

Questionnaire

Chapter 1 – The United Nations Convention against Corruption (UNCAC) and the private sector

Background: It is important that States' legislative and other measures contain sufficient detail to inform the private sector of their requirements and scope of application. In line with the principle of legal certainty, it is important to have clear provisions outlining prohibited conducts and consequences to the private sector.

1(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote business integrity and/or reporting of corruption in the private sector in line with the United Nations Convention against Corruption.

- 1) The Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission(ACRC)
 - Article 5 stipulates that “(Duties of Enterprises) An enterprise shall establish a sound trade order as well as business ethics and take necessary measures to prevent any corruption.”
 - Article 3 of the Enforcement Decree of the Act stipulates that “(Support for Ethical Business Management) The Anti-Corruption and Civil Rights Commission may provide support, cooperation, etc. for the ethical management of enterprises to ensure that they may effectively entrench their business ethics under Article 5 of the Act”. The ACRC is supporting anti-corruption efforts in the private sector.(2(a) 참조)
 - Any person may report the following act of corruption to the ACRC. (a) The act of any public official's abusing his/her position or authority or violating laws in connection with duties to seek gains for hie/herself or any third party. (b) The act of inflicting damages on the property of public institutions in violation of laws, in the process of executing the budget of public institutions, acquiring, managing, or disposing of the property of public institutions, or making and executing a contract to which a public institution is a party. (c) The act of coercing, urging, proposing and inducing the act above or act of covering it up.
- 2) Protection of Public Interest Reporters Act
 - There was a lack of supervision in the law and institution where the protection was not provided for those who reported public interest violations taking place in private sector, as the protection for reporters was limited to corruption reporters in the public sector under the ACRC Act.
 - The Protection of Public Interest Reporters Act was enacted and implemented on 30 September 2011 as a measure to prevent and control acts of violating public interests closely related to lives of the public in the private sector, such as those undermining public health and safety, the environment, consumer interests, fair competition, and others. Since then, the current protection and rewards system for reporters has been established after going through multiple amendments.
- 3) Criminal Act and the Act on Combating Bribery of Foreign Public Officials in International Business Transactions
 - Bribery of public officials, bribery before being appointed as a public official, third party bribery, bribery after cheating, and offering bribes are punished(Articles 129 to 133 of the Criminal Act)
 - Offering bribes to foreign public officials is punished(Article 3 of the Act on Combating Bribery of Foreign Public Officials in International Business Transactions)

4) Improper Solicitation and Graft Act

- In addition to the punishment of the existing bribery, the Improper Solicitation and Graft Act was enforced on September 2016 so that the person who has received money or other valuables from a business-related person could be punished even if money or other valuables were received without any reciprocation, thereby improving public officials' integrity and contributing to realizing transparent and fair public institutions expected by the people
- According to the law, no one shall make an improper solicitation for any public official, etc. performing his or her duties, directly or through a third party, to handle 14 types of duties including authorization, permission, etc. in violation of laws or abuse of his/her position or power.
- No public official and their spouse shall receive, request or promise to receive prohibited money, goods, etc.

* Meaning of unacceptable financial or other advantages : (a) In case where such advantages are related to duties, all of the advantages received are defined as unacceptable advantages. (b) In case where such advantages are not related to duties, advantages exceeding 1 million won at a time (or 3 million won in a fiscal year) are defined as unacceptable advantages.

* Exceptions of unacceptable financial or other advantages : Advantages provided by close relatives, advantages provided uniformly in a normally accepted range by an organizer of an official event, and souvenirs or promotional goods distributed to many and unspecified persons, etc.

5) the Act on the Prevention of Conflicts of Interest Related to Duties of Public Servants

- The Act on the Prevention of Conflicts of Interest Related to Duties of Public Servants (abbreviated as: Conflict of Interest Prevention Act) went into enforcement on May 19, 2022. The Act applies to 2 million public officials, including constitutional institutions such as the National Assembly and the courts, central administrative agencies, local governments, and officers and employees of public service-related organizations, and teachers and staff of national and public schools.
- The main content of this Act is to stipulate 10 standards of conduct that public officials must abide by in situations of conflict of interest. Reporting and submission obligations stipulate reporting of job-related private interests, job-related real estate holdings and purchases, submission of business activity of high-ranking public officials in the private sector, reporting of private transactions with job-related persons, and reporting of private contacts with retirees.
- In addition, as restrictions/prohibition obligations, it stipulates restrictions on outside activities related to work, family employment, negotiated contracts and prohibitions of private use/profit from goods of public institutions, and use of confidential information in course of performing duties. In a survey conducted by the ACRC on the effectiveness of the Conflict of Interest Prevention Act in 2022, it was found that 87.8% of the public and 91.5% of public officials supported the law.

