Requests	228	165	94	60
Processing Requests from Overseas FIU	Cases	48	50	55	21
	Requests	144	168	161	72

4.4		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 43 條	An update on the approval of the Draft version of the Act on International Mutual Assistance I Criminal Matters would be welcomed.	有關第 102 點(3)，請更新關於批准國際刑事司法互助法草案規範的最新情況。

中文回應：

166. 規範我國提出或接受刑事司法互助請求之《國際刑事司法互助法》，業於 2018 年 5 月 4 日生效施行。

英文回應：

166. On May 4, 2018, the “Act on International Mutual Legal Assistance in Criminal Matters,” which governs MLA requests to and from Taiwan, came into force.

4.5		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 44 條	Please explain the concepts of “social charity and government policy” that impeded the adoption of paragraph 2 of article 44 of the UNCAC. (pg. 137 of the report)	請說明「公益或政策考量」的意思。(第 104 點(1))

中文回應：

167. 公益或政策考量是指必須考量我國主權、國家安全、公共秩序或其他重大公共利益等國家整體利益。且所謂「重大公共利益」，不以所涉之利益純屬公部門利益為限，私部門之利益受損如將連帶影響公共利益受損，並達重大之程度者，亦屬之。

英文回應：

167. In consideration of “Public interest and fundamental government policy” shall indicate that taking national sovereignty, national security, public order and other important public interests into consideration. The “important public interest” shall not limit to the interests of public

sectors only, but shall also apply to the situation when public interests might be substantially compromised due to the denial of the interests of private sectors.

4.6		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 44 條	Does the ROC accept the UNCAC as the legal basis for extradition for corruption cases in absence of a treaty?	在缺乏條約的情況下，臺灣是否接受以 UNCAC 作為貪腐案件引渡的法律基礎？

中文回應：

168.我國 2015 年 5 月 20 日制定公布《聯合國反貪腐公約施行法》，並已於同年 12 月 9 日施行，依據該法規定，UNCAC 已具有國內法律效力。

英文回應：

168.Taiwan enacted and promulgated the “Act to Implement United Nations Convention against Corruption” on May 20, 2015, effective as of December 9 of the same year. Therefore, the provisions contained in the UNCAC have domestic legal status.

4.7		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 44 條	There is a reference to a plan to present a draft amendment to the Law of Extradition. What is the timeline for this?	有關第 107 點(1)，提到提出《引渡法》修正草案的計劃。這個部份的時間線為何？

中文回應：

169.《引渡法》修正進度，詳如表 4-2。

表 4-2 《引渡法》修正進度

時間	進度
2017/6/14~ 2017/7/26	進行 4 次內部小組會議(就《引渡法》修正草案內容、用語進行檢視與微調)。
2017/9	《引渡法》草案公告於法務部網站。
2017/10/6	法務部召開第 1 次研修小組會議。
2017/10/25	法務部與大陸委員會及警調單位研析兩岸人犯之相關議題。
2018/1/23~ 2018/3/6	法務部召開 107 年度引渡法研修小組 4 次會議(逐條討論草案)。
2018/5/17	法務部將修正草案函請行政院核轉立法院審議。

英文回應：

169.The amendment progress of the Law of Extradition are shown in Table 4-2。

Table 4-2 The amendment progress of the Law of Extradition

Date	Progress schedule
2017/6/14~ 2017/7/26	Conducting internal meeting to review and fine-tune the contents and terms of the draft amendment to the Law of Extradition).
2017/9	Announced the draft online.
2017/10/6	Convening the first amendment team meeting.
2017/10/25	Discussing the issues related to cross-strait criminal offenders with MAC and National Police Agency.
2018/1/23~ 2018/3/6	Discussing the draft provisions on one-by-one basis.
2018/5/17	Submitting the draft general description, the draft statement, the bill and the gender impact assessment checklist and competent law drafting checklist to the Executive Yuan to be transferred to the Legislative Yuan.

4.8		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 44 條	The lack of responses at times from Mainland China is of concern. How do the authorities plan to address this issue? Is there an opportunity to work with other countries, or contribute to the upcoming FATF mutual evaluation of China?	報告第 109 點(2)提及「...。2016 年及 2017 年...均未予回應」，有關缺乏大陸地區回應的部份令人擔心。請問政府當局如何處理這個議題？是否有機會與其他國家合作，以對即將到來的相互評鑑有所貢獻？

**中文回應：**

170.我國持續於 2018 年以聯繫公函促請大陸地區就移交受刑人乙事回應，我國並希望能於參與國際或兩岸研討會時，適時以適當方式向大陸地區表達賡續進行移交受刑人業務。此外，我國仍持續尋求機會與其他國家洽簽跨國移交受刑人協議，盼能遣送在臺服刑之外籍受刑人，或自外國接返在外服刑之臺籍受刑人。

**英文回應：**

170. In 2018, we kept on encouraging Mainland China in responding the operation of transferring the sentenced persons through official channels. In addition, taking chance of participating international or cross-strait seminars, we have expressed to China our intention to continue the task of transferring sentenced persons mutually. Besides, we are seeking opportunities to promote and conclude Transfer of Sentenced Persons Agreement with other countries, with a view to repatriating foreign sentenced persons served in Taiwan and receiving Taiwanese sentenced persons served in foreign countries.

4.9		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 46 條	Who is the Central Authority of the ROC for the purpose of mutual legal assistance ?	司法互助的中央主管機關是誰？

中文回應：

171.法務部。

英文回應：

171.Ministry of Justice.

4.10		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 46 條	Is there any case in which, in absense of a treaty, article 46 of the UNCAC has been used as the legal basis for a request of mutual legal assistance ?	是否有任何以 UNCAC 第 46 條作為法律基礎，向其他國家尋求司法互助的案例？

中文回應：

172. 臺灣尚無以 UNCAC 第 46 條作為法律基礎，向其他國家尋求司法互助的案例。

英文回應：

172. There is no case about the article 46 of the UNCAC has been used as the legal basis for a request of mutual legal assistance.

4.11		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 46 條	Could Taiwan provide statistics on the timeliness of its responses to assistance sought by other countries?	有關第 112 點(3)，臺灣能否提供對於其他國家尋求援助有及時回應之統計數據？

中文回應：

173. 法務部辦理其他國家尋求協助案件，如係急迫案件之協助，均於 1 週內聯繫協助事項，如係一般性請求案，均於 1 個月內先行連繫協助事項。美洲、非洲、大洋洲請求案件及回復速度統計，詳如表 4-3。

表 4-3 美洲、非洲、大洋洲請求案件及回復速度統計

請求件數	期間	2012 年	2013 年	2014 年	2015 年	2016 年	2017 年	20181-6 月
	件數	7	6	7	10	10	4	5
平均辦畢時間	有協定	2 月至 8 個月。						
	無協定	6 月至 12 月。						



英文回應：

173.The central authority in Taiwan will deal with incoming urgent requests within a week .The other regular requests will be in general dealt with within a month. America, Africa, Asia Pacific request cases and response speed statistics ,please reference Table 4-3.

**Table 4-3 America, Africa, Asia Pacific request cases and response speed statistics**

Number of cases	Period	2012	2013	2014	2015	2016	2017	2018 Jan.-Jun
	Cases	7	6	7	10	10	4	5
Average time for full execution	With a Treaty/ Agreement			2 to 8 months				
	Without Treaty/ Agreement:			6 to 12 months				

4.12		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 4 章 第 46 條	With a view to provide additional context, could Taiwan add a table at the start on the total number of mutual legal assistance sought and responded to? What are the numbers for Mainland China only? In addition, how many requests Taiwan receives and then respond to?	為了瞭解更多相關內容，臺灣可以增加一個有關尋求和回應司法互助總數的表格嗎？其中有關於中國大陸的數字是多少？此外，臺灣收到多少請求然後回復？

中文回應：

174. 我國向其他國家(地區)及其他國家(地區)向我國尋求司法互助情形，詳如表 4-4、4-5、4-6、4-7。

**表 4-4 我國向其他國家尋求司法互助統計(不含中國大陸)**

單位：件

區域別	案由	件數	請求類型	件數	區域別	案由	件數	請求類型	件數
亞洲	詐欺	37	調查取證	84	大洋洲	詐欺	1	調查取證	7
	毒品	11	凍結	2		毒品	5		
	洗錢	1	送達	2		其他	1		
	人口販運	3			小計		7		7
	殺人	9			非洲	詐欺	4	調查取證	6
	妨害性自主	1				人口販運	1		
	偽造文書	4				殺人	1		
	恐嚇、組織犯罪	1			小計		6		6
	其他	21			中東及中亞	詐欺	2	調查取證	2
小計		88		88	小計		2		2
美洲	詐欺	41	調查取證	91	歐洲	詐欺	41	調查取證	45

	毒品	6	凍結	16		毒品	0	凍結	12
	人口販運	1	送達	3		洗錢	4		
	洗錢	5				貪瀆	7		
	貪瀆	12				恐嚇、竊盜	2		
	偽造文書	5				偽造文書	2		
	殺人	1				妨害電腦使用	1		
	恐嚇、搶奪	7				組織犯罪	1		
	妨害電腦使用	3				其他	3		
	妨害性自主	1				小計	61		67
	妨害祕密	5							
	其他	10							
小計		97		110	合計		261		270

表 4-5 其他國家向我國尋求司法互助統計(不含中國大陸)

單位：件

區域別	案由	件數	請求類型	件數	區域別	案由	件數	請求類型	件數
亞洲	詐欺	3	調查取證	23	大洋洲	詐欺	2	調查取證	7
	毒品	5	凍結	1		毒品	5		
	殺人	4			小計		7		7
	竊盜	1			非洲		0		0
	偽造文書	1			小計		0		0
	其他	10			中東及中亞	殺人	2	調查取證	2
小計		24		24	小計		2		2
美洲	詐欺	8	調查取證	37	歐洲	詐欺	43	調查取證	46
	洗錢	3	凍結	2		洗錢	10	凍結	11
	人口販運	1				偽造文書	3	搜索扣押	1
	竊盜、侵佔	5				組織犯罪	4		
	妨害電腦使用	5				其他	4		
	偽造文書	6			小計		64		58
	殺人	3							
	反恐	2							
	其他	7							
小計		40		39	合計		137		130

表 4-6 我國向中國大陸尋求及中國大陸向我國尋求司法互助統計

單位：件

地區	類別	中國大陸向我國尋求案件			我國向中國大陸尋求案件		
		2015	2016	2017	2015	2016	2017
中國大陸	總計	20	10	9	180	149	146
	司法互助	0	0	0	2	4	2
	行政協查	11	5	5	73	84	77

	完成件數	12	7	9	100	53	46
	退回件數	0	0	0	2 <sup>13</sup>	0	0
澳門 特別 行政 區	總計	0	0	0	2	2	4
	司法互助	0	0	0	0	1	0
	行政協查	0	0	0	2	1	4
	完成件數	0	0	0	2	2	3
	退回件數	0	0	0	0	0	0
香港 特別 行政 區	總計	0	0	0	14	10	10
	司法互助	0	0	0	0	0	0
	行政協查	0	0	0	6	6	8
	完成件數	0	0	0	14	10	10
	退回件數	0	0	0	0	0	0

註：統計數據含刑事案件之司法互助及行政協查。我國回復案件統計含回復結果為無法查得請求資料。

英文回應：

174.The situation of mutual legal assistance between Taiwan and other countries, please reference Table 4-4、4-5、4-6、4-7.

**Table 4-4 Statistical data of mutual legal assistance from Taiwan to other countries (excluded Mainland China)**

Unit:cases

Region	Case Category	Number	Type of assistance	Number
Asia	Fraud	37	Collecting Evidence	84
	Narcotics	11	Freezing	2
	Money Laundering	1	Deliver	2
	Human Trafficking	3		
	Homicide	9		
	Sexual Offense	1		
	Forgery	4		
	Extortion, Organized Crimes	1		
	Others	21		
Subtotal		88		88
Oceania	Fraud	1	Collecting Evidence	7
	Narcotics	5		
	Other	1		
Subtotal		7		7
America	Fraud	41	Collecting Evidence	91
	Narcotics	6	Freezing	16

<sup>13</sup> 拒絕原因：當事人年籍不足、請求資料非屬受請求機關所持有。

	Human Trafficking	1	Deliver	3
	Money Laundering	5		
	Corruption	12		
	Forgery	5		
	Homicide	1		
	Extortion, Robbery	7		
	Computer Crimes	3		
	Sexual Offense	1		
	Privacy Violation	5		
	Others	10		
<b>Subtotal</b>		<b>97</b>		<b>110</b>
<b>Europe</b>	Fraud	41	Collecting Evidence	45
	Narcotics	0	Freezing	12
	Money Laundering	4		
	Corruption	7		
	Extortion, Theft	2		
	Forgery	2		
	Computer Crimes	1		
	Organized Crimes	1		
	Others	3		
<b>Subtotal</b>		<b>61</b>		<b>57</b>
<b>Middle East &amp; Central Asia</b>	Fraud	2	Collecting Evidence	2
<b>Subtotal</b>		<b>2</b>		<b>2</b>
<b>Africa</b>	Fraud	4	Collecting Evidence	6
	Human Trafficking	1		
	Homicide	1		
<b>Subtotal</b>		<b>6</b>		<b>6</b>
<b>Total</b>		<b>261</b>		<b>270</b>

**Table 4-5 Statistical data of mutual legal assistance from other countries to Taiwan(excluded Mainland China)**

Unit:cases

Region	Case Category	Number	Type of assistance	Number
<b>Asia</b>	Fraud	3	Collecting Evidence	23
	Narcotics	5	Freezing	
	Homicide	4	Deliver	1
	Theft	1		
	Forgery	1		
	Others	10		
<b>Subtotal</b>		<b>24</b>		<b>24</b>
<b>Oceania</b>	Fraud	2	Collecting Evidence	7
	Narcotics	5		

<b>Subtotal</b>		7		7
<b>America</b>	Fraud	8	Collecting Evidence	37
	Money Laundering	3	Freezing	2
	Human Trafficking	1		
	Theft, Embezzlement	5		
	Computer Crimes	5		
	Forgery	6		
	Homicide	3		
	Counter Terrorism	2		
	Others	7		
<b>Subtotal</b>		40		39
<b>Europe</b>	Fraud	43	Collecting Evidence	46
	Money Laundering	10	Freezing	11
	Forgery	3	Search, Seizure	1
	Organized Crimes	4		
	Others	4		
<b>Subtotal</b>		64		58
<b>Middle East &amp; Central Asia</b>	Homicide	2	Collecting Evidence	2
<b>Subtotal</b>		2		2
<b>Africa</b>		0		0
<b>Subtotal</b>		0		0
<b>Total</b>		137		130

**Table 4-6 Statistical data of mutual legal assistance between Taiwan and Mainland China**

Unit:cases

Region	Type of Request	No. of requests received			No. of requests sought		
		2015	2016	2017	2015	2016	2017
<b>Mainland China</b>	Total	20	10	9	180	149	146
	Related to ML	0	0	0	2	4	2
	Related to ML predicate	11	5	5	73	84	77
	Requests Fulfilled	12	7	9	100	53	46
	Refused	0	0	0	2 <sup>14</sup>	0	0
<b>Macao</b>	Total	0	0	0	2	2	4

<sup>14</sup> The refusal reason: the deficiency of ages or nationality of parties 、 the requested information is not belong to the requested authority.

