



## **Chapter 1**

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# **About the Agency Against Corruption**



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### Section 1 Organizational Framework

#### I. Characteristics

President Ma once remarked during his tenure as Minister of Justice, “The people’s trust is the greatest asset of governments, and corruption has the most corrosive influence on that trust.” In his inauguration speech on May 20<sup>th</sup>, 2008, he also pointed out that the top priority mission for the new era is to restore political ethics to regain the people’s trust in the government. He also proclaimed that the government will build a new model of political ethics and competence. Corruption hinders a nation’s growth. To the people, there is no quality public service without a clean and competent government; to the corporations, an ideal investment environment for economic growth and increased national competitiveness is impossible. “Integrity” is not only the key to people’s trust in and expectations of the government, but also an index of national competitiveness and development.

In 2002, the Research, Development and Evaluation Commission of the Executive Yuan commissioned Focus Survey Research to conduct a poll and found that 72% of those who were surveyed agreed with the establishment of an exclusive anti-corruption authority. The Ministry of Justice (MOJ) has commissioned survey companies to assess the public’s evaluation of the subjective index of government integrity since 1997. The results also show that on average, 70% of those who took the survey agreed that an exclusive anti-corruption authority must be established to eradicate corruption. Therefore, establishing an exclusive anti-corruption authority has become the consensus among the public.

The United Nations passed the United Nations Convention against Corruption (UNCAC) on October 31<sup>st</sup>, 2003 and the Convention took effect on December 14<sup>th</sup>, 2005 with 165 State Parties currently. Article 6 of UNCAC, Preventive Anti-corruption Body or Bodies and Article 36, Specialized Authorities stipulate that each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, to specialize in combating corruption through law enforcement, and such body or bodies shall be granted the necessary independence. Taiwan is not one of the State Parties of UNCAC. However, as a member of the international community and based on Article 141 of the Constitution on the diplomatic agenda of respecting international treaties and the UN charter, Taiwan shall devote efforts to implementing what the Convention stipulates. In addition, in the National Integrity System (NIS) proposed by Transparency International in 2000, the independent anti-corruption authority is a crucial link. As countries around the world devote and integrate organizational efforts to corruption prevention, anti-corruption and corruption eradication efforts to demonstrate their determination in curbing corruption and promote ethical integrity, establishing exclusive anti-corruption agencies has become a world trend.

Singapore established the Corrupt Practices Investigation Bureau (CPIB) in 1952 and Hong Kong established the Independent Commission Against

Corruption (ICAC) in 1974. Both have been widely recognized for their anti-corruption achievements. Their success could be attributed to the establishment of an exclusive anti-corruption authority and the triad of treating the symptoms (law enforcement), treating the causes (corruption prevention) and eradication (education), which have allowed them to achieve great results in anti-corruption and ethics promotion and to meet the people's expectation of restoring political ethics, making officialdom transparent, reaching the goals of clean government and clean and efficient administration. To keep pace with this world trend, combining the Department of Ethics Affairs and the Central District Office is a necessary step.

To complete the anti-corruption mechanism in Taiwan, on April 1<sup>st</sup>, 2011 the Legislative Yuan completed the third reading of the Organization Act of the Agency Against Corruption, Ministry of Justice, at the seventh meeting of the Seventh phase from the seventh session. On July 20<sup>th</sup>, 2011, the Agency Against Corruption (AAC), the nation's exclusive anti-corruption authority was officially established. Its organizational characteristics are as follows:

1. The Agency Against Corruption is an exclusive anti-corruption authority in Taiwan, which complies with the stipulations in the UNCAC. AAC is a composite organization that fulfills both the functions of corruption prevention and corruption eradication and is responsible for the tasks of promoting anti-corruption policies, anti-corruption tasks, corruption prevention and corruption eradication. Therefore, AAC is not just an administrative agency. The staff who is responsible for investigating corruption or related crimes has judicial and police powers. AAC also initiated the groundbreaking "resident prosecutor" system with district prosecutors selected by the MOJ stationed at AAC and becoming directly involved in AAC's investigation procedure to improve the quality of evidence gathering and the efficiency of the investigation.
2. AAC is an independent government employee ethics unit with specialized responsibility, expertise and exclusivity to create corruption prevention, corruption eradication and anti-corruption policies and to be in charge of the planning and implementation of the functions of the exclusive anti-corruption authority. The limited manpower is maximized through vertical integration and lateral collaboration to take the first step toward clean and competent government, showing the determination to fight corruption.
3. By collaborating with the government employee ethics units, AAC constructed a comprehensive anti-corruption network internally and externally, allowing the government employee ethics units to fulfill even greater functions than they do currently. Internally, they fully participate in the organizational operation to promote system reform, strengthen internal control mechanisms for anti-corruption and effectively prevent corruption and wastefulness. They can also conduct investigations into corruption crimes in a timely manner. Under the command of the district prosecutor, AAC is in charge of conducting corruption investigations to effectively crack down on corruption and protect the government's reputation and ethical image. Once AAC is integrated with the government employee ethics units at all levels, an anti-corruption