Chapter 2: Engaging the private sector

Background: Anti-corruption programmes, commonly referred to as compliance programmes, are a primary tool used by companies to advance ethical business practices. They provide a framework for articulating the values, policies and procedures used by a company to educate its employees and to prevent, detect and counter corruption in its business operations.

2(a) Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote integrity through anti-corruption programmes in the private sector.

1) Compliance support system

- Around April 2011, the Commercial Act was revised (Article 542-13) and the compliance support system was introduced, and companies with a total assets of KRW 500 billion or more must comply with laws and regulations, and standards and procedures for compliance control to be followed when executives and employees perform their duties should be prepared in order to ensure proper company management, and at least one person is to be in charge of compliance with compliance control standards.
- Regarding the above compliance control standards, the Ministry of Justice established and distributed the "Standard Compliance Control Standards" as guidelines in collaboration with the Listed Companies Council around April 2012 for general companies, and around January 2019, the above standards were revised and implemented to further strengthen the compliance control standards.

2) Integrity and ethics management training

- The ACRC provides integrity and ethics management training to private companies every year to support the practice and establishment of a culture of integrity and ethics management in private companies. The ACRC supports integrity and ethics management experts and spreads the meaning of ethics management, domestic and international ethical management trends, and best practices to employees of private companies, thereby striving to enhance the private companies' will and ability to practice integrity and ethics management. In 2022, a total of 10 companies and 3,367 people took the integrity and ethics management education supported by the ACRC, and in 2023, the ACRC plans to operate integrity and ethics management training for a total of 15 private companies.

3) Informing the international trend

- Since 2005, the ACRC has been continuously striving to encourage private companies to practice integrity and ethical management in line with the international trend and to spread a transparent corporate culture. In particular, the ACRC has been publishing the information magazine 'Integrity and Ethics Management Briefs' to support the integrity and ethics management activities of domestic companies. It contains current domestic and international trends of integrity and ethics management and is provided free of charge every month to 7,900 places, including schools and ethical management managers.
- In addition, in order to support companies to establish an integrity and ethics management system that meets international standards and to spread the culture of integrity and ethics management throughout society, the 'Corporate Anti-Corruption Guide' and the 'Anti-Corruption Management System(ISO37001)' in 2016 and 2017, respectively, were published and distributed. Integrity Management Self-Diagnosis Model was developed in 2019.

4) Developing a new compliance program

- The ACRC is also developing a new compliance program to encourage companies to establish integrity and ethics management systems and to prevent, detect, and improve corruption risks on their own. Prior to private companies, in June 2022, the Integrity and Ethics Management CP guidelines were distributed to public institutions such as public companies, and public institutions are supported in practice through education and consulting. The ACRC plans to develop a new guideline for private companies in 2023.

2(b) Please describe (cite or summarize) good practices and/or examples of measures you have used to encourage transparency, public reporting and/or public participation through your anti-corruption programmes (both for the public and private sectors).

1) Integrity Society Pact

- Since 2018, the ACRC has been actively supporting the signing of the Integrity Society Pact, in which various stakeholders by region and sector promise to build a horizontal network and cooperate to resolve corruption and practice integrity. As a result of encouraging the private sector to participate in the Integrity Society Pact, small and medium-sized business sector, public corporation sector, national defense sector, defense industry sector, accounting sector, and financial sector have signed the pact.

2) Voluntary practice

- The private sector is also voluntarily striving to practice integrity and ethical management. Established in September 2007 to support corporate social responsibility and the achievement of the Sustainable Development Goals (SDGs), the UN Global Compact Korea Association has 315 Korean companies, academia, and civil society organizations participating as of May 2023. In addition, the Ethical Management ESG Forum, in which private and public companies participate, holds a annual CEO oath ceremony to spread an ethical management culture and practice, and by April 2023, a total of 546 companies have participated in the oath.

