

Introduction to Korea's Corruption Risk Assessment

A Tool to Analyse and Reduce Corruption Risks in Bills,
Laws and Regulations



UNDP Seoul Policy Centre

Acknowledgements

The main technical content of this book is drawn from the <Handbook for the Corruption Impact Assessment> by the Anti-Corruption and Civil Rights Commission of the Republic of Korea and other documents cited in the reference section.

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Manufactured in the Republic of Korea

Foreword

Around the world, poor governance and entrenched systems of corruption remain a major challenge for human development. Corruption not only results in waste of development resources, but also corrodes the social fabric of society and undermines people's trust in the political system. We cannot achieve the Sustainable Development Goals (SDGs) – agreed upon by the international community- without finding effective solutions to tackle corruption.

In this context, this book presents the Corruption Risk Assessment (CRA) tool of Korea's Anti-Corruption and Civil Rights Commission (ACRC) as an example of an effective instrument for corruption prevention. Since 2006, CRA in Korea has helped to identify and reduce corruption risks in laws and regulations by providing a systematic and clear analytical framework that is applied during the legislation process. Countries wishing to prevent corruption in the legal formulation process may benefit from benchmarking the CRA methodology, while modifications would be required for contextualizing specific applications as appropriate to the national contexts. This resource book provides the technical details of the CRA methodology, along with recommendations and suggestions for their application.

Since 2015, ACRC and the UNDP Seoul Policy Centre (USPC) have been partnering to share Korea's anti-corruption policies and lessons learned through USPC's Development Solutions Partnership (DSP) programme on anti-corruption. The first phase of our cooperation under DSP shared ACRC's Anti-Corruption Initiative Assessment (AIA) tool with Vietnam. This led to the development, as well as successful pilot implementation, of the Vietnam version of AIA in all 63 provinces of the country. In January 2018, ACRC and USPC launched the second phase of our cooperation and selected the CRA tool as the subject of our knowledge sharing programme. Combining ACRC's practical know-how with UNDP's global network and country-level anti-corruption work, we hope that our collaboration will provide creative ideas and inspiration to our partner countries in their fight against corruption.

Last but not least, we would like to thank all those in our respective teams who contributed to the writing of this resource book.



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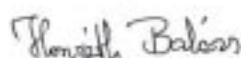


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LIST OF ABBREVIATIONS AND ACRONYMS

ACRC	⦿	Anti-Corruption and Civil Rights Commission
KICAC	⦿	Korea Independent Commission Against Corruption
PPO	⦿	Public Prosecutors’ Office
BAI	⦿	Board of Audit and Inspection
POA	⦿	Prosecutors’ Office Act
KOFIU	⦿	Korea Financial Intelligence Unit
CPA	⦿	Criminal Procedure Act
CAAC	⦿	Central Administrative Appeals Commission
CPI	⦿	Corruption Perceptions Index
CRA	⦿	Corruption Risk Assessment
AIA	⦿	Anti-Corruption Initiative Assessment
MP	⦿	Members of the Parliament
MOLEG	⦿	Ministry of Government Legislation

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I.

INTRODUCTION OF KOREA'S INSTITUTIONAL FRAMEWORK FOR ANTI-CORRUPTION

I Introduction of Korea's Institutional Framework for Anti-Corruption

1. Overview of Korea's Anti-Corruption Laws and Institutions

During the rapid industrialization period from the 1960s to 1980s, the Republic of Korea largely focused its efforts on economic development without much attention to corruption. However, anti-corruption became a top national priority after the Asian Financial Crisis of 1997-1998 which devastated the Korean economy. Citizens came to recognize how widespread and entrenched corruption in the economic, social, and political spheres had contributed to the crisis, and urged the government to take political and institutional measures to tackle the corruption challenges.

As a result, Korea's Anti-Corruption Act was enacted in 2001, and the Korea Independent Commission Against Corruption (KICAC) was established as Korea's first national anti-corruption body in January 2002. Korea also enacted the anti-money laundering act (Act on Reporting and Using Specified Financial Transaction Information) in September 2001 and created the Korea Financial Intelligence Unit (KOFIU) in November 2001 under this act.

KICAC implemented a number of preventive anti-corruption measures, including the development and coordination of national anti-corruption policies, improvement of legal and institutional frameworks, measurement of corruption, and organization of anti-corruption training programmes. It also monitored the implementation of the Code of Conduct for Public Officials, which was enacted as a presidential decree in May 2003. It also carried out reactive measures such as receiving and handling corruption reports and protecting and rewarding whistleblowers.

Pursuant to the Anti-Corruption Act, KICAC was mandated primarily with corruption-prevention functions in Korea, while the investigative powers remained with the Public Prosecutors' Office (PPO), the Board of Audit and Inspection (BAI), and the police.

PPO's authority to investigate and prosecute crimes including corruption cases comes from Article 4 of the Prosecutors' Office Act (POA) that came into effect in 1949. Article 4 (2) of the same act also grants PPO independence and impartiality from other political actors. While PPO takes the ultimate responsibility in punitive functions, PPO's anti-corruption efforts are supported by BAI and the police.

BAI is the supreme audit and inspection institution under the President's office, and the organization examines the monetary flows of all public entities and inspects the functions of administrative agencies and public officials. BAI may request the related administrative agency to take disciplinary action against public officials who committed irregularities and must bring an accusation against any suspected crime to investigative authorities.

The police can investigate corruption cases, but the investigation must be conducted under the instructions of a public prosecutor, according to Article 196 of the Criminal Procedure Act (CPA) which came into effect in 1954. Article 246 of CPA also provides PPO with the sole authority to prosecute criminal cases.

In 2008, Korea's anti-corruption framework entered a new phase. The Anti-Corruption and Civil Rights Commission (ACRC) was established to build a more efficient governance system through the merger of KICAC, the Ombudsman of Korea and the Administrative Appeals Commission. In addition, the Anti-Corruption Act was abolished with the enactment of the Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission (hereinafter "the ACRC Act") in 2008.

In 2011, the Korean government enacted the Act on the Protection of Public Interest Whistleblowers to protect those who report public interest violations related to public health, safety, the environment, fair competition and consumer interests. Before the enactment, only those who report public sector corruption cases were protected by the ACRC Act. Now reporters of private sector corruption cases including foreign bribery are also protected by law.

In 2015, the Improper Solicitation and Graft Act was enacted (and came into effect in September 2016). Under this law, anyone who improperly solicits public officials is punished even if they do not commit bribery. Public officials who accept money, gifts or hospitality that are worth more than one million Korean won are also subject to criminal punishment regardless of whether such benefits are taken in connection with their official duties or in exchange for any favors. Companies also face sanctions if their employees improperly solicit government officials or offer bribes. This law has begun generating historical and widespread changes in Korean society.²

The Moon Jae-in administration was inaugurated in May 2017, driven by the people's aspiration for a transparent nation in the aftermath of a grand corruption scandal and the impeachment of the former President. The new administration put "eradication of malpractices" and "anti-corruption reform" at the top of the government's policy goals and speedily pushed forward the strong anti-corruption drive.

The first Anti-Corruption Policy Council Meeting chaired by President Moon was convened in September 2017, and ACRC launched on 6 March 2018 the Public-Private Consultative Council for Transparent Society, through which businesses, civil society, media and academia will actively participate in the process of making and implementing anti-corruption policies.

2. Description of the Anti-Corruption and Civil Rights Commission (ACRC)

ACRC was launched in 2008, through the integration of the Ombudsman of Korea, KICAC and the Administrative Appeals Commission. The purpose of the integration of these three government institutions was to increase the efficiency and capacity of promoting and protecting civil rights by dealing with civil complaints, corruption, and administrative appeals through a single channel.

ACRC's functions, as listed in Article 12 of the ACRC Act, include assessing public organizations' integrity levels and anti-corruption efforts; providing recommendations to public organizations; examining corruption risk factors in laws and bills; providing anti-corruption training to public officials; raising public awareness of corruption risks; protecting and rewarding whistleblowers; and monitoring the implementation of the Code of Conduct for Public Officials. Anyone can report an act of corruption or violation of the public interest to ACRC. If ACRC finds it necessary to investigate the reported case, it refers the case to BAI, the investigative authority, or the supervisory body of the relevant public institution. Once the investigation is completed, ACRC collects the results from the concerned investigating agencies and informs the reporters of how their cases have been handled.

² On public perception of the Act and its effectiveness, please see:
<http://www.acrc.go.kr/en/board.do?command=searchDetail&method=searchList&menuid=02031504>.

There are 15 commission members (i.e. one chairperson, three vice chairpersons, three standing commissioners and 8 non-standing commissioners) in ACRC. The chairperson, vice chairpersons, and commissioners are appointed or commissioned staff members who are acknowledged to be capable of handling civil complaints and conducting anti-corruption initiatives in a fair and independent manner. Each vice chairperson is tasked with: handling civil complaints; corruption prevention; and management of the Central Administrative Appeals Commission (CAAC) to assist the chairperson.

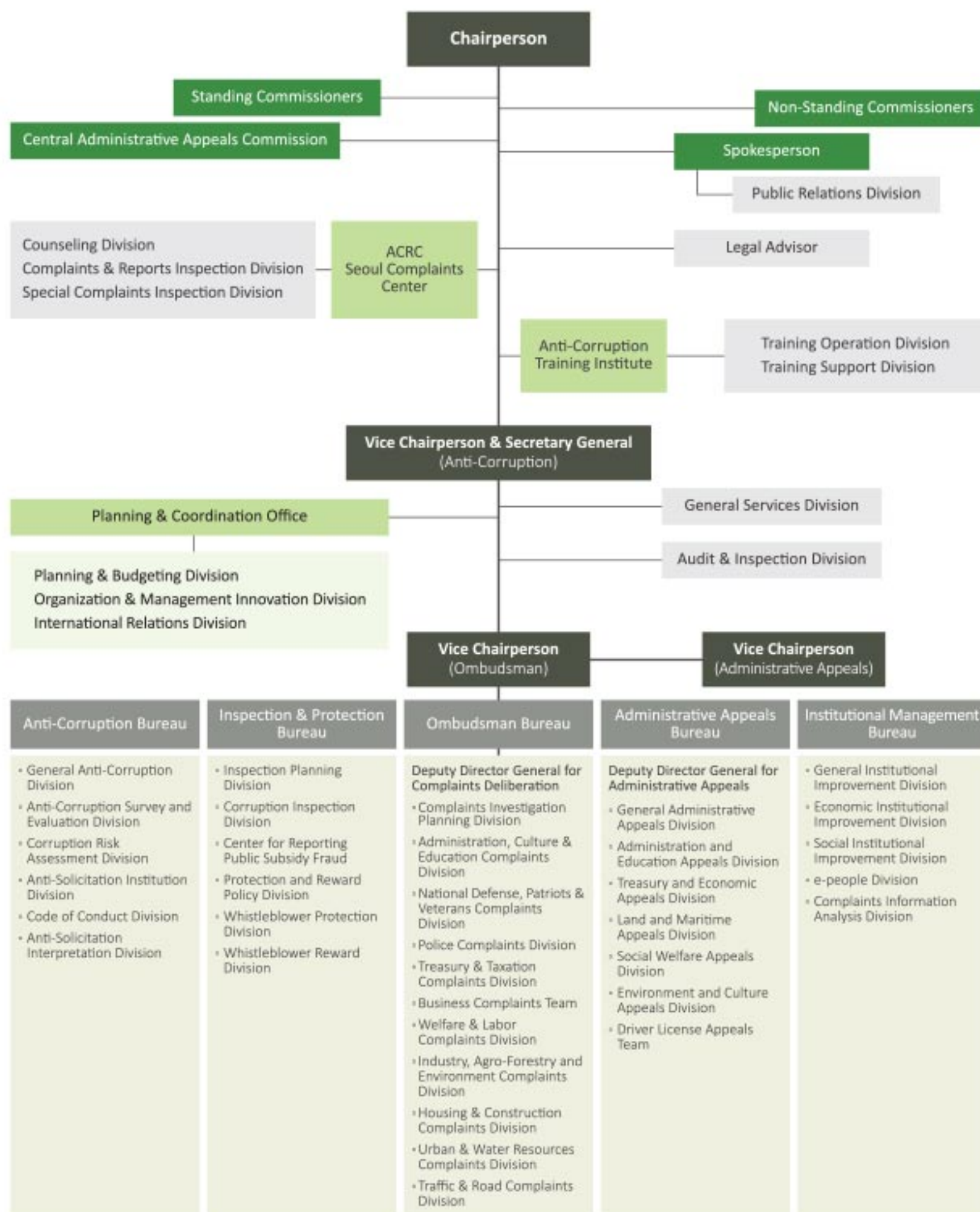
A secretariat is organized within ACRC to manage administrative affairs. The chairperson designates one vice chairperson to concurrently serve as secretary general. The secretary general oversees the secretariat's departments.

In addition to the secretariat, a spokesperson and legal advisors assist the chairperson, while a planning and coordination office and an audit and inspection director support the secretary general. The ACRC headquarters consists of the Planning and Coordination Office, five bureaus (Anti-Corruption Bureau, Inspection & Protection Bureau, Ombudsman Bureau, Administrative Appeals Bureau, and Institutional Improvement Bureau), two deputy director generals' offices, one spokesperson's office, and 40 divisions. As of December 2018, a total of 468 employees work for ACRC, with 56 additional staff working in two affiliated organizations (i.e. 32 employees working in the ACRC Seoul Complaints Center and 24 employees in the Anti-Corruption Training Institute).

Employees of ACRC

Total 524	Political service	4
	Extraordinary civil service	1
	Senior executive service	10
	Senior executive service (term limit)	6
	Grade 3 X 4	14
	Grade 4	31
	Grades 4 X 5	41
	Grade 5	188
	Grade 6 and under	218
	Office with special experiences	7
	Research service	1
	Special service	3

ACRC Organizational Chart



3. Korea's Enabling Environment for Introducing the Corruption Risk Assessment (CRA)

It should be stressed that the Corruption Risk Assessment was adopted in Korea within a particular context, which enabled such a policy tool to work. Korea enjoyed some favorable preconditions when adopting CRA:

▫ Strong high-level political will

Presidents of the Republic of Korea have demonstrated strong political will to enhance and sustain anti-corruption initiatives. Following the country's democratic transition in the early 1990s and the Asian financial crisis that struck Korea in 1997, the Kim Dae-jung administration (1998-2003) responded to the public demand for a more transparent and accountable public administration process by enacting the Anti-Corruption Act, which provided the key legal foundation for Korea's anti-corruption efforts. KICAC, Korea's first national anti-corruption agency, was established in 2002 as a result of President Kim Dae-jung's anti-corruption reform measures.

Since its establishment, KICAC strived to keep laws and administrative systems up to date in order to eliminate any corruption risks within the legislation. It was during the Roh Moohyun administration (2003-2008) that CRA was first introduced in Korea. Recognizing the importance of establishing preventive mechanisms to eliminate corruption risks within bills before they are enacted, President Roh Moohyun authorized KICAC to develop the CRA tool. This strong political will from the country's leadership helped create the momentum for KICAC to implement CRA.

▫ Effective utilization of prior experiences and expertise

Before CRA was introduced, KICAC prepared the ground for CRA by conducting a comprehensive analysis of Korea's laws and institutions to identify corruption-causing factors (e.g. In 2003, KICAC analysed laws on corruption prone areas such as construction, local finance, and regional development). Capitalizing on prior experiences, KICAC already had considerable expertise in identifying corruption risks within current legislation and thus was able to develop effective assessment criteria for detecting corruption risks in bills, laws and regulations.

KICAC also utilized the experiences and lessons learned from other government institutions operating impact assessment methodologies such as the Environment Impact Assessment, Traffic Impact Assessment, and Regulatory Impact Analysis, which were implemented in 1998. To ensure the efficiency and effectiveness of CRA, KICAC also received technical advice from experts in academia and conducted consultations with relevant ministries.

▫ Strategic mitigation of resistance from government institutions

When implementing CRA, KICAC made efforts to minimize the administrative burden on the government ministries while using carrots and sticks to encourage government agencies to institutionalize CRA practices. By aligning the timing of CRA with the pre-announcement stage of a bill, when government institutions collect opinions on their legislative proposal, KICAC was able to deliver recommendations when concerned ministries were more open to receive opinions. Moreover, conducting CRA during the pre-announcement stage prevented any delays in the enactment/revision of bills, which reduced the administrative burdens of the concerned organizations.

KICAC also linked CRA with its Anti-Corruption Initiative Assessment (AIA), which evaluates, ranks and publicly discloses government institutions' anti-corruption efforts. By inserting the degree of incorporation of CRA recommendations as one of the AIA criteria, KICAC motivated heads of public institutions to adopt the CRA recommendations. Also, disclosing CRA results at vice-ministerial/cabinet meetings contributed to the institutionalization of CRA practice, as government ministries are requested to provide justifiable reasons for not adopting the CRA recommendations when questioned by high-level policymakers.

Source:

Adapted from Choi, Jinwook, Park, Joonghoon, and Lee, Ahjung. 2017. Development Solutions Think Piece Series No. 2: Anti-Corruption Policies and Institutions in Korea and Singapore. United Nations Development Programme, Seoul Policy Centre for Global Development Partnerships, Seoul. 27-44., and input from ACRC officials.

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II.

CORRUPTION RISK ASSESSMENT AT A GLANCE

II Corruption Risk Assessment at a Glance

Brief Description

1. What is CRA?

Introduced in 2006, the Corruption Risk Assessment (CRA) of the Anti-Corruption and Civil Rights Commission (ACRC) of the Republic of Korea is a preventive anti-corruption tool which identifies and reduces corruption risks in bills, laws and regulations. ACRC utilizes the CRA results to make specific recommendations to relevant government agencies for amending provisions that have the potential of creating corruption.³ As such, the tool helps to enhance the transparency and efficiency of the public administration process in government institutions and public service-related organizations such as state-owned enterprises.

2. Background and legal basis of CRA

The development of CRA was made possible due to strong public demand for tackling corruption. For instance, a public survey conducted in 2005 revealed that 60% of the Korean public perceived that public officials were corrupt. In 2005, Korea ranked 40th (out of 159 countries) in the Corruption Perceptions Index (CPI) while Korea's economy at that time was the 10th largest in the world. Considering such an asymmetry between the levels of corruption and economic development, the public saw the relatively low CPI score as evidence of the country's critical need to adopt effective means to tackle corruption.

In particular, the need for rigorous and effective measures to prevent corruption became pronounced. Without effective corruption prevention measures, the country was only able to react and execute post-control measures when a corruption case had already occurred (i.e. detecting and penalizing corruption activities). However, such post-control measures could not address the underlying causes of corruption in public administration.

The Korean government therefore revised the Anti-Corruption Act on 29 December 2005 which then came into effect on 1 April 2006. Recognizing that establishing a comprehensive corruption risk analysis system was necessary to address institutional causes of corruption, the revised Act provided the legal basis for developing and implementing CRA.

When CRA was initially conducted, ACRC reviewed bills and laws (i.e. acts and subordinate statutes), along with administrative rules and municipal regulations. On 28 December 2007, however, ACRC expanded the scope of CRA to cover internal rules and bylaws of public service-related organizations, as more government activities were entrusted or commissioned to those organizations, and as their activities were directly linked to the citizens' everyday lives.