<b>Special Administrative Region</b>	Related to ML	0	0	0	0	1	0
	Related to ML predicate	0	0	0	2	1	4
	Requests Fulfilled	0	0	0	2	2	3
	Refused	0	0	0	0	0	0
<b>Hong Kong Special Administrative Region</b>	Total	<b>0</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>10</b>	<b>10</b>
	Related to ML	0	0	0	0	0	0
	Related to ML predicate	0	0	0	6	6	8
	Requests Fulfilled	0	0	0	14	10	10
	Refused	0	0	0	0	0	0

Note: Statistical data is including mutual legal assistance and administrative investigation of criminal cases. Statistical data of responded cases is including the responses which is unable to find the information between Taiwan and Mainland China.

<b>4.13</b>		
<b>涉及公約條文</b>	<b>問題內容(原文)</b>	<b>中文參考翻譯</b>
<b>第 4 章 第 49 條</b>	<b>Despite specific joint action with authorities of other countries (for search or detention, for example), has there been any joint investigative body created with other country to investigate a full case ?</b>	儘管有與其他國家或機構的共同調查，臺灣是否有與其他國家共同成立的調查組織？

**中文回應：**

175. 臺灣經常以個案合作模式與他國、地區共同組成聯合偵辦團隊打擊跨境犯罪，惟囿於國際情勢所迫，未能與其他國家或機構共同成立或正式參與國際調查合作組織。

**英文回應：**

175. Taiwan has frequently cooperated with other countries and cross-border regions, and establish task force by means of individual cases. However, under present international circumstances, we are still in a quite need of forming or participating in formal international collaborative investigate organization with foreign legal enforcements.

## 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	問題內容(原文)	中文參考翻譯
第 5 章	As Taiwan does not have diplomatic relations with many countries, has it encountered difficulty in recovering assets from these countries ?	臺灣與許多國家沒有外交上的關係，從這些國家追討資產上，是否曾遇過任何困難？

#### 中文回應：

176. 我國國情特殊，無法加入聯合國下之各項公約，然為遵守國際公約規範與內容，我國仍積極推動與外國司法機關洽簽司法互助協定或備忘錄，以利進行包括追討資產在內之司法合作。由於國際間辦理有關刑事司法互助請求案件，並不必然以雙邊具司法互助協定為前提，實務上我國與未簽署相關協定之國家倘因個案而有司法互助之需要時，可在互惠之前提下，由請求方之司法機關以出具司法互助請求書之方式提出，例如瑞士及列支敦司登公國曾應我方司法互助請求，凍結犯嫌於各該國金融機構開立之帳戶。
177. 有些國家雖然接受基於個案互惠原則所提出之司法互助請求，但尚須經司法部部長徵詢外交部之意見來決定是否同意互惠聲明，此時我國極可能因為欠缺外交關係而遭拒絕。例如我國曾向某國請求扣押犯罪所得，經該國審查並由我方補正資料後，卻全無音訊。
178. 對於未簽署司法互助協定之國家，我國以互惠原則為基礎，依照國內法規進行國際司法互助，但仍有若干國家以未與我國簽署司法互助協定為由而不提供協助，我國正持續與該等國家溝通協商。

#### 英文回應：

176. Taiwan's special circumstances do not allow us to participate in the various conventions under the United Nations system. Nevertheless, in order to comply with the provisions and contents of international conventions, we actively promote the signing of mutual legal assistance agreements or memorandums with other countries' judicial institutions, thus facilitating cooperation on judicial matters, including the recovery of assets. Bilateral mutual legal assistance agreements are not always essential in international cases involving requests for mutual legal assistance in criminal matters. In practice, where a request for legal assistance has been raised by a country with which Taiwan has not signed a mutual legal assistance agreement, the judicial institution



involved can issue a request for mutual legal assistance on the basis of reciprocity. Switzerland and Liechtenstein, for example, have both frozen criminal suspects' accounts at local financial institutions in response to requests for legal assistance.

177. Although some countries receive MLA requests on the basis of reciprocity, their Ministry of Justice have to consult the Ministry of Foreign Affairs whether to consent to such acceptance of the offered assurance. The MLA request by Taiwan may be rejected in this situation as lacking of diplomatic relationship. Taiwan once requested State A for assistance on restraint of proceeds of crime. However, after providing additional information at State A's request following its review, Taiwan's never heard back from State A.
178. Upon receiving MLA request from the country Taiwan does not form a MLA agreement with, Taiwan choose to ,binding under its domestic laws, fulfill the need of the requesting country on the basis of reciprocity between two countries. Some countries, however, do not engage in mutual legal assistance with Taiwan on the basis that we have not signed mutual legal assistance agreements. We continue to negotiate with these countries.

5.2		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 51 條	<b>Apart from these three cases, are there other pending cases where the assets could not be recovered from other countries ?</b>	除了第 131 點的 3 個案件，是否有其他正在進行中，資產無法從國外追討的案件？

中文回應：

179. 我國在無法與大多數國家建立外交關係或簽訂司法互助協定之艱困環境下，未曾放棄任何打擊跨國犯罪之契機，並盡力突破困境，設法追回已被移往外國之犯罪收益，例如：調查局於 2015 年偵辦移送某壽險公司前董事長涉嫌掏空公司資產約 3.72 億美元(涉及 A、B 等 2 家外銀)，其中有約 1.78 億美元已由 A 外銀返還，該部分犯行所涉刑事訴訟業經臺灣最高法院於 2017 年以背信罪判決該前董事長有期徒刑 10 年定讞；另就尚未追回而存放於 B 外銀之 1.94 億美元部分，該案刑事訴訟則因相關司法互助文件未及時取得而發回臺灣高等法院更審中。由於上開掏空犯行係於境外，使用之套利帳戶亦在境外，且由主嫌掌握，調查局雖積極函請境外對等機關，請求情資交換，以取得案關帳戶交易明細，然礙於未簽訂司法互助，難以取得部分國家帳戶之交易明細，造成此類刑事案件調查之重大阻礙，並影響境外不法資金之追討。此外，針對尚未追回之 1.94 億美元部分，金管

會表示該壽險公司已對 B 外銀提起仲裁並獲得勝訴，然因 B 外銀在台並無資產，故該壽險公司將依據案關國家的法律規定，請求 B 外銀依據仲裁判斷給付相關款項。

180. 其他案例：(1)陳前總統貪污案，我國曾經向開曼、巴哈馬請求凍結資產，均遭拒絕。(2)2015 年間，我國曾向菲律賓請求凍結帳戶，1 件遭拒絕，1 件迄今未回覆。

**英文回應：**

179. Although Taiwan is in the plight of being unable to establish diplomatic relations or execute mutual legal assistance agreements with most counties, we have never relinquished any opportunities to combat transnational crime and have always endeavored to overcome hardships against all odds, and attempted to recover the proceeds of crime that have been transferred abroad. For example, the Investigation Bureau of the Ministry of Justice (the "Investigation Bureau") investigated a case where the former chairman of a life insurance company allegedly embezzled approximately US\$372 million from company assets (which involves Foreign Banks A and B). Foreign Bank A has returned approximately US\$178 million, and in respect to the crime within the said extent, the Taiwan Supreme Court has sentenced said former chairman to 10-year imprisonment for breach of trust. For the remaining US\$194 million held in Foreign Bank B that has not been recovered, such criminal case was remanded to the Taiwan High Court for further review because relevant mutual legal assistance documents were not obtained in time. The embezzlement occurred overseas and the arbitrage account, which is controlled by the main suspect, is located abroad. To recover the transaction proceeds from the relevant accounts, the Investigation Bureau has actively sought assistance from foreign counterparts for exchange of information, and has encountered considerable hardships in the investigation of such type of crime as it is extremely difficult to obtain the transaction proceeds of the accounts of some countries without the execution of mutual legal assistance agreements. This has affected the recovery of the proceeds of crime hidden overseas. Further, the Financial Supervisory Commission stated that in respect of the unrecovered US\$194 million, said life insurance company filed for arbitration against Foreign Bank B and has won the case. However, seeing that Foreign Bank B does not possess any assets in Taiwan, said life insurance company shall therefore demand Foreign Bank B to make relevant payments according to the arbitration award based on the laws of the relevant countries in this case.

180. Other cases: (1) In the case of former President, Taiwan once requested Cayman and Bahamas to freeze illegal proceeds resulting from corruption , these two countries refused to provide

assistance. (2) In 2015, Taiwan once requested Philippines to freeze bank accounts twice, and one was rejected and the other was never answered.

5.3		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 52 條	Does RoC issue advice to banks and DNFBPs regarding the types of natural or legal persons whose accounts require enhanced scrutiny ?	政府是否有將需要加強監控的自然人或法人的帳戶類型，通知銀行及指定之非金融事業或人員？

**中文回應：**

181. 調查局基於強化防制洗錢及打擊資恐機制效能目的，會就與執法機關合作調查具體個案，針對特定調查對象，利用與金融機構間常態聯繫窗口與機制，協調並指導金融機構蒐報定向金融情資，或透過例行性會議或不定期研討、聯繫機制，針對特定類型異常交易發布警訊，或利用金融機構從業同仁教育宣導時機提供洗錢、資恐態樣與趨勢訊息，強化金融機構對特定類型帳戶或交易模式的警覺與監控作為。
182. 《金融機構防制洗錢辦法》第 6 條規定，金融機構確認客戶身分措施及持續審查機制，應以風險基礎方法決定其執行強度，對於高風險情形，在建立或新增業務往來關係前，應取得高階管理人員同意，並應採取合理措施以瞭解客戶財富及資金來源，以及對於業務往來關係應採取強化之持續監督。同辦法第 9 條規定，銀行依據風險基礎方法，建立帳戶及交易監控政策與程序，並利用資訊系統，輔助發現疑似洗錢或資恐交易。完整之監控型態應依其業務性質，納入各同業公會所發布之態樣，並應參照金融機構本身之洗錢及資恐風險評估或日常交易資訊，增列相關之監控態樣。
183. 金管會訂定發布《存款帳戶及其疑似不法或顯屬異常交易管理辦法》，存款帳戶依該辦法第 4 條分類標準認定為疑似不法或顯屬異常交易者，銀行應採取適當之處理措施。
184. 金管會於 2017 年修正《國際金融業務分行管理辦法》，強化對國際金融業務分行(OBU)客戶之審查規範，並要求各銀行依新規定完成現有 OBU 客戶之客戶審查。

**英文回應：**

181. Aiming to strengthen efficacy of measures against money-laundering and terrorist-financing, MJIB cooperates with law enforcement agencies in investigating specific cases. Using regular contacts and mechanisms with financial institutions, financial institutions are coordinated and guided to collect and report targeted financial intelligence on specific targets under investigation. Otherwise, regular meetings or periodic discussions and contact measures are used to issue alerts

for certain types of unusual transactions. Educational training for financial institutions also provide information on the forms and trends in money-laundering or terrorist-financing, thereby strengthening the awareness and monitoring by financial institutions regarding certain types of accounts or transaction models.

182. In the Article 6 of Regulations Governing Anti-Money Laundering of Financial Institutions, a Financial Institution shall determine the extent of applying customer due diligence (CDD) and ongoing due diligence measures based on a risk-based approach (RBA). For higher risk circumstances, they must obtain the approval of senior management before establishing or entering a new business relationship, and reasonable measures must be taken to understand the sources of wealth and the source of funds of the customer, and enhanced ongoing monitoring of the business relationship must be conducted. Article 9 specifies that, A financial institution shall establish policies and procedures for account and transaction monitoring based on a risk-based approach and utilize an information system to assist in the detection of suspicions of money laundering or terrorist financing transactions. Complete ML/TF monitoring indicators shall, based on the business nature of a financial institution, include the suspicious indicators published by the relevant associations and the additional ones developed by the financial institution in reference to its ML/TF risk assessment or daily transaction information.

183. The Financial Supervisory Commission (FSC) promulgated “Regulations Governing the Deposit Accounts and Suspicious or Unusual Transactions“. Banks shall adopt the suitable measures for deposit accounts with transactions reported as suspicious or unusual based on the categorization standards set out in the Article 4 of the preceding regulations.

184. The FSC amended “Rules Governing Offshore Banking Branches” in 2017, which enhanced the customer due diligence (CDD) regulation for offshore banking unit (OBU) customers, and required all banks to complete looking back due diligence on their existed OBU customers by the end of 2017 according to the new regulations.