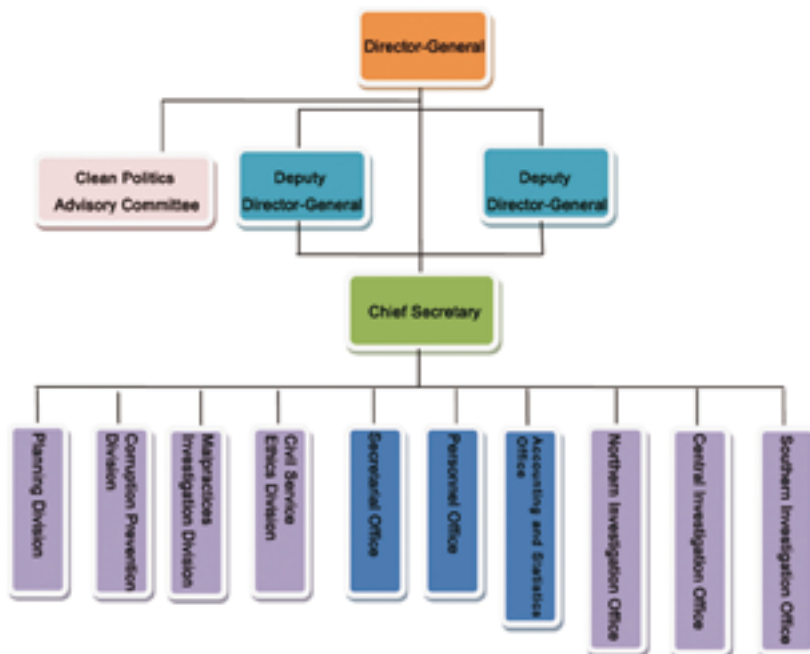
mechanism that has the dual functions of internal and external control will have been created, which will be more functional than the current systems in Singapore and Hong Kong, which focus on anti-corruption promotion outside the system. It will also be better suited to the Taiwanese government, which has a more complex structure than those of Singapore and Hong Kong.

## II. Framework and Establishment

### 1. The Agency

According to Article 1 of Organization Act of Agency Against Corruption, Ministry of Justice, the AAC is in charge of formulating corruption-control policy and fulfilling the functions of anti-corruption education, corruption prevention and corruption investigation. According to Article 4 of Regulations Governing the Duties of Agency Against Corruption, Ministry of Justice, it has a Planning Division, a Corruption Prevention Division, a Malpractices Investigation Division, and a Civil Service Ethics Division as well as three investigation offices for Northern, Central and Southern Taiwan, totalling seven operational units. In addition, it has three supporting offices in charge of secretarial, personnel and accounting affairs. (The Accounting Office was renamed Accounting and Statistics Office on January 1<sup>st</sup>, 2013.) There are a total of 240 employees. As of the end of December 2012, 180 employees are budgeted with 179 current employees. (See Fig. 1-1: Organizational Framework of AAC)

Fig. 1-1 Organizational Framework of AAC



### 2. Government Employee Ethics Units at All Levels

As of the end of December 2012, there are a total of 1,123 government employee ethics units in the central and local agencies

(including businesses) with a staff of 2,791. Government employee ethics units are established in the Office of the President, Executive Yuan, Legislative Yuan, Control Yuan, Examination Yuan and the agencies under their jurisdiction. Ethics units are also established in special municipalities such as Taipei City, New Taipei City, Taichung City, Tainan City, Kaohsiung City and other cities and counties.

Government employee ethics units are established according to the Act of the Establishment of the Government Employee Ethics Units and Officers. They are in charge of ethics affairs and are under the supervision of the Agency Against Corruption (AAC), which is considered a one-whip management system. (See Fig. 1-2: Organizational Framework of Government Employees Ethics Office.)