3) Public participation

- The ACRC holds an annual content contest in which all citizens can participate to create an anti-corruption culture in our society together with the public. Citizens can create and submit works in various forms such as literature and video, and selected works are used as educational materials for anti-corruption education. In last year's contest, a total of 50 works, including "Mother's Special Moving-in Notification (Scenario)" and "Voice in My Heart (Poetry)," were honored with awards.
- The ACRC has established the "Citizen Monitoring Group on Integrity Policy," which consists of university and school students, workers and homemakers, and conducts citizen discussions and surveys to collect anti-corruption policy ideas from citizens.

2(c) What was the impact of the measures described above (2a and 2b)?

The ACRC's integrity and ethics management support policy enhances the will of private companies to practice integrity and ethics management, and enhances the anti-corruption capabilities of companies so that they can prevent corruption with their own anti-corruption programs. These anti-corruption efforts by private companies are expected to increase their responsiveness to international trends where

ESG disclosure standards such as the EU' Corporate Sustainability Reporting Directive (CSRD) and Sustainable Finance Disclosure Regulation (SFDR) are being strengthened.

The ACRC's support for ethical management training for private companies is expected to enhance the company's will and capacity to practice ethical management by providing the latest trends and best practices at home and abroad. The content contest for citizens will contribute to spreading and establishing the anti-corruption culture to private sectors.

2(d) What challenges (if any) did you encounter in implementing the measures above (2a and 2b)?

In order to expand the activities to support ethical management training for more private companies and to hold various public participation programs, sufficient manpower, budget and infrastructure are needed.

Chapter 3: Using sanctions and incentives

Background: While effective sanctions for corruption offences are required under the United Nations Convention against Corruption, the Convention also recognizes the essential role of incentives that encourage and reward corporate self-reporting and preventive efforts.

Part A – Sanctions

3(a) Please describe (cite or summarize) good practices and/or examples of sanctions used to strengthen business integrity and/or reduce corruption in the private sector in your country.

- Financial Sanctions(Criminal Fines) against corporations(companies) responsible for participating in corruption crimes (in the case of foreign bribery crimes)
- Confinement or other criminal sanctions against natural persons (individuals) who commit corruption crimes on behalf of the company (in the case of domestic and foreign bribery crimes)
- Confiscation of the individual on behalf of the company and the corruption assets of the company
- Liability for Damages to corruption victims

3(b) What were the main challenges (if any) your country faced in enforcing these sanctions?

Due to the revision of 『the Prosecutor's Office Act』 and 『the Criminal Procedure Act』 in Feb 2020, the scope of direct investigation of prosecutors who have been in charge of bribery crimes was limited to corruption, economic crimes, public official crimes, election crimes, defense industry crimes, and large-scale disaster crimes.

In addition, due to the revision of 『the Prosecutor's Office Act』 and 『the Criminal Procedure Act』 on May 2022, the prosecutor's direct investigation was limited to "critical crimes such as corruption and economic crimes" (excluding investigation on public official crimes, election crimes, defense business crimes, etc.) and the scope of the prosecutor's supplementary investigation into the police investigation was limited to "the extent to which the identity is recognized" and the legal framework for investigating and prosecuting bribery crimes was weakened as the accuser is unable to file an objection to the police's decision to acquittal.

3(c) What steps did you take to overcome those challenges (if any)?

In response to this, the Korean government revised 『Regulations on Prosecutor's Commencement of Investigation, the Enforcement Decree of 『the Prosecutor's Office Act』 on September 8, 2022 to reasonably adjust the scope of “critical crimes such as corruption and economic crimes in order to fill the gap in punishment of bribery crimes through all-out efforts , and it is successfully conducting investigations on bribery offenders through strengthening the expertise and capabilities of investigative agencies, sharing information, cooperation with investigative agencies such as the prosecution, the Financial Supervisory Service, and FIU, etc.

Part B – Incentives

3(d) Please describe (cite or summarize) good practices and/or examples of incentives used to strengthen business integrity and/or reduce corruption in the private sector in your country.

In order to strengthen corporate integrity and reduce corruption in the private sector, reporters are protected from disadvantageous measures, and rewards are paid to reporters.

1) Protecting Whistleblowers

- Personal Confidentiality: The Protection of Public Interest Reporters Act bans disclosing or publicizing to any third party public interest whistleblower’s personal information or other facts that can infer the identity of the whistleblower.