* "Corruption" is defined in Article 2 of the ACRC Act of Korea as:

- (a) Any public official's abuse of his/her position or authority, or violation of statutes in connection with his/her duties to seek gains for himself/herself or any third party;
- (b) The act of inflicting damages on the property of any public institution in violation of statutes, in the process of executing the budget of the relevant public institution, acquiring, managing, or disposing of the property of the relevant public institution, or entering into and executing a contract to which the relevant public institution is a party; and
- (c) The act of coercing, urging, proposing and inducing any act referred to in items (a) and (b) or act of covering it up.

In 2008, the Anti-Corruption Act was amended and replaced by the “ACRC Act”. Article 3 of the ACRC Act obligates all Korean public organizations to prevent or eradicate corrupt activities to foster sound social ethics. Article 12 (6) specifically provides ACRC with a mandate to survey and evaluate the anti-corruption policy measures of public institutions. Article 28 of the act also authorizes ACRC to assess corruption risks within laws (i.e. acts, presidential decrees, ordinances of the prime minister and ministries, and their directives, rules, and public notices) and to provide anti-corruption recommendations to government institutions.

Furthermore, the Enforcement Decree of the Act on the Prevention of Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (hereinafter “the ACRC Enforcement Decree”) provides the legal basis for ACRC conducting CRA. Articles 30 to 32 of the Decree provide instructions for conducting CRA. The articles specify: which areas to be covered in the assessment; how to formulate and submit assessment documents; how to establish guidelines and share them with government agencies; how to provide recommendations to government agencies; and how to notify assessment results.

Article 11 (6) of the Presidential Decree on Regulating the Management of Legislative Affairs also prescribes that the head of an agency proposing a bill must request ACRC for CRA in accordance with Article 28 of the ACRC Act and Article 30 of the ACRC Enforcement Decree, and that ACRC must notify the CRA results to the head of the agency before the pre-announcement of the legislation. As such, the Decree fully institutionalized the CRA implementation in the formal legislative process in Korea.

3. Objective of CRA

The CRA tool is designed to identify and preemptively eliminate corruption-causing factors (e.g. uncertainties, irrationalities, and loopholes) within bills, laws and regulations. As such, CRA also aims to: analyse and address the root cause of corruption in corruption prone areas within bills, laws and regulations; rationalize administrative discretions; and clarify administrative processes. By achieving such objectives, CRA intends to bring positive impacts such as prevention of corruption; strengthening the foundation for implementing efficient anti-corruption policies; and improving the reliability and predictability of policies.

Benefits of the CRA Approach

CRA helps to mitigate current and future corruption risks resulting from the enactment and revision of bills, as well as within current laws and regulations. In the long-run, CRA can therefore help improve the transparency of public service delivery and positive public perception towards public administration, thereby lending greater legitimacy to the public administration's activities, decisions, and actions. As such, CRA is aligned with the Sustainable Development Goal (SDG) 16 of the 2030 Agenda, which specifically aims to "substantially reduce corruption and bribery in all their forms" (16.5) and "develop effective, accountable and transparent institutions at all levels" (16.6).

More specifically, CRA contributes to generating the following benefits.

1. Improvement of transparency and fairness in public administrative practices

The CRA criteria are designed so that amendments recommended through CRA can provide government agencies with specific guidance on how to improve the transparency and fairness of public administration practices as prescribed by the law. The corruption risk mitigation mechanism in public administration strengthens the principles of equal opportunity and non-discrimination. It fosters fair competition and value for money, tapping sources of growth and employment.

For instance, criteria such as 'adequacy of disciplinary regulations' and 'potential for misallocation or misuse of government support' reduce corruption risks including possible wastage of government funding and enhance the efficiency and effectiveness of public administrative procedures.

CRA can also improve people's satisfaction toward public administration by making the government administrative process and public service delivery mechanism more transparent and fairer. CRA criteria such as 'rationality of compliance costs', 'accessibility', 'openness', and 'clarity in public service delivery and administrative process' can be applied to enhance the transparency and fairness of administrative procedures while improving citizen satisfaction.

The "rationality of compliance costs" criterion provides opportunities for government institutions to examine whether compliance costs imposed on the public are too excessive. By rationalizing excessive compliance costs, people can save any extra time and efforts needed to comply with the harsh compliance costs stipulated in bills, laws and regulations.

The "accessibility" criterion examines whether government institutions are providing sufficient opportunities for the public to participate in administrative processes. By promoting more civic participation opportunities, the public can better express their opinions during the policymaking process. Inviting citizens in the decision-making process and incorporating their opinions enable developing a policy that better reflects citizens' demands and requests.

The "openness" criterion examines public institutions' information disclosure practices. By utilizing this criterion to expand the disclosure of administrative process-related information, the transparency and accountability of the administrative process can be enhanced. The public may also benefit from this criterion as they can more easily access quality information related to the administrative process, which may not have been possible without the CRA process.

Lastly, the 'clarity in public service delivery and administrative process' criterion examines whether people can clearly understand and anticipate how the government will provide public services and handle administrative procedures. This criterion allows people to better understand and predict the administrative procedures, which in turn enables people to quickly undergo administrative procedures and receive public services. This may speed up the administrative process and thus, people are likely to be more satisfied with the faster and more predictable public service delivery and administrative process.

2. Enhancement of public institutions' internal anti-corruption capacities

Consistent implementation of CRA can also help identify corruption trends and areas vulnerable to corruption in public administration. This can then help increase institutional capacities to prevent corruption, and augment national anti-corruption strategies.

In particular, by providing rational and logical criteria, CRA helps to foster a common understanding of anti-corruption initiatives and anti-corruption strategies in public institutions that engage with the process. Therefore, CRA can serve as an awareness-raising tool for corruption prevention and provide an opportunity for the anti-corruption agency to demonstrate how its anti-corruption initiatives are applicable to other government institutions.

CRA also has educational values. When ACRC conducts CRA and shares recommendations with government ministries, this provides fresh perspectives to government officials as they become aware of corruption risks they were not able to identify on their own. They become more familiarized with anti-corruption concepts and, overtime, can build their own capacities in detecting corruption risks in their legal and policy framework. Through repeated CRA practices and consultations with government institutions, CRA therefore itself becomes an in-kind training instrument that informs government institutions of the aspects that need to be considered when drafting bills/laws.

By learning from CRA recommendations, ministries can better detect corruption risks within legal provisions when drafting bills in the future. In the case of Korea, government Institutions that received CRA recommendations found it to be very helpful for their work, as CRA helped them prevent potential damages and save extra efforts responding to corruption activities which could have occurred due to loopholes in their legislative proposals.

3. Saving tax-payers' money and reducing bribery

CRA helps public finance by detecting legal provisions that hold the potential of misallocation or waste of various types of government support including subsidies. Moreover, CRA helps reduce the risks of bribery and illegal lobbying in public service delivery. Furthermore, by addressing the potential causes of corruption cases, CRA can help reduce the economic and social costs of taking measures after corruption has already taken place, which are greater than preventing corruption in the first place.

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III.

CRA METHODOLOGY AND ADMINISTRATION IN KOREA

III CRA Methodology and Administration in Korea

Legal basis for CRA

1. Legal basis

As previously mentioned in the background and legal basis of CRA section, the ACRC Act and the ACRC Enforcement Decree provide clear mandate for the administration of CRA. Specific articles and provisions stated in the ACRC Act and the ACRC Enforcement Decree provide ACRC with a legitimate authority to conduct CRA on bills, laws and regulations proposed by executive bodies. Key articles that specifically state ACRC's mandates and obligations of government institutions with respect to CRA are illustrated in the box below.

Summary of key legal articles stipulating the administration of CRA in the Republic of Korea

Key articles stating ACRC's mandates

▫ The ACRC Act

- Article 12 (5): ACRC may devise and provide initiatives and institutional improvement measures to public institutions to prevent corruption
- Article 28 (1): ACRC may analyse and review corruption-causing factors within laws (i.e. acts, presidential decrees, ordinances of the prime minister and ministries), subordinate statutes (i.e. directives, rulings, public notices, or publications), municipal regulations and rules and may recommend the heads of the concerned public organizations to make corrections
- Article 28 (2): CRA procedures and methods shall be prescribed by the Presidential Decree (i.e. Article 30 of the ACRC Enforcement Decree)
- Article 29 (1): ACRC may request any public institution to submit documents (e.g. explanations, materials, papers etc.) and may conduct an on-site examination to examine the operational status of the public institution

▫ The ACRC Enforcement Decree

- Article 30 (1): ACRC may conduct CRA on laws, subordinate statutes, municipal regulations and rules to seek and remove corruption-causing factors in accordance with Article 28 of the ACRC Act
- Article 30 (2): To conduct CRA in an efficient manner, ACRC may establish guidelines for CRA (i.e. assessment subjects, criteria, methodology, and plans) and may communicate the guidelines to the head of a public organization
- Article 30 (3): When conducting CRA, ACRC may request the head of a public organization to submit necessary assessment materials, and the concerned head of the organization shall cooperate with ACRC
- Article 30 (4): When ACRC provides CRA recommendations for the head of a public organization to remove corruption risk factors, it shall provide a written notification (containing details of the recommendations and the deadline for implementing corrective actions) to the head of the concerned organization
- Article 30 (7): Local government may request ACRC to conduct CRA on municipal regulations

- Article 33 (1): When ACRC requests the public organization to submit necessary documents in accordance with Article 29 (1) of the ACRC Act, it shall submit a written request to the concerned public organization
- Article 33 (2): When ACRC conducts on-site examination in accordance with Article 29 (1) of the ACRC Act, it shall submit written notification (containing details of the purpose of the examination, date, venue, information on the investigator, etc.) to the concerned public organization in advance

Key articles stating organization and management of CRA advisory group

▫ The ACRC Act

- Article 24: ACRC may organize an advisory group and seek their advice for fulfilling ACRC's duties in accordance with Article 31 of the ACRC Enforcement Decree

▫ The ACRC Enforcement Decree

- Article 31: ACRC may organize an advisory group to conduct CRA in a fair and professional manner. Matters necessary for the organization and management of the advisory group shall be determined by the chairperson, after passing the resolution of the Board.

Key articles stating obligations of government institutions subject to CRA

▫ The ACRC Act

- Article 3 (1): Public institutions have the responsibility to make efforts to prevent the occurrence of corruption

▫ The ACRC Enforcement Decree

- Article 30 (9): The head of a public service-related organization may request ACRC to conduct CRA on their organization's internal rules and bylaws (including rules and bylaws they wish to enact or revise)

▫ Regulations on Management of Legislative Affairs

- Article 11 (6): The head of a government agency proposing a bill shall request the chairperson of ACRC to conduct CRA on the concerned bill in accordance with Article 28 of the ACRC Act and article 30 of the ACRC Enforcement Decree

2. Mandate and responsibilities of ACRC and government instructions subject to CRA

The articles and provisions mentioned above clearly state ACRC's mandate to develop CRA methodology and conduct CRA for the identification and removal of corruption-causing factors within bills, laws, and regulations.

When public organizations draft legislative proposals to enact or revise acts and subordinate statutes, they need to request ACRC to conduct CRA on their legislative proposal and submit necessary assessment materials to ACRC. ACRC utilizes CRA criteria to examine corruption risk factors within the legislative proposals and shares the CRA results and recommendations with the concerned public organizations. After receiving CRA results and recommendations, public organizations amend the legislative proposal based on ACRC's recommendations.

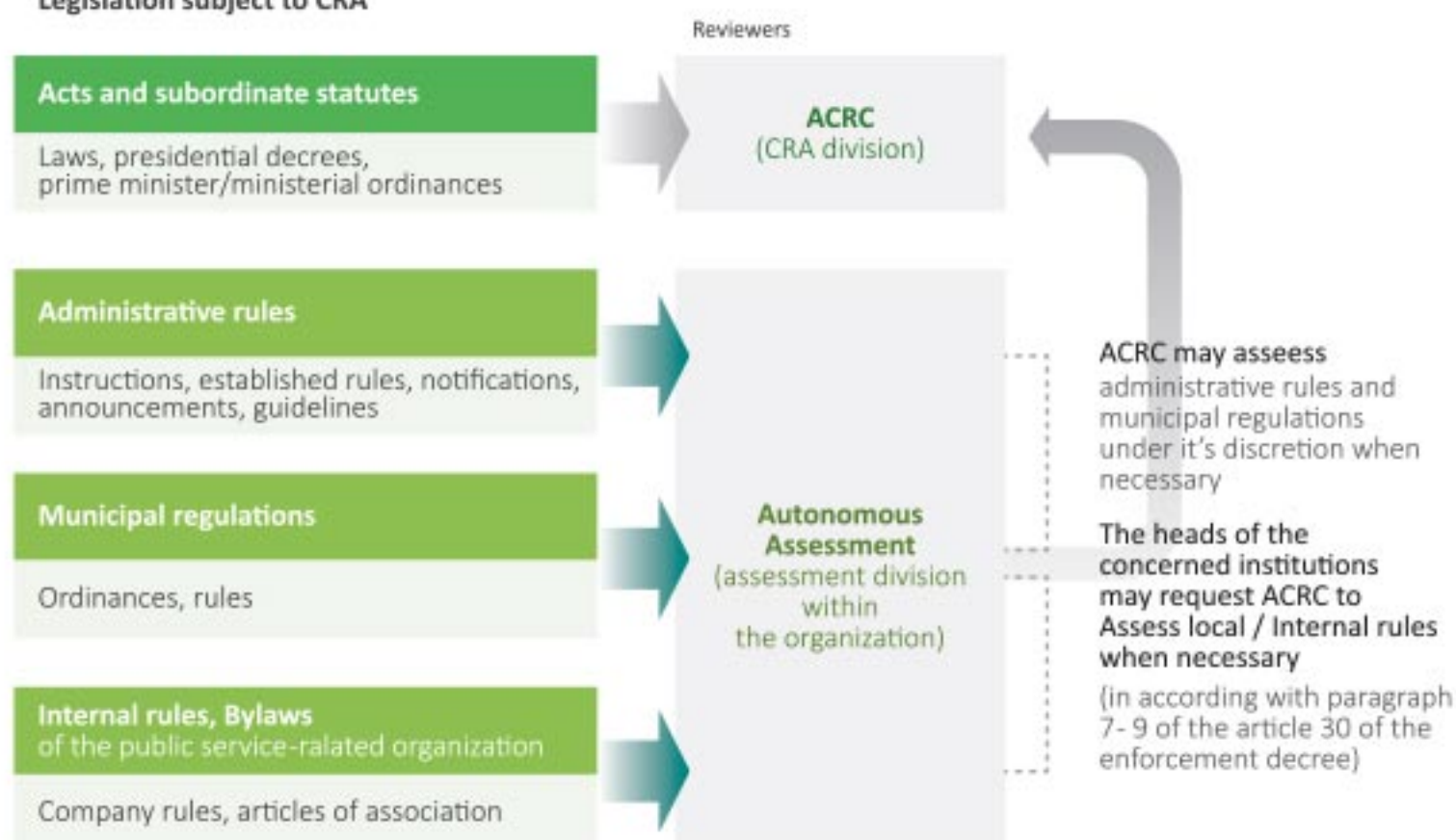
ACRC may seek assistance from an advisory group or external experts to utilize their skills and expertise when conducting CRA. Advisory group and experts give advisory opinions on corruption-causing factors inherent in laws and institutions. The expert groups also review the feasibility of the agency's compliance with the assessment results or its reasons for not implementing CRA recommendations.

Scope of CRA

CRA is conducted on acts and subordinate statutes, administrative rules, municipal regulations, and rules & bylaws of public service-related organizations. Legislation subject to CRA are illustrated in the figure below.

Legislation subject to CRA

Legislation subject to CRA



While CRA conducted on acts and subordinate statutes are managed by the CRA division of ACRC, public organizations that have the authority to enact or revise administrative rules, municipal regulations and rules and bylaws of public service-related organizations, conduct autonomous assessments. In such cases, an assessment division within the concerned organization conducts CRA on legislative proposals drafted by a drafting division. If the assessment division faces challenges in conducting voluntary CRA, the government institution may request ACRC to conduct CRA on behalf of the organization to ensure that corruption risks are properly identified and mitigated. Specific roles and responsibilities of government institutions and ACRC are further explained in the table below.

Administration of the Corruption Risk Assessment

Legislation subject to CRA		Public institutions subject to CRA	ACRC's actions
Draft/revise acts and subordinate statutes	Draft/revise bills	<ul style="list-style-type: none"> Request CRA during the consultation phase involving relevant agencies 	<ul style="list-style-type: none"> Conducts CRA before the closing date of the pre-announcement of the legislation (generally within 40 days) If necessary, also examines current provisions which may have corruption-causing factors
	Mid-/Long-term Plan	<ul style="list-style-type: none"> Submit assessment subjects for current laws 	<ul style="list-style-type: none"> Establishes mid-/long-term plan to assess current laws Selects and reviews mid-/long-term assessment subjects
Current acts and subordinate statutes	Salient issues	<ul style="list-style-type: none"> Submit relevant assessment materials when requested by ACRC 	<ul style="list-style-type: none"> Prioritizes assessments subjects to address urgent salient issues
Administrative rules	Draft/revise rules	<ul style="list-style-type: none"> Operate internal autonomous assessment systems (in principle) Request ACRC to conduct CRA when enacting or revising certain administrative rules which were previously revised under ACRC's CRA recommendation, or if autonomous improvements are unlikely 	<ul style="list-style-type: none"> Develops and distributes internal CRA manuals and provides training for public institutions Conducts CRA on requested administrative rules (generally within 40 days, similar to assessment of acts and statutes)
	Current rules	<ul style="list-style-type: none"> Submit relevant assessment materials when requested by ACRC 	<ul style="list-style-type: none"> Selects and evaluates administrative rules with corruption-causing factors When conducting CRA on acts and statutes, also reviews relevant administrative rules when necessary
Municipal regulations	Draft/revise regulations	<ul style="list-style-type: none"> Operate internal autonomous assessment systems (in principle) Request ACRC to conduct CRA if autonomous improvements are unlikely 	<ul style="list-style-type: none"> Develops and distributes internal assessment manuals and provides trainings for public institutions Evaluates municipal regulations upon request
	Current regulations	<ul style="list-style-type: none"> Submit relevant assessment materials when requested by ACRC 	<ul style="list-style-type: none"> Selects and evaluates municipal regulations with corruption-causing factors
Public service-related organization rules	Draft/revise rules, and current rules	<ul style="list-style-type: none"> Operate autonomous assessment systems (in principle) Request ACRC to conduct CRA if autonomous improvements are unlikely 	<ul style="list-style-type: none"> Develops and distributes internal CRA manuals and provides trainings for public institutions Evaluates articles of association and bylaws upon request

Under the ACRC Act, ACRC may conduct CRA on bills, laws and regulations enacted or revised by executive organizations, local governments, and public service-related organizations. While the ACRC law does not limit ACRC's mandates to only review bills proposed by the government ministries, the bills proposed by parliamentarians are not assessed by CRA in Korea's context. Rationale for the scope of ACRC's CRA is further explained in the box below.

Rationale for the Scope of ACRC's CRA

ACRC is set up under the Prime Minister's Office and is a part of the executive arm of the government. Hence it was given the mandate by the ACRC Act to conduct CRA on bills made by the executive branch. Under this institutional structure, ACRC naturally focuses on conducting CRA on bills made by the executive branch.

In addition, there might be sensitivities around conducting CRA on bills submitted by individual members of parliament (MPs) as those bills are made under specific names of MPs and as such some MPs may negatively react to amendments proposed by an anti-corruption agency unless there is a clear legal mandate given to that agency by law.

However, once the bill is passed by parliament, and becomes a law, ACRC can then conduct CRA on such law when government bodies seek to revise certain provisions.