Fig. 1-2 Organizational Framework of Government Employees Ethics Office



## Section 2 Duties

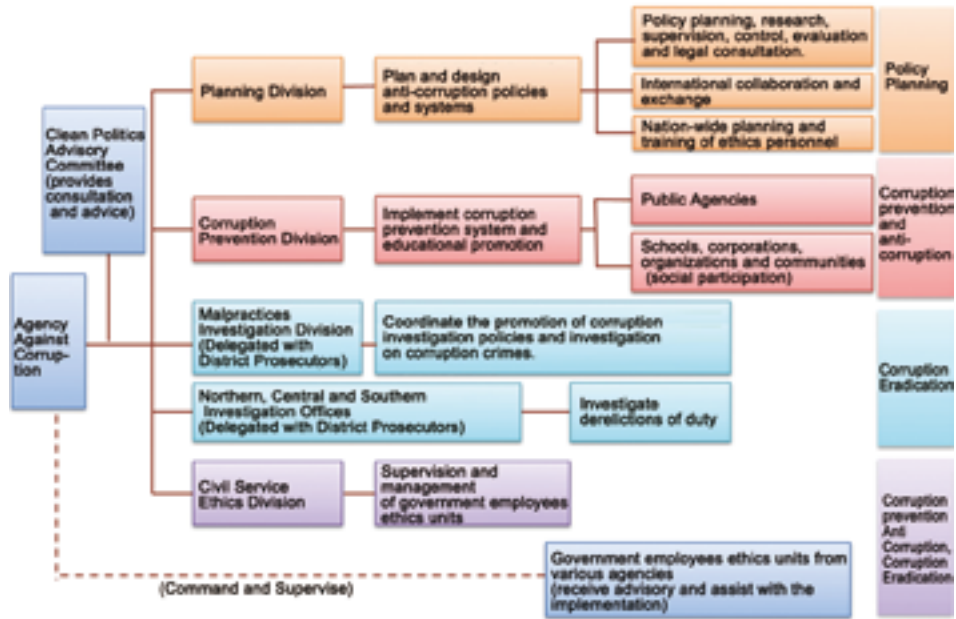
### I. Duties of AAC

In order to integrate corruption prevention and eradication powers, the government employee ethics units from around the nation are integrated and bestowed with the powers necessary for performing their duties. According to Article 2 of Organization Act of Agency Against Corruption, Ministry of Justice, the AAC shall “propose, coordinate and promote national anti-corruption policies”, “propose and interpret legislation and amendments on corruption prevention measures”, “promote and implement anti-corruption measures”, “investigate and handle corruption or related crimes”, “supervise, evaluate and coordinate government employee ethics units affairs”, “propose and implement the management of government employee ethics units and personnel”, “deal with ethics affairs in MOJ” and “handle other matters related to anti-corruption”. In addition, when the personnel who perform the above referenced anti-corruption duties or crime investigation are mid-level or above, such personnel shall be regarded as the judicial police officer specified in Articles 229 and 230 of the Code of Criminal Procedure. Any personnel commissioned for such task shall be regarded as the judicial police officer as specified in Article 231 of the Code of Criminal Procedure.



The manpower of AAC is rather streamlined. The staff is deployed for the various anti-corruption tasks and coordinates with the 1,123 government employee ethics units throughout all levels of governmental agencies to conduct anti-corruption missions. (See Fig. 1-3: Functional Framework for AAC.)

Fig. 1-3 Functional Framework for AAC



In addition to the divisions, the AAC also pioneered the “AAC Resident Prosecutor System by the MOJ” (hereinafter referred to as “resident prosecutor” and “Anti-corruption Review Committee”) to establish the investigation model of early involvement by the district prosecutors. Each district prosecutor’s office assigns a district prosecutor to be stationed at AAC to directly command the anti-corruption officials and judicial police officers on the investigation of corruption crimes. The multiple filter and verification mechanism will identify the evidence precisely to fully implement the protection of human rights and independent crime investigation as well as improve efficiency and effectiveness during the investigation of corruption crimes, increasing conviction rate and demonstrate the government’s determination in fighting corruption. The Anti-corruption review Committee is established in accordance with Article 5 of Organization Act of Agency Against Corruption, Ministry of Justice. Representatives, experts and scholars from the legal, finance and engineering fields are recruited as committee members to participate in the promotion of AAC affairs. The Anti-corruption Review Committee will provide consultation and comments on anti-corruption policies and conduct post-investigation review and supervision to ensure that the AAC is exercising its powers in a just and impartial manner, building the image of an ethical and clean administration, and accepting supervision and monitoring by the public to gain the public’s trust.