5.4		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 52 條	Does RoC issue advice to banks and DNFBPs regarding particular natural or legal persons whose accounts require enhanced scrutiny ?	政府是否有將需要加強監控的自然人或法人的特定帳戶，通知銀行及指定之非金融事業或人員？

**中文回應：**

185. 依《存款帳戶及其疑似不法或顯屬異常交易管理辦法》第 3 條規定，法院、檢察署或司法警察機關為偵辦刑事案件需要，得通報銀行將特定存款帳戶列為警示帳戶，該辦法並就銀行應採取之處理措施予以規範。

**英文回應：**

185. In the Article 3 of “Regulations Governing the Deposit Accounts and Suspicious or Unusual Transactions”, for the purpose of a criminal investigation, a court, public prosecutors office, or a judicial police authority may notify banks to classify particular account as Watch-listed Account. Banks shall take enhanced measures to monitor such particular account according to the above-mentioned Regulation.

5.5		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 53 條	Does the ROC legal system admit the possibility of allowing a foreign state to claim before its courts, compensation, damages or recovery of property acquired through corruption ?	對於經由貪腐獲得的不法資產，臺灣司法是否允許外國主張補償、損害賠償(在外國法院的正式聲請之前)？

**中文回應：**

186. 因《民事訴訟法》未限制被害人(國家、政府機關或個人)依法為損害賠償之請求。如有具體個案涉訟，由受理法院視個案情形為裁判。

187. 《國際刑事司法互助法》規定，我國協助請求國沒收或追徵與犯罪有關的財產時，得與其協商分享該財產。法務部於接獲外國政府請求後，依該法規定辦理。

**英文回應：**

186. The Code of Civil Procedure does not limit the request for damages presented by the victims (state, government agency or individual) according to the laws. If there is the case involving the litigation mentioned above, it will be decided by the court on the basis of circumstances in the case.

187. According to the “Act on International Mutual Assistance in Criminal Matters”, when ever Taiwan assists with the forfeiture of criminal proceeds or their “substitute assets” Taiwan may, through the modality of bilateral agreement, share such proceeds with the requesting state. Upon

receiving MLA request from foreign state, MOJ shall proceed to process the request under the “Act on International Mutual Assistance in Criminal Matters”.

5.6		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 53 條	Which are the basis to request sharing of proceeds of crime to a requesting country ?	對於要求請求國分享犯罪所得的準則是什麼？

中文回應：

188. 《國際刑事司法互助法》第 33 條規定，外國政府、機構或國際組織提供協助，有助於我國沒收或追徵與犯罪有關之財產，或我國協助外國政府、機構或國際組織沒收或追徵與犯罪有關之財產者，法務部得與其協商分享該財產之全部或一部。返還財產予外國政府、機構或國際組織前，應扣除我國因提供外國政府、機構或國際組織協助而支出之費用，並尊重原合法權利人及犯罪被害人之權益。

英文回應：

188. According to article 33 of the “International Mutual Assistance in Criminal Matters Act”, when a foreign government, foreign institution or international organisation provides aid regarding the confiscation/forfeiture of assets tied to a criminal act, or that our country provides this very aid, the ministry of justice is tasked with negotiations regarding the sharing of such assets between both parties. Prior to the restitution of such assets to the foreign government, foreign institution or international organisation, it is logical that the costs incurred by the implementation of the aid be subtracted from the sum of the assets. Meanwhile, it is imperative that the rights of the right-holders and the victims be respected.

5.7		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 54 條	Does RoC cooperate with other jurisdictions to recover proceeds of bribery and corruption ?	臺灣是否與其他司法機關合作，一同揭發賄賂或貪腐的不法所得？

中文回應：

189. 我國參酌 UNCAC 等國際公約及外國立法例，於 2018 年 5 月 2 日制定公布《國際刑事司法互助法》，作為我國執行相關事項基本法源，以利我國與外國相互進行刑事司法互助之請求與執行。

190. 陳○以二次金改賄款在美置產遭沒收拍賣案，參見首次國家報告第 131 點(2)。



英文回應：

189. Using international conventions including the UNCAC and legislative precedents in foreign countries as reference, we established and promulgated the “Act on International Mutual Assistance in Criminal Matters” on May 2, 2018. The Act serves as the legal basis for matters related to requests for mutual assistance in criminal justice and the execution of such requests between Taiwan and foreign countries.

190. About the confiscatory case of the Chen X used the bribery to purchase real estate in USA ,the US government auctioned the 2 pieces of real estate in 2013 for the total amount of \$1.5 million (US dollars). Please reference our initial report 131.(2).

5.8		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 54 條	If so, what is the value of proceeds frozen or confiscated ?	承上題，凍結或沒收的金額是多少？

中文回應：

191. 陳○以二次金改賄款在美置產遭沒收拍賣案，美國政府 2013 年拍賣 2 處房產，得款 150 萬美元。參見首次國家報告第 131 點(2)。

英文回應：

191. About the confiscatory case of the Chen X used the bribery to purchase real estate in USA ,the US government auctioned the 2 pieces of real estate in 2013 for the total amount of \$1.5 million (US dollars). Please reference our initial report 131.(2).

5.9		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 5 章 第 55 條	Any possible recommendations (drafts) for facilitating confiscation	對於臺灣強化沒收機制的建議或草案？

中文回應：

192. 我國於 2016 年 7 月 1 日施行沒收新制(參見首次國家報告專論第 70 點)，貫徹「任何人都不得保有犯罪所得」(Crime doesn't pay)之普世基本法律原則。為使新制順利推行，現已進行之強化作法如下：

- (1) 編撰「沒收查扣辦案手冊」及相關例稿，使檢察官及各執法單位能熟悉沒收新制之運用。
- (2) 要求各執法單位依新法執行保全扣押，避免被告脫產、執行無效果之情形，並辦理宣導及教育訓練。



- (3) 訂定《檢察機關追討犯罪所得實施要點》，明定臺灣高等法院檢察署應建置追討犯罪所得資訊平台，作為檢察機關與中央銀行、金管會、調查局、財政部關務署、臺灣集中保管結算所股份有限公司及其他相關機關（構）之聯繫窗口，強化檢察機關橫向聯繫。
- (4) 積極推動偵查中自動繳回犯罪所得機制，提升查扣犯罪所得效能。
- (5) 積極推動偵查中查扣變價機制，防止扣押物之價值減損，並確保終局確定判決沒收之實益。除訂有《檢察機關辦理刑事案件偵查中扣押物變價應行注意事項》外，法務部於網站設置檢察機關查扣變價專區<sup>15</sup>，並規劃建置全國各檢察署之變價物即時查詢系統。
- (6) 訂定《檢察機關與行政執行機關辦理囑託業務聯繫要點》，就偵查中變價、判決後之變價、分配、給付及調查追徵財產或其他相關事項等囑託事項之時點、應檢附文件、費用分擔、爭議處理、適用法律等，訂定原則性規範，由行政執行署各分署協助拍賣變價事宜，以防止犯罪資產之價值減損或滅失，並將犯罪所得返還被害人。

**英文回應：**

192. Taiwan has enforced the new confiscation system from July 1, 2016 (Point 70 of the our initial report), in order to implement the basic legal principles for “Crime doesn’t pay”). To help successful operation of the new system, the enhancement approaches underway are stated as following:

- (1) Prepare the “Handbook for Confiscation, Seizure and Investigation” and related draft guidelines to enable prosecutors and law-enforcement units to get familiar with the new system’s operation.
- (2) The various law-enforcement units are required to carry out perpetuation and seizure pursuant to the new laws to prevent defendants from transferring property and invalid execution result, and also to conduct promotional and education training programs.
- (3) Establish the “Guidelines for Prosecutors to Restore Criminal Proceeds” to expressly state that Taiwan High Prosecutors Office shall construct the information platform for restoration of criminal proceeds as the prosecuting apparatus’ liaison to communicate with the Central Bank, FSC, Investigation Bureau, Customs Administration (Ministry of Finance), TDCC and other related agencies, so as to strengthen the horizontal communication channel of the prosecuting apparatus.

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<sup>15</sup> 法務部所屬檢察機關查扣變價專區網址：<http://auction.moj.gov.tw/mp8002.html>。

- (4) Work hard to boost the automatic restoration of the criminal proceeds mechanism during the investigation to upgrade the performance in seizing criminal proceeds.
- (5) Work hard to boost the seizure and realization mechanism during the investigation to prevent the value of seized goods from being impaired and ensure the substantial benefits of confiscation upon final and irrevocable judgment. In addition to establishing the “Important Notice to Prosecution Entities on the Change in the Value of Objects Seized from the Pursuit of Criminal Investigation”, Ministry of Justice <sup>16</sup>also plans to construct the real-time information system for realized goods for prosecutors offices throughout the nation.
- (6) Establish the “Prosecuting Apparatus and Administrative Agency Collaboration Guidelines for Handling Requests” to expressly define the principles for the timing, required documents, share of expenses, dispute settlement and governing laws about realization during the investigation, realization upon judgment, distribution, payment and investigation on required property or other matters. The various branches of Administrative Enforcement Agency shall help the auction and realization to prevent the value of criminal assets from being impaired or lost, and the criminal proceeds shall be returned to the victim.

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<sup>16</sup> Website: <http://auction.moj.gov.tw/mp8002.html>

## 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	問題內容(原文)	中文參考翻譯
第 6 章 第 60 條	Table 15 on the training programmes (p. 176) does not provide sufficient details on the number of personnel being trained, the number and types of training courses, and whether officers are sent to attend relevant training courses abroad or conferences related to their work. How many personnel were trained in the 90 training sessions from 2013 to 2017? (p. 37). How effective are the training courses for the MJIB and AAC personnel in preventing and investigating corruption cases?	有關表 15(第 109 頁),請提供受訓人數、訓練課程的數量及種類,以及是否有派員參加國外相關訓練課程與會議等資料。2013 年至 2017 年 90 場培訓專班(第 8 點),有多少人參加?這些課程對於調查局和廉政署人員在預防和調查貪污案件,有多大幫助?

#### 中文回應：

193. 廉政署 2013 年至 2017 年 90 場培訓專班受訓人數(總計 7,772 人次),訓練課程的數量及種類如附錄 6。
194. 新進廉政人員訓練之訓練對象是通過國家考試廉政類科錄取之人員,新進人員訓練成績合格為取得正式公職人員任用資格之必要條件。新進廉政人員訓練之指導方針、計畫及課程內容,係由法務部設置之「政風人員訓練指導委員會」決議通過,函送報公務人員保障暨培訓委員會核定後實施。廉政署進行課程設計時,著重於新進人員對從事廉政業務具備正確觀念、核心價值精神及實務基礎知能之養成,使廉政人員具備監辦機關之開標、比價、議價、決標及驗收等程序是否符合《政府採購法》揭示公平、公正、公開之基本能力,亦為訓練的部分。
195. 另政風機構掌理事項包含機關貪瀆及不法事項之處理,為提升政風主管處理肅貪業務之敏感度,廉政署開設「發掘貪瀆目標及線索處理、貪瀆犯罪類型及構成要件、探討貪瀆及採購案件案例研析、辦案經驗標竿學習」等課程。廉政署每年亦會開設肅貪業務專精班,提供現職廉政人員(含具司法警察權之肅貪人員及一般廉政人員)學習對於執行貪瀆或相關犯罪調查業務之專業知能,俾有效結合運用肅貪人員司法調查權及政風行政調查權,以發揮廉政署反貪、防貪及肅貪效能。

196. 調查局每年招募新進人員進行 1 年的專業訓練，課程包各類型犯罪的調查，範圍包含公部門與私部門的貪腐防制，授課內容包括理論與實務，並進行實作練習，並且每年調訓在職人員 100 至 200 人進行專精講習，內容包括案例報告與實務研討。
197. 調查局於 2011 年 4 月 4 日至 8 日指派駐馬來西亞法務秘書參加由馬來西亞反貪污委員會所屬廉政學院舉辦之「2011 年反貪污及風險控管研討會」；2013 年 4 月 21 日至 27 日指派駐緬甸法務秘書及廉政處調查官赴馬來西亞參加該學院舉辦之「偵查情報研討會」；2015 年 10 月 19 日至 29 日指派廉政處調查專員及洗錢防制處調查官赴馬來西亞參加反貪污委員會舉辦之「2015 年認證廉政官研習班」。調查局指派人員赴國外參加相關研習課程，除能提升與會者自我知能，亦可建立人脈、強化非官方聯繫管道，對推動預防和調查貪污案件工作應有幫助。

**英文回應：**

193. For the number of trainees in 90 sessions of training programs (7,772 persons) from 2013 to 2017, and the quantity and types of training program, please refer to Appendix 5.
194. The trainees targeted by the orientation training program for the new agents refer to those passing the national examination for integrity operations. The new agents' civil service employment qualifications depend on whether they pass the training program successfully. The policy, plan and programs about the orientation training shall be subject to resolution by the "Civil Service Ethics Personnel Training and Steering Commission" set up by the Ministry of Justice. Then, the same shall be implemented upon authorization by Civil Servants Protection and Training Commission. When designing the programs, AAC focused the points on new agents' correct concept about integrity affairs, core value and training about practical and basic knowledge. As a part of the training, the agents will be trained to be competent for supervising any agency's tender opening, comparison of price, negotiation for price, contract awarding and inspection & acceptance in the just, fair and open manner required under the "Government Procurement Act"
195. Meanwhile, the ethics entities' functions also include processing of malpractices and misconduct by agencies. In order to upgrade the ethics supervisors' sensitivity toward corruption investigation, AAC offers the courses including "verification of target of malpractice and processing of leads, types and elements of malpractice offenses, case study on malpractice and procurement projects, and investigation experience benchmarking learning". AAC will offer the specialized classes dedicated to corruption investigation to provide the active agents (including

the corruption investigators holding the authority of judicial police and general agents) with the access to learn the professional knowledge about investigation on malpractices or related offenses to integrate and utilize the corruption investigators' judicial investigation power and ethics personnel's administrative investigation power and to exert AAC's performance in anti-corruption, corruption prevention and corruption investigation.