1. Acts and subordinate statutes

Any administrative agency intending to enact or revise a specific statute must send legislative proposals and assessment materials to ACRC, and request for CRA as soon as the agency initiates consultations with relevant agencies. Acts and subordinate statutes subject to CRA include acts, presidential decrees, prime ministerial decrees, and ordinances of ministries. Draft bills and existing laws both fall under the scope of ACRC's assessment. However, the assessment methods and procedures vary depending on whether CRA is conducted on a draft bill or an existing law.

For the evaluation of draft bills, each relevant agency needs to submit draft bills with assessment materials to ACRC and request for CRA. ACRC evaluates corruption risks, which may result from the enactment or amendment of acts and subordinate statutes. ACRC also reviews relevant current provisions that are considered to have corruption-causing factors, when deemed necessary. After finishing the assessment, ACRC informs the concerned agencies of the assessment results and recommendations so that corruption risk factors within bills can be addressed.

For the assessment of current laws, ACRC may formulate and implement a mid-/long-term assessment plan. After establishing the assessment plan which targets specific laws and regulations that have corruption-causing factors, ACRC requests central administrative agencies and local governments to submit relevant assessment materials. ACRC then utilizes submitted materials to conduct CRA on the concerned laws and regulations.

For conducting CRA on current laws and regulations, ACRC can also select assessment subjects (i.e. corruption-prone areas, areas where recent corruption scandals have occurred, or areas where certain corruption problems were revealed during prior CRA) and conduct CRA on the selected subjects. This is the approach ACRC usually prefers when conducting CRA on current laws and regulations.

In both cases, after undergoing an internal resolution process, ACRC conducts CRA based on the baseline assessment materials submitted by the concerned government agencies during the given assessment period. After the assessment, ACRC shares CRA results and recommendations with the concerned organizations to ensure that necessary improvements can be made.

2. Administrative rules

In principle, public agencies that enact or revise administrative rules (which include directives, regulations, announcements, notices, and guidelines) are responsible for conducting an autonomous CRA on the relevant administrative rules. ACRC provides CRA manuals and assessment checklists to help public agencies develop self-assessment mechanisms.

ACRC may also conduct CRA on enacted or revised administrative rules when: a) the public agency is enacting or amending the administrative rule which was previously revised under ACRC's CRA recommendation; and b) the public agency is facing challenges in making autonomous improvements. In such cases, the concerned public agencies need to request ACRC to conduct CRA on behalf of their organizations, and ACRC generally completes the assessment within 40 days and notifies the CRA results and recommendations to the concerned organizations.

For the assessment of corruption risks in current administrative rules, ACRC selects specific administrative rules as the assessment subjects which have been undermined by corruption scandals. When ACRC conducts CRA on draft/current acts and subordinate statutes, it may also review relevant administrative rules to effectively identify and remove corruption risk factors when the concerned laws delegate specific mandates or administrative procedures to the subordinate administrative rules.

3. Municipal regulations

Assessment division (e.g. audit and inspection office and legal office) of the local government has the mandate to autonomously conduct CRA on their draft/current municipal regulations (which include municipal ordinances and rules).

However, ACRC can also conduct CRA on municipal regulations when: a) requested by the local government; or b) when certain municipal regulations are related to the corruption scandals and people are raising their voices to take corrective actions. In cases where conflicting opinions among relevant offices hinder the CRA process, the head of the local government may request ACRC to conduct CRA on behalf of the organization. When corruption scandals related to certain municipal regulations occur, or when specific municipal regulations are considered to have corruption-causing factors, ACRC can also directly conduct CRA on such municipal regulations.

4. Public service-related organization rules and bylaws

Similar to CRA conducted on municipal regulations, each public service-related organization also operates an autonomous assessment system adapted to its institutional contexts. Rules (which include articles of association, internal rules, and bylaws) of the public service-related organization may be subject to ACRC's assessment when requested by the head of the organization. In that case, ACRC may conduct CRA on internal rules and bylaws of public service-related organizations under article 30 (9) of the ACRC Enforcement Decree.

CRA Criteria and Assessment Checklists

CRA examines bills, laws and regulations utilizing four assessment areas (i.e. compliance, execution, administrative procedure, and corruption control). Under the four assessment areas, 11 criteria are universally applied to examine corruption risk factors in legislation. For the effective application of assessment criteria, ACRC has established a specific checklist per each criterion and utilizes it to detect corruption-causing factors within bills, laws and regulations. Detailed explanation of CRA criteria are illustrated in the table below.

Corruption Risk Assessment Criteria

Assessment area	Criteria	Explanation of criteria
Compliance	Rationality of compliance costs	▫ To determine whether compliance costs (e.g. cost or sacrifice imposed on the public, companies, or organizations to comply with the obligations stated in laws) stipulated in laws and regulations are rational
	Adequacy of disciplinary regulations	▫ To determine whether the content and level of sanctions imposed on the violation of legislation are adequate
	Risk of granting preferential treatment	▫ To determine whether a preferential treatment or benefit is generated for a specific company, organization, or person when enforcing legislation
Execution	Concreteness and objectivity of the basis of decision-making	▫ To determine whether laws related to discretionary power (e.g. laws that stipulate: who is authorized to exercise power; scope of power, standard and procedure for exercising power, etc.) are stated in a clear, definite, concrete, and objective manner ▫ To determine whether control mechanisms are in place to prevent excessive exercise of discretionary power
	Transparency & accountability of entrustment/ commissioning	▫ To determine whether entrustment/ commissioning conditions, scope and limitations, and selection procedures, etc. are clearly defined and stated in laws and regulations ▫ To determine whether management/ monitoring mechanism to secure accountability of the entrustment/commissioning is in place
	Risk of misallocation or misuse of government support	▫ To determine whether there is any redundancy in financial support ▫ To assess risks of budget waste resulting from vague standards for financial support ▫ To determine whether management/ monitoring mechanisms are in place to prevent budget waste
Administrative Procedures	Accessibility	▫ To determine whether sufficient opportunities are given to stakeholders (including the public, companies, and organizations) to participate in administrative procedures (e.g. policymaking and objection) ▫ To check whether stakeholders are well represented when their opinions are collected
	Openness	▫ To determine whether information on administrative processes (e.g. required documents, handling procedures, etc.) is sufficiently disclosed to stakeholders and the public
	Clarity in public service delivery and administrative processes	▫ To determine whether civil petitioners can easily understand administrative procedures and anticipate what kind of materials or preparation are needed to receive administrative services
Corruption Control	Risk of conflict of interest	▫ To determine whether there are standards, procedures, or post-control mechanisms to prevent conflict of interest situations (i.e. private interests impinging on the administrative process)
	Necessity of enhancing anti-corruption mechanisms	▫ To determine whether establishment of corruption control mechanisms or application of anti-corruption laws is required to prevent corruption risks resulting from the enforcement of bills, laws and regulations

Compliance

1. Rationality of compliance costs:

This criterion examines whether costs borne by individuals and businesses to comply with the obligations stated in bills, laws and regulations are rational and not excessive. When the compliance costs are excessive, corruption risk rises as this provides incentives for actors to evade or alleviate the burden through paying a bribe.

This criterion specifically examines a) legal grounds for imposing compliance costs, b) necessity of imposing compliance costs, and c) methodology for rationalizing compliance costs.

a) Legal grounds for imposing compliance costs:

ACRC evaluates whether compliance costs are imposed based on concrete legal grounds that clearly state the requirements and scope of the application. Whether the scope of imposing compliance cost is in line with superior laws is also examined.

Note

Compliance costs reviewed by ACRC include financial and non-financial compliance costs such as economic costs (e.g. cash disbursements and in-kind/service provisions), various types of legal acts and omissions, sacrifices, and opportunity costs.

b) Necessity of imposing compliance costs:

ACRC assesses whether imposing compliance costs is necessary for achieving the administrative objectives of bills, laws and regulations by reviewing the background and rationale for imposing such costs.

c) Methodology for rationalizing compliance costs:

ACRC reviews whether the scope of the compliance costs is unnecessarily expanded to an unspecified number of the public when the corruption risk factors are limited to certain areas (i.e. imposing costs and sacrifices on the general public, when it should be applied to a specific individual or group). ACRC also examines whether the compliance costs are excessively imposed on the public for the sake of administrative opportunism, or whether there is a risk of an extra cost burden restricting people's lives. Possibilities of adopting alternative measures to substitute/mitigate the compliance costs are also reviewed.

Checklist for evaluating the "adequacy of disciplinary regulations" criterion

1. Is the legal ground for imposing compliance costs clearly stated in bills, laws and regulations? And are the scope and types of such costs in line with the provisions stipulated in the superior laws?
2. Is the imposition of compliance costs necessary for achieving administrative objectives?
3. Are compliance costs (scope and level) imposed at the minimum level for achieving administrative objectives?
4. Are there compliance costs unnecessarily imposed (e.g. imposing burdens on numerous groups when it should be limited to certain groups of people only)?
5. Are there risks of imposing excessive compliance costs?
6. When the compliance costs are considered excessive, are there alternative measures to mitigate and/or substitute excessive compliance costs stipulated in bills, laws and regulations?

CRA case example related to the "rationality of compliance costs" criterion

"Act on the Control of Military Uniforms and Accouterments"		
Relevant article	Potential corruption risks	CRA recommendation
<p>Article 5 (Revocation of Permission, etc.)</p> <p>The Minister of National Defense may revoke the permission for the manufacturing or distribution business, or suspend its business for up to 6 months.</p> <p>Provided, if it falls under subparagraph 1, 2, or 5, the permission shall be revoked: 4. Where the business entity fails to maintain the facility it installed at the time when the entity obtained the permission.</p>	<p>▫ The business entity needs to be equipped with facilities specified by Presidential Decree to receive permission for manufacturing and distributing military uniforms and accouterments.</p> <p>▫ According to subparagraph 4, the business entity needs to maintain the exact facility as when it had obtained the permission. This may impose excessive burdens on the entities as they need to keep their outdated facilities to comply with the act even when the facilities can be upgraded by adopting new technologies.</p>	<p>Article 5 (Revocation of Permission, etc.)</p> <p>① (Same as before)</p> <p>4. Where the business entity fails to satisfactorily maintain the facility standards required for such permission.</p>

2. Adequacy of disciplinary regulations:

This criterion examines whether sanctions imposed for violation of laws and regulations are excessive or weak. Inappropriate levels of sanctions may raise corruption risks. Overly strict sanctions may encourage actors to avoid sanctions by paying a bribe, while lenient sanctions may reduce the incentives to comply with bills, laws and regulations.

This criterion examines a) regulations on sanctions, b) necessity of imposing sanctions, c) similar sanctions stipulated in other laws, d) adequacy of level of sanctions, and e) measures to rationalize sanctions.

a) Regulations on sanctions:

ACRC evaluates legislation (e.g. enacted/revised provisions or legislation as a whole) related to imposing sanctions.

Necessity of imposing sanctions:

ACRC evaluates which problems the sanctions aim to address, the root cause of the problems, and the administrative objectives of imposing sanctions. ACRC also evaluates the scale of social costs and magnitude of the violation of laws and regulations, and reviews whether such social costs can be addressed through alternative measures (e.g. civil case and principle of private autonomy).

Similar sanctions stipulated in other laws:

ACRC compares sanctions stipulated in the concerned legislation with the sanctions imposed by other laws and regulations on similar cases to examine whether the level of sanctions is adequate. If regulations on sanctions prove to be more strict or lenient than similar regulations stated in other laws and regulations, ACRC reviews whether there are justifiable reasons for such differences.

Adequacy of level of sanctions:

ACRC reviews the specific status of a violation (type, gravity, number of violations, and its scale) and sanctions (type and level of sanctions) to assess the adequacy (whether the sanction is strict or lenient) of level of sanctions.

e) Measures to rationalize sanctions:

If the level of sanctions is considered inadequate, ACRC identifies the adequate level of sanctions. ACRC also examines whether it is possible to introduce more effective measures to control illicit activities such as corruption, without imposing sanctions.

Checklist for evaluating the “adequacy of disciplinary regulations” criterion

1. Are sanctions stipulated in bills, laws and regulations necessary when similar sanctions are already stipulated in laws and regulations, or when considering the social impact of the violation of laws and regulations?
2. Are sanctions in place even though sufficient alternative measures (e.g. civil case and principle of private autonomy) can be utilized to address violations of regulations?
3. Are there justifiable reasons for imposing strict/lenient sanctions when considering the level of social damage resulting from the violation of laws and regulations?
4. Considering the gravity of the problem resulting from the violation of laws and regulations, is the level of sanction adequate to prevent legal infringement?
5. If the levels of sanctions are lenient, are there possibilities of undermining prevention of corruption?
6. If the levels of sanctions are considered inadequate, what is the appropriate level of sanctions?
7. Are there more effective measures to control corruption other than imposing sanctions?

CRA case example related to the “adequacy of disciplinary regulations” criterion

“Enforcement Regulation on Social and Economic Development and Support of Gyeongsangbuk-do”

Relevant article

Article 6 (Revocation of Preparatory Social Enterprise designation)

- ① The Governor may revoke the nomination of preparatory social enterprises if it falls under any of the following subparagraphs:
1. Candidates were nominated based on false information or by unlawful means;
 2. Candidates can no longer satisfy necessary conditions;

Note

A preparatory social enterprise is a business entity which provides social services and jobs to vulnerable social groups while preparing to transition itself into a social enterprise.

Potential corruption risks

- Being nominated based on false information or by unlawful means is a serious violation of law, hence designation needs to be cancelled in such cases without exception.
- Nomination needs to be revoked if preparatory social enterprises do not fulfill the minimum requirement.
- Allowing the governor to decide the revocation of the nomination of preparatory social enterprises may encourage entities to pay the governor bribes to evade sanctions.

CRA recommendation

Article 6 (Revocation of Preparatory Social Enterprise designation)

- ① The Governor shall revoke the nomination of preparatory social enterprises if it falls under any of the following subparagraphs:
1. Candidates were nominated based on false information or by unlawful means;
 2. Candidates can no longer satisfy necessary conditions;

3. Rationality of compliance costs:

This criterion examines the risk of bills, laws and regulations granting benefits or advantages to certain individuals or groups of people. Corruption risks may arise when there are no clear legal provisions for regulating preferential treatment since this may encourage actors to pay bribes to acquire, maintain or extend the benefits or advantages. Bills, laws and regulations that are vulnerable to preferential treatment include provisions stipulating award of contracts, permits, licenses, subsidies, fee exemptions, and selection of the evaluation panel.

The criterion examines the a) provisions granting benefits or favors, b) risk of granting benefits or preferential treatments for specific groups, c) adequate level of preferential treatment, and d) existence of anti-corruption mechanisms to control preferential treatment.

a) Provisions granting benefits or favors:

ACRC reviews requirements, procedures, recipients, and objectives of benefits or favors stipulated in the concerned provisions. Legislation and administrative dispositions which provide or may provide direct or indirect benefits are also assessed. ACRC also reviews subordinate legislation if the concerned laws and regulations designate specific benefits or preferential treatments to the subordinate statutes.

b) Risk of granting benefits or preferential treatments for specific groups:

ACRC compares recipients of benefits or preferential treatments stipulated in the concerned legislation with those of similar laws to review whether the concerned bill, laws and regulations are granting benefits that are limited to specific persons, businesses, or organizations.

c) Adequate level of preferential treatment:

ACRC compares the scale of benefits or advantages stipulated in the legislation with those of similar laws to review whether the assessed bills, laws, and regulations are providing excessive benefits.

d) Existence of anti-corruption mechanisms to control preferential treatment:

ACRC reviews whether an anti-corruption mechanism is in place to control preferential treatment that have corruption-causing factors.

Checklist for evaluating the "risk of granting preferential treatment" criterion

1. Is there any risk of granting benefits or favors (including legal and practical benefits) to a certain person when enforcing the law or administrative action?
2. Do the provisions granting benefits or favors clearly and fairly define recipients, procedures for granting preferential treatment, and the objectives of granting such benefits or favors?
3. Do benefits or favors stipulated in the provisions only apply to certain groups of people?
4. Is the scope and level of benefits or favors stipulated in bills, laws and regulations excessive?
5. Is it necessary to establish a specific mechanism to control preferential treatments or benefits which may trigger corruption?

CRA case example related to the "risk of granting preferential treatment" criterion

"Enforcement Regulation on Social and Economic Development and Support of Gyeongsangbuk-do"

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 12 (Reporting Coastal Sea Experience Activities)</p> <p>① Operators of coastal sea experience activities shall draft safety management plans and report the plans to the Chief of a Coast Guard Station. This shall not apply if it falls under any of the following subparagraphs:</p> <p>2. Where a religious group operates coastal sea experience activities;</p>	<p>• Excluding religious groups to draft and report safety management plans may provide benefits to religious groups and undermine public safety.</p>	

Execution**4. Concreteness and objectivity of the basis of decision-making:**

This criterion examines whether provisions in bills, laws and regulations clearly stipulate the scope of discretionary power and how it is exercised. Laws and regulations may allow government officials to exercise discretionary powers, as the functions of public administration have become diversified and complex, which may require flexibility in decision-making. However, this carries corruption risks as government officials may arbitrarily interpret provisions on discretionary powers and abuse their powers to benefit those who have paid bribes.

The criterion examines the a) clarity of the person exercising discretionary powers, b) concreteness of the discretionary power requirements and how it is exercised, c) adequacy of the range of discretionary powers, d) clarity of discretionary regulations, and e) existence of a control mechanism to prevent excessive exercise of discretionary powers.

a) Clarity of the person exercising discretionary powers:

ACRC reviews whether government officials or institutions authorized to exercise discretionary powers are clearly stipulated in the bills, laws and regulations.

b) Concreteness of the discretionary power requirements and how it is exercised:

ACRC reviews whether requirements, standards, and processes for exercising discretionary powers are clearly stated in the bills, laws and regulations. ACRC also reviews whether major discretion criteria and discretion processes which need to be stipulated in acts and subordinate statutes are stipulated in subordinate administrative rules (e.g. directives, established rules, notifications, guidelines, etc.).

c) Adequacy of the range of discretionary powers:

ACRC compares the discretionary power activities and its impacts stipulated in the legislation with those of similar laws and regulations to examine whether the scope of the discretionary power is excessive.

d) Clarity of discretionary regulations:

ACRC reviews the possibilities of corruption risks resulting from the abuse or arbitrary interpretation of discretionary provisions. If the assessment results show that discretionary provisions were unclearly stipulated in the bills, laws and regulations, ACRC reviews whether a protector of basic rights can predict the details of discretionary powers, and whether a safety mechanism is in place to prevent public institutions' arbitrary exercise of discretionary powers.

e) Existence of a control mechanism to prevent excessive exercise of discretionary powers:

ACRC reviews whether stakeholder participation mechanisms (e.g. prior notification process, public hearing process, etc.) are established to control discretionary powers. ACRC also reviews the operation of a public information disclosure system to provide discretionary power related-information (e.g. meeting notes, official documents, etc.) to the public.

Checklist for evaluating the "concreteness and objectivity of the basis of decision-making" criterion

1. Do provisions stipulate who exercises discretionary powers?
2. Do provisions clearly stipulate requirements, judgement standards, and procedures for exercising discretionary powers?
3. Are major discretion standards and procedures for exercising discretionary powers stated in administrative rules (e.g. directives, established rules, notifications, guidelines) when they should be stipulated in superior laws?
4. Is there a common understanding of discretion standards among groups subject to regulation, and stakeholders? Is this common understanding and interpretation of the standards identical to the administrative official's interpretation of discretionary powers?
5. Can specific discretion standards or factors for considerations stipulated in the provisions be directly applied without utilizing additional explanation or guidelines?
6. When the legislation designates discretion standards and factors for considerations of presidential decree, ordinance of the prime minister, and ordinance of ministries, are provisions on the discretion standards and factors for consideration applied specifically and individually?
7. Is the range of discretionary power excessive?
8. Do subordinate laws and administrative rules allow new discretionary powers for government officials when the legal basis for exercising such discretionary powers is not stipulated in the superior laws?
9. Are there risks of government officials abusing or arbitrarily exercising discretionary power resulting from unclear discretionary provisions?
10. Are there control mechanisms in place to mitigate negative impacts of unclear discretionary regulations?

