



Successful Application for APEC subsidies by the Agency Against Corruption of the Ministry of Justice

APEC Workshop on “Enhancing Whistleblower Protection in Corruption Cases” held in Taiwan in 2017

Formulation of Guiding Principles Governing Whistleblower Protection and Discussion of a Multinational Cooperation Mechanism

Origins

The Agency Against Corruption was granted subsidies of US\$ 90,000 by APEC for the organization of an APEC Workshop on “Enhancing Whistleblower Protection in Corruption Cases” on December 1, 2016. This successful application has significant implications.

Taiwan is a member of the APEC Anti-Corruption and Transparency Working Group (ACTWG) based on its status as the Chinese Taipei economic entity. Since its establishment on July 20, 2011, the Agency Against Corruption has submitted numerous, albeit unsuccessful applications in hoping to organize major workshops with the goal of strengthening Taiwan’s leadership role in the field of international integrity issues. In June 2016, the Agency drafted an initiative document for a Workshop on the establishment of an

effective whistleblower protection system in 2017. Papua New Guinea (hereinafter referred to as “PNG”) actively pursued participation in and joint submission of this initiative together with Taiwan. A total of eight countries including USA, Korea, Australia, New Zealand, Vietnam (APEC organizing country in 2017), Singapore, Indonesia, and Malaysia approved Taiwan’s status as a joint initiator. Upon review and approval by the APEC Budget and Management Committee, Taiwan was granted the abovementioned subsidies.

Domestic Experts, Scholars, and Enterprises Were Invited To Present Concrete Results in the Field of Whistleblower Protection in Taiwan

Since 2007, APEC has shown increasing concern for the issue of whistleblower protection. The organization urges its members to pay attention to the protection of whistleblowers. In response to national and international trends, the Agency Against Corruption formulated the Whistleblower Protection Act in 2011. A completed draft has already been submitted to the Executive Yuan for deliberation. This version is mainly applicable to the public sector. In addition to clearly formulated provisions protecting whistleblowers from improper measures, the draft also stipulates protective measures such as “Confidentiality of Identities”, “Safeguarding of Labor Rights and Interests”, and “Protection of Personal Safety”. The goal of the establishment of a sound whistleblower protection system is to encourage citizens to bravely report witnessed illegal acts.

In addition to significant progress of legislation in the public sector, the Agency Against Corruption also held a Forum for the promotion of APEC whistleblower protection workshops on December 9, 2016 to demonstrate concrete results in multiple dimensions of whistleblower protection in Taiwan. Industry, government, and academia representatives were invited for exchanges for the 2017 workshop on discussion on promotion of concepts and whistleblower protection systems.

In regards to the results of the pre-workshop questionnaire drafted by PNG, the agenda was divided into five sessions titled “Whistleblower Protection in the Public Sector”, “Whistleblower Protection in the Private Sector”, “Sharing of Experiences of Different Economic Entities”, “Cooperation Mechanisms and Development of APEC Whistleblower Protection”, and “Drafting of Guiding Principles Governing APEC Whistleblower Protection”. The inaugural workshop was held on July 19 and 20, 2017.

Focus on Achievements of Different Economic entities and Maximization of the Influence on International Integrity Trends

This workshop drew close to 100 participants including 36 officials, experts, and scholars from 12 APEC member economies (Chile, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Papua New Guinea, Singapore, Thailand, USA, and Vietnam), representatives from multinational corporations, financial institutions, risk audit companies, and legal practitioners.

In his opening address, Justice Minister Chiu pointed out that the whistleblower issue spans across both the private and public sectors. The goal of this workshop is to plan the future development of whistleblower protection under the APEC framework. It also serves the purpose of identifying feasible cooperation mechanisms for each economic entity and determine guiding principles governing APEC whistleblower protection through sharing of experiences and multidimensional discussions for the public and private sector and different economic entities.