196. Each year, MJIB conducts professional training for new recruits lasting one year. The courses cover the theory as well as practice of investigation into various types of crime, including corruption prevention and control in public and private sectors. Moreover, each year 100-200 working personnel undergo specialized training that includes case studies and practical discussions.

197. In April 4-8, 2011, MJIB appointed its legal secretary stationed in Malaysia to participate in the "2011 Anti-Corruption and Risk Control Symposium" held by Malaysian Anti-Corruption Academy. In April 21-27, 2013, MJIB appointed the legal secretary stationed in Myanmar and investigators of Agency Against Corruption to attend the "Investigation Information Symposium" held by Malaysian Anti-Corruption Academy. In addition, in October 19-29, 2015, MJIB sent investigative specialists of Anti-Corruption Division and investigators of Anti-Money Laundering Division to Malaysia to participate in the "2015 Certified Anti-Corruption Officials Training Course" held by the Malaysian Anti-Corruption Commission. MJIB seeks to send personnel abroad to study in relevant courses to elevate their know-how, and to create connections and strengthen unofficial channels; this should be helpful to promoting prevention and investigation of corruption cases.

6.2		
涉及公約條文	問題內容(原文)	中文參考翻譯
第 6 章 第 61 條	As the AAC has conducted an annual survey on the public perceptions on corruption in Taiwan for several years, the major findings of these annual surveys should be summarised to indicate whether there is an improvement in the respondents' perceptions on anti-corruption initiatives and their views on the integrity of public servants in recent years.	廉政署每年有做各類公務員廉潔評價的民意調查，請提供研究結果的摘要資料，以觀察近年來大眾對於公務員的廉潔印象是否有提升，以及對於推動反貪腐工作的感知程度。

**中文回應：**

198. 廉政署 2017 年廉政民意調查結果發現：

- (1) 受訪者對 5 種常見之違反廉政行為嚴重程度的看法，依序為「企業提供好處影響政策」（平均數 6.9）、「私部門利用管理員工或處理事情的權力得到個人好處」（平均數 6.2）、「臺灣選舉賄選情形」（平均數 6.0）、「民眾請人向公務人員關說情形」（平均數 5.5）及「民眾向公務人員送紅包的情形」（平均數 4.4）。
  - (2) 受訪者對廣義公務員清廉程度的評價排名，前 5 名依序為「公立醫院醫療人員」、「一般公務人員」、「監理人員」、「消防安檢人員」及「警察」。清廉程度評價後 6 名依序為「政府公共工程人員」、「政府採購人員」、「鄉鎮市民代表」、「縣市議員」、「立法委員」及「土地開發業務人員」。
  - (3) 受訪者對於各類公務員的廉潔印象分數與歷年的平均數比較結果，廉潔印象分數顯著低於歷年平均數的人員類別包括「鄉鎮市首長及主管」、「法官」、「檢察官」、「環保稽查人員」等 4 類。而「一般公務人員」、「鄉鎮市民代表」、「警察」、「軍人」、「建管人員」、「海關人員」、「監理人員」、「河川水利業務人員」、「消防安檢人員」、「公立醫療人員」、「政府採購人員」、「衛生稽查人員」及「政府公共工程人員」、「土地開發業務人員」等 14 類人員的清廉程度平均數，則是顯著高於歷年調查的平均數。詳如附錄 3。
  - (4) 受訪者獲取公務員清廉印象主要的管道依序為電視（38.6%）、個人經驗（18.9%）、親友（14.1%）、網路（10.8%）、報紙（5.9%），透過其他管道的比例較少。
199. 2017 年民意調查結果相較 2016 年而言，進步較多名次的為「警察」（由第 7 名上升至第 5 名）及「監獄管理人員」（由第 17 名上升至第 15 名）；同時，民眾對「一般公務人員」、「稅務稽查人員」及「海關人員」清廉程度的評價亦均上升 1 個名次。

**英文回應：**

198. AAC's survey on public opinion about integrity in 2017 shows that:

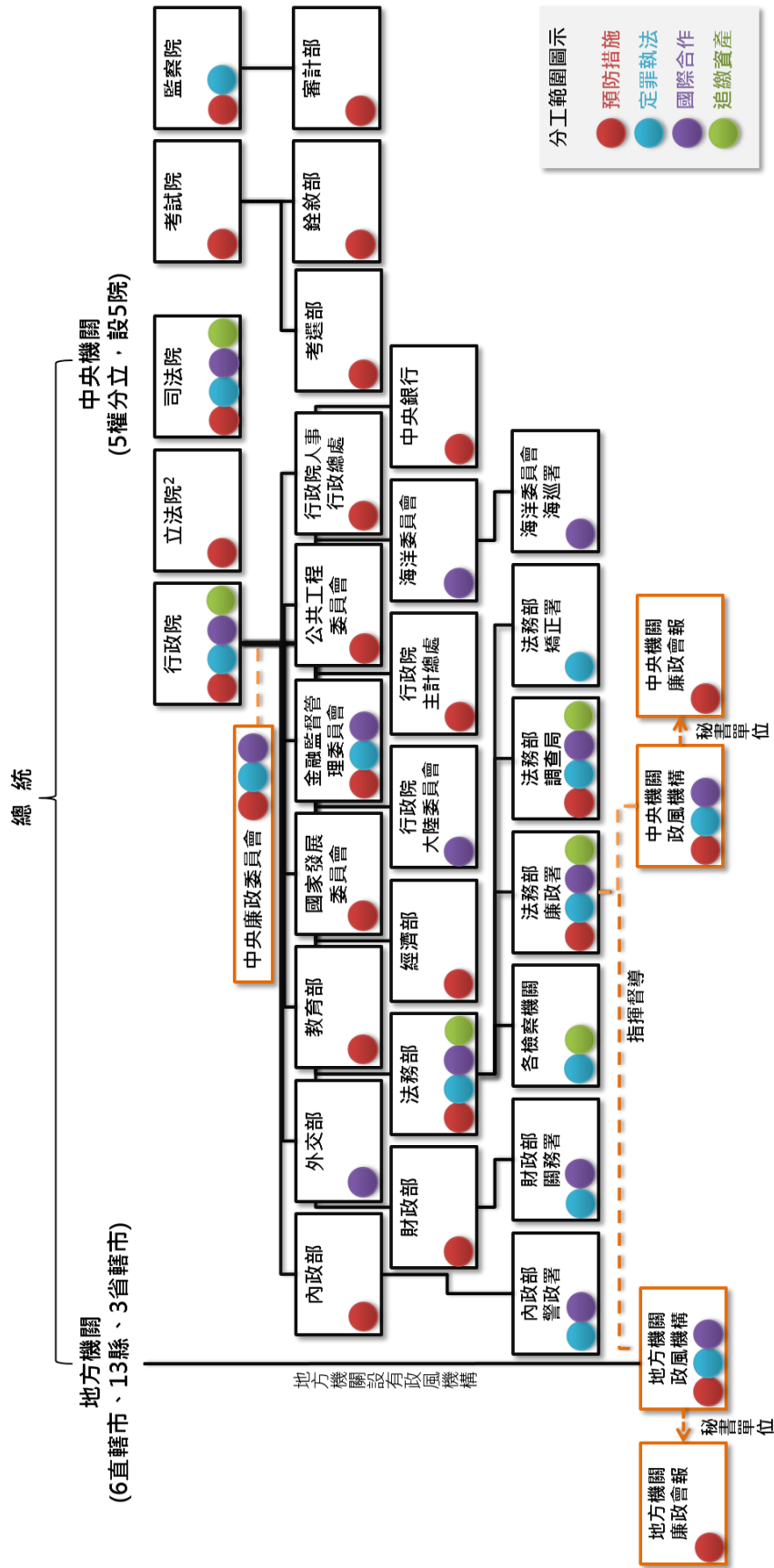
- (1) In terms of interviewees' comments on severity of the 5 major malpractices, they are the "enterprise influences policies by offering favors" (average 6.9), "private sector utilizes the power to manage personnel or deal with cases to gain personal benefit" (average 6.2), "bribery for election campaigns in Taiwan" (average 6.0), "request for making an intercession by

civilians to public servants” (average 5.5), and “civilians’ offering of bribery to public servants” (average 4.4) in order.

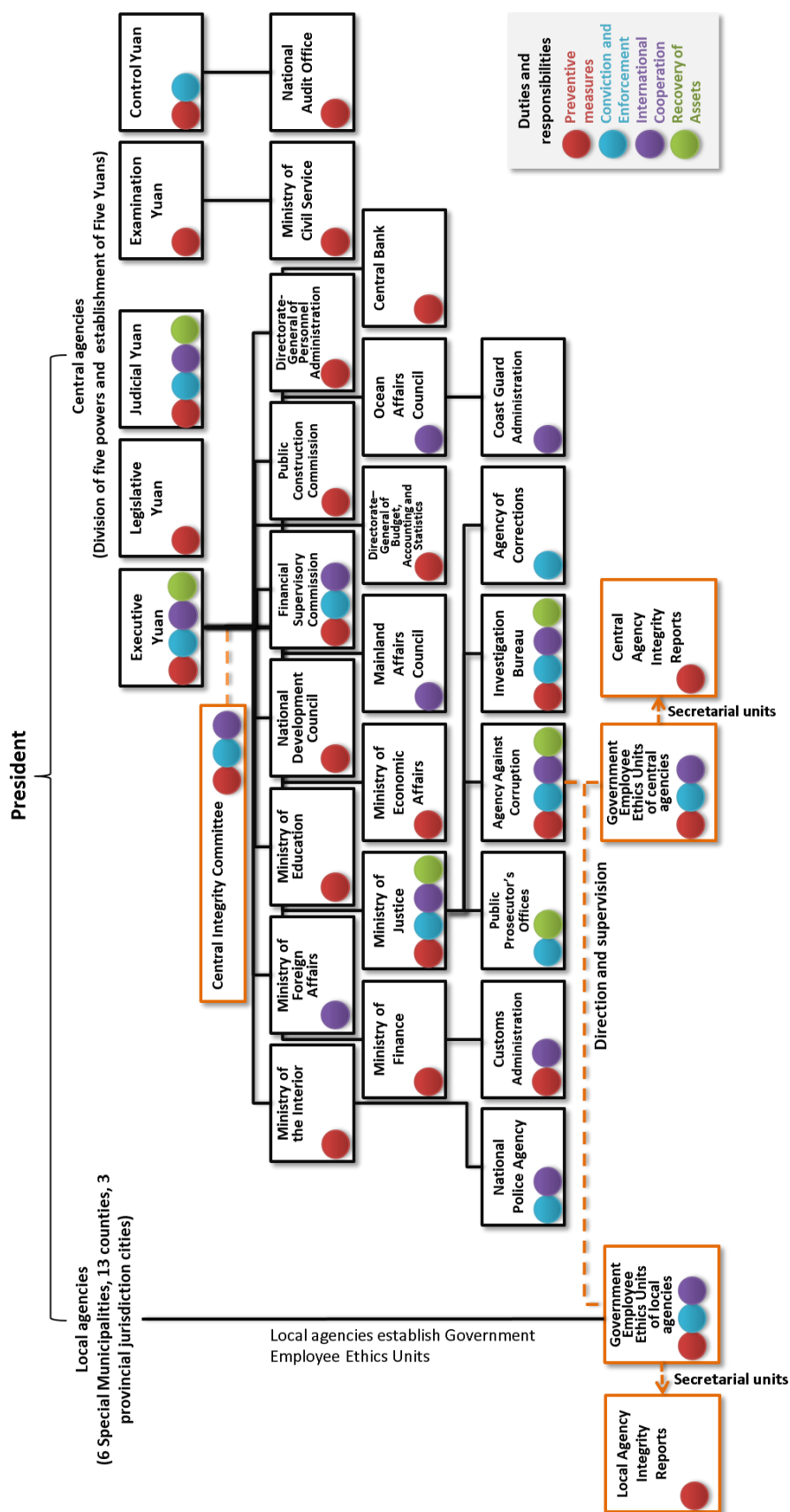
- (2) In terms of the interviewees’ comments on the level of integrity by civil servants in a wide sense, they are “medical staff in public hospitals”, “general civil servants”, “supervising officers”, “fireman and security inspection personnel” and “policemen” in order. The persons ranking the sixth place and thereafter for the level of integrity are “construction administration personnel”, “government procurement staff”, “public officials at the township villages”, “county councilors”, “legislators” and “Land development personnel”.
- (3) According to the comparison between the interviewees’ impression scores about various public servants and the average scores for the past years, the public servants with integrity impression scores significantly less than the average scores include “township/city government heads and chief officers”, “judges”, “prosecutors”, and “environmental protection inspectors”. The civil servants with integrity impression scores significantly higher than the average scores include the “general civil servants”, “public officials at the township villages”, “policemen”, “military”, “construction administration personnel”, “construction administration personnel”, “supervising officers”, “river and water resource officers”, “fireman and security inspection personnel”, “public hospital personnel”, “government procurement staff”, “sanitary inspectors”, “construction administration personnel” and “land development personnel”. For details, please see Appendix 3.
- (4) The channels via which the interviewees get the impression about public servant's integrity are TV (38.6%), personal experience (18.9%), relatives and friends (14.1%), Internet (10.8%) and newspaper (5.9%) in order. Few get the same via any other channels.
199. According to the comparison between the public opinion survey in 2017 and 2016, those making great progress in the ranking include the policemen (upgraded to 5th place from 7th place) and “prison correction officers” (upgraded to 15th place from 17th place). Meanwhile, the civilians’ ratings about the integrity of “the general civil servants”, “tax auditors” and “custom officers” made their places go up by 1.