CRA case example related to the “concreteness and objectivity of the basis of decision-making” criterion

“Enforcement Decree of the Medical Service Technologists, etc. Act”

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 12 (Re-Issuance of Licenses)</p> <p>② The Ministry of Health and Welfare may not re-issue a cancelled license if it is considered unjust to do so, by reviewing signs of remorse shown by a license holder, as well as details and motives that caused the cancellation.</p>	<p>• License can be re-issued if the reason for cancellation is resolved. However, in the case of a grave violation of law, a license must not be re-issued.</p> <p>• “Remorse” is an abstract condition, and public officials may arbitrarily interpret the sign of remorse and re-issue a license when it needs to be cancelled.</p>	<p>Article 12 (Re-Issuance of Licenses)</p> <p>② The Minister of Health and Welfare may not re-issue a cancelled license if it falls under any of the following subparagraphs:</p> <ol style="list-style-type: none"> 1. Licenses were cancelled more than once; 2. Licenses were suspended more than 0 times.

5. Transparency and accountability of entrustment or commissioning:

This criterion examines whether bills, laws and regulations clearly stipulate the procedures of entrustment or commissioning that takes place when government institutions entrust their powers or functions to private sector partners or to other government agencies. Ambiguous and unclear provisions on the scope, requirements, procedures, and monitoring of entrustment or commissioning may give rise to corruption risks as government officials may arbitrarily entrust their work to agencies with which they have close personal ties.

The criterion examines the a) requirements and legal basis for entrustment/commissioning, b) procedural transparency of entrustment/commissioning, c) adequacy of management and monitoring of entrustment/commissioning, and d) penalty mechanisms to address illicit activities of provider/trustee institutions

a) Requirements and legal basis for entrustment/commissioning:

ACRC reviews whether requirements and legal basis for entrustment/commissioning are clearly stipulated in bills, laws and regulations. Whether subject and scope of entrustment/commissioning do not relax requirements stated in superior laws is also examined.

b) Procedural transparency of entrustment/commissioning:

ACRC reviews whether the selection process for entrustment/commissioning is specifically stipulated in bills, laws and regulations. Risks of certain agencies monopolizing entrustment/commissioning are also examined.

c) Adequacy of management and monitoring of entrustment/commissioning:

ACRC reviews whether evaluations of provider/trustee institutions are conducted to achieve the objective of entrustment/commissioning. ACRC also examines whether regulations stipulate: submission of necessary materials for the management of entrustment/commissioning; regular maintenance; and obligation to report.

d) Penalty mechanisms to address illicit activities of provider/trustee institutions:

ACRC reviews whether mechanisms are in place to penalize (e.g. suspension of services and revoking designations, etc.) illicit activities of provider/trustee institutions.

Checklist for evaluating the “transparency and accountability of entrustment/commissioning” criterion

1. Is there a clear legal ground for entrustment / commissioning, and is the scope of entrustment / commissioning in line with the superior law?
2. Is there any risk of allowing illegal entrustment / commissioning by relaxing entrustment / commissioning requirements stipulated in the superior law?
3. Is there any risk of undermining public interest and fairness of administrative actions resulting from entrustment / commissioning?
4. Do provisions clearly and fairly stipulate selection criteria, eligibility of the trustee institutions, and procedures for entrustment / commissioning?
5. Are the entrusted agencies selected through an open bidding process? If there are restrictions on bidding participation, are restrictions reasonable?
6. Does the institution disclose information on selection criteria processes of entrustment/commissioning?
7. If entrusted agencies are selected or revoked through a process not stipulated in legal provisions on entrustment / commissioning (e.g. by designation), are there provisions to disclose the results?
8. Are the entrustment/commissioning period and number of extension of contracts clearly stipulated in the legislation?
9. Are there corruption risks resulting from continuous / perfunctory / monopolization of entrustment / commissioning?
10. To achieve the objective of entrustment / commissioning, are there provisions that stipulate the establishment of adequate management / monitoring mechanisms (e.g. mandatory submission of reports, regular monitoring conducted by supervisory agency, etc.) to inspect trustee institutions?
11. Are there provisions that require a consultation / approval process with the trustee institutions when entrusted / commissioned institutions decide the fees?
12. Are there sanctions for penalizing illegal behaviours of the trustee organization (e.g. cancellation or suspension of entrustment / commissioning, etc.) and responsive measures to address such events?
13. If securing accountability is required, are there provisions that recognize staff members of the entrusted institutions as public officials when penalizing their illicit actions?
14. When entrusted organizations violate laws and regulations, are there provisions to retrieve subsidies provided to the entrusted organization?

CRA case example related to the “transparency and accountability of entrustment/commissioning” criterion

“Act on Water Management and Resident Support in the Four Major Rivers Basin”		
Relevant article	Potential corruption risks	CRA recommendation
<p>Article 11 (Waterfront Eco Management and Support Center)</p> <p>① The nation may establish or designate a research institute/organization or private corporations to serve as a Waterfront Eco Management and Support Center (hereinafter referred to as “Support Center”).</p> <p>③ The heads of relevant administrative organizations may channel funds or provide other necessary support to the Support Center.</p>	<p>• The legislation designates research institutes/organizations to operate programmes on behalf of the nation. However, there is no provision stipulating how their programmes will be investigated or supervised.</p> <p>• The legislation also allows government agencies to provide financial support to the entrusted research institutions, but it does not stipulate how sanctions will be imposed to penalize illicit activities of the entrusted organizations.</p>	<p>Article 11 (Waterfront Eco Management and Support Center)</p> <p>① - ③ (Same as before)</p> <p>④ In accordance with Article 3 of the act, the heads of relevant administrative organizations may receive reports, or conduct investigation and supervision on the work of the Support Center prescribed by presidential decrees.</p> <p>Add provision</p> <p>Article 00 (Appointment and Cancellation of the Support Center)</p> <p>① The heads of relevant administrative organizations may cancel the appointment of the Support Center or suspend its work for up to six months if it falls under any of the following subparagraphs;</p> <p>1. - 4. <Omitted></p>

6. Risk of misallocation or misuse of government support:

This criterion examines whether financial support stipulated in bills, laws and regulations overlaps with other government assistance provided by different laws (e.g. national subsidies), or whether there is a risk of wasting government budget due to a misallocation or misuse of government support. The criterion also examines whether a monitoring mechanism is in place to prevent budget waste.

This criterion examines the a) legal basis for providing financial support, b) fairness and transparency of the financial support process, c) post management mechanism of financial support, and d) mechanisms to secure accountability in providing financial support.

a) Legal basis for providing financial support:

ACRC reviews whether the government support stipulated in the concerned provisions are in line with the general law (i.e. subsidy management act, state property act, and act on regulation of special cases of state property). ACRC also examines whether the rationale, objectives, requirements and procedures for providing financial support are specifically described. Comparative analysis (i.e. comparing the concerned bills, laws and regulations with laws that provide similar financial support) is conducted to assess the risks of budget waste resulting from imprudent financial assistance.

b) Fairness and transparency of the financial support process:

ACRC reviews whether provisions clearly stipulate the decision-making body, selection methodology, documents to be submitted, range of applicants, and application processes. ACRC also reviews whether selection criteria and selection process are disclosed to the public to secure fairness and transparency of the decision-making process when providing the financial support.

c) Post-management mechanism of financial support:

ACRC reviews whether reporting duties and submission of performance reports are in place to evaluate the effectiveness of the financial support programme. ACRC also examines whether a performance evaluation process is established to achieve the objectives of financial support.

d) Mechanisms to secure accountability in providing financial support:

ACRC reviews whether there is legal basis for cancelling illegal financial support. Whether an adequate control mechanism is in place to retrieve illegal financial support is also examined.

Checklist for evaluating the “transparency and accountability of entrustment/commissioning” criterion

1. Do provisions clearly stipulate the legal basis and requirements for providing financial support?
2. Do financial support methods (e.g. contract method) correspond with their characteristics?
3. Is the financial support necessary, when similar financial assistance is already stipulated in other laws and regulations?
4. Is the level of government support adequate?
5. Are there provisions for collecting opinions of stakeholders and experts when setting selection criteria of recipients? Are they disclosed to the public?
6. Are there specific provisions which stipulate the application and selection process, as well as the selection criteria? Are they disclosed to the public?
7. Are there evaluation mechanisms to select recipients fit for the financial support? Are there mechanisms to secure fairness of the evaluation?
8. Are there provisions which stipulate measures (e.g. preservation of spending-related evidence materials, mandatory submission of post-programme reports) to check whether financial support is appropriately utilized?
9. Are there control mechanisms to prevent illegal acquisition of financial support?
10. Are there control mechanisms to prevent illegal spending of financial support?
11. Are there punishment mechanisms to retrieve financial support when it is spent illegally?

CRA case example related to the "risk of misallocation or misuse of government support" criterion

"Act on Water Management and Resident Support in the Four Major Rivers Basin"		
Relevant article	Potential corruption risks	CRA recommendation
<p>Article 49 (Support, etc. for Technology Development by Occupant Enterprises)</p> <p>① The state or local governments may subsidize occupant enterprises in free trade zones to encourage technology development activities and training of human resources.</p> <p>② The state or local governments shall endeavour to maintain and repair factories rented to occupant enterprises, expand the various infrastructures (e.g. medical facilities, educational facilities, housing, etc.) and may provide subsidies to support the businesses of occupant enterprises in free trade zones</p>	<p>▫ The state or local governments may provide financial subsidies to private enterprises in free trade zones.</p> <p>▫ However, current legislation does not have provisions stipulating specific standards for managing subsidies (e.g. how it is allocated, utilized and managed).</p> <p>▫ Government officials may arbitrarily decide the recipients and scale of subsidies which may result in inadequate management of budgets and waste of government budgets.</p>	<p>Article 49 (Support, etc. for Technology Development by Occupant Enterprises)</p> <p>① - ② (Same as before)</p> <p>Add provision</p> <p>③ In accordance with paragraph 1 of the Act, Matters necessary for providing subsidies (e.g. selection standards, how subsidies shall be utilized or managed, etc.) shall be prescribed by presidential decrees.</p>

Administrative Procedures

7. Accessibility:

This criterion examines whether stakeholders (including individuals, businesses, and organizations) are given sufficient opportunities to participate in the policymaking process (e.g. public hearings, policy proposals, submission of opinions, and other participatory processes, etc.) and express their opinions. It also examines whether all relevant stakeholders are represented in the administrative process. Involving relevant stakeholders and experts can enhance transparency and accountability of the administrative process and may prevent policymakers from violating administrative procedures or conducting illicit activities which, in turn, reduces corruption risks.

This criterion examines the a) provisions stipulating civic participation, b) sufficiency and effectiveness of civic participations, and c) necessity of establishing civic participation mechanisms.

a) Provisions stipulating civic participation:

ACRC reviews whether civic participation mechanisms are incorporated in the administrative procedures. The contents, period, and methods of civic participation stated in the provisions are also examined.

b) Sufficiency and effectiveness of civic participation:

ACRC reviews whether civic participation is accessible and convenient, and whether sufficient opportunities are provided to the public to participate in administrative processes. ACRC also assesses the effectiveness of civic participation by examining whether participation opportunity is limited to certain stakeholders.

c) **Necessity of establishing civic participation mechanisms:**

When civic participation mechanisms are not in place, ACRC reviews whether justifiable reasons exist for the absence of civic participation mechanisms.

Checklist for evaluating the “accessibility” criterion

1. Is there a mechanism to allow citizens to participate in the handling procedure?
2. If a participatory mechanism is in place, is the mechanism accessible and convenient to the public?
3. If a participatory mechanism is in place, does it provide sufficient participation opportunities?
4. Is the civic participation limited to specific groups? If so, is it necessary to expand the participation?
5. Are there justifiable reasons for not operating a civic participation system or when it is deemed unnecessary?
6. Is it necessary to implement a civic participation system in the near future to enhance the transparency of administrative procedures?

CRA case example related to the “accessibility” criterion**“Enforcement Ordinance on the Special Act on the Establishment and Operation of Rapid Bus System”**

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 7 (Approval of Plans)</p> <p>② The person who holds approval authority in accordance with Article 7.2 of the Special Act shall publish the following information in local daily newspapers, or on their websites, at least once so that people can browse them for at least 14 days:</p> <ol style="list-style-type: none"> 1. The location of the construction site 2. Major bus stops 	<p>• The article only stipulates how to disclose relevant information to the public without providing specific methods for collecting and incorporating opinions of citizens.</p>	<p>Article 7 (Approval of Plans)</p> <p>② (Same as before)</p> <p>Add provision</p> <p>③ Those who have opinions about the information pursuant to Paragraph 2 of the Act may submit opinion reports to the person holding the approval authority within the announcement period.</p> <p>④ The person who holds the approval authority shall review submitted opinions pursuant to Paragraph 3 of the Act shall notify the person who submitted opinions of the results within 00 days after closing the announcement period.</p>

8. Openness:

This criterion examines whether government institutions are disclosing sufficient administrative process related information to the public and stakeholders. This includes sharing information when requested by citizens as well as public agencies actively informing the public. Information disclosure enhances the transparency and accountability of the process, curbing corruption.

This criterion examines the a) provisions related to information disclosure, b) effectiveness of the information disclosure, and c) necessity of establishing information disclosure mechanisms.

a) Provisions stipulating civic participation:

ACRC reviews whether civic participation mechanisms are incorporated in the administrative procedures. The contents, period, and methods of civic participation stated in the provisions are also examined.

b) Effectiveness of the information disclosure:

ACRC reviews whether actual stakeholders can access disclosed information, and whether the information is only disclosed to certain stakeholders.

c) Necessity of establishing information disclosure mechanisms:

When information disclosure mechanisms are not in place, ACRC reviews whether justifiable reasons exist for the absence of information disclosure mechanisms.

Checklist for evaluating the "accessibility" criterion

1. Is there an information disclosure mechanism which discloses administrative handling process related information to the public?
2. If an information disclosure mechanism is in place, can stakeholders or civil petitioners access information?
3. Is the scope of information disclosure limited to certain stakeholder groups? If so, is it necessary to expand the scope of information disclosure?
4. Are there justifiable reasons for not establishing an information disclosure system or when it is deemed unnecessary?
5. Is it necessary to implement an information disclosure system in the near future to enhance the transparency of administrative procedures?

CRA case example related to the "openness" criterion

"Enforcement Decree of the Act on the Promotion of Science and technology for Land, Infrastructure and Transportation"

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 4 (Formulation and Modification of Implementation Plans, etc.)</p> <p>③ Where the Minister of Land, Infrastructure, and Transportation has formulated or modified an implementation plan, he/she shall disclose the matter and may open a project briefing meeting, if necessary, to publicize the relevant project.</p>	<ul style="list-style-type: none"> ▫ The Minister of Land, Infrastructure, and Transportation shall establish and implement a comprehensive plan to foster science and technology for land, infrastructure, and transportation every year. ▫ However, legislation does not specify how to disclose implementation plans. ▫ Government officials in charge of disclosing an implementation plan may disclose the plans under his / her discretion (only to the certain businesses, etc.) or may not disclose the information at all. This increases corruption risks as government officials may provide preferential treatment to certain groups of people when selecting R&D businesses. 	<p>Article 4 (Formulation and Modification of Implementation Plans, etc.)</p> <p>③ Where the Minister of Land, Infrastructure, and Transportation has formulated or modified an implementation plan, he/she shall disclose the plan on the official ministry website. In addition, if necessary, he/she may hold a meeting on the project to publicize the relevant project information.</p>

9. Clarity in public service delivery and administrative process:

This criterion examines whether people can clearly understand and anticipate how the government will provide public services and handle administrative procedures. If bills, laws and regulations do not clearly stipulate administrative procedures (e.g. required documents, handling periods, etc.), it is difficult for the public to file complaints or receive public services. This may also undermine the objectivity and transparency of administrative procedures and encourage corrupt activities, as the public may pay bribes to government officials to obtain information or receive public services.

This criterion examines the a) provisions stipulating administrative processes, b) understandability of administrative process-related provisions, c) predictability, and d) necessity of establishing institutional mechanisms to enhance clarity.

a) Provisions stipulating administrative processes:

ACRC reviews provisions of the concerned bills, laws and regulations as well as provisions of relevant legislation (including subordinate acts, administrative rules) to examine whether legislation stipulate the required documents, administrative process and periods for handling civil petitions.

b) Sufficiency and effectiveness of civic participation:

ACRC reviews whether civic participation is accessible and convenient, and whether sufficient opportunities are provided to the public to participate in administrative processes. ACRC also assesses the effectiveness of civic participation by examining whether participation opportunity is limited to certain stakeholders.

c) Predictability:

ACRC reviews whether specific provisions are in place to help citizens understand and anticipate the administrative process.

d) Necessity of establishing institutional mechanisms to enhance clarity:

ACRC reviews whether measures need to be implemented to prevent adverse impacts resulting from low clarity of the administrative process.

Checklist for evaluating the "clarity in public service delivery and administrative process" criterion

1. Do provisions stipulate what needs to be prepared for filing civil petitions, and how they will be handled (e.g. administrative processes, handling period, etc.)?
2. Can the public easily understand the language utilized in provisions stipulating the administrative processes?
3. Are there justifiable reasons for utilizing difficult or technical terms which may undermine the predictability and understandability for the public?
4. Do provisions clearly stipulate post-measures that can be utilized when the requirements, processes, and period required for filing civil petition are not met?
5. When operating a preliminary authorization system (e.g. conditional approval or preliminary approval), are there provisions stipulating the possibility of granting preliminary authorization, application requirements, application process and period?
6. When consultation/approval processes are in place, are there provisions stipulating the relevant public institutions, consultation / approval standards and handling period?
7. Do civil petitioners need additional explanation or assistance from government officials to understand the administrative process and its standards?
8. Are there justifiable reasons for the low predictability of the administrative process?
9. Is it necessary to implement improvement measures to prevent any side-effects of the administrative process resulting from low predictability?

CRA case example related to the "clarity in public service delivery and administrative process" criterion

"Framework Act on Qualifications"		
Relevant article	Potential corruption risks	CRA recommendation
<p>Article 23 (Attainment of Accredited Qualification, etc.)</p> <p>(2) An accredited qualification manager shall issue a certificate certifying the acquisition of an accredited qualification to a person satisfying certain qualification requirements, among those who have passed qualification examinations or completed education and training courses pursuant to paragraph (1).</p>	<p>▫ The requirements for attaining an accredited qualification ("certain qualification requirements") are not clearly defined, and it is difficult for the public to understand which specific qualifications are required for receiving the certificate.</p>	<p>Article 23 (Attainment of Accredited Qualification, etc.)</p> <p>(2) An accredited qualification manager shall issue an accredited certificate to a person satisfying specific qualification requirements as prescribed by presidential decree, among those who have passed qualification examinations or completed education and training courses pursuant to paragraph (1).</p>

Corruption Control

10. Risk of conflict of interest:

This criterion examines whether bills, laws and regulations provide measures to prevent conflict of interest. "Conflict of interest" refers to a situation where government officials' private interests may undermine fair performance of their official duties. Without establishing a preventive mechanism to address conflict of interest, corruption risks may arise as public officials may put personal gains before public interest.