The opening address was closely followed by keynote speeches on the “Role of APEC in the field of Anti-Corruption Issues” and “International Anti-Corruption Trends” delivered by Mr. Jer-Shyong Lay, Director-General of the Agency Against Corruption, and Mr. Chih-Chieh Lin, Associate Dean at National Chiao Tung University. Director-General Lai started by looking back

on the history of the Anti-Corruption and Transparency Working Group. He pointed out that the partnership between the public and private sector has always been a key consideration in the prevention and combating of corruption by APEC. There is a strong emphasis on public sector governance and liaison between anti-corruption units and law enforcement agencies and reflection on problems from the perspective of business activity. Other issues such as corporate governance, market health, and illegal trade must also be considered. Mr. Lin, on the other hand, provided a general comparison of the current status of whistleblower protection in different APEC member economies. He strongly believes that Taiwan should consider adopting an external whistleblowing channel system.

In view of the robust development of legal frameworks for whistleblower protection of the public sector in all countries, Ms. Karen Gorman, Chief of the Retaliation and Disclosure Unit of the US Office of Special Counsel, was invited for the first session to serve as the moderator of a panel discussion on whistleblower protection practices in the public sector with Dr. Nerisa DOZO, professor at Griffith University in Australia; Professor Wu-Lung Yang from National University of Kaohsiung; Mr. Yang Donghoon, Director of the Public Interest Whistleblowing Inspection & Policy Division, Anti-Corruption & Civil Rights Commission(ACRC) in Korea; and Mr. Nan-Jiun Wang, Director of the Agency Against Corruption, Ministry of Justice as the other participants. In addition to the listing of whistleblower protection as a key element and the implementation of a legal protection framework, all participants agreed that the APEC member economies must establish a culture that accepts and embraces whistleblowing.

Dr. Nerisa Dozo served as the moderator for the second session which focused on a discussion of whistleblower protection mechanisms in the private sector conducted by Mr. Thomas Thomas, CEO of ASEAN CSR Network; Mr.

Philip Chou, General Counsel & Compliance Officer, Siemens Ltd.; Mr. T. C. Cheng, Deputy Director of Taiwan Semiconductor Manufacturing Company Limited; and Ms. Young-Sun Chung, a Korean lawyer. The panelists used concrete examples to explain how companies can establish a culture of internal whistleblower protection and thereby encourage employees who lack the courage to report misconduct due to an insufficient understanding of whistleblower protection concepts. In view of the fact that whistleblowing must be coordinated with follow-up legal action, Mr. Jung-Chun Wu, Director of the Economic Crime Prevention Division, Investigation Bureau, Ministry of Justice, was invited to share experiences of how law enforcement agencies of the public sector get involved in whistleblowing activities of the private sector from the perspective of witness protection.

Ms. Wen-Chi Chen, Head Prosecutor, Taiwan High Prosecutors Office served as the moderator for the third session. In this session, representatives of all participating economic entities took turns sharing actual cases and the impact of these cases on the follow-up protection mechanism for whistleblowers. Future objectives and preliminary directions for cooperation between all economic entities in the field of whistleblower protection under the APEC framework are determined and identified based on these examples.

Following these discussions and sharing of experiences in the public and private sectors, the fourth session focused on how to harness the resources and capabilities of the public and private sector and NGOs in the context of the current whistleblower protection cooperation mechanism within the framework of the APEC Anti-Corruption and Transparency Working Group (ACTWG) and APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET). Dr. I-Jan Yeh, Standing Board Member, Transparency International Chinese Taipei acted as the moderator for this panel discussion. It featured experts with experience in the planning of regional whistleblower

protection cooperation mechanisms including Mr. Thomas Thomas, Mr. Mark WORTH, Ms. Rebecca ROLLS, and Mr. Francesco CHECCHI. These experts discussed the aforementioned issues from a macro perspective based on their professionalism. They firmly believe that APEC should consult regulations formulated by other international organizations (such as G20) for the determination of APEC whistleblower protection principles. ACTWG and ACT-NET can serve as a platform for the sharing of experiences and should be responsible for goal setting and regular measurement of progress in the field of whistleblower protection by APEC member economies.