附錄 1：反貪腐體系組織架構圖



## Appendix 1 : Anti-Acorruption Organizational Framework



## 附錄 2：2017 年國家廉政建設行動方案執行成效

### 一、強化機關廉政經營責任制度，落實風險控管作為。

- (一) 各機關評估高度廉政風險事件計 476 件，採行調整職務、首長輔導等預警作為計 348 件，比率為 73.1%。
- (二) 推動機關首長對內部控制之重視並強化機關自我課責，輔導 650 個機關簽署內部控制聲明書，並公開於各該機關網站之政府資訊公開專區。
- (三) 從潛存高風險因子之違失個案，導入專案稽核或清查共 161 案，其中由廉政署立案偵辦之貪瀆案件計 21 案；一般不法案件 19 案；追究行政責任 196 案(人次)。
- (四) 推動辦理發生工安事故、歷年履約成效不佳廠商等重要主題性查核，另針對查核結果有工地安全衛生之計點缺失者，與勞動檢查橫向聯繫。

### 二、促進公開透明，防止利益衝突。

- (一) 針對因不諳規範致違反規定受裁罰比例較高之各縣市議員及鄉（鎮、市）民代表，辦理《公職人員利益衝突迴避法》宣導說明會。
- (二) 《公職人員財產申報法》修正草案函報行政院續行審查。
- (三) 監察院許可政治獻金專戶 4 戶；另有裁罰件數 140 件，裁罰金額(含沒入)27,448,836 元，落實政治獻金管制規範。
- (四) 內政部統計各機關遊說案件核准登記件數有 27 件，完成對被遊說者、遊說專責人員、可能接觸遊說業務之人員及民間團體之宣導，對民主政治之參與帶來正面作用。

### 三、持續指標研究，掌握民意脈動與國際趨勢。

- (一) 建置成立全民參與公共政策之「公共政策網路參與平臺」，包含「眾開講」有 112 個政策議題及 969 個「法規及法律命令草案預告」開放徵詢；「提點子」有 4,418 項提議(119 項成案)；「來監督」提供民眾關心重大執行中計畫有 98 項及已完成之計畫 21 項。
- (二) 掌握國際透明組織每年公布之清廉印象指數等國際指標對我國清廉程度的評價。
- (三) 推動政府機關之「廉政試評鑑」委託研究案，修正檢視機關廉政體質良窳之「評分衡量基準」。

### 四、落實公務員行為規範，建立政府典範。

- (一) 提出《公務員廉政倫理規範》修正草案。另統計受理登錄公務員廉政倫理事件共 3 萬 4,250 件，請託關說事件登錄抽查詳第 41 點及首次國家報告第 13 點(2)。
- (二) 擇定採購、警政、環保、建管、地政、關務、河川砂石、醫療殯葬、造橋鋪路及其他等 10 種業務類型，編印「破解圖利陷阱案例篇 Part1」廉政宣導手冊。

### 五、鼓勵社會參與，促進透明與貪腐零容忍的共識。

- (一) 鼓勵社會參與成果，詳第 90 點及首次國家報告第 27 點。
- (二) 各政風機構協助機關推動行政透明措施計 14 項，詳首次國家報告第 3 點(7)。

### 六、推動校園誠信，深化學子品格教育。

- (一) 各大專院校開設法治相關議題之課程數計 5,311 門；受補助推動法治教育及品德教育之各級學校計 294 所。
- (二) 391 所高級中等學校，教科用書之相關篇章主題已包含「法治教育及品德教育」內容。

### 七、強化企業誠信，凝聚私部門反貪腐共識。

- (一) 上市(櫃)公司部分：完成對所有上市(櫃)公司評鑑，並公布第 3 屆公司治理評鑑結果，亦完成財務報告實質審閱 374 家及內部控制制度查核 186 家。另有 293 家已公告申報企業社會責任報告書。
- (二) 國內四大基金及投信、保險等 38 家機構投資人簽署「機構投資人盡職治理守則」，促使上市(櫃)企業重視公司治理。
- (三) 修正發布「優質企業認證及管理辦法」，重點包含：刪除優質企業資格效期規定，修正為每 3 年向海關申請校正；增訂安全認證優質企業申請依《關稅法》第 52 條第 12 項規定進口貨物案件，得提供書面保證免繳納稅款保證金；增訂對與我國簽訂優質企業相互承認協議之國家或地區所認證優質企業，其在我國設立之子公司或分公司申請優質企業得免除成立滿 3 年之資格限制等規定。
- (四) 辦「2017 關務論壇」，以「推動 AEO 與互認機制所創造的便捷、透明、安全成果」為題，推展海關行政流程透明及運用電子化資訊系統等措施強化機關廉政與課責成果。

#### **八、增修肅貪法令，強化肅貪能量，落實揭弊者保護。**

- (一) 《揭弊者保護法》草案議題提報為 2017 總統府司法改革國是會議公開討論並作成總結會議決議事項。
- (二) 各地方檢察署提報偵結起訴貪瀆案件共 133 件。其中以行政事務類 28 件、警政類 20 件等案件類型較為集中，顯示肅貪、防貪焦點熱區，由各單位自行檢討。
- (三) 各地方檢察署提報 106 年度提報符合偵結起訴重大危害廉能案件共 28 件，計有如遠雄集團董事長趙藤雄涉及都更、眷改、遠雄人壽掏空、大巨蛋等弊案，共起訴趙藤雄、新北市議員周勝考等知名人士。
- (四) 發掘企業貪瀆線索 115 件，移送偵辦企業貪瀆案件 300 案，犯罪嫌疑人 1372 人，查獲犯罪標的 2,638 億 1,527 萬 1,188 元。

#### **九、推動國際合作與資產追繳，建構國家間互惠機制。**

- (一) 《國際刑事司法互助法》草案經行政院審查通過。(《國際刑事司法互助法》業於 2018 年 5 月 2 日公布，詳第 139 點。)
- (二) 我國除與美國、菲律賓、南非等國簽署刑事司法互助協定(議)加強雙邊合作外，亦參與如「亞太區追討犯罪所得機構網絡」(ARIN-AP)、亞太經濟合作組織(APEC)下轄之反貪腐執法合作網(ACT-NET)及艾格盟聯盟(Egmont Group)等重要國際網絡。我國已成功利用 ARIN-AP 平台提供部分國家所需犯罪情資，並獲對方來信致謝。
- (三) 提升《洗錢防制法》運用效益，加強追查金流工具：增納「保管箱」、「OBU 帳戶」為開戶查詢總覽之查詢項目；新增「線上投單查詢大額通貨交易明細」功能；新增「電子公文查詢金融帳戶交易明細資料」功能；研商「線上投單查詢可疑交易明細」功能。
- (四) 由日本、泰國、越南、布吉納法索、馬來西亞及印尼緝返「緝狐專案」、千禧吸金案等毒品、槍砲、詐欺、殺人及妨害自由受通緝重大外逃罪犯 10 人。
- (五) 持續透過「處理兩岸跨第三地電信詐騙案件跨部會協商平臺」，打擊跨境犯罪。近期案例：我國檢調團隊至 A 國與該國檢察機關討論共同查緝計畫，並在 A 國執行搜索、扣押，查獲國人於 A 國設置之機房等電詐器材、A 國國人及共犯。

## **Appendix 2: Implementation of the National Integrity Building Action Plan in 2017**

- I. Strengthening of the accountability system for clean government operations and implementation of risk management measures.
  - (I) Government agencies evaluated 476 incidents representing high risk for clean government, responding with 348 early warning actions (73.1%) such as reassignment of duties and guidance by the head of the agency concerned.
  - (II) We encouraged the heads of agencies to place greater emphasis on internal control and strengthen organizational accountability, providing guidance to 650 agencies to sign internal control statements, and set up publicly accessible sections on their websites to disclose information on themselves.
  - (III) Of the breach-of-duty cases with potential high-risk factors, 161 cases underwent audits or investigations. Among these, 21 cases were corruption cases investigated by the AAC, 19 cases concerned general unlawful conduct, and 196 cases (including multiple per person) were about administrative responsibility.
  - (IV) We promoted the implementation of important thematic inspections of companies with workplace accidents and poor records over the past years. In addition, in cases of poor inspection results for workplace safety and sanitation, horizontal contacts with labor inspections were made.
- II. Promotion of openness and transparency to prevent conflicts of interest.
  - (I) We held seminars on the Act on Recusal of Public Servants Due to Conflicts of Interest for civil servants and people's representatives of counties and cities with a higher proportion of fines for violations of regulations.
  - (II) The draft amendment to the Act on Property-Declaration by Public Servants was submitted to the Executive Yuan for review.
  - (III) The Examination Yuan permitted 4 cases of political donations while imposing fines (including seizures) in another 140 cases for a total of NTD 27,448,836 to enforce the norms regulating political donations.
  - (IV) The Ministry of the Interior recorded 26 lobbying cases approved and registered by government agencies. The ministry also made publicity on lobbying norms among lobbied parties, professional lobbyists, and personnel and civil groups that may come into contact with lobbyists, to ensure that lobbying plays a positive role in the country's democracy and politics.
- III. Continuous monitoring of indicators to stay informed on public opinion pulsation and international trends
  - (I) The Public Policy Network Participation Platform, established to invite the general public to participate in public policy, generated 112 policy suggestions and 969 preannouncements of amendments to laws, regulations, and decrees in the People's Soapbox section; 4,418 proposals

(119 adopted) in the I've Got an Idea section; and 98 realized and 21 planned major projects open to supervision by the general public in the Let's Supervise section.

- (II) We monitored the evaluations of Taiwan's cleanliness in the Corruption Perceptions Index annually compiled by Transparency International.
- (III) We commissioned research of the Clean Government Trial Review carried out among government agencies and amended the scoring standards for reviewing the integrity of government agencies.
- IV. Implementation of the Civil Servants' Code of Conduct to establish a model of government
  - (I) We proposed amendments to the Ethics Guidelines for Civil Servants. We handled and recorded 34,250 ethics incidents involving civil servants. Recorded incidents of requests for intercession are detailed in the National Report, Point 13 (2) and Government Agency Responses, Point X.
  - (II) We authored and printed a clean government promotion booklet titled Entrapment Cases to Crack Down on Unlawful Enrichment – Part 1 describing cases in ten categories: procurement, police work, environmental protection, construction management, land administration, customs, rivers and gravel, healthcare and funerals, bridge and road building, and miscellaneous.
- V. Encouragement of community participation to promote consensus on transparency and zero tolerance for corruption
  - (I) We encouraged the community to participate in creating these outcomes. Details in the first National Report, Point 27 and Government Agency Responses, Point X.
  - (II) The civil service ethics units assisted the government agencies in which they are embedded, to promote 14 administrative transparency measures. Details are given in the first National Report, Point 3 (7).
- VI. Promotion of campus integrity to deepen student character education
  - (I) At colleges and universities across the country, 5,311 courses were offered on topics related to the rule of law. 294 institutions of various levels were given subsidies to offer education relating to the rule of law and morality.
  - (II) At 391 senior high schools, textbooks include chapters on the rule of law and morality.
- VII. Strengthening of corporate integrity to build an anti-corruption consensus in the private sector
  - (I) We completed an evaluation of all TWSE/GTSM-listed companies and published the third edition of our Corporate Governance Review. We also reviewed financial reports of 374 companies and internal control systems of 186 companies. In addition, 293 companies published their corporate social responsibility reports.
  - (II) The 38 largest institutional investors in Taiwan, including the four biggest investment funds as well as investment trusts and insurance groups, signed the Due Diligence and Governance Principles for Institutional Investors to express their commitment to emphasize good corporate governance.
  - (III) The amended Regulations Governing the Certification and Management of the Authorized Economic Operators (AEO) were promulgated. Key amendments include: deleting the validity

period provisions for quality enterprise qualifications and replacing them with three-yearly corrections to be filed with customs; adding that AEOs must import goods in accordance with Article 52, paragraph 12 of the Customs Act, allowing for written guarantees in lieu of tax security deposits; adding countries or regions with which Taiwan has signed agreements regarding the mutual recognition of AEOs, exempting branches or subsidiaries of companies from those countries from the requirement that the main or parent company must have existed for three years.

- (IV) We hosted the 2017 Custom Affairs Forum themed “AEO and Mutual Recognition for Greater Convenience, Transparency, and Safety” to promote measures such as transparency of customs administrative procedures and the use of electronic information systems to strengthen clean government and accountability of the agencies involved.

VIII. Expansion of regulations relating to the investigation of corruption, to boost corruption investigations and implement protection of whistleblowers

- (I) A draft Whistleblower Protection Act was submitted to the 2017 National Judicial Reform Conference Committee under the Presidential Office for public discussion and resolutions.
- (II) (Prosecutors Offices around the country filed 133 indictments for corruption to the courts. Among these, the biggest concentrations were in administrative affairs (28 cases) and police affairs (20 cases), indicating the hot spots for the investigation and prevention of corruption and offering reasons for self-reflection of the agencies in question.
- (III) In 2017, Prosecutors Offices around the country filed 28 indictments involving serious harm to clean government, including high-profile corruption cases such as Farglory Group Chairman Chao Teng-hsiung’s involvement in bribery, embezzlement, and siphoning funds from Farglory Life Insurance, the Taipei Dome construction scandal, etc. In these cases, well-known persons such as Chairman Chao Teng-hsiung and New Taipei City Councilor Chou Sheng-kao have been indicted.
- (IV) We investigated 115 leads on corporate corruption and transferred 300 corporate corruption cases [to Prosecutors Offices], involving 1,372 criminal suspects. NTD 263,815,271,188 (USD 8.6 billion) of illegal proceeds was seized.