* Proxy reporting by lawyers was introduced through the amendment of the Act to strengthen personal confidentiality of whistleblowers.
- Protection of Personal Safety: The ACRC can request the police to take protective measures for public interest whistleblowers and their family members when they have faced or are likely to face serious danger to their lives.
- Prohibition of Personally, Administratively, and Economically Disadvantageous Measures: Public interest whistleblowers can request the ACRC to take necessary measures to recover their original status when they face disadvantageous measures due to the reporting, such as dismissal, discharge, unpaid wages, cancelation of permit or license, or cancelation of contract.
- Reduction of and Exemption from Responsibility: Public Interest whistleblowers are exempted from confidentiality obligation. Criminal punishment, disciplinary measures or administrative disposition imposed on them in relation to the case they reported can be exempted or reduced

2) Rewarding Whistleblowers

- Rewards : when a whistleblowing directly results in the recovery of or increase in revenue of the central or local governments through penalty surcharges and others, the ACRC provides the whistleblower with a reward of up to KRW 3 billion.
- Awards : even when no direct recovery of or increase in revenue followed, if the whistleblowing serves the public interest, then the reporter, with a recommendation of the relevant agency, will be awarded up to KRW 200 million by the ACRC.

- Relief money : when the report causes damages or expenses related to medical treatment, residential relocation, litigation, wage loss or other reasons, the ACRC will provide relief funds to the whistleblower.

< Reward Payment >

- (Unit: case, KRW 1,000)

Year	Corruption Reporter			Public Interest Violation Reporter		
	Cases	Benefits Incurred*	Rewards	Cases	Benefits Incurred*	Rewards
08	18	2,149,407	328,175	-	-	-
09	20	5,811,771	642,146	-	-	-
10	23	4,505,568	603,641	-	-	-
11	12	18,834,014	1,499,401	-	-	-
12	40	11,131,730	1,400,444	32	147,860	28,475
13	37	8,393,380	951,210	319	1,230,929	227,708
14	30	6,878,647	619,347	657	2,239,585	397,340
15	29	28,770,531	1,426,658	511	1,988,446	379,997
16	90	23,997,537	2,275,033	2476	8,344,742	1,603,578
17	113	26,539,641	2,108,374	1,710	11,198,923	1,976,511
18	166	36,836,590	3,114,994	277	66,077,269	2,213,658
19	197	28,364,346	2,312,974	211	22,254,652	1,534,593
20	238	46,003,611	3,842,099	249	25,258,924	1,560,901
21	485	40,862,696	3,397,868	138	10,312,828	811,290
22	477	17,837,807	2,838,124	99	48,536,415	2,255,828

* The amount of compensations are calculated based on the amount of the recovered or increased revenues of the State or local governments.

3(e) What is the main impact of such incentives?

Since the enactment of the ‘Public Interest Whistleblower Protection Act’, the state and local governments have recovered 162.3 billion won in income through public interest reporting until 2021.

Guidance on 3(d): Incentives could, for example, include any of the following:

- Penalty mitigation – encourages self-reporting of offences, credits companies’ preventive efforts
- Procurement preference – rewards good practice through procurement preference
- Preferential access to benefits – rewards good practice with preferential access to government benefits and/or services
- Reputational benefits – encourages good practice through public recognition
- Whistle-blower protection and awards – encourages reporting of potential violations by individuals
- Any other types of incentives not listed above

Part C - Additional measures

3(f) Please describe (cite or summarize) good practices and/or examples of any other additional measures used to strengthen business integrity and/or reduce corruption in the private sector in your country.

- 1) Future generation education
 - The ACRC conducts on-site education in elementary, middle, and high schools to improve anti-corruption awareness and internalize the culture in future generations. Students have fun learning the value of integrity through classes and various experiential activities. In 2022, 5,673 students from 45 schools attended the education, and this year, the ACTC plans to hold the education for 55 schools.
 - In addition, the ACRC, in collaboration with universities, runs special lectures on anti-corruption systems in Korea and global anti-corruption trends for university students who will act as members of society in the future. Through this special lecture, students can cultivate the right values of integrity as prospective members of society. In 2022, 827 students from 9 universities took the lecture and this year the ACRC plans to run the lecture in 10 universities.

Additional information

Is there any other information that you wish to share which has not been addressed by the previous questions?

Guidance on 3(f): Additional measures could, for example, include any of the following:

- Integrity pacts – written agreements between government agencies and companies to strengthen integrity in public procurement, usually overseen by an independent monitor
- Collective action – collaborative initiatives that bring companies and other relevant stakeholders together to prevent and counter corruption and raise standards of business integrity
- Public sector reform – civil service and/or regulatory reforms that reduce the opportunities for corruption
- Public education – activities that raise public awareness of corruption and its harmful effects