This criterion examines the a) risk of facing conflict of interest, b) existence of conflict of interest prevention mechanisms, c) adequacy of conflict of interest prevention mechanisms, and d) methods to enhance the normative power of the conflict of interest prevention mechanisms.

a) Risk of facing conflict of interest:

ACRC reviews any risks of a committee or individual in a decision-making body undermining the legitimacy of the decision-making process when amending provisions stipulating peoples' rights/obligations, or when reviewing and making deliberations on provisions closely connected to the lives of the public.

b) Existence of conflict of interest prevention mechanisms:

ACRC reviews whether mechanisms for preventing conflict of interest situations are established. In the case of Korea, four types of preventive measures are implemented which are: Automatic exclusion; Request/Petition for exclusion; Recusal (voluntary abstention); and Dismissal.

- **Automatic exclusion:**

If the issue concerned is related to the private interest of an individual in the decision-making body, that individual may be automatically excluded based on a decision by the committee of the relevant decision-making body.

- **Request / Petition for exclusion:**

Stakeholders (e.g. citizens whose interests may be affected by the decision) can request for exclusion of certain individuals in the decision-making bodies who have the potential of compromising fairness, trustworthiness, and neutrality of the decision-making bodies' decisions.

- **Recusal (voluntary abstention):**

Individuals in the decision-making body who have the potential of compromising fairness, trustworthiness, and neutrality over a particular issue may voluntarily abstain from decision making over the issue.

- **Dismissal:**

The head of decision-making bodies can dismiss members of the entity who fail to abstain from the decision-making process when facing conflict of interest, or who have committed corruption, such as receiving bribes.

c) Adequacy of conflict of interest prevention mechanisms:

ACRC reviews whether provisions stipulate adequate mechanisms (e.g. automatic exclusion, request/petition for exclusion, recusal (voluntary abstention), and dismissal, prohibiting concurrent employment of government officials and profit-making, etc.) to prevent a conflict of interest situation.

d) Methods to enhance the normative power of the conflict of interest prevention mechanisms:

ACRC reviews whether regulations for dismissal and penalizing illegal activities are in place.

Checklist for evaluating the "risk of conflict of interest" criterion

1. Is there a risk of conflict of interest (i.e. private interest undermining the performance of public duties)?
2. Do provisions clearly stipulate qualifications for the appointment of committee members?
3. Is there a mechanism (e.g. limiting tenure or consecutive terms, etc.) in place to prevent establishment of personal connections resulting from long-term tenure of public officials?
4. Is there a provision which stipulates automatic exclusion mechanism?
5. Is there a provision which stipulates request/petition for exclusion mechanism?
6. Is there a provision which stipulates recusal (voluntary abstention) mechanism?
7. Are there provisions which stipulate prohibition of concurrent employment or profit-making to prevent an unfair administrative process resulting from the conflict of interest situation?
8. Are there regulations that stipulate dismissal to penalize an individual who undermines the fairness of reviews by not exercising recusal (voluntary abstention), or by receiving money and valuables?

9. Is there a provision which stipulates that sanctions (e.g. anti-bribery provisions) imposed on illicit actions of committee members from the private sector shall be equivalent to the penalties imposed on government officials?
10. Is there a provision which requires committees to draft meeting notes and preserve those documents for a certain period?

CRA case example related to the "risk of conflict of interest" criterion

"Framework Act on Qualifications"		
Relevant article	Potential corruption risks	CRA recommendation
<p>Article 1.2 (Composition of the Licensed Real Estate Agent Policy Deliberation Committee)</p> <p>① The Licensed Real Estate Agent Policy Deliberation Committee (hereinafter referred to as the "Deliberation Committee") shall be comprised of seven to eleven members.</p> <p>② Members shall be appointed or commissioned by the Minister of Land, Infrastructure, and Transport from among the following persons:</p>	<p>▫ Current provisions do not stipulate mechanisms (e.g. automatic exclusion, request for exclusion, and Recusal (voluntary abstention) to prevent conflict of interest.</p> <p>▫ Current provision lacks post-control mechanisms (e.g. dismissal of committee members) to penalize committee members who impaired fairness of decision-making process by not abstaining from the decision-making process when facing the conflict of interest situation or by committing corruption.</p>	<p>Add an article</p> <p>Article 00 (Automatic exclusion, request for exclusion, Recusal (voluntary abstention), and dismissal of members)</p> <p>① Members shall be excluded from the deliberation and resolution process under the following situations:</p> <ol style="list-style-type: none"> 1. When committee members' private interests are directly related to the decision of the committee; and 2. Where members, or those who have/have had kinship relationships with members, are related to an issue <p>② When Stakeholders request for specific committee members to be excluded from the deliberation process.</p> <p>③ Committee members shall voluntarily abstain from participating in the deliberation process when expected to undermine fairness.</p> <p>④ Members who fail to abstain from the deliberation process and have damaged the fairness of the deliberation process shall be dismissed.</p>

11. Necessity of enhancing anti-corruption mechanisms:

Bills, laws and regulations may contain corruption risks that may not be detected by other CRA criteria. Also, the establishment/enhancement of corruption control mechanisms or applying other relevant anti-corruption laws and regulations can be required to effectively prevent corruption. In such circumstances, ACRC utilizes this criterion to examine whether it is necessary to introduce corruption control mechanisms or apply anti-corruption laws and regulations to prevent corruption that may occur during the implementation of the concerned bills, laws and regulations or policies. By promoting the establishment of voluntary anti-corruption measures such as the development of corruption reporting systems, this criterion aims to enhance the corruption prevention capacity of government organizations.

The criterion examines the a) relevant corruption cases, b) effectiveness of anti-corruption regulations, and c) necessity of enhancing corruption prevention mechanisms.

a) Relevant corruption cases:

ACRC reviews previous corruption cases which occurred in similar legal and institutional contexts to examine whether the concerned bills, laws and regulations also contain similar corruption risks.

b) Effectiveness of anti-corruption regulations:

ACRC reviews established anti-corruption mechanisms to examine whether such efforts are effectively preventing corruption.

c) Necessity of enhancing corruption prevention mechanisms:

ACRC reviews the necessity of enhancing corruption prevention mechanisms by examining whether government institutions need to develop such mechanisms. ACRC also reviews cases where continuous corruption activities are reported even though anti-corruption measures are in place.

Checklist for evaluating the “adequacy of disciplinary regulations” criterion

1. Have there been any cases of corruption violating the concerned bills, laws and regulations currently being assessed by CRA? Were there corruption cases that occurred in other similar administrative functions?
2. Are there corruption prevention mechanisms?
3. If yes, do corruption prevention mechanisms operate in an effective manner (by reviewing relevant regulations and actual operation cases)?
4. Do corruption cases continue to occur despite the existence of anti-corruption mechanisms?
5. Is there a justifiable reason for the absence of corruption prevention mechanisms?
6. Is it necessary to introduce anti-corruption mechanisms?

CRA case example related to the "necessity of enhancing anti-corruption mechanisms" criterion

"The Code of Conduct for Employees of the Health Insurance Review and Assessment Service"

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 16 (Identification of Female-owned Business, etc.)</p> <p>(3) The Minister of SMEs and Startups may organize and operate a dedicated evaluation committee for conducting on-site investigations.</p>	<p>▫ Current legislation lacks any provision stipulating how to sanction civilian evaluation members who have committed fraudulent or illegal activities.</p>	<p>Add an article</p> <p>Article 00 (Application of Penal Provisions to civilian members of the committee)</p> <p>Civilian members of the evaluation committee shall be deemed as public officials and articles 129-132 of the Criminal Act shall be applied for penalizing illicit activities of the civilian members.</p>

Frequently Asked Questions

To support countries interested in understanding and adapting CRA within their legislation process, this section compiles some of the frequently asked questions and answers received from countries regarding ACRC and CRA.

1. What is ACRC's relationship with Korea's national anti-corruption strategies?

ACRC annually drafts the national anti-corruption strategy which sets anti-corruption priorities and objectives (e.g. national anti-corruption strategy drafted in 2018 selected the enhancement of anti-corruption mechanisms to prevent the conflict of interest situation as one of its high-priority areas) for Korea's overall anti-corruption initiatives.

After sharing the national anti-corruption strategy with relevant government institutions, ACRC utilizes the anti-corruption strategy as a reference and develops its annual anti-corruption work plan. The work plan specifies how ACRC need to implement its anti-corruption policy tools (e.g. AIA, CRA, etc.) to achieve the objectives of the national anti-corruption strategy. After drafting the annual anti-corruption work plan, ACRC conducts its annual anti-corruption initiatives utilizing the plan as a reference.

2. What is ACRC's relationship with the parliament?

ACRC is institutionally established under the Prime Minister's Office and is part of the executive branch of government. ACRC, however, has dual accountability; it annually reports its performance to the Prime Minister's Office and to the parliament.

3. Can ACRC conduct CRA on bills proposed by the parliamentarians?

While the ACRC Act does not limit ACRC's mandate to only review bills proposed by government ministries, the bills proposed by parliamentarians are not assessed by CRA in Korea.

ACRC is set up under the Prime Minister's Office and a part of the executive arm of the government. Under this institutional structure, ACRC naturally focuses on conducting CRA on bills proposed by the executive branch.

In addition, there might be sensitivities around conducting CRA on bills submitted by individual members of parliament (MPs) as those bills are made under specific names of MPs. Some MPs may negatively react to amendments proposed by an anti-corruption agency unless there is a clear legal basis for authorizing the anti-corruption agency to conduct CRA on bills proposed by MPs.

Under these contexts, ACRC does not conduct CRA on enactment/revision of bills proposed by the parliament. But once the bill is passed and it becomes a piece of legislation, ACRC may conduct CRA on those provisions when government bodies aim to revise them. Therefore, ACRC can indirectly conduct CRA on laws enacted by the parliament even though ACRC does not review the bills submitted by parliamentarians.

4. How is the CRA process aligned with Korea's legislative process?

When the government institution aims to enact/amend bills, the institution first submits their legislative proposals and assessment materials to ACRC.

Upon receiving the legislative proposals and assessment materials, ACRC conducts CRA to identify corruption risk factors within bills. Based on the assessment results, ACRC provides recommendations to the executive body to remove corruption causing factors within the concerned bills.

After receiving CRA results and ACRC's recommendations, the executive body incorporates ACRC's recommendations and submits the revised legislative proposal to the Ministry of Government Legislation (MOLEG) to receive legislation reviews.

5. Can the legislative body conduct CRA?

While CRA is conducted by the executive body in the case of Korea, CRA can be implemented by the legislative body as well.

If the legislative body conducts CRA, CRA can be more effectively linked to the legislative review process. On the other hand, if the executive body conducts CRA, CRA can be implemented in a more practical manner, as subordinate rules (e.g. administrative rules which directly stipulate a government agency's specific actions) are also reviewed during CRA process. More detailed pros and cons for CRA conducted by legislative body/executive body are provided in Chapter VII: Strategic Approaches for Introducing CRA: Options and Factors for Consideration.

6. Is there a conflict between ACRC and government ministries when implementing CRA?

When CRA was first introduced, the biggest challenges ACRC had faced was raising awareness of the executive bodies that CRA is a mandatory process which needs to be conducted before submitting the bills to the vice-ministerial/cabinet meetings. It took time and effort for ACRC to inform executive bodies of the mandatory nature of CRA review.

ACRC did not face strong resistance from the government ministries when sharing CRA results and recommendations. As CRA criteria are very logical, CRA results and recommendations derived from the criteria were very persuasive. Conducting prior consultations with the concerned government institutions before releasing assessment results also contributed to the mitigation of resistance, as this provided sufficient opportunities for ACRC to explain the rationale for CRA results and recommendations to the government institutions while incorporating their opinions. This contributed to providing CRA results and recommendations that are acceptable to the government ministries.

Releasing CRA criteria and recommendations based on clear and rational CRA criteria, and conducting prior consultations with the concerned government ministries before releasing CRA results, contributed to the mitigation of government bodies' resistance toward the CRA process.

It is worth noting that the government ministries can also benefit from CRA practice. Through CRA, ACRC provided new insights for detecting potential corruption risk factors, which was not possible when government institutions solely drafted the legislative proposals. ACRC's recommendations derived from CRA were also very helpful as government agencies could prevent unnecessary damage and costs resulting from corruption activities which may have occurred if the loopholes in legislative proposals were not addressed.

By promoting benefits of CRA practices to government institutions, CRA can serve as an entry point for an anti-corruption agency to increase its influence on the government institutions since CRA is a practical and solid mechanism that can empower both the anti-corruption agency and other relevant stakeholders.

7. How does ACRC conduct CRA on current laws?

When corruption-causing factors are discovered in existing laws, ACRC establishes and initiates a mid-/long-term assessment plan to conduct CRA on existing laws. To establish mid-/long-term plans, ACRC informs each central administrative agency and local government the laws and regulations that have/may have corruption-causing factors and request government institutions to submit assessment materials. After undergoing an internal resolution process, ACRC conducts CRA based on the baseline assessment materials submitted by the central administrative agency and local governments during the given assessment period. During the assessment, ACRC can utilize public hearings to collect opinions of relevant government agencies, stakeholders, and experts to review major corruption risk factors within current laws and regulations.

However, rather than implementing mid-/long-term plans, ACRC usually selects specific assessment subjects for conducting CRA on current laws. This approach takes place when: a) corruption risks regarding the concerned law have been recognized as social issues or are expected to heighten social concerns; b) it is needed to review certain areas within laws that are structurally prone to corruption; c) there is an urgent need to remove or reduce corruption-causing factors (i.e. when the concerned laws and regulations fall under a policy area which is promoted as a national priority, or when such legislation fall under an area where budget expenditures have increased); and d) CRA conducted on enacted/amended bills reveal corruption-causing factors in the relevant or related current acts and subordinate statutes.

ACRC's focus on conducting CRA on enacted/revised bills are to highlight the importance of proactive and preventive measures in tackling corruption. Once laws and regulations containing corruption risk factors come into effect, more time and resources are required for addressing corruption activities resulting from corruption-causing factors within laws and regulations. Also, there are challenges in addressing corruption risks of current laws and regulations, which is further explained in the Chapter VII: Strategic Approaches for Introducing CRA; Options and Factors for Consideration.

8. How does autonomous assessment take place?

In principle, assessment division within relevant government institutions hold the primary responsibility to conduct autonomous CRA to remove corruption-causing factors within bills, laws and regulations.

ACRC strives to enhance the CRA capacity of assessment divisions. First, ACRC publishes and shares CRA manuals and exemplary autonomous CRA practices with government institutions so that assessment division can better understand what CRA is and how they can better conduct autonomous assessments. ACRC also provides online and on-site training programmes to educate government officials on how they can conduct autonomous assessments.

ACRC also provides incentives to government institutions that conduct autonomous assessments. When ACRC conducts AIA, an assessment tool which measures and ranks government institutions' anti-corruption efforts, one of its assessment criteria provides additional marks to the government institution that conducts an autonomous assessment. As the administration of an autonomous CRA is directly related to the AIA results which are disclosed to government institutions as well as to the public, this has proven to be very effective in the Korean context since the leaders of public institutions are very sensitive to the integrity result of their institutions.

When there are challenges in conducting an autonomous assessment (e.g. when there are conflicting opinions among divisions, when the bill contains sensitive issues, etc.) ACRC may conduct CRA on such bills, laws and regulations when requested by the head of the government institution.

9. Is it mandatory for policymakers to accept the CRA recommendations?

It is not legally mandatory for policymakers to accept CRA recommendations, but as assessment results are based on rational and well-established criteria, the executive body usually complies with the ACRC's recommendations.

If the government institutions find it difficult to accept CRA recommendations, they need to provide explanations for not adopting recommendations. But as ACRC conducts prior consultations with the government agencies to explain and discuss CRA results and recommendations, they usually accept ACRC's recommendations. Moreover, the CRA reports and recommendations are also disclosed during vice-ministerial meetings and the MOLEG's legislation reviews. This makes it difficult for government agencies to turn down ACRC's recommendations without justifiable reasons since they can be later questioned by higher-level decision makers.

While this rarely takes place in Korea, government institutions may request ACRC to conduct a re-assessment of CRA. Upon receiving a re-assessment requests, ACRC carefully reviews: a) intention and validity for requesting a re-assessment; b) whether re-assessment is necessary due to the changes in circumstances (e.g. changes in external environment); and c) other justifiable reasons (e.g. difficulties of consulting and coordinating with relevant institutions) which may require a re-assessment of corruption risk factors.

When conducting a re-assessment of CRA, ACRC designates a new assessor for the assessment, who did not participate in the initial CRA process. ACRC also collects opinions of experts to incorporate various perspectives for conducting fair re-assessment of bills, laws and regulations.

10. Does CRA influence the judgement of the judicial branch?

The purpose of CRA lies in eliminating the corruption-causing factors in bills, laws and regulations, not in impacting legal judgements. Once the CRA recommendations are reflected in laws, the judicial branch simply interprets revised laws and regulations and makes legal judgements.

11. Should the anti-corruption law of the country seeking to develop a CRA-like mechanism be amended _____ if current provisions do not authorize the anti-corruption agency to conduct such assessment?

This depends on the specific context of each country, but it is important to provide the anti-corruption agency a legitimate authority to conduct CRA. Without establishing a clear legal basis for implementing CRA, government institutions may resist the CRA process since the assessment is not stipulated in anti-corruption laws and regulations.

12. What kind of capacities and expertise are required for operating CRA?

ACRC suggests that as CRA analyses bills, laws and regulations in various areas, staff with expertise not only on legal issues, but also in different fields and sectors would be helpful for conducting the assessment. When ACRC first established its CRA division, 1/3 of the staff (out of 30 in total) were lawyers hired on a contract basis. The rest were government officials from various sectors. Such team composition enabled the CRA division to have the necessary legal expertise along with a comprehensive understanding of overall public administration.

To identify corruption risks and provide recommendations, staff need to be proficient with the full range of CRA criteria, as various CRA criteria may need to be simultaneously applied to detect corruption risks within bills, laws and regulations. Staff conducting CRA can be viewed as generalists in a sense that they need to be able to utilize all CRA criteria when conducting an assessment.

They also need to understand how the concerned bills, laws and regulations are interconnected with other superior and subordinate laws and regulations. For example, when conducting CRA assessment on a ministerial ordinance, some of its provisions may be prescribed by superior laws whereas provisions stipulating administrative actions can be designated to subordinate regulations. Without taking a holistic approach to analysing all relevant laws and regulations, it may not be possible to cover the actual corruption risks within assessed bills, laws and regulations.

ACRC operates a database where all CRA cases and recommendations are stored. By utilizing these data as training materials, even newly hired CRA division staff can quickly learn what the actual corruption risks are, and how CRA criteria can be utilized to detect corruption-causing factors. They can also learn from exemplary CRA recommendations made in the past to enhance their capacities of developing effective CRA recommendations.

CRA process is very cost-effective: CRA can be implemented with a small number of staff with the right expertise once the tool is well established within the anti-corruption agency. ACRC suggests allocating sufficient financial and human resources in the initial stage of CRA implementation so that it can later be implemented with a small number of staff with the right expertise.

13. Does ACRC refer to other evidentiary materials when conducting CRA?

As mentioned in question 12, officials also review other relevant laws and regulations that have a close relationship with the bills, laws and regulations subject to CRA. They analyse relevant legal texts and provide CRA recommendations based on a comprehensive understanding of the legal framework.