IX. Promotion of international cooperation and asset recovery to build a reciprocal mechanism with other countries

- (I) The draft International Criminal Law Mutual Assistance Act was reviewed and passed by the Executive Yuan. (The International Criminal Law Mutual Assistance Act was promulgated on 2 May 2018. Details are given in Government Agency Responses, Point X.)
- (II) In addition to having agreements on mutual legal assistance in criminal matters with the United States, the Philippines, and South Africa, Taiwan also participates in such partnerships as ACT-NET, the anti-corruption network under the jurisdiction of ARIN-AP and Asia Pacific Economic Cooperation (APEC) as well as the Egmont Group. Taiwan successfully used the



ARIN-AP platform to provide crime-fighting intelligence to certain countries, and has received letters of recognition from its counterparts.

- (III) To enhance the effectiveness of the Money Laundering Control Act, we strengthened instruments for tracing money flows. We added the items ‘safety deposit boxes’ and ‘offshore banking units’ to the query overview for opening bank accounts. We also added a functionality for checking the ‘specifications of invoicing online orders for large transactions’. Lastly, we are preparing to add a functionality for checking the ‘specifications of invoicing online orders for suspicious transactions’.
- (IV) The Bring Home the Foxes Project has repatriated to Taiwan ten criminals engaged in the MDI Group involving drugs, guns, scams, homicides, and kidnappings, who were hiding abroad in Japan, Thailand, Vietnam, Burkina Faso, Malaysia and Indonesia.
- (V) We continued to crack down on cross-border crime through the Inter-Agency Communication Platform for Handling Cross-Strait Telecom Fraud Cases across the Taiwan Strait. Recent cases: A Taiwanese investigation visited country A to discuss with its prosecution authorities a joint investigation project, and followed leads, and requested and was granted seizures in country A of a server room and devices used for telecom fraud set up in country A by nationals from that country and their accomplices.

附錄 3：受訪者對歷年廣義公務員清廉程度評價彙整表

人員類別	86 年 7 月	87 年 3 月	87 年 7 月	87 年 11 月	88 年 3 月	89 年 10 月	90 年 3 月	90 年 9 月	92 年 8 月	93 年 7 月	93 年 10 月	94 年 7 月	95 年 7 月	96 年 7 月	97 年 7 月	98 年 6 月	99 年 7 月	100 年 6 月	101 年 6 月	102 年 6 月	103 年 10 月	104 年 10 月	105 年 10 月	歷 年 平 均	106 年 6 月	與 歷 年 平 均 差 異
中央政府首長及主管									4.79	4.83	4.83	4.73	3.83	4.33	—	4.77	4.92	4.84	4.68	3.91	4.26	4.8	5.01	4.84	4.79	-0.05
縣市政府首長及主管	5.07	5.45	5.4	5.31	5.24	5.14	5.1	5.31	4.79	4.97	4.92	4.78	4.44	4.56	4.72	4.76	4.85	4.92	4.77	4.08	4.39	4.91	4.95	4.91	4.85	-0.06
鄉鎮市首長及主管										4.86	4.69	4.46	4.35	4.43	4.63	4.66	4.64	4.67	4.63	3.98	4.22	4.85	4.88	4.82	4.63	*-0.19
一般公務人員	5.47	5.58	5.66	5.59	5.53	5.43	5.42	5.6	6.02	5.81	5.84	5.83	5.83	5.95	5.8	5.72	5.87	5.87	5.97	5.62	5.9	—	5.91	5.74	6.17	*0.43
立法委員	—	—	—	—	—	—	—	—	3.97	4.01	4.04	3.95	3.65	3.81	4.04	4.07	4.37	4.19	4.09	3.5	3.95	4.22	4.49	4.02	4.15	0.13
縣市議員	—	—	—	—	—	—	—	—	4.27	4.26	4.19	4.07	3.91	3.99	4.15	4.13	4.48	4.21	4.14	3.64	4.01	4.23	4.38	4.14	4.18	0.04
鄉鎮市民代表	—	—	—	—	—	—	—	—		4.43	4.33	4.32	4.27	4.25	4.36	4.4	4.5	4.29	4.35	3.87	4.08	4.24	4.38	4.00	4.23	*0.23
法官	5.35	5.79	5.63	5.58	5.56	5.51	5.44	5.5	5.42	5.47	5.23	5.28	5.14	5.26	5.28	5.15	5.46	4.56	4.99	4.56	4.95	4.77	4.83	5.27	4.66	*-0.61
檢察官										5.72	5.46	5.49	5.33	5.51	5.46	5.27	5.48	5	5.34	4.83	5.27	5.11	5.2	5.40	5.06	*-0.34
警察	5.07	5.3	5.36	5.08	5.03	5.06	5.2	5.21	4.98	5.18	4.77	5.09	4.88	4.88	4.93	4.88	4.61	4.76	5.01	4.67	5.12	5.37	5.76	5.05	5.84	*0.79
軍人	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5.39	5.56	5.84	5.99	5.88	5.65	5.33	5.77	5.68	5.83	*0.15
建管人員	4.73	4.61	4.78	4.53	4.75	4.63	4.73	4.93	4.51	4.57	4.59	4.53	4.49	4.5	4.68	4.6	4.56	4.34	4.77	4.19	4.3	4.51	4.7	4.59	4.61	0.02
海關人員	4.77	5.12	5.19	4.92	5.01	4.89	4.97	5.26	4.88	5.01	5.04	4.91	4.96	4.95	4.96	4.82	4.81	4.91	4.86	4.48	4.84	4.75	5.09	4.93	5.20	*0.27
監理人員	5.56	5.49	5.59	5.51	5.58	5.4	5.54	5.69	5.66	5.62	5.49	5.69	5.71	5.71	5.74	5.66	5.77	6.11	5.93	5.72	5.9	5.77	6.04	5.69	6.00	*0.31
殯葬管理人員	—	—	—	—	—	—	4.88	4.67	4.84	5.08	4.91	5.03	4.96	5.05	5.03	5.17	5.12	4.99	5.07	5.05	4.96	5.18	5.28	5.02	5.32	*0.30
監獄管理人員	—	—	—	—	—	—	—	5.23	5.09	5.19	4.97	4.68	4.93	4.94	4.86	4.32	4.5	4.72	4.83	4.77	4.84	4.63	4.92	4.84	4.90	0.06
河川水利業務人員	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4.63	4.39	4.72	5.02	4.69	4.92	*0.23
河川砂石管理業務人員	—	—	—	—	—	—	—	—	4.06	4.19	3.89	3.77	3.61	3.77	3.7	3.75	3.84	3.77	3.83	—	—	—	—	3.83	—	—
消防安檢人員	—	—	—	—	—	—	7.43	7.23	5.7	5.62	5.52	5.58	5.5	5.52	5.57	5.55	5.44	5.13	5.57	5.61	5.85	5.63	5.87	5.78	5.94	*0.16
公立醫院醫療人員	5.8	6.09	6.09	6.06	6.3	6.09	6.23	6.22	6.3	6.19	5.99	6.04	5.81	6.08	6.08	5.94	5.91	5.88	6.14	6.19	6.47	6.24	6.48	6.11	6.55	*0.44
環保稽查人員	5.98	6.05	6.28	6.11	5.98	5.87	5.85	6.02	5.83	5.7	5.71	5.55	5.68	5.54	5.61	5.63	5.52	5.45	5.68	5.4	5.19	5.22	5.54	5.72	5.43	*-0.29
衛生稽查人員	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5.48	5.24	5.49	5.7	5.48	5.70	*0.22
稅務稽查人員	5.47	5.68	5.7	5.54	5.77	5.47	5.78	5.81	5.65	5.54	5.46	5.54	5.48	5.56	5.58	5.34	5.62	5.73	5.66	5.55	5.48	5.38	5.51	5.58	5.50	-0.08
政府採購人員	4.15	4.2	4.09	4.22	4.27	3.87	4.16	4.19	3.99	4.06	3.94	4	3.77	3.91	3.98	4.4	4.47	4.11	4.34	3.97	4.04	4.26	4.61	4.13	4.52	*0.39
政府公共工程人員																4.33	4.35	4.1	4.25	3.86	3.89	4.42	4.78	4.12	4.60	*0.48
土地開發業務人員	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3.93	3.68	3.58	4.05	4.34	3.92	4.10	*0.18
地政人員	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5.75	5.75	5.56	5.56	—	—	—	—	—	5.66	—	—
工商事業稽查人員	5.67	5.6	5.67	5.61	5.52	5.54	5.36	5.77	4.96	5.13	5.09	4.89	—	—	—	—	—	—	—	—	—	—	—	5.40	—	—
金融放款人員	5.42	5.86	5.76	5.3	5.47	5.24	5.36	5.55	5.05	-	-	-	—	—	—	—	—	—	—	—	—	—	—	5.45	—	—
公營事業人員	5.6	5.75	5.62	5.62	5.66	5.47	5.58	5.78	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5.64	—	—
教育行政人員	6.73	6.98	7.08	6.92	6.86	6.7	6.6	6.8	—	—	—	—	—	—	—	—	—	—	—	5.58	5.6	5.43	5.85	6.43	5.82	*-0.61

\*表示本次調查結果與歷年平均達到統計上的顯著差異（ $p<0.05$ ）。

### Appendix 3: Interviewees' comments on the level of integrity by public servants in a wide sense

Personnel Category	1997 July	1998 March	1998 July	1998 November	1999 March	2000 October	2001 March	2001 September	2003 August	2004 July	2004 October	2005 July	2006 July	2007 July	2008 July	2009 June	2010 July	2011 June	2012 June	2013 June	2014 October	2015 October	2016 October	Average for the past years	2017 June	Variance from the average for the past years
Central government heads and chief officers									4.79	4.83	4.83	4.73	3.83	4.33	—	4.77	4.92	4.84	4.68	3.91	4.26	4.8	5.01	4.84	4.79	-0.05
City/County government heads and chief officers	5.07	5.45	5.4	5.31	5.24	5.14	5.1	5.31	4.79	4.97	4.92	4.78	4.44	4.56	4.72	4.76	4.85	4.92	4.77	4.08	4.39	4.91	4.95	4.91	4.85	-0.06
Township/city heads and chief officers										4.86	4.69	4.46	4.35	4.43	4.63	4.66	4.64	4.67	4.63	3.98	4.22	4.85	4.88	4.82	4.63	*-0.19
General civil servants	5.47	5.58	5.66	5.59	5.53	5.43	5.42	5.6	6.02	5.81	5.84	5.83	5.83	5.95	5.8	5.72	5.87	5.87	5.97	5.62	5.9	—	5.91	5.74	6.17	*0.43
Legislators	—	—	—	—	—	—	—	—	3.97	4.01	4.04	3.95	3.65	3.81	4.04	4.07	4.37	4.19	4.09	3.5	3.95	4.22	4.49	4.02	4.15	0.13
County councilors	—	—	—	—	—	—	—	—	4.27	4.26	4.19	4.07	3.91	3.99	4.15	4.13	4.48	4.21	4.14	3.64	4.01	4.23	4.38	4.14	4.18	0.04
Public officials at the township villages	—	—	—	—	—	—	—	—		4.43	4.33	4.32	4.27	4.25	4.36	4.4	4.5	4.29	4.35	3.87	4.08	4.24	4.38	4.00	4.23	*0.23
Judges	5.35	5.79	5.63	5.58	5.56	5.51	5.44	5.5	5.42	5.47	5.23	5.28	5.14	5.26	5.28	5.15	5.46	4.56	4.99	4.56	4.95	4.77	4.83	5.27	4.66	*-0.61
Prosecutors										5.72	5.46	5.49	5.33	5.51	5.46	5.27	5.48	5	5.34	4.83	5.27	5.11	5.2	5.40	5.06	*-0.34
Policemen	5.07	5.3	5.36	5.08	5.03	5.06	5.2	5.21	4.98	5.18	4.77	5.09	4.88	4.88	4.93	4.88	4.61	4.76	5.01	4.67	5.12	5.37	5.76	5.05	5.84	*0.79
Military Personnel	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	5.39	5.56	5.84	5.99	5.88	5.65	5.33	5.77	5.68	5.83	*0.15
Construction administration personnel	4.73	4.61	4.78	4.53	4.75	4.63	4.73	4.93	4.51	4.57	4.59	4.53	4.49	4.5	4.68	4.6	4.56	4.34	4.77	4.19	4.3	4.51	4.7	4.59	4.61	0.02
Custom officers	4.77	5.12	5.19	4.92	5.01	4.89	4.97	5.26	4.88	5.01	5.04	4.91	4.96	4.95	4.96	4.82	4.81	4.91	4.86	4.48	4.84	4.75	5.09	4.93	5.20	*0.27
Supervising officers	5.56	5.49	5.59	5.51	5.58	5.4	5.54	5.69	5.66	5.62	5.49	5.69	5.71	5.71	5.74	5.66	5.77	6.11	5.93	5.72	5.9	5.77	6.04	5.69	6.00	*0.31
Funeral management personnel	—	—	—	—	—	—	4.88	4.67	4.84	5.08	4.91	5.03	4.96	5.05	5.03	5.17	5.12	4.99	5.07	5.05	4.96	5.18	5.28	5.02	5.32	*0.30
Prison correction officers	—	—	—	—	—	—	—	5.23	5.09	5.19	4.97	4.68	4.93	4.94	4.86	4.32	4.5	4.72	4.83	4.77	4.84	4.63	4.92	4.84	4.90	0.06
River and water source	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4.63	4.39	4.72	5.02	4.69	4.92	*0.23



#### 附錄 4：司法院大法官釋字第 627 號解釋文「一、總統之刑事豁免權」

憲法第五十二條規定，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，業經本院釋字第三八八號解釋在案。

依本院釋字第三八八號解釋意旨，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。是憲法第五十二條規定「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，即基於憲法第五十二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三百零四條：「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 4: J.Y. Interpretation No. 627 “I. 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.