Chair Professor Chih-Chieh Lin, Associate Dean of the School of Law, National Chiao Tung University acted as the chair for the fifth session. Dr. Nerisa DOZO, Mr. Thomas Thomas, and Mr. Mark Worth were invited as panelists to draft guiding principles governing whistleblower protection. Relevant contents include confidentiality of whistleblower identity, protection of personal safety, punishment for serious violations of whistleblower protection regulations, compensation of salaries in case of improper treatment or retaliation against whistleblowers, removal of the social stigma associated with whistleblowing, responsibility of employers to offer evidence for reported misconduct instead of the adoption of disciplinary measures, exemption of whistleblowers from legal liability for public interest disclosure, and whistleblowing related education and training provided by companies and governments. The achievements and guiding principles developed in this workshop were disclosed in a special report presented during the annual meeting of the APEC Anti-Corruption and Transparency Working Group (ACTWG) on August 22. All APEC member economies were requested to provide suggestions for the revision of said guiding principles in writing.

The main purpose of the APEC workshop platform is to reverse the negative perception of whistleblowers prevalent in society and build a

consensus on regional cooperation in the field of whistleblower protection. The most important goal of this APEC Workshop on “Enhancing Whistleblower Protection in Corruption Cases” is to provide a blueprint for a multinational cooperation mechanism. The workshop also demonstrates the Agency Against Corruption’s determination to bring Taiwan insync with international trends and to emerge as a leadership role in the field of international integrity trends. It also aims to solicit opinions from different sectors, draw on the precious experiences of different economic entities, and ensure the continued promotion of legislative initiatives in the field of whistleblower protection in Taiwan. The goal is to transform “Safeguard Whistleblowers, Disclose for Public Interest” from a mere slogan into an actual firm foothold in the field of international integrity.

Event website: <http://whistleblower.tier.org.tw/>



Image description

- 1 Mr. CHIU, Tai-san, Minister of Justice (second from left) hosts the opening ceremony. From left to right: Mr. NGO Manh Hung, head of the Vietnamese delegation, Justice Minister CHIU, Tai-san, Mr. Fredrick M.Tamarua, head of the Papua New Guinea Delegation, and Mr. LAY, Jer-Shyong, Director-General of the Agency Against Corruption, Ministry of Justice.
- 2 Group photo of Mr. CHIU, Tai-san, Minister of Justice (fifth from left) and VIP workshop participants. From left to right: Mr. Fredrick M.Tamarua, head of the Papua New Guinea Delegation, Mr. Chang, Tou-Hui, Deputy Minister of Justice, Mr. Ta-Ho, Yen, Supreme Court Chief Prosecutor, Mr. Tommy Kambu Kunji, Papua New Guinea Ambassador, Justice Minister CHIU, Tai-san, Mr. NGO Manh Hung, head of the Vietnamese delegation, Mr. Wang, Tien-Sheng, High Court Chief Prosecutor, Mr. LAY, Jer-Shyong, Director-General of the Agency Against Corruption, and Professor LIN, Chih-Chieh, Associate Dean of the School of Law, National Chiao Tung University.
- 3 Group photo of Mr. CHIU, Tai-san, Minister of Justice and VIP participants from 13 APEC member economies (Chile, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Papua New Guinea, Singapore, Thailand, USA, and Vietnam)
- 4 Opening address by Mr. CHIU, Tai-san, Minister of Justice
- 5 Opening address by Mr. Fredrick M.Tamarua, head of the Papua New Guinea Delegation
- 6 Keynote speech by Mr. LAY, Jer-Shyong, Director-General of the Agency Against Corruption