14. Where should countries start when implementing CRA?

It needs to be stressed that the CRA process needs to be adapted to the legal and procedural context of the country seeking to ensure effective administration of CRA.

During the initial phase, ACRC suggests prioritizing the implementation of CRA on laws that have a higher impact on citizens' daily lives to demonstrate the efficacy of the assessment which are:

a. Subordinate laws such as administrative rules:

Administrative rules stipulate specific mandates and actions of the government institutions. Therefore, removing corruption-causing factors within administrative rules strengthens integrity of public administration that impacts peoples' lives.

b. Internal rules of state-owned companies:

State-owned companies usually carry out the work entrusted by the executive bodies, which have substantial impacts on citizens' daily lives. To mitigate corruption-causing factors within state-owned companies, ACRC proposed a bill to the parliament which authorizes ACRC to conduct CRA on internal rules of state-owned companies when the bill comes into effect. While the parliament did not pass the bill, it is being positively reviewed by parliamentarians.

c. Addressing specific sectors within all existing laws:

While conducting CRA, ACRC also selected certain sectors within laws and regulations, such as the procurement sector and collectively reviewed all the procurement related laws, decrees, administrative rules, etc. This approach enabled ACRC to identify and remove corruption-prone areas within the overall laws and regulations.

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IV.

CRA CONDUCTED ON ACTS AND
SUBORDINATE STATUTES, AND
ADMINISTRATIVE RULES

IV CRA Conducted on Acts and Subordinate Statutes, and Administrative Rules

Assessment of Draft Acts and Subordinate Statutes

CRA is conducted through a standard process when government institutions request ACRC to review their draft acts and subordinate statutes. The table below outlines the overall procedure of CRA conducted on draft bills.

CRA procedure for reviewing draft acts and subordinate statutes

CRA procedure	Actions taken by government institution subject to CRA	Actions taken by ACRC
1. Request for CRA	▫ Submits assessment materials (including the bill) to ACRC	▫ Receives assessment materials and prepares for CRA
2. Conduct CRA	▫ Undergoes other legislative processes (i.e. conducting consultations with relevant institutions and making pre-announcement of the legislation)	▫ Assessors of CRA division conduct CRA on submitted assessment materials
3. Release CRA results and recommendations		▫ Assessors notify CRA results and recommendations to the concerned government institution
4. Post-assessment measures	▫ Incorporates CRA recommendations to the bill, and submits a post-assessment report to ACRC ▫ Submits the revised bill to MOLEG for the legislation review	▫ Monitors whether CRA recommendations are incorporated in the bill before it is submitted to MOLEG

1. Request for CRA

CRA begins at the drafting stage when the legislative drafting divisions within the government institutions draft legislative proposal for the enactment or revision of laws and regulations. After receiving confirmation from the legal assessment divisions, government institutions submit the legislative proposal and assessment materials to ACRC and requests for CRA.

The required assessment materials submitted to ACRC depends on whether bills are enacted/entirely revised or partially revised. Required assessment materials which need to be submitted to ACRC are illustrated in the table below.

Assessment materials submitted to ACRC

Level of enactment/revision	Assessment materials	Note
Partial revision of acts and subordinate statutes	<ul style="list-style-type: none"> ▫ Legislative proposal ▫ Baseline assessment materials ▫ Internal explanations regarding the revision 	<ul style="list-style-type: none"> ▫ Additional materials (e.g. detailed assessment materials, specific statement of reasons for revising each provision, public hearing documents, research data, etc.) must be submitted when requested by ACRC
Enactment or revision of entire provisions in acts and subordinate statutes	<ul style="list-style-type: none"> ▫ Legislative proposal ▫ Baseline assessment materials ▫ Detailed assessment materials ▫ Internal explanations regarding the enactment or revision 	<ul style="list-style-type: none"> ▫ Additional materials (e.g. specific statement of reasons for enacting or revising each provision, public hearing documents, research data, etc.) must be submitted when requested by ACRC

In the case of Korea, certain acts and subordinate statutes are exempt from CRA (i.e. acts and subordinate statutes stipulating: structures of organizations; name of the country; national flag and name of the era; prize/decoration, legal precedents and national holidays; salaries and allowances; documentations; official seal and vehicle management). Assessors can conduct CRA on such legislation under its discretion when deemed necessary.

If the submitted legislative proposals are further revised during consultations with relevant agencies or pre-announcement of the legislation period, the government institution needs to notify assessors of the details and rationale behind the additional revisions of draft bills without delay.

2. Conduct CRA

Assessors within the CRA division of ACRC conduct CRA to identify corruption-causing factors in bills by applying CRA assessment criteria on assessment materials submitted by government institutions. While reviewing bills, assessors also examine other relevant provisions which are deemed to have corruption-causing factors to mitigate corruption risks in current laws and regulations.

Throughout the CRA process, assessors engage in continuous consultations with the concerned government institutions and collect opinions of relevant agencies and other stakeholders when necessary.

When assessors review provisions which are related to multiple agencies or when a higher level of expertise is required for identifying corruption risk factors, they can seek advice from external experts (i.e. experts from the CRA advisory group, or professionals registered in ACRC's external pool of experts) to conduct CRA in a fair and effective manner.

While waiting for the notifications of CRA results and recommendations, government institutions follow necessary legislative processes needed for the enactment or revision of bills such as conducting consultations with relevant ministries and making pre-announcement of the legislation. The table below provides a case example of CRA conducted on a draft act.

CRA case example: "Early Childhood Education Act"

Relevant article	Potential corruption risks	CRA recommendation
Article 49 (Penal Provisions)	<ul style="list-style-type: none"> « The "Adequacy of disciplinary regulations" criterion can be utilized to detect corruption risks. « Sanctions for penalizing misuse or selling information to a third party is stipulated in the other related law. « However, the legislation in question does not have any provision which stipulates how the misuse of children's kindergarten and medical checkup records, or providing such information to a third party, will be penalized. This fails to secure an adequate level of disciplinary regulations. 	<p>Article 49 (Penal Provisions)</p> <p>Add a provision</p> <p>Any person who misuses or provides records of young children regarding their activities in kindergarten, or their medical checkup records to a third party, shall be imprisoned for a term of no more than 00 years or shall be fined no more than 00 KRW.</p>

3. Release CRA results and recommendations

Assessors usually complete CRA process within 40 days (i.e. from consultations stages involving relevant agencies to the closing date of the pre-announcement of the legislation) to ensure that CRA does not slow down the legislative process. If CRA cannot be completed by the given pre-announcement of the legislation period for justifiable reasons (e.g. delayed submission of a bill, necessity for supplementing assessment materials, delays in consultation process, or additional amendments of the bill), the assessment period can be extended up to 40 days from the last day of pre-announcement of the legislation. Nevertheless, assessors need to complete CRA as soon as possible.

Upon completion of the CRA process, assessors immediately draft written assessment reports. Before officially notifying CRA results and recommendations, assessors first consult with the concerned institutions and explain the rationale behind CRA results and recommendations. This consultation process helps assessors minimize government institutions' resistance towards CRA results by providing sufficient opportunities for explaining and discussing CRA results and recommendations with the concerned government ministries. Assessment results of CRA are: approval of the submitted bill; partial approval of the submitted bill with recommendations for improvement; and withdrawal of the submitted bill. Rather than rejecting the submitted bill, assessors try to provide recommendations to government institutions, so they can remove corruption-causing factors within their initial bills and submit the revised legislative proposals to MOLEG for legislation review without re-doing the whole CRA process.

ACRC can share CRA results with the Regulatory reform committee if assessment results are relevant to their Regulatory Impact Analysis. If CRA results can serve as a reference for the legislation review, ACRC can also transfer CRA results to MOLEG.

Furthermore, CRA results and recommendations are provided as reference materials for vice-ministerial meetings and cabinet meetings. This makes it difficult for government institutions to neglect CRA results and recommendations which can later be questioned by higher-level decision makers.

4. Post-assessment measures

After receiving CRA results, the concerned government institutions incorporate CRA recommendations and submit written post-assessment reports to ACRC to explain how recommendations derived from CRA are incorporated in their legislative proposal. The post-assessment reports need to be submitted to ACRC before government institutions submit the revised legislative proposals to MOLEG for the legislation review. If government institutions cannot adopt CRA recommendations, reasons for not incorporating recommendations need to be stated in the post-assessment reports.

Although it rarely takes place in the case of Korea, government institutions can request ACRC for re-assessment of their bills. When receiving re-assessment requests, ACRC carefully considers whether justifiable reasons exist for conducting re-assessment of CRA by examining: a) intention and validity of requesting a re-assessment; b) changes in circumstances (e.g. changes in external environment) which require re-assessment; and c) other justifiable reasons (e.g. difficulties of consulting and coordinating with relevant institutions, etc.). When conducting a re-assessment, ACRC designates a new assessor to carry out the assessment of who did not take part in the initial CRA, and collects opinions of experts to conduct the assessment in a fair and effective manner.

ACRC regularly monitors whether public institutions are actively implementing CRA recommendations while checking their level of cooperativeness. The monitoring results are later incorporated in the performance evaluation of the concerned institutions. ACRC evaluates: a) how quickly the bill was submitted to ACRC; b) the government institution's willingness to provide assessment materials; c) implementation status of CRA recommendations; and d) establishment and operation of an autonomous assessment system.

Assessment of Current Acts and Subordinate Statutes

CRA is also conducted on current acts and subordinate statutes through a standard process. The table below outlines the overall procedure of CRA conducted on current acts and subordinate statutes.

CRA procedure for reviewing draft acts and subordinate statutes

CRA procedure	Actions taken by government institution subject to CRA	Actions taken by ACRC
1. Select assessment subjects	▫ Submits assessment materials to ACRC	▫ Selects and notifies assessment subjects to government institutions ▫ Receives the assessment materials and prepares CRA
2. Conduct CRA	▫ Provides additional assessment materials and engages in consultation with ACRC	▫ Assessors within CRA division conduct CRA on submitted assessment materials utilizing assessment criteria
3. Release CRA results and recommendations		▫ Assessors notify CRA results and recommendations to the concerned government institution
4. Post-assessment measures	▫ Incorporates CRA recommendations to the bill, and submits a post-assessment report to ACRC ▫ Submits the amended bill to MOLEG for legislation review	▫ Monitors whether CRA recommendations are incorporated in the bill before it is submitted to MOLEG

1. Select assessment subjects

Assessors of CRA division can also conduct CRA to examine corruption-causing factors within current acts and subordinate statutes. When conducting assessment of current acts and subordinate statutes, assessors consult with government institutions to identify assessment subjects (specific laws or tasks needed for addressing corruption risks) and receive assessment materials from government institutions to conduct CRA.

Assessors select assessment subjects by establishing a mid-/long-term assessment plan. When assessors decide to establish mid-/long-term plans, ACRC requests central administrative agencies and local government institutions to submit assessment subjects for current statutes. After undergoing an internal resolution process, ACRC finalizes assessment plans as well as assessment subjects and requests government institutions to submit necessary assessment materials to conduct CRA.

Assessors can also select assessment subjects by examining salient issues which are: legislation where corruption risks were identified during the prior assessment, and provisions related to the corruption scandals which raised public voices to take corrective actions. Assessors select laws and regulations relevant to salient issues as assessment subjects, and conduct CRA to mitigate corruption risks within current acts and subordinate statutes.

2. Conduct CRA

After assessment subjects have been finalized, government agencies prepare and submit assessment materials to ACRC. Assessors can conduct preliminary investigations and surveys to assess additional assessment materials (e.g. disciplinary action reports, results of audits /investigations, and handling of complaints, etc.) when they are deemed necessary for conducting CRA. The table below provides a case example of CRA conducted on a current act.

CRA case example: "Elementary and Secondary Education Act"

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 31-2 (Removal and disqualification)</p> <p>① Any person who misuses or provides records of young children regarding their activities in kindergarten, or their medical checkup records to a third party, shall be imprisoned for a term of no more than 00 years or shall be fined no more than 00 KRW.</p>	<p>▫ The "Adequacy of disciplinary regulations" criterion can be utilized to detect corruption risks.</p> <p>▫ Sanctions for penalizing misuse or selling information to a third party is stipulated in the other related law.</p> <p>▫ However, the legislation in question does not have any provision which stipulates how the misuse of children's kindergarten and medical checkup records, or providing such information to a third party, will be penalized. This fails to secure an adequate level of disciplinary regulations.</p>	<p>Article 31-2 (Removal and disqualification)</p> <p>Add a provision</p> <p>① Any person who misuses or provides records of young children regarding their activities in kindergarten, or their medical checkup records to a third party, shall be imprisoned for a term of no more than 00 years or shall be fined no more than 00 KRW.</p>

3. Release CRA results and recommendations

Before releasing assessment results and recommendations to government institutions, assessors consult with government institutions about CRA recommendations (derived from the analyses of how current statutes are interpreted as well as CRA results). For providing recommendations related to significant matters⁴, assessors hold public hearings or debates to collect opinions of relevant agencies, stakeholders, and experts to ensure that their views are incorporated in the recommendations.

After consultation processes are completed, assessors draft assessment reports and share it with the concerned government institutions to inform CRA recommendations and implementation deadlines.

⁴ "Significant Matters" is defined in the Article 9 (3) of the Operational Guidelines for CRA as the following:

- (a) Matters that have a significant impact on peoples' lives;
- (b) When facing severe conflicts of interest, or when ACRC and the concerned agency have contradictory opinions; and
- (c) Matters that concern multiple central administrative agencies.

4. Post-assessment measures

After receiving CRA results and recommendations, the concerned government institutions incorporate CRA recommendations and draft legislative proposals to amend current acts and subordinate statutes that have corruption-causing factors. Government institutions also submit post-assessment reports to ACRC to explain how CRA recommendations are incorporated in the legislative proposals. The post-assessment reports need to be submitted to ACRC before government institutions submit the legislative proposals to MOLEG for legislation review. If government institutions could not adopt CRA recommendations, reasons for not incorporating recommendations need to be stated in the post-assessment reports.

Although it rarely takes place in the case of Korea, government institutions can request ACRC for re-assessment of current acts and subordinate statutes. When receiving re-assessment requests, ACRC carefully considers whether justifiable reasons exist for conducting re-assessment of CRA by examining: a) intention and validity of requesting a re-assessment; b) changes in circumstances (e.g. changes in external environment) which require re-assessment; and c) other justifiable reasons (e.g. difficulties of consulting and coordinating with relevant institutions, etc.). When conducting a re-assessment, ACRC designates a new assessor to carry out the assessment who did not take part in the initial CRA and collects opinions of experts to conduct the assessment in a fair and effective manner.

ACRC regularly monitors the implementation status of CRA recommendations and the government institution's willingness to cooperate. The monitoring results are later reflected in the agency's performance evaluation. When current laws and regulations assessed by CRA are amended, and thus need to be examined by CRA, ACRC checks whether previous CRA recommendations are incorporated in the bills.

Assessment of Draft Administrative Rules

In principle, each administrative agency is responsible for conducting autonomous CRA to remove corruption-causing factors within their draft administrative rules. ACRC develops and distributes CRA manuals and checklists, as well as exemplary CRA cases to enhance the capacity of government institutions' voluntary assessments.

ACRC can also directly conduct CRA on administrative rules under the following circumstances: a) when assessors are enacting or revising administrative rules which were previously reviewed by ACRC; and b) when the administrative agency is facing challenges in conducting voluntary assessment to remove corruption-causing factors.

Upon request, ACRC usually conducts and completes CRA on draft administrative rules within 40 days and sends written assessment reports to the administrative agencies.

Assessment of Current Administrative Rules

To remove corruption-causing factors within current administrative rules, ACRC may select specific administrative rules that have corruption-causing factors as assessment subjects and conduct CRA. ACRC may also review administrative rules when conducting CRA on draft acts and subordinate statutes to conduct assessment in an effective manner. Acts and subordinate statutes often delegate specific administrative procedures or actions of government institutions to administrative rules. Therefore, without addressing corruption-causing factors within administrative rules, reviewing acts and subordinate statutes may not be sufficient to prevent corruption activities.

If certain administrative rules are selected as ACRC's CRA subjects, the concerned government agencies submit assessment materials when requested by the assessors of ACRC. If deemed necessary, assessors conduct preliminary investigations and surveys to evaluate the assessment materials submitted by the government agencies.

Before releasing assessment results and recommendations to government institutions, assessors consult with government institutions about CRA recommendations (derived from analyses of the current status of administrative rules as well as CRA results). For providing recommendations related to significant matters, assessors hold public hearings or debates to collect opinions of relevant agencies, stakeholders, and experts to ensure that their views are incorporated in the recommendations.

After consultation processes are completed, assessors draft assessment reports and share it with the concerned government institutions to inform CRA recommendations and implementation deadlines.

After receiving CRA results and recommendations, the concerned government institutions incorporate CRA recommendations and draft legislative proposals to amend current administrative rules that have corruption-causing factors. Government institutions also submit post-assessment reports to ACRC to explain how recommendations derived from CRA are incorporated in their legislative proposals. The post-assessment reports need to be submitted to ACRC before government institutions submit the legislative proposals to MOLEG for legislation review. If government institutions cannot adopt CRA recommendations, the reasons for not incorporating CRA recommendations need to be stated in the post-assessment reports.



V.

CRA CONDUCTED ON MUNICIPAL
REGULATIONS

V CRA Conducted on Municipal Regulations

Assessment of Draft Municipal Regulations

Similar to the CRA conducted on administrative rules, assessment divisions within the municipal governments conduct autonomous assessment on enacted or revised municipal regulations. The table below outlines the overall procedure of CRA conducted on draft municipal regulations.

CRA procedure for reviewing draft municipal regulations

CRA procedure	Actions taken by drafting division subject to CRA	Actions taken by assessment division
1. Request for CRA	» Submits assessment materials (including the bill) to the assessment division	» Receives assessment materials and prepares for CRA
2. Conduct CRA	» Undergoes other legislative processes (i.e. conducting consultations with relevant institutions and making pre-announcement of the legislation)	» Assessors within the assessment division conduct CRA on submitted assessment materials
3. Release CRA results and recommendations		» Assessors notify CRA results and recommendations to the drafting division
4. Post-assessment measures	» Incorporates CRA recommendations to the bill, and submits the revised bill to the judicial affairs division for legislation review	» Monitors whether CRA recommendations are incorporated in the bill before it is submitted to MOLEG

1. Request for CRA

The drafting division within local government drafts a legislative proposal for the enactment or revision of municipal regulations. Immediately after initiating consultation with relevant agencies and divisions, the drafting division sends an official written request, a legislative proposal (including a table which compares original and newly enacted/revised provisions), baseline assessment materials and explanations for the enactment or revision of municipal regulations to the assessment division (e.g. audit and inspection office, legal affairs office, etc.).

Municipal regulations stipulating simple or technical matters unrelated to corruption-causing factors (e.g. document management, etc.) are exempted from CRA. But the assessment division can still conduct CRA on such regulations under its discretion.

Assessors within the assessment division preserve every submitted document by creating serial numbers in the order of the submission of documents. Any additional assessment materials and documents drafted for conducting CRA must be compiled in a single folder until the assessment is completed. The assessors review legislative proposals and baseline assessment materials to examine whether certain assessment materials are missing, and whether assessment materials have been properly prepared. If more assessment materials are needed for conducting CRA, the assessors request the drafting division to submit additional assessment materials.