附錄 5：2018 年 5 月 2 日公布之《國際刑事司法互助法》及我國與其他國家簽訂之刑事司法互助協定(議)中關於 UNCAC 第 46 條之規定及說明

項次	現行相關規定	《國際刑事司法互助法》相關規定
3	《臺美刑事司法互助協定》第 2 條 《臺菲刑事司法互助協定》第 2 條 《臺斐刑事司法互助協議》第 2 條 《兩岸共打及司法互助協議》第 1 條	第 6 條有相關規定。
4	《臺美刑事司法互助協定》第 6 條 《臺菲刑事司法互助協定》第 5 條 《臺斐刑事司法互助協議》第 4 條 《兩岸共打及司法互助協議》第 1 條	第 9、12 條有相關規定。
5	《臺美刑事司法互助協定》第 6 條 《臺菲刑事司法互助協定》第 5 條 《臺斐刑事司法互助協議》第 6 條 《兩岸共打及司法互助協議》第 16 條	第 14 條規定除雙方約定或法律另有規定外，對請求及其執行之相關資料，應予保密。
6	《臺美刑事司法互助協定》第 4 條 《臺菲刑事司法互助協定》第 3 條 《臺斐刑事司法互助協議》第 5 條 《兩岸共打及司法互助協議》第 15 條	第 10 條有相關規定。 第 2 條規範法律適用順序。有關國際刑事司法互助之事項，時有簽署多邊或雙邊條約，為履行國際義務，我國如已簽署該等條約，自應優先適用之。
9	《臺美刑事司法互助協定》第 2 條第 3 項、第 4 條第 1 項第 4 款	第 10 條第 1 項、第 2 項分別明定應拒絕提供協助事由及得拒絕提供協助事由，係符合 UNCAC 第 4 章國際合作之規定及國際刑事司法互助之重要原則。適度放寬雙重處罰之限制，除為增加我國與國際社會之互動外，亦較能於個案中保持彈性；而比較法上如澳洲，亦有相類規範。
10	《臺美刑事司法互助協定》第 11 條第 1 項、第 2 項	依第 19 條第 2 項規定。請求之內容如係安排我國刑事程序中之被告、嫌疑人，或人身自由受限制或經限制出境之人出境至指定之地點時，因前者仍在我國司法偵、審程序中，後者該人員之出境程序繁複，且人員之戒護及安全維護均屬不易，原則上不應同意安排此等人員出境提供協助。惟若雙方另有條約特別約定，於在監押之人知情後自由表示同意，依本法第 2 條條約優先原則，即不受上述限制。



11 12	《臺美刑事司法互助協定》第 11 條第 3 項	第 19 條第 4 項有相關規定。
13	《臺美刑事司法互助協定》第 3 條 《臺菲刑事司法互助協定》第 2 條 《臺斐刑事司法互助協議》第 1 條	第 7 條、第 9 條有相關規定。
14	《臺美刑事司法互助協定》第 5 條第 1 項 《臺菲刑事司法互助協定》第 4 條第 1 項 《臺斐刑事司法互助協議》第 3 條第 1 項	第 8 條第 1 項、第 2 項、第 5 項有相關規定。
15	《臺美刑事司法互助協定》第 5 條第 2 項 《臺菲刑事司法互助協定》第 4 條第 2 項、 第 3 項 《臺斐刑事司法互助協議》第 3 條第 2 項、 第 3 項	第 8 條第 3 項有相關規定。
16	《臺美刑事司法互助協定》第 5 條第 4 項 《臺菲刑事司法互助協定》第 4 條第 4 項 《臺斐刑事司法互助協議》第 4 條第 4 項	第 8 條第 4 項有相關規定。
17	《外國法院委託事件協助法》第 2 條 《臺美刑事司法互助協定》第 6 條第 3 項 《臺菲刑事司法互助協定》第 5 條第 1 項 《臺斐刑事司法互助協議》第 1 條第 2 項	第 12 條有相關規定。
18	《臺菲刑事司法互助協定》第 11 條（臺 美、臺菲間之刑事司法互助請求曾有類此 執行請求之方式）	第 17 條第 2 項及第 31 條有相關規定， 規範請求方人員經我國協助機關（指法院 或檢察署）同意後，得於該機關執行請求 時在場。
19	《臺美刑事司法互助協定》第 8 條 《臺菲刑事司法互助協定》第 7 條 （無罪證據適用部分無規範）	第 10 條第 2 項第 3 款、第 16 條、第 32 條 第 1 項第 2 款有相關規定。
20	《臺美刑事司法互助協定》第 6 條第 5 項 《臺菲刑事司法互助協定》第 7 條第 2 項 《臺斐刑事司法互助協議》第 4 條第 6 項	第 14 條規定，對請求協助及執行請求之相 關資料應予保密。但未執行請求所必要、 雙方另有約定或法律另有規定者，不在此 限。
21	《臺美刑事司法互助協定》第 4 條 《臺菲刑事司法互助協定》第 3 條 《臺斐刑事司法互助協議》第 5 條	第 10 條有相關規定。
23	《臺美刑事司法互助協定》第 6 條第 7 款 《臺菲刑事司法互助協定》第 3 條第 4 項 《臺斐刑事司法互助協議》第 5 條第 5 項	第 8 條第 4 項規定請求書之內容不充足以 致不能執行時，得要求請求方提供補充資 料，如無法提供，得依第 10 條第 2 項第 1 款可拒絕請求，並得依同條第 3 項與請求

		方協商，經補充必要之資料或修正請求之內容後，再提供協助。目前實務上，若拒絕請求，均會說明理由。例如：前曾有美國、菲律賓及南非以外之國家，未經過外交部直接將該國請求書送至法務部，經敘明因兩國未簽定司法互助協定，委請該國須從我國外交管道遞送請求書，法務部並退還請求書。該國復透過外交管道向我國提出司法互助請求，並提出互惠保證，法務部並受理進行協助。
24	《臺美刑事司法互助協定》第 6 條第 1 項、第 6 項 《臺菲刑事司法互助協定》第 5 條第 1 項、第 3 項 《臺斐刑事司法互助協議》第 4 條第 1 項至第 4 項、第 7 項	第 8 條第 2 項有相關規定。以及依第 7 條之但書，案件急迫情形，恐有不及透過外交管道執行司法互助之情況，亦特別允許請求方直接以法務部作為執行司法互助之聯絡管道。
25	《臺美刑事司法互助協定》第 6 條第 4 項 《臺菲刑事司法互助協定》第 3 條第 2 項 《臺斐刑事司法互助協議》第 4 條第 5 項	第 10 條第 2 項第 6 款亦有相關規定，請求是否影響國內司法程序，亦為我國提供協助與否之重要考量。實務上，外國之請求會影響到我國司法程序之進行時，本國得暫緩執行協助，亦屬當然之解釋。
26	《臺美刑事司法互助協定》第 4 條第 2 項 《臺菲刑事司法互助協定》第 3 條第 3 項 《臺斐刑事司法互助協議》第 4 條第 5 項、第 5 條第 4 項	第 10 條第 3 項有相關規定。
27	《臺美刑事司法互助協定》第 12 條	第 19 條第 4 項及第 32 條第 3 項有相關規定。
28	《臺美刑事司法互助協定》第 7 條 《臺菲刑事司法互助協定》第 6 條 《臺斐刑事司法互助協議》第 8 條	第 15 條有相關規定。
29	《臺美刑事司法互助協定》第 10 條 《臺菲刑事司法互助協定》第 9 條	第 1 條揭示在相互尊重與平等之基礎上，促進國際刑事司法互助，共同打擊犯罪，對於可向公眾公開之政府紀錄提供予外國政府自無疑義。但如提供協助之結果將有損我國國家利益，或請求方之請求若有第 10 條所規定得拒絕提供協助之事由，基於國際刑事司法互助慣例，本不宜提供協助，惟考量各國法律制度之差異及保障相

關當事人之訴訟權利，在不違反法治精神及影響我國法秩序之前提下，我國仍非完全不得提供協助，而可視個案具體情形裁量是否提供協助。

**Appendix 5 : Note to the “Mutual Assistance in Criminal Matters Act”(promulgated on May 2, 2018) and agreements (arrangements) on mutual legal assistance in criminal matters between Taiwan and other countries in relation to Article 46 of the UNCAC**

Item	Applicable legal rules	《International Criminal Justice Mutual Legal Assistance》
3	Article 2 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 2 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters Taiwan-South Africa Agreement on Mutual Legal Article 2 of the Assistance in Criminal Matter. Article 1 of the Cross-Strait Agreement on Combating of Crimes and Mutual Legal Assistance.	Related requirements are specified in Article 6.
4	Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters Article 4 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matter. Article 1 of the Cross-Strait Agreement on Combating of Crimes and Mutual Legal Assistance.	Related requirements are specified in Article 9 and Article 12.
5	Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in	Article 14 requires that unless the parties hereto agreed otherwise or the law specified otherwise, information requested or in execution shall be kept in strict confidence.

	<p>Criminal Matters.</p> <p>Article 6 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matter.</p> <p>Article 16 of the Cross-Strait Agreement on Combating of Crimes and Mutual Legal Assistance.</p>	
6	<p>Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Taiwan-Philippines Agreement on Mutual Legal Article 3 of the Assistance in Criminal Matters Article 5 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 15 of the Cross-Strait Agreement on Combating of Crimes and Mutual Legal Assistance.</p>	<p>Related requirements are specified in Article 10.</p> <p>Article 2 rules the order of law. Matters concerning mutual legal assistance in international criminal law have always been signed by multilateral or bilateral treaties. To fulfill their international obligations, our country should give priority to those treaties if they have been signed.</p>
9	<p>Paragraph 3, Article 2, and Subparagraph 4, Paragraph 1, Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement.</p>	<p>Paragraphs 1 and 2, Article 10, specified that the reasons for rejection for assistance and discretion in rejection for assistance are in conformity to the requirements in international cooperation and the essential principle of international mutual legal assistance in criminal matters as stated in Chapter 4 of the UNCAC. The restriction on double penalty has been eased to a certain extent, which helps to bolster the interaction between Taiwan and the international community and also allows for flexibility in individual cases. Compared with the laws of Australia, they also have similar regulations.</p>
10	<p>Paragraphs 1 and 2, Article 11 of the AIT-TECRO Mutual Legal Assistance Agreement.</p>	<p>Article 19, paragraph 2. If the contents of the request are arranged for the defendants and suspects in the criminal proceedings of our country or those who have restricted their personal liberty or have been allowed to exit the country to the designated place, the former is still in the process of judicial</p>

		<p>investigation and trial in our country, The complicated exit procedures, as well as the guardianship and safety of personnel, are not easy. In principle, they should not be allowed to arrange for such personnel to leave for assistance. However, unless otherwise agreed by both parties, the person in charge of custody shall freely consent to his knowledge and shall not be subject to the above-mentioned principle in accordance with the priority principle of Article 2 of this Law.</p>
11	Paragraph 3, Article 11 of the AIT-TECRO Mutual Legal Assistance Agreement.	Related requirements are specified in Paragraphs 4 of Article 19.
12	Article 3 of the AIT-TECRO Mutual Legal Assistance Agreement.	Related requirements are specified in Article 7 and Article 9.
13	Article 2 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Article 1 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	
14	Paragraph 1, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 1, Article 4 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 1, Article 3 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraphs 1, 2, and 5 of Article 8.
15	Paragraphs 2, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement Paragraphs 2 and 3, Article 4 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraphs 2 and 3, Article 3 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraph 3, Article 8.

16	Paragraph 4, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters Paragraph 4, Article 4 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraph 4, Article 8; Sub-paragraphs 1 and 3, Paragraph 2, Article 10.
17	Article 2 of The Law in Supporting Foreign Courts on Consigned Case. Paragraph 3, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 1, Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 2, Article 1 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matter.	Related requirements are specified in Article 8 and Article 12.
18	Article 11 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. (There are similar kinds of requests stated in the mutual legal assistance agreements in criminal matters between Taiwan-USA and Taiwan-Philippines).	Related requirements are specified in Paragraph 2, Article 17 and Article 31. This provision specified that the personnel of the requesting state may be present at the scene of execution with the consent of the competent authority of the Taiwan (refers to the court or Prosecution Office).
19	Article 8 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 7 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. (No regulations of the applicability of crimes without proof).	Related requirements are specified in Subparagraph 3, Paragraph 2, Article 10; Article 16; Sub-paragraph 2, Paragraph 1, Article 32.
20	Paragraph 5, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 2, Article 7 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 6, Article 4 of the Taiwan-South Africa Agreement on Mutual Legal	Related requirements are specified in Article 14 that information pertinent to the request for assistance and the execution of the request shall be kept in strict confidence unless it is not necessary for the execution of the request or the parties hereto agreed otherwise, or the law specified otherwise.