- 7 Keynote speech by Chair Professor LIN, Chih-Chieh, Associate Dean of the School of Law, National Chiao Tung University
- 8 First session: Ms. Karen GORMAN (third from left), Chief of the Retaliation and Disclosure Unit of the US Office of Special Counsel, was invited to serve as the moderator. Panelists included Dr. Nerisa DOZO (fourth from left), professor at Griffith University in Australia, Professor Yang, Wu-Lung Yang (first from left) from National University of Kaohsiung, Mr. Yang, Donghoon (fifth from left), Director of the Public Interest Whistleblowing Inspection & Policy Division, Anti-Corruption & Civil Rights Commission (ACRC) in Korea, and Mr. Wang, Nan-Jiun (second from left), Director of the Agency Against Corruption, Ministry of Justice.
- 9 Second session: Dr. Nerisa DOZO (fourth from left), professor at Griffith University in Australia, served as the moderator. Panelists included Mr. Thomas Thomas (third from left), CEO of ASEAN CSR Network, Mr. Philip Chou (second from left), General Counsel & Compliance Officer, Siemens Ltd., Mr. T. C. Cheng (sixth from left), Deputy Director of Taiwan Semiconductor Manufacturing Company Limited, Ms. Young-Sun CHUNG (fifth from left), a Korean lawyer, and Mr. WU, Jung-Chun (first from left), Director of the Economic Crime Prevention Division, Investigation Bureau, Ministry of Justice.
- 10 Third session: Sharing of experiences by 13 member economies (Chile, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Papua New Guinea, Singapore, Chinese Taipei, Thailand, USA, and Vietnam)
- 11 Fourth session: Dr. YEH, I-Jan (third from left), Standing Board Member, Transparency International Chinese Taipei acted as the moderator. Panelists included Mr. Thomas THOMAS (fourth from left), , CEO of ASEAN CSR Network, Mr. Mark WORTH (fifth from left), Ms. Rebecca ROLLS (second from left), and Mr. Francesco CHECCHI (first from left).
- 12 Fifth session: Chair Professor LIN, Chih-Chieh (second from left), Associate Dean of the School of Law, National Chiao Tung University acted as the chair. Panelists included Dr. Nerisa DOZO (first from left), professor at Griffith University in Australia, Mr. Mark WORTH (third from left), and Mr. Thomas Thomas (fourth from left), CEO of ASEAN CSR Network
- 13 VIP participants
- 14 Closing address by Mr. Chen, Ming-Tang, Political Deputy Minister, Ministry of Justice

Day 1 – 19 July 2017

08:30 – 09:00	Registration
09:00 – 09:30	Opening Ceremony <ul style="list-style-type: none"> ● Mr. CHIU, Tai-san, Minister of Justice ● Mr. NGO Manh Hung, Deputy Director General, Government Inspectorate of Vietnam ● Mr. Frederick Mahuru TAMARUA, Principal Legal Officer (International Law), Department of Justice & Attorney General, Papua New Guinea
09:30 – 09:45	Group Photo
09:45 – 10:15	Keynote Speech <ul style="list-style-type: none"> ● Mr. LAY, Jer-Shyong, Director General, Agency Against Corruption, Ministry of Justice ● Chair Professor LIN, Chih-Chieh, Carol, Associate Dean, School of Law, National Chiao Tung University
10:15 – 10:30	Questionnaire Summary Report <ul style="list-style-type: none"> ■ <i>Papua New Guinea to report on the analysis and summary of pre-workshop questionnaire</i> ● Mr. Frederick Mahuru TAMARUA, Principal Legal Officer (International Law), Department of Justice & Attorney General, Papua New Guinea
10:30 – 11:00	Coffee Break
11:00 – 12:30	Session 1: Whistleblower Protection in Public Sector – Legal Frameworks <ul style="list-style-type: none"> ■ <i>The definition of whistleblower</i> ■ <i>The definition of whistleblowing/public interest disclosure</i> ■ <i>Proper authorities</i> ■ <i>Proper disclosure (conditions to be excluded)</i> ■ <i>Effective whistleblowing system or safeguarding measurements</i>