2. Conduct CRA

After sufficient assessment materials are prepared, assessors conduct CRA to identify corruption-causing factors in draft municipal regulations by applying CRA criteria on assessment materials submitted by the draft division. The assessors may also review relevant administrative rules (e.g. instructions, rules, etc.) to effectively remove corruption-causing factors within municipal regulations.

While waiting for the notifications of CRA results and recommendations, drafting division follows necessary legislative processes needed for enactment or revision of bills such as conducting consultations with relevant agencies and making pre-announcement of the legislation. The table below provides a case example of CRA conducted on a draft municipal regulation.

CRA case example: "Ordinance on Fostering Local Food in Jeollabuk-do Province"

Relevant article	Potential corruption risks	CRA recommendation
<p>Article 6 (Farmer's market designation)</p> <p>① Upon receiving requests from mayors to designate a certain market as a farmer's market, the governor shall organize an evaluation committee consisting of up to 5 local food experts to conduct evaluation.</p> <p>② Upon finishing the evaluation, the governor shall designate the eligible market as a farmer's market and provide certification and a nameplate.</p>	<ul style="list-style-type: none"> ▪ Clarity in public service delivery and administrative process and risk of conflict of interest criteria can be utilized to detect corruption risks. ▪ It is difficult to anticipate when the evaluation will take place, and when the assessment results will be notified. ▪ Current article does not have provisions which provide measures to prevent conflict of interest. 	<p>Article 6 (Farmer's market designation)</p> <p>① Upon receiving requests from mayors to designate a certain market as a farmer's market, the governor shall organize an evaluation committee consisting of up to 5 local food experts to conduct evaluation. The evaluation shall be conducted within 00 days of receiving requests.</p> <p>Add a provision</p> <p>② To secure fairness in the decision-making process, those who fall under Article 2 Subparagraph 1 of the same Act shall be excluded from the evaluation committee.</p> <p>③ Upon completion of evaluation, the governor shall notify the evaluation results to the mayor within 00 days.</p>

3. Release CRA results and recommendations

Assessors usually complete CRA process before the closing date of the pre-announcement of the legislation to ensure that CRA does not slow down legislative process. Upon the completion of CRA process, assessors immediately draft written assessment reports and notify assessment results and recommendations to the drafting division.

4. Post-assessment measures

When assessment results indicate a problem or room for improvement, the assessors send written assessment reports and recommendations to the drafting division. If the initial draft does not have corruption-causing factors, assessors approve the original draft. After receiving CRA results, the drafting division incorporates CRA recommendations to further revise the draft municipal regulations and submits the revised legislative proposals to judicial affairs division for legislation review.

When assessors are facing challenges in providing recommendations such as conflicting opinions among relevant divisions, assessors can request ACRC for advice and assistance. In such cases, the concerned local government can request ACRC to conduct CRA on behalf of the organization in accordance with Article 30, paragraphs 7-8 of the ACRC Enforcement Decree.

Assessment of Current Municipal Regulations

1. Assessment process

Assessors can conduct CRA on current municipal regulations to remove corruption-causing factors. When conducting CRA, the assessors can request relevant divisions to submit assessment materials.

Before releasing assessment results and recommendations to government institutions, assessors consult with government institutions about CRA recommendations (derived from analyses of how current municipal regulations are interpreted as well as CRA results). For providing recommendations related to significant matters, assessors hold public hearings or debates to collect opinions of relevant agencies, stakeholders, and experts to ensure that their views are incorporated in the recommendations.

2. Post-assessment measures

After consultation processes are completed, assessors draft detailed assessment reports and share it with the concerned divisions to inform CRA recommendations and implementation deadlines. After receiving assessment reports, relevant divisions need to incorporate CRA recommendations and draft legislative proposals to revise current regulations. Before submitting the legislative proposal to the ordinances and rules deliberation commission for legislation review, the concerned divisions need to submit post assessment reports to the assessment division to inform how CRA recommendations are incorporated.

If relevant divisions directly conduct the autonomous assessment and implement improvement measures, they need to draft and submit a detailed assessment report to the assessment division and receive their approval before revising the current regulations.

When local governments conduct CRA to remove corruption-causing factors within specific fields of current laws, they may request ACRC to provide training and consultations to conduct CRA in an effective manner.

ACRC's Assessment of Municipal Regulations

1. Assessment process

When requested by the head of a local government, assessors of CRA division can conduct CRA on draft municipal regulations. Assessors can also select certain municipal regulations (i.e. regulations where continuous corruption activities are observed or when certain regulations are deemed to have inherent corruption risks) as assessment subjects and conduct CRA on current municipal regulations to prevent corruption.

After assessment subjects have been finalized, the concerned local government agencies prepare and submit assessment materials to ACRC. Assessors can conduct preliminary investigations and surveys to assess additional materials (e.g. disciplinary action reports, results of audits/investigations, and handling of complaints, etc.) The concerned local government agencies also submit additional assessment materials (e.g. operational status documents, statistics, work plans, relevant complaint documents, audit and investigation results, etc.) when requested by the assessors.

Throughout CRA, assessors collect various opinions through external consultations such as discussions and meetings, and if necessary, cooperate with the local government and external experts to conduct surveys to analyse the status of the local government in accordance with Article 29 of the ACRC Act.

2. Post-assessment measures

After completing CRA, assessors notify the assessment results, CRA recommendations and implementation deadline to the heads of local government. Upon receiving CRA recommendations, the heads of the local government need to implement necessary measures within the given deadline and report the implementation results to ACRC.

ACRC regularly monitors the status of recommendations implemented by the local government and level of cooperativeness of the institution, which are later evaluated in AIA.



VI.

CRA CONDUCTED ON RULES & BYLAWS OF
PUBLIC SERVICE-RELATED ORGANIZATIONS

VI CRA Conducted on Rules & Bylaws of Public Service-Related Organizations

Assessment of Rules and Bylaws

1. Autonomous assessment of rules and bylaws

CRA is conducted on draft/current internal rules and bylaws of public service-related organizations to secure transparent policymaking and policy implementation process by eliminating potential corruption risks. The rules and bylaws of public service-related organizations have been assessed by CRA since 28 December 2007, in accordance with Article 30, Paragraph 9 of the ACRC Enforcement Decree.

Similar to CRA conducted on municipal regulations, assessment divisions of the public service-related organizations voluntarily conduct autonomous CRA, which are customized according to the characteristics of each organization. Public service-related organizations conduct CRA on draft rules and bylaws as well as existing laws and regulations that have become a social issue. The table below provides a case example of CRA conducted on bylaws of public service-related organizations.

CRA case example: "Bylaws on Management of Work Promotion Expenses"

Relevant article	Potential corruption risks	CRA recommendation
Article 8 (Evidence of expenditure) ③ Work promotion expenditure of the Chairman, President of the branch office, head of the office, and team leaders shall be disclosed on the website every month.	• Openness criterion can be utilized to detect corruption risks. • Current article does not require disclosure of information on how the divisions or bureaus are spending their work promotion expenses (which account for 58% of the total work promotion expenses).	Article 8 (Evidence of expenditure) ③ Work promotion expenditure of each division within the organization shall be disclosed on the website every month.

Internal rules and bylaws enacted and managed by public service-related organizations under Article 3-2 of the Public Service Ethics Act are subject to CRA. CRA examines the following internal rules and bylaws: a) rules and bylaws directly affecting the lives of people and corporate activities (e.g. rules related to accounting, contracts, sales, construction and architecture, asset management); b) rules and bylaws, which have potential corruption risks (e.g. entrustment, personnel affairs, audit, investigation, commissioning, etc.); and c) rules and bylaws where problems or room for improvement were identified through corrupt activities, inspections, audits, and parliament's requests.

Internal rules and bylaws regarding simple or technical matters (e.g. rules on the establishment of agencies, administrative management, administrative support, organizational operation, division of work, and document management, etc.) are exempted from CRA. Internal rules and bylaws regarding the utilization of resorts, welfare, and cultural facilities are also exempt from the assessment. Nevertheless, assessment division can still conduct CRA on such rules and bylaws under its discretion. The tables below outline the overall procedure of CRA conducted on draft/current rules and bylaws.

CRA procedure for reviewing draft acts and subordinate statutes

CRA procedure	Actions taken by drafting division subject to CRA	Actions taken by assessment division
1. Request for CRA	▫ Submits assessment materials (including the bill) to the assessment division	▫ Receives assessment materials and prepares for CRA
2. Conduct CRA	▫ Waits for CRA results and recommendations	▫ Assessors within assessment division conduct CRA on submitted assessment materials within the given deadline
3. Release CRA results and recommendations		▫ Assessors notify CRA results and recommendations to the drafting division
4. Post-assessment measures	▫ Incorporates CRA recommendations to the bill, and informs the assessment division how recommendations are incorporated	▫ When facing challenges of making voluntary improvement of rules and bylaws, request ACRC to conduct CRA

CRA procedure for reviewing current rules and bylaws

CRA procedure	Actions taken by drafting division subject to CRA	Actions taken by assessment division
1. Request for CRA	▫ Submits written CRA request (including the explanation of the necessity for conducting CRA) to the assessment division	▫ Reviews the concerned rules and bylaws and selects assessment subjects for CRA Note Assessment division can also select assessment subjects under its discretion and conduct CRA.
2. Conduct CRA	▫ Waits for CRA results and recommendations	▫ Assessors within assessment division conduct CRA on assessment subjects Note assessors can conduct external consultations with ACRC and relevant experts when necessary.
3. Release CRA results and recommendations		▫ Assessors notify CRA results and recommendations to the drafting division
4. Post-assessment measures	▫ Incorporates CRA recommendations and informs the assessment division how recommendations are incorporated	▫ When facing challenges of making voluntary improvement of rules and bylaws, request ACRC to conduct CRA

2. CRA conducted by ACRC

The head of the public organization may request ACRC to conduct CRA when improvements may not be achievable through voluntary assessments.

Checklist for evaluating the “adequacy of disciplinary regulations” criterion

1. If a public organization cannot make voluntary improvements due to conflicts of interest among relevant agencies and divisions
2. If statutory revision is required to eliminate corruption-causing factors inherent in internal rules and bylaws
3. Other cases where a public organization finds it challenging to make an autonomous decision

When requesting ACRC to conduct CRA, the public organization submits the explanation of the necessity for conducting the assessment with its opinions on CRA to ACRC. Assessors within the CRA division conduct CRA and conduct consultations with the public organization regarding the assessment results and send written notification of the results and recommendations. After receiving the assessment results, the public service-related organization submits a post-assessment report to ACRC to inform whether recommendations are incorporated in the draft/current rules and bylaws.

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VII.

STRATEGIC APPROACHES FOR INTRODUCING CRA: TWELVE MAIN ISSUES AND OPTIONS

VII Strategic Approaches for Introducing CRA: Twelve Main Issues and Suggestions

So far, this resource book has focused on describing how ACRC conducts CRA on bills and laws. In the context of facilitating knowledge-sharing between Korea and other countries, this chapter aims to outline some key factors for consideration and offer policy suggestions for countries that are interested in benchmarking and applying the CRA methodology. While the following can be taken as a guidance note, each country is advised to establish its own strategic approach to ensure that this mechanism is adapted and institutionalized in particular national contexts.

1. Autonomous assessment of rules and bylaws

It is important to establish a clear legal basis with a broad-enough scope for CRA to authorize the anti-corruption agency (or other relevant institutions) to introduce CRA and gradually expand its scope in later years. When first introducing CRA, one may start small by conducting CRA on corruption issues that are of the highest priority for the government and the public. The scope of CRA can then be expanded after CRA becomes well recognized within government institutions as well as the public. At the same time, the legal basis should be established well enough to cover the prospective scope of CRA. Otherwise, government institutions may reject the CRA process; and CRA may not be able to evolve in line with the country's increasing implementation capacity.

For example, the legal basis for CRA should cover:

- a) Instruments for CRA implementation (e.g. bills, acts, and decrees);
- b) Functions, authorities, and/or mandates of the anti-corruption agency (i.e. anti-corruption agency's right to conduct CRA, provide assessment results, and produce recommendations at a certain point of legislation process); and
- c) CRA implementation method (e.g. assessment period, deliberation & consultation procedure, types of documents or assessment materials for submission, and post-assessment actions).

By establishing a comprehensive and clear ground for implementing CRA from the beginning, the CRA-implementing agency can save time and effort on persuading government agencies to accept CRA recommendations later on.

2. Who should implement CRA?

In theory, three types of institutions may implement CRA: a) legislative body such as parliament; b) executive body (such as ACRC of Korea under the Prime Minister's Office); or c) an independent anti-corruption agency. Choice of the CRA-implementing body depends on the country's particular legislative context and public administration environment.

In Korea, the government's mandate and administrative actions are usually stipulated in subordinate statutes, such as administrative rules and procedures. As the Korean parliament does not review subordinate statutes when conducting legislative reviews, however, CRA conducted by the parliament may fail to address the actual dynamics of how government agencies operate under the administrative rules. Therefore, ACRC under the Prime Minister's Office (i.e. as part of the executive branch) was the best fit.

Outside of Korea, when an entity within the executive body conducts CRA, it will likely be well placed to analyse corruption risks in subordinate statutes (i.e. enforcement decrees and administrative rules), and therefore may produce practical CRA results and recommendations, reflecting the particular context of the executive body.

While the decision as to which should be the main organization to be tasked with CRA implementation should be made based on the country's context, it is imperative that an organization that has expertise on anti-corruption and is independent enough to apply CRA without political intervention should be in charge. Most importantly, the country should ensure that CRA is included in the legislation process and that the organization in charge is stipulated in the legal basis of CRA.

3. How to define the initial scope of CRA: on current laws or bills—or both?

The initial scope of CRA would need to be strategically defined in accordance with the anti-corruption agency's mandates and capacities, as well as with the nation's prevailing corruption challenges and institutional capacities.

Ideally, CRA can be conducted on bills as well as existing laws. Since its initial implementation in 2006, ACRC has been conducting CRA on existing laws as well as bills. CRA Operational Guideline Article 13 (1) states that "ACRC may establish mid- to long-term plans for the Corruption Risk Assessment of current acts, presidential decrees, prime ministerial decrees, and ministerial ordinances; and directives, regulations, announcements, and notices delegated by them; and administrative rules (hereinafter 'current acts and subordinate statutes')".

ACRC usually conducts CRA on existing laws when: a) corruption causing factors or other irregularities regarding the concerned law have been recognized as social issues or are expected to heighten social concerns; b) CRA is necessary for reviewing areas within laws that are structurally prone to corruption; c) the policy relevant to the concerned law is implemented as a national policy or when its budget expenditure increases, thereby requiring urgent removal or reduction of corruption-causing factors; and d) CRA conducted on enacted/amended bills reveals corruption-causing factors in the relevant current laws.

From ACRC's experiences, however, countries may face challenges when conducting CRA on existing laws. When the agency conducting CRA has limited human and financial resources, conducting CRA on all existing laws simply may not be feasible. One would have to select particular corruption risk factors or identify certain issues (e.g. corruption cases that are widely covered by the media), out of many other possible candidates. Such selection, however, may be viewed as arbitrary and unfair by the targeted government bodies (who would be affected by CRA results). The anti-corruption agency would then have to defend its decision with a strong rationale.

What is most important in the initial stage of implementing CRA is creating clear and rational CRA criteria. Rationality, clarity and logical coherence of the criteria help guard the CRA-implementing institutions from potential resistance from target institutions, while increasing the acceptance rates of the CRA results and recommendations. Once the system is well institutionalized, the implementing agency can always refine CRA indicators and gradually expand the scope of CRA on different types of laws (such as revised bills, current laws, municipal regulations, and internal rules of public service related organizations).

Based on ACRC's experience, therefore, it would be worthwhile to consider introducing CRA on bills first, while keeping the legal framework for CRA open for expansion into existing laws.

4. How to select priority topics/areas for the initial CRA implementation

At the initial stage, the CRA-implementing agency may suffer from a lack of human and financial resources, and would thus have to select particular issues for CRA, regardless of their decision on the type of legislation to focus on. If one decides to select issues that are of high public interest, it might help generate public support for CRA, which then can create a momentum to firmly establish CRA. However, if the public's priority is not in line with the executive body's interest, the anti-corruption agency may face stronger resistance from government bodies. On the other hand, the implementing agency introduces CRA on areas that executive bodies consider a high priority; this would help minimize resistance from the government and make it easier for the agency to institutionalize CRA.

At the same time, it is still worthwhile to conduct CRA on bills or laws that have a direct impact on people's lives. In ACRC's case, the commission decided to conduct CRA on subordinate laws such as administrative rules that closely affect public service delivery in citizens' every-day lives. Over time, such focus can help increase not only the legitimacy of the CRA tool itself, but also the political support for the anti-corruption agency and corruption prevention work in general.

Bill for authorizing ACRC to review and conduct CRA on internal rules of public service-related organizations

ACRC is currently seeking to pass the legislation, which would expand its authority to review the internal rules of public service-related organizations. This is in recognition of the fact that the government is increasingly entrusting or commissioning its responsibilities and duties to public service-related organizations including public companies, bearing a direct impact on citizens' lives. Once passed, the bill would allow ACRC to: a) request public institutions to submit information on their internal rules and regulations; and b) directly conduct CRA on public service-related organizations' internal rules and regulations.

5. How to contextualize the CRA criteria

ACRC of Korea currently utilizes 11 CRA criteria to identify main corruption risks. As these criteria reflect Korea's specific legal context and ACRC's capacity, however, countries seeking to adopt the CRA methodology would need to develop their own CRA criteria based on their own legal structure, as well as anti-corruption priorities and capacities.

In the initial stage, it is advised to introduce simplified criteria, which cover only a select few of the major corruption risks the anti-corruption agency wishes to tackle as a priority. Once the CRA process is well institutionalized, the anti-corruption agency can introduce more sophisticated criteria to address a wider range of corruption risks.

For instance, ACRC's existing CRA criteria can be simplified by:

- Merging "Rationality of compliance costs" and "Adequacy of disciplinary regulation" into "Rationality of sanctions and compliance costs";
- Combining "Accessibility" and "Openness" into "Citizen participation in policymaking"; and/or
- Deleting "Necessity of enhancing anti-corruption mechanisms."

On the other hand, criteria such as “Risk of granting preferential treatment”, “Concreteness and objectivity of the basis of decision making”, “Openness”, and “Clarity in public service delivery and administrative process” may be relatively easier to implement in the initial CRA process.

6. How to enhance the CRA implementation capacity of municipal governments and public service-related organizations

In principle, inspection and audit bureaus are responsible for conducting voluntary CRA on municipal regulations and internal rules. ACRC does not have the mandate to compel CRA administration on municipal governments and public service-related organizations. At the same time, it has found that being aware of the possibility that such internal regulations can be subject to CRA creates constructive pressure and leads to behavioural changes of public organizations; they are encouraged to invest more effort in anti-corruption activities and consider measures to prevent corruption when enacting or revising regulations and rules.

Therefore, it might be useful to develop ways to enhance the CRA-implementation capacity of municipal governments and public-service organizations, even if one decides not to include them in the scope of the mandatory CRA implementation. For instance, ACRC's Anti-Corruption Training Institute (<https://acti.nhi.go.kr/>) has created an online training programme, “Learning about the CRA implementation through CRA cases.” It also collects and shares exemplary cases of voluntary CRA implementation, in order to inspire and guide similar initiatives. ACRC also provides incentives to encourage the institutionalization of the CRA process in public institutions that are subject to ACRC's other anti-corruption evaluations. ACRC, for example, added the criterion, “implementation of recommendations derived from CRA” in its annual Anti-Corruption Initiative Assessment (AIA). Since AIA results are released to the public, ACRC seeks to motivate heads of public institutions to undertake CRA, so as to score higher on AIA.