Assistance in Criminal Matter.		
21	Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Article 5 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Article 10.
23	Sub-paragraph 7, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 4, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 5, Article 5 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	As stated in Paragraph 4, Article 8, if the content of the request note contains insufficient information that execution could not be done, the requested state may ask the requesting state to provide supplementary information or proceed to Sub-paragraph 1, Paragraph 2, and Article 10 for rejection of the request. In addition, the requested state may consult with the requesting state as provided by Paragraph 3 that assistance could be provided on condition that necessary information is complete or the content of information has been properly revised. In practice, any rejection of the request will be explained. For example: countries other than the USA, the Philippines, and South Africa, directly send the requesting note to the Ministry of Justice without passing through the Ministry of Foreign Affairs for requesting assistance. It is clarified that in the absence of an agreement on mutual legal assistance, Taiwan asks the requesting state to refer the request for assistance through diplomatic channels of the Republic of China. The Ministry of Justice shall return the request note to the requesting state. The requesting state makes the request for mutual legal assistance through diplomatic channels and

		proposes the guarantee of reciprocity. The Ministry of Justice then accepts the request for action.
24	Paragraphs 1, 6, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraphs 1, 3, Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraphs 1 to 4, and 7, Article 4 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraph 2, Article 8. As well as the case of urgent cases in accordance with the proviso 7, may not be able to implement mutual legal assistance through diplomatic channels. In particular, the requesting party is allowed directly to the MOJ as the liaison channel for mutual legal assistance.
25	Paragraph 4, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 2, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 5, Article 4 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraphs 2 to 6, Article 10. Taiwan will consider if the request affects the domestic legal proceedings as a vital concern before granting the assistance. In practice, if a specific request from foreign countries affects the legal proceedings of Taiwan, Taiwan should defer the execution of assistance, which would be fully justifiable.
26	Paragraph 2, Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement. Paragraph 3, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Paragraph 5, Article 4, and Paragraph 4, Article 5 of the Taiwan-South Africa Agreement on Mutual Legal Assistance in Criminal Matters.	Related requirements are specified in Paragraph 3, Article 10.
27	Article 12 of the AIT-TECRO Mutual Legal Assistance Agreement.	Related requirements are specified in Paragraph 4, Article 19 and Paragraph 3, Article 32.
28	Article 7 of the AIT-TECRO Mutual Legal Assistance Agreement. Article 6 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters. Article 8 of the Taiwan-South Africa	Related requirements are specified in Article 15.



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Agreement on Mutual Legal Assistance in Criminal Matters.		
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29	<p>Article 10 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Article 9 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p>	<p>As stated in Article 1, there should be no doubt that government archives already disclosed to the public could be availed of by foreign governments for joint efforts in combating crimes under the principle of mutual respect and equity for the improvement of mutual legal assistance in international criminal justice. If the supply of such information will cause damage to the national interest of Taiwan, or the results of assistance If there is a reason for refusing assistance as provided for in Article 10, it is not appropriate to provide assistance based on the customary practice of mutual legal assistance in criminal matters. However, considering the differences in the legal systems of different countries and safeguarding the litigation rights of the parties concerned, without prejudice to the rule of law Spirit and influence of the law and order in our country, Taiwan still could not provide any assistance at all. We can decide whether to provide assistance according to the specific circumstances of a case.</p> <p>will be defying the legal system and spirit of Taiwan, we should be cautious to determine if it is appropriate to provide assistance. Article 10 of the same draft also specifies the circumstances for the rejection of assistance or the reasons for providing assistance depending on individual cases should further be studied.</p>
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附錄 6：2013 年至 2017 年廉政人員訓練課程一覽表

場次	訓練班別	訓練人次
<b>2013 年</b>		
1	2012 年第 2 次肅貪業務專精班	60
2	廉政人員訓練班第 30 期	75
3	廉政人員訓練班第 31 期	95
4	2013 年薦任第九職等主管研究班	46
5	機關維護工作專精研習班	45
6	廉政人員訓練班第 31 期(第 2 階段)	95
7	2013 年肅貪業務專精班	58
小計		<b>474</b>
<b>2014 年</b>		
1	廉政人員訓練班第 32 期	137
2	提升肅貪業務敏感度專題研習	50
3	提升肅貪業務敏感度專題研習	160
4	提升肅貪業務敏感度專題研習	200
5	提升肅貪業務敏感度專題研習	200
6	提升肅貪業務敏感度專題研習	134
7	提升肅貪業務敏感度專題研習	107
8	提升肅貪業務敏感度專題研習	313
9	廉政預防業務專精研習班	45
10	提升肅貪業務敏感度專題研習	44
11	提升肅貪業務敏感度專題研習	94
12	廉政實務專修班第 2 期	40
13	2014 年肅貪人員肅貪研習	34
14	2014 年肅貪人員肅貪研習	40
15	廉政人員訓練班第 33 期	41
16	薦任第九職等主管研究班第 13 期	40
17	機關維護工作專精研習班	45
18-26	廉政人權教育研習(19 場次)	950
27	薦任第九等主管培訓班(第 16 期)	45
28	2014 年肅貪業務專精班	39
29	初任薦任官等主管人員研習班(第 3 期)	45
30-33	2014 年政風人事實務工作研習班(4 場)	181
34-35	2014 年度警察機關政風機構人員教育訓練(2 場)	88
36-39	28-31 期廉政人員訓練班結業人員業務聯繫研習(4 場)	280

		小計	3,352
<b>2015 年</b>			
1	廉政人員訓練班第 34 期		107
2	肅貪人員資金查調研習班		55
3	肅貪人員資金查調研習班		48
4	廉政人員訓練班第 35 期		31
5	2015 年肅貪業務專精研習(第 1 梯次)-書類專題訓練		52
6	機關維護工作專精研習班		45
7	初任薦任官等主管人員研習班		37
8	廉政業務專修班第 3 期		45
9	2015 年肅貪業務專精研習(第 2 梯次)-行動蒐證專題訓練 A 班		38
10	2015 年肅貪業務專精研習(第 3 梯次)-行動蒐證專題訓練 B 班		45
11	2015 年肅貪業務專精研習(第 4 梯次)-搜索扣押專題訓練		51
12	2015 年肅貪業務專精研習(第 5 梯次)-書類專題訓練		45
13	2015 年肅貪業務專精研習(第 6 梯次)-搜索扣押專題訓練		45
14	廉政人員對現行獎勵民間參與招商法令實務運用專題講習會		115
15	廉政人員對現行獎勵民間參與招商法令實務運用專題講習會		207
16-20	「聯合國反貪腐公約」教育研習(5 場次)		705
21-22	科長級政風人員策勵研習班(2 場次)		96
23	國際事務研習訓練班		65
24	薦任第九職等主管研究班		25
25	廉政預防業務專精研習班		45
		小計	1,902
<b>2016 年</b>			
1	廉政人員訓練班第 36 期		86
2	肅貪業務專精班-行動蒐證專精班		43
3	肅貪業務專精班-通訊監察及資金分析班		54
4	外補人員廉政業務專修班第 4 期		38
5	廉政人員訓練班第 37 期		48
6	肅貪業務專精班-筆錄製作實務專精班		55
7	肅貪業務專精班-採購法專精班		53
8	薦任第九職等主管培訓班		44
9	初任薦任官等主管人員研習班		49
10	查處業務研習班		235
11	海岸巡防機關 2016 年廉政相關業務專精講習		52
12	海岸巡防機關 2016 年廉政相關業務專精講習		52

13	初任簡任職務人員工作策略研究班	50
14	薦任第九職等主管研究班第 15 期	30
15-17	人事工作專精研習班(3 班期)	93
18	廉政預防業務專精研習班	45
19	機關維護工作專精研習班	45
小計		1,072
<b>2017 年</b>		
1	廉政人員訓練班第 32 期結業人員業務聯繫研習	121
2	肅貪業務專精班-第一梯次筆錄製作專題訓練	57
3	廉政人員訓練班第 33 期結業人員業務聯繫研習	33
4	肅貪業務專精班-第二梯次行動蒐證專精班	60
5	廉政人員訓練班第 38 期	76
6	廉政人員訓練班第 39 期	66
7	肅貪業務專精班-第三梯次偵查實務(書類及偵查技巧)專題訓練	62
8	肅貪業務專精班-第四梯次偵查實務(搜索扣押)專題訓練	55
9	2017 年預防及查處業務跨域專精研習班	40
10	薦任第九職等主管研究班第 16 期	30
11	高階廉政人員研習	32
12-15	查處業務分區專精研習(4 場次)	340
小計		972
總計		7,772

## Appendix 6 : AAC Staff Training Courses 2013-2017

Session	Course	Persons
<b>2013</b>		
1	2 <sup>nd</sup> Advanced Corruption Investigation Course for 2012	60
2	30 <sup>th</sup> AAC Staff Training Course	75
3	31 <sup>st</sup> AAC Staff Training Course	95
4	Advanced Study for Junior Rank Grade 9 Officers for 2013	46
5	Advanced Training for Entity Maintenance	45
6	31 <sup>st</sup> AAC Staff Training Course (Phase II)	95
7	Advanced Corruption Investigation Course for 2013	58
Subtotal		474
<b>2014</b>		
1	32 <sup>nd</sup> AAC Staff Training Course	137
2	Project-based Learning on Improving Sensitivity for Corruption Investigation	50
3	Project-based Learning on Improving Sensitivity for Corruption	160

	Investigation	
4	Project-based Learning on Improving Sensitivity for Corruption Investigation	200
5	Project-based Learning on Improving Sensitivity for Corruption Investigation	200
6	Project-based Learning on Improving Sensitivity for Corruption Investigation	134
7	Project-based Learning on Improving Sensitivity for Corruption Investigation	107
8	Project-based Learning on Improving Sensitivity for Corruption Investigation	313
9	Advanced Training for Corruption Prevention	45
10	Project-based Learning on Improving Sensitivity for Corruption Investigation	44
11	Project-based Learning on Improving Sensitivity for Corruption Investigation	94
12	2 <sup>nd</sup> Anti-Corruption Practice Training	40
13	Corruption Investigation Training for Corruption Investigators 2014	34
14	Corruption Investigation Training for Corruption Investigators 2014	40
15	33 <sup>rd</sup> AAC Staff Training Course	41
16	13 <sup>th</sup> Advanced Study for Junior Rank Grade 9 Officers	40
17	Advanced Training for Entity Maintenance	45
18-26	Human Rights Education for AAC Staff (19 sessions)	950
27	Training Course for Junior Rank Grade 9 Officers (16 <sup>th</sup> )	45
28	Advanced Corruption Investigation Course for 2014	39
29	Training for New Junior Rank Officers (3 <sup>rd</sup> )	45
30-33	Practical Training for Civil Service Ethics Staff 2014 (4 sessions)	181
34-35	Education and Training for Police Civil Service Ethics Staff 2014 (2 sessions)	88
36-39	Job Connection Training for Staff Completing the 28 <sup>th</sup> – 31 <sup>st</sup> AAC Staff Training (4 sessions)	280
<b>Subtotal</b>		<b>3,352</b>
<b>2015</b>		
1	34 <sup>th</sup> AAC Staff Training	107
2	Capital Investigation Training for Corruption Investigators	55
3	Capital Investigation Training for Corruption Investigators	48
4	35 <sup>th</sup> AAC Staff Training	31
5	2015 Advanced Training for Corruption Investigation (Group 1) - Documents Project-based Training	52
6	Advanced Training for Entity Maintenance	45
7	Training for New Junior Rank Officers	37
8	3 <sup>rd</sup> Corruption Duty Special Training	45
9	2015 Advanced Training for Corruption Investigation (Group 2)-Mobile Evidence Collection Project-based Training Class A	38
10	2015 Advanced Training for Corruption Investigation (Group 3)-Mobile Evidence Collection Project-based Training Class B	45
11	2015 Advanced Training for Corruption Investigation (Group 4)-Search and Seizure Project-based Training Class A	51
12	2015 Advanced Training for Corruption Investigation (Group 5) -	45

	Documents Project-based Training	
13	2015 Advanced Training for Corruption Investigation (Group 6)-Search and Seizure Project-based Training Class A	45
14	Thematic Talk on the Use of Existing Statute for Encouragement of Private Participation in Business Solicitation for AAC Staff	115
15	Thematic Talk on the Use of Existing Statute for Encouragement of Private Participation in Business Solicitation for AAC Staff	207
16-20	Education and Training for United Nations Convention Against Corruption (5 sessions)	705
21-22	Encouragement Training for Civil Service Ethics Section Chiefs (2 sessions)	96
23	International Affairs Training Course	65
24	Training Course for Junior Rank Grade 9 Officers	25
25	Advanced Corruption Prevention Course	45
<b>Subtotal</b>		<b>1,902</b>
<b>2016</b>		
1	36 <sup>th</sup> AAC Staff Training	86
2	Advanced Corruption Investigation Course - Mobile Evidence Collection	43
3	Advanced Corruption Investigation Course - Communication Surveillance and Capital Analysis	54
4	4 <sup>th</sup> Externally Recruited AAC Staff Training Course	38
5	37 <sup>th</sup> AAC Staff Training	48
6	Advanced Corruption Investigation Course - Statement Taking Practice	55
7	Advanced Corruption Investigation Course - Government Procurement Act	53
8	Training Course for Junior Rank Grade 9 Officers	44
9	Training for New Junior Rank Officers	49
10	Case Processing Training	235
11	Advanced Anti-Corruption Training for Coast Guard Administration 2016	52
12	Advanced Anti-Corruption Training for Coast Guard Administration 2016	52
13	Work Strategy Training for New Junior Rank Staff	50
14	15 <sup>th</sup> Training Course for Junior Rank Grade 9 Officers	30
15-17	Advanced Training for Personnel Affairs Work (3 <sup>rd</sup> )	93
18	Advanced Corruption Prevention Course	45
19	Advanced Training for Entity Maintenance	45
<b>Subtotal</b>		<b>1,072</b>
<b>2017</b>		
1	Job Connection Training Staff Completing the 32 <sup>nd</sup> AAC Staff Training	121
2	Advanced Corruption Investigation Course – Statement Taking Group 1	57
3	Job Connection Training Staff Completing the 33 <sup>rd</sup> AAC Staff Training	33
4	Advanced Corruption Investigation Course – Mobile Evidence Collection Group 2	60
5	38 <sup>th</sup> AAC Staff Training	76
6	39 <sup>th</sup> AAC Staff Training	66
7	Advanced Corruption Investigation Course for – Investigation Practice (Documents and Investigation Skills) Group 3	62
8	Advanced Corruption Investigation Course for - Investigation Practice (Search and Seizure) Group 4	55

9	2017 Cross-Domain Advance Training: Prevention and Investigation	40
10	16 <sup>th</sup> Training Course for Junior Rank Grade 9 Officers	30
11	Higher Level AAC Staff Training	32
12-15	Advanced Training for Investigation Zoning (4 sessions)	340
<b>Subtotal</b>		<b>972</b>
<b>Grand Total</b>		<b>7,772</b>