According to the Regulations Governing the Operations of Agency Against Corruption, Ministry of Justice, the duties of each division are listed as follows:

**Article 5** The Planning Division takes charge of the following:

1. Plan, implement, supervise and evaluate the AAC's annual policy plan, mid-range policy plan and individual projects.
2. Planning and research on national anti-corruption policies and system.
3. Supervision, control and evaluation of anti-corruption measures.
4. Communication, coordination, exchange and promotion of international anti-corruption affairs and mutual legal assistance.
5. Provide consultation on regulations, orders, administrative rules and interpretations.
6. Provide assistance on administrative litigations and state compensation.
7. Compilation and edition of anti-corruption regulations and handbooks.
8. Comprehensive planning, proposal and implementation of the hiring, discharge, transfer, evaluation, award and penalty of all government employee ethics units in the nation and their staff.
9. Other matters related to comprehensive planning.

**Article 6** The Corruption Prevention Division takes charge of the following:

1. Propose, promote and coordinate the anti-corruption regulations, systems and measures.
2. Anti-corruption review and audit on governmental agencies and public organizations.
3. Promote, interpret and review cases that are related to Act on Recusal of Public Servants Due to Conflicts of Interest and Act on Property-Declaration by Public Servants.
4. Propose, promote and coordinate the ethics directions for civil servants.
5. Plan and promote anti-corruption and ethics education for the governmental agencies, public organizations, the public, communities, schools, corporations and organizations.
6. Other matters related to corruption prevention.

**Article 7** The Malpractices Investigation Division takes charge of the following:

1. Propose, promote and coordinate the malpractices investigation regulations, systems and measures.
2. Implement, supervise, coordinate and evaluate the investigation of corruption or related crimes.
3. Reward and protection for exposing corruption or related crimes.
4. Promote and supervise malpractices investigation
5. Other matters related to malpractices investigation.

**Article 8** The Civil Service Ethics Division takes charge of the following:

1. Supervise and evaluate the annual working plan of the government employee ethics units.



2. Evaluate the performance of the government employee ethics units.
3. Supervision of the anti-corruption and corruption prevention affairs conducted by the government employee ethics units.
4. Evaluation, supervision, analysis and investigation conducted by government employees ethics units on corruption or related crimes.
5. Promote, supervise and evaluate the protection of classified official missions conducted by the government employee ethics units.
6. Ethics affairs related to the MOJ.
7. Other preventative measures and investigation related to the government employee ethics units.

Article 12 The Northern, Central and Southern Investigation Offices take charge of the following:

1. Analyze, investigate and collect evidence for corruption or related crimes.
2. Conduct investigations on other corruption or related crimes.

II. Duties of Government Employee Ethics Units at All Levels

According to Article 4 of the Act of the Establishment of the Government Employee Ethics Units and Officers, the government employee ethics units take charge of “anti-corruption promotion and social participation”, “propose, promote and implement corruption prevention measures”, “propose, coordinate and promote recommendations on anti-corruption reform”, “matters related to property declaration by civil servants, recusal of civil servants due to conflicts of interest and ethics directions”, “the handling of corruption and unlawful practices related to the agencies”, “investigation on matters susceptible to the risk of corruption”, “the dealing and coordination of classified information concerning official affairs”, “the handing and coordination of security maintenance” and “other matters related to ethics affairs”. In recent years, they have transitioned with the policy directions, and have made the following changes in conducting ethics affairs:

1. Participate in the entire procurement monitoring process, enhance the supervision of procurement bidding and contract fulfillment and conduct integrated analysis and evaluation on procurements to detect irregularities at early stages.
2. Turn the work on special examination affairs into routine tasks to conduct long term and multi-jurisdictional data analysis and provide recommendations that address the structural and systematic issues within the organization.
3. Strengthen the review of property declaration by civil servants and increase the actual review rate, analysis on yearly asset variation and specify property declaration mechanisms
4. Implement the registry and promotion of the code of ethics for civil servants, such as lobbying and requests for making an intercession. Provide external consultation and index service, and promote anti-corruption and anti-wastefulness review in governmental agencies and other public organizations.
5. Promote the measures proposed in UNCAC. The agencies shall establish an Anti-Corruption Report to conduct corruption prevention from multiple angles, extend anti-corruption into overall organizational risk





management and strengthen internal control. In addition to the public sector, the efforts shall be carried further into community participation, anti-corruption in corporations and campus integrity to enhance the collaboration between private and public sectors.