7. How to build support from government institutions

In Korea's experience, the systematic corruption risk review practice through CRA, over time, has encouraged government bodies to make proactive efforts in reducing risk factors within their proposed bills or laws, even before submitting the bill for CRA. For this to happen, it is important to build political and institutional support from the target institutions, while putting in place a clear legal basis for CRA.

As described in earlier chapters, CRA has been institutionalized in Korea as an integral part of the formal legislation process; and CRA results are presented as reference material for the vice-ministerial meetings and MOLEG's legislation reviews. As such, it has become rather difficult for government institutions to neglect ACRC's recommendations on their proposed bills.

When seeking to introduce CRA in other contexts, it may be effective to undertake a step-by-step approach involving relevant stakeholders. First, the anti-corruption agency may assemble a task force to crystalize the CRA criteria and checklist and develop a CRA template that is doable, accessible, and easily applicable. Then, the agency may hold workshops inviting relevant stakeholders to introduce CRA and receive feedback to further refine the CRA process. Then, the anti-corruption agency may conduct a pilot implementation and address any problems that may arise, taking in the feedback from target institutions. Lastly, the finalized CRA tool can be circulated for the final consultation and then presented for official endorsement by the highest levels of authority.

8. How to enhance the capacity of staff conducting CRA

For effective and sustainable implementation of CRA, the administering agency needs to ensure that: 1) staff are equipped with the right expertise; and 2) work is appropriately distributed. While CRA does require legal expertise, not all members of CRA need to be legal specialists. In ACRC's case, the CRA team consists of general public administration officials as well as legal experts. This allows CRA to be conducted not purely from a technical, legal perspective but also with an understanding of the overall public administration work, which the bills and laws are ultimately designed to serve.

In terms of work distribution within a CRA team, the anti-corruption agency has two options—either designate members to specialize in a specific CRA criterion only, or have them work on all CRA criteria. Based on over 10 years of CRA experience, ACRC recommends building the capacity of CRA staff to be able to work on all CRA criteria for the following reasons.

- Risk of generating unequal distribution of workload among staff. In the case of Korea, most corruption risks are detected by four criteria out of eleven: 'adequacy of disciplinary regulations'; 'concreteness & objectivity of the basis of decision-making'; 'clarity in public service delivery and administrative process'; and 'risk of conflict of interest'. Therefore, if each staff is tasked with a single criterion only, the workload would not be distributed evenly.
- Need for a cross-criterion perspective. CRA criteria are interconnected. If each member is specialized in each criterion only, it would be difficult to address the interrelations that exist between criteria—for instance when two or more criteria create a synergy to generate a composite corruption risk.
- Need for a holistic legal perspective. In ACRC's experience, pieces of legislation are often connected to each other vertically as well as horizontally; one may be able to understand the accurate meaning of certain provisions only with an understanding of relevant provisions in superior or subordinate laws. In such cases, the CRA team would have to identify whether corruption risks are mitigated/exacerbated by the relationship with other relevant laws. Therefore, it would be more effective if each CRA administrator is capable of dealing with all criteria and undertaking a holistic legal perspective.

As for the team capacity-building, ACRC has created a database with compiled CRA case precedents and recommendations, to be expanded on by each generation of the CRA team. By reviewing actual CRA cases and exemplary recommendations in this database, newly appointed staff are assisted to quickly learn about the practical application of the CRA criteria. In ACRC's experience, practical examples, beyond theory, can be the best help.

9. How to coordinate with other legislation review processes

The Korean Ministry of Legislation (MOLEG) has a mandate to review all pieces of legislation. As such, both ACRC and MOLEG have the legal authority to conduct assessments on bills. In Korea, however, ACRC's CRA has been institutionalized as a separate process from MOLEG's legislation review by making MOLEG conduct their reviews only after the bill undergoes the CRA process. Therefore, there is no conflict between the two processes.

Furthermore, CRA has been legalized in ways that hold the potential of fostering cooperation between ACRC and MOLEG. Under Article 9 (2) of the Operational Guidelines for CRA, ACRC may consult with MOLEG for the effective implementation of CRA recommendations. Article 10 (7) of the Operational Guidelines states that ACRC may share CRA results and ACRC's recommendations with MOLEG if they can serve as a reference point for the review of bills and modification of laws (under articles 21 and article 24 of the Legislative Duty Operational Rule, respectively).

Countries that require cooperation between the anti-corruption agency and other legislation review bodies are therefore advised to consider ACRC's experience and formulate their own ways to avoid conflict or overlap between CRA and other processes.

10. How to reduce the possibility of rejection of CRA results

After conducting the CRA, ACRC either: a) approves a submitted legislative proposal when there are no corruption risk factors identified during the CRA process; or b) partially approves the proposal while recommending specific changes to eliminate corruption risks detected by CRA. Although a complete rejection of the entire legislative proposal is possible in theory, ACRC instead aims to provide constructive recommendations so that bills proposed by the executive body are improved and then passed. Before the official delivery of CRA results, ACRC also consults with concerned government bodies to build a common understanding on CRA results and recommendations.

Furthermore, the CRA law in Korea has allowed government bodies to decide whether to accept or decline CRA assessment results and ACRC's recommendations. They may also request a re-assessment of CRA if deemed necessary. This approach of creating 'options' and 'autonomy' for the target institutions has helped reduce their resistance against the CRA mechanism. At the same time, a well-established and rigorous CRA methodology along with the intensive consultations with government bodies before the official CRA delivery have increased the buy-in from target institutions. Nowadays in Korea, government ministries usually accept the outcome of CRA, and re-assessment requests rarely take place. The acceptance rate of CRA recommendations has also been steadily increased over time—reaching an impressive 96.8% acceptance rate in 2017.

11. How to secure strong political support to overcome the initial resistance

Even with 'encouragement' measures as described above, an anti-corruption institution may initially face resistance when introducing the CRA mechanism. In order to overcome this challenge, one needs to find ways to build strong political support until CRA becomes a regular public administration practice. For instance, disclosing CRA information to the public may help generate support for adopting the CRA as a means to prevent corruption. In Korea's case, ACRC annually discloses the CRA Case Study Report on its website to share the best practices of CRA. This report provides real examples of how each CRA criterion can be utilized to identify corruption causing factors, and what kinds of changes have been made to prevent corruption risks. Such disclosure of CRA information to the public may enhance the public recognition of CRA's usefulness and generate political support that can facilitate the implementation of CRA. Countries seeking to develop CRA may also consider how to utilize other government performance assessments or annual reviews (for instance conducted by the parliament or the Prime Minister's Office), to provide additional encouragement and "sticks" to target institutions—for instance, by including provisions on assessing whether CRA results and recommendations are accepted by target institutions.

12. How to update and improve the CRA criteria

CRA should ideally be a living tool, which is updated and improved over the years. Strenuous efforts to update the CRA criteria are necessary to be able to effectively respond to changing corruption risks and shifting dynamics in public administration.

In Korea's case, CRA has gone through several revisions by ACRC since its introduction in 2006 in order to enhance the strength of methodology and address new corruption challenges, which could no longer be addressed with outdated indicators. In January 2016, for instance, ACRC updated the CRA criteria as described in the box below.

Rationale for key changes made to CRA criteria in 2016

1. Government institutions have been entrusting more and more of their administrative affairs to private sector institutions, and corruption activities related to the entrustment process have been a serious concern in Korea. In response, ACRC reinforced the CRA criterion on entrustment by replacing what used to be the "appropriateness of entrustment/commission standards" with "transparency and accountability of entrustment/commissioning."
2. ACRC also replaced the "clarity of financial support standards" with the more extensive and rigorous criterion, "potential for misallocation or misuse of government support." This change was in response to the increasing financial investment by the Korean government in welfare services and subsidies in recent years, which had also created greater potential for corruption and budget waste.
3. In line with the increasing institutional capacities for corruption prevention in Korea, ACRC newly added the "necessity of enhancing anti-corruption mechanisms" criterion to evaluate whether relevant institutions need to establish anti-corruption mechanisms for preventing corruption for effective implementation of the law.
4. In order to ensure a clearer assessment, ACRC also changed the term "adequacy" to "rationality" for the "rationality of compliance costs" criterion, while splitting the "accessibility/openness" criterion into two separate criteria of "accessibility" and "openness."

As per ACRC's experience, those seeking to introduce the CRA approach are recommended to use CRA as a dynamic corruption prevention tool to identify and address new corruption risks. Corruption is not a static phenomenon but a product of shifting social contexts and loopholes in the legal and public administration system.

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ANNEX

ANNEX 1. CRA Assessment Templates and Guidelines for Acts and Subordinate Statutes

- Government institutions that make partial revisions of laws need to submit baseline assessment materials to ACRC.
- Government institutions that enact or revise entire provisions of laws need to submit both baseline and detailed assessment materials to ACRC.

Note

Even in the case of making partial revisions, government institutions must also submit the detailed assessment materials when requested by ACRC.

Baseline Assessment Materials for Acts and Subordinate Statutes**Assessment Template with Examples**

Title of legislation	Framework Act on National Informatization (Title of system:)						
Category	Enactment		Amendment			Current law	
Type	Act	Presidential Decree	Prime Ministerial Decree	Ordinance of Ministry	Administrative Rules (incl. bylaw, articles of association)	Ordinance	Regulation
Related Administrative Regulations (announcements, directives, regulations, rules, guidelines etc.)	1. Application Guidelines and Evaluation Criteria for Permission of Common Carriers 2. Guidelines for Handling Registration of Special Category Telecommunications Business 3. Regulation on R&D and Management of ICT 4. Project for Designating and Supporting Excellent New Technologies 5. Guidelines for Management of the Informatization Promotion Fund						
Concerned Agency	Name	Ministry of Science, ICT and Future Planning (MSIP)					
	Supervising Division (Review)	Division (Section)			Regulatory Reform & Legal Affairs Division		
		Person in charge: Rank / Name / Phone number			5th rank / 000 / 02-2110-0000		
	Business Division (Implementation)	Division (Section)			0000		
Person in charge: Rank / Name / Phone number			4th rank / 000 / 02-2110-0000				
Legislative timeline (planned) ※ For enacted or revised Acts only	Consultation with Relevant Agencies	Counterpart					
		Period	From	.	.	To	.
	Pre-announcement	From	.	.	To	.	(Day)
Attachment	Essential Material	1. Statutory proposal (Including a comparison table of before/after provisions) 2. Explanations on the revision of the Acts					
	Others	1. Annual statement of contributions for common carriers 2. Current status of ICT R&D projects and evaluation report of each project					
Drafter	Agency	Division	Rank	Name	Phone number		
	MSIP	0000	senior deputy director	000	02-2110-0000		

Detailed Assessment Materials for Acts and Subordinate statutes

Assessment Area: Compliance

"Rationality of compliance costs" criterion: Are compliance costs borne by individuals and businesses to comply with the laws and regulations rational?

① Excessive ② Rational

Assessment Template with Examples

<Table 1-1> Details of laws and regulations related to the compliance costs

No. ①	Legal Basis ②	Details of Compliance Costs ③	Relevant Stakeholders ④ (Contact information)
1	▫ Article 4 of the Food Sanitation Act	▫ Prohibits sale, storage, transportation and display of hazardous foods	▫ Korea Food Service Industry Association (1688-0000)
2	▫ Article 8 of the Food Sanitation Act	▫ Prohibits sale, utilization of toxic apparatus, etc.	▫ Korea Foods Industry Association (02-3470-0000) ▫ Korea Ceramic Art Association (031-632-0000)
3	▫ Article 41 of the Food Sanitation Act	▫ Employees of food service businesses need to receive annual mandatory training on sanitation	▫ Korea Food Service Industry Association (1688-0000)

<Additional Comments> Necessity and validity of imposing compliance costs ⑤

3	▫ Enforcing mandatory sanitation training on food industry workers can prevent food-related health risks and improve the nutritional quality of foods
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<Reference Materials> ⑥

1	▫ Press releases related to hazardous foods
2	▫ Opinions of stakeholders related to the proposed revision of the Food Sanitation Act

① List the enacted or revised provisions stipulating the compliance costs, using serial numbers

② State the articles of the act stipulating the compliance costs

③ Describe the compliance costs, including capital expenditures as well as legal or de facto sacrifices and opportunity costs

Examples of compliance costs: various documents, prior declarations, trainings, regular reports, regular inspections, use of designated items, prohibition of specific facilities or actions, removals, restrictions on outside work, etc.

④ State the name and contact information of the relevant stakeholders (i.e. individuals or organizations subject to the laws and regulations) to examine the validity of the burden of compliance

⑤ Provide any additional information related to the necessity and validity of compliance costs (pursuant to the serial numbers given in Table 1-1), when deemed necessary

⑥ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: relevant laws (subordinate statutes and administrative rules), research papers, public hearing materials, public survey results, press releases, etc.

"Adequacy of disciplinary regulations" criterion: Are the contents and level of sanctions imposed on the violation of laws appropriate?

① Excessive ② Rational ③ Strict

Assessment Template with Examples

<Table 1-2> Details of laws and regulations related to the sanctions

No.①	Legal Basis②	Details of Violations③	Details of Sanctions④
1	▫ Article 47 of the Crime Victim Protection Act	▫ A person who received an illicit subsidy under false pretenses or by utilizing other unjust methods	▫ Imprisonment for no more than 5 years or a fine not exceeding KRW 20 million
2	▫ Article 47 of the Crime Victim Protection Act	▫ A person who utilized a subsidy for purposes other than protecting or supporting victims of crime	▫ Imprisonment for no more than 3 years or a fine not exceeding 10 million KRW

<Additional Comments> Necessity of imposing sanctions and the validity of the level of sanctions⑤

No.	Necessity of imposing sanctions and the validity of the level of sanctions
1	▫ Considering the social impact and harm caused by receiving an illegal subsidy, or utilizing it for unspecified purposes, a person who has received a subsidy under false pretenses or by utilizing other unjust methods shall be punished by imprisonment for no more than five years or with a fine not exceeding 20 million KRW. A person who has utilized a subsidy for unspecified purposes shall be punished by imprisonment for no more than three years or with a fine not exceeding 10 million KRW

<Reference Materials>⑥

No.	Details of Reference Materials
2	▫ Related statistical data such as documented cases of individuals receiving subsidies in an illegal and unfair manner, and using them for unspecified purposes ▫ Similar sanctions imposed under other acts and subordinate statutes

① List the enacted or revised provisions stipulating the sanctions for the violation of laws and regulations (including relevant appendix), using serial numbers

② State the articles of the act stipulating the sanctions

③ Describe the level of sanctions (e.g. type, severity, number and gravity of violations, etc.)

④ Briefly describe the type and level of sanctions imposed for the violation of laws (If details of sanctions are stated in an appendix section, summarize and attach the document separately)

Examples of sanctions:

- Cancellation, withdrawal and suspension of permission for business.
- Penalty, negligence fine, additional tax, illegally-gained money, additional charge, surcharge, and levy.
- Public announcement of violations, restriction on employment, refusal of supply, restriction on qualification for government-licensed business or bidding.

⑤ Provide any additional information related to the necessity of imposing sanctions and the validity of the level of sanctions (pursuant to the serial numbers given in Table 1-2), when deemed necessary

⑥ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: research papers, public hearing materials, public survey results, press releases, etc.

"Risk of granting preferential treatment" criterion: Is there any risk that certain classes, businesses, groups or individuals may receive preferential treatments or benefits when enforcing the laws and regulations?

① No ② Yes

Assessment Template with Examples

<Table 1-3> Details of laws and regulations granting benefits

No. ①	Legal Basis ②	Beneficiary ③	Details of Benefits ④
1	<ul style="list-style-type: none"> ▫ Article 33 of the Elementary & Secondary Education Act ▫ Article 64 of the Enforcement Decree of the Act 	▫ School Steering Committees	▫ Raising and utilization of school development funds
2	▫ Article 18-5 of the Act on Special Measures for the Promotion of Venture Businesses	▫ Local governments and venture businesses in the business promotion districts	▫ Preferential support of funds
3	▫ Article 25 of the Special Act on the Development of Enterprise Cities	▫ Development project operators	▫ Exemption of tax and charges

<Additional Comments> Rationale behind granting preferential treatments and its adequacy ⑤

No.	Rationale behind granting preferential treatments and its adequacy
1	▫ To enhance the autonomy and diversity of school administration
2	▫ To reduce the economic gap between different regions and to revitalize strategic regional industries by fostering and supporting venture businesses that suit regional characteristics
3	▫ To ensure the smooth development of enterprise cities

<Reference Materials> ⑥

No.	Details of Reference Materials
2	▫ Research report providing measures to enhance transparency in the management of school development funds

- ① List the enacted or revised provisions which provide/may provide benefits or secondary benefits to someone, using serial numbers
- ② State the articles of the act that grants preferential treatment of secondary benefits
- ③ State the beneficiary that receives/may receive benefits
- ④ Briefly describe the details of benefits stated in bills, laws and regulations
- ⑤ Provide any additional information related to the rationale behind granting preferential treatment and its adequacy (pursuant to the serial numbers given in Table 1-3), when deemed necessary
- ⑥ List any additional materials that can serve as a reference, and attach each document separately

Assessment Area: Execution

"Concreteness and objectivity of the basis of decision-making" criterion: Are the details of the discretionary powers (e.g. subject, scope and standard of discretion, and the process for exercising discretion) defined in a concrete and objective manner? Is there a mechanism in place to prevent the excessive exercise of discretionary powers?

① Concrete/objective (including a control mechanism) ② Abstract/subjective

Assessment Template with Examples

<Table 2-1> Details of laws and regulations related to the discretionary powers

No. ①	Legal Basis ②	Details of Discretionary Powers ③
1	▫ Article 33-37 of the River Act	▫ Granting permission for occupation of river areas and collection of occupation fees
2	▫ Article 9, Paragraph 4 of the Fisheries Act	▫ Under certain conditions, a mayor, county governor or head of the district office shall issue a license (i.e. license for village fishery, cooperative fishery or other fisheries except for fisheries conducted in high seas) to fishing village societies, fishery union corporations and fishery cooperatives
3	▫ Article 25, 27, 28 of the Wastes Control Act ▫ Article 25, 27, 28 of the Wastes Control Act	▫ Granting permission for collection, transportation and process of wastes ▫ Cancellation/suspension of a permit or license, or imposition of a penalty surcharge under certain conditions
4	▫ Article 132 of the Marine Environment Management Act ▫ Article 98 of the Enforcement Decree of the Act (Appendix 19)	▫ Imposing aggravated or mitigated fines based on the marine pollution impact assessment results to penalize false reporters, emitters of pollutants, and those who fail to deliver their duties, such as keeping, supplying and reporting of documents pursuant to the Act

Standards for determining the existence of discretions

- If laws and regulations stipulating the requirements and standards for administrative disposition contain indeterminate concepts or loopholes, discretionary powers within such bills, laws and regulations need to be analysed by CRA
 - ⦿ When interpreting and applying missing regulations or indeterminate concepts that are abstract and polysemous, this may allow government officials to exercise de facto discretionary powers or to make arbitrary decisions
- If a legal provision stipulates which specific action may be taken or which certain action may be taken among multiple options, the provision is providing discretionary powers
 - ⦿ When a legal provision grants discretionary powers where a certain action can be taken or not be taken (e.g. "When..., one may ...", and "When ..., one may not ...")
 - ⦿ When a legal provision allows a certain action to be taken out of multiple actions (e.g. "When..., one may ... or ...")

Note

If it is unclear whether provisions are granting discretionary