11:00 – 12:30	<p>Moderator:</p> <ul style="list-style-type: none"> ●Ms. Karen GORMAN, Chief, Retaliation and Disclosure Unit, U.S. Office of Special Counsel, United States <p>Panelists:</p> <ul style="list-style-type: none"> ●Dr. Nerisa DOZO, Survey and Business Manager, Centre for Governance and Public Policy, Griffith University, Australia ●Prof. YANG, Wu-Lung, Professor, Department of Government and Law, National University of Kaohsiung ●Mr. YANG, Donghoon, Director, Public Interest Whistleblowing Inspection & Policy Division, Anti-Corruption & Civil Rights Commission(ACRC), Republic of Korea ●Ms. WANG, Nan-Jiun, Director, Agency Against Corruption, Ministry of Justice; Public Prosecutor, Taiwan High Prosecutors Office
12:30 – 14:00	Lunch
14:00 - 15:40	<p>Session 2: Whistleblower Protection in Private Sector: Receiver and Giver</p> <ul style="list-style-type: none"> ■ <i>Internal safeguarding whistleblowing mechanism</i> ■ <i>How to raise and deepen public awareness on whistleblowing protection</i> ■ <i>Cases on public sector's involvement to whistleblowing in private sector</i> <p>Moderator:</p> <ul style="list-style-type: none"> ●Dr. Nerisa DOZO, Survey and Business Manager, Centre for Governance and Public Policy, Griffith University, Australia <p>Panelists:</p> <ul style="list-style-type: none"> ●Mr. Thomas THOMAS, CEO, ASEAN CSR Network ●Ms. Young-Sun CHUNG, Lawyer/Patent Attorney, Darae Law & IP Firm, Republic of Korea ●Mr. Philip CHOU, General Counsel & Compliance Officer, Siemens Ltd. ●Mr. T. C. CHENG, Deputy Director, Corporate & Compliance Legal Division, Taiwan Semiconductor Manufacturing Company Limited ●Mr. WU, Jung-Chun, Director, Economic Crime Prevention Division, Investigation Bureau, Ministry of Justice
15:40 - 16:00	Coffee Break

16:00 - 18:00

Session 3: Economies to Share Best Practices and Experiences

- *Cases of whistleblower protection in the public and/or private sectors: causes and results*
- *The influence from the aforementioned cases to the current whistleblower protection mechanism*
- *Future objectives and directions of the development in whistleblowing protection*
- *Suggestions or expectations of whistleblowing protection cooperation in APEC*

Moderator:

● **Ms. CHEN, Wen-Chi**, Head Prosecutor, Taiwan High Prosecutors Office

Panelists:

Delegates from Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, Papua New Guinea, the Philippines, Singapore, Chinese Taipei, the United States, and Viet Nam

Day 2 – 20 July 2017

09:00 – 10:20

Session 4: APEC Cooperation Mechanism and Development on Whistleblower Protection

- *Suggestions of whistleblowing protection cooperation among public sectors, private sectors, and NGOs in APEC*
- *How NGOs facilitate public-private partnership on whistleblower protection in APEC*
- *How to utilize the Anti-Corruption and Transparency Experts Working Group (ACTWG) and APEC Anti-Corruption Authorities and Law Enforcement Agencies Network (ACT-NET) in APEC to improve whistle-blower protection in Asia Pacific*
- *Other suggestions*

Moderator:

- **Dr. YEH, I-Jan**, Standing Board Member, Transparency International Chinese Taipei

Panelists:

- **Mr. Mark WORTH**, Director, International Whistleblower Project, Blueprint for Free Speech
- **Mr. Thomas THOMAS**, CEO, ASEAN CSR Network
- **Ms. Rebecca ROLLS**, General Manager Investigations, Serious Fraud Office, New Zealand
- **Mr. Francesco CHECCHI**, Anti Corruption Expert

10:20 – 10:40

Coffee Break

10:40 – 11:40

Session 5: Discussion and Drafting Guiding Principles

Moderator:

- **Chair Professor LIN, Chih-Chieh, Carol**, Associate Dean, School of Law, National Chiao Tung University

11:40 - 11:50

Concluding & Closing

- **Mr. CHEN, Ming-tang**, Political Deputy Minister, Ministry of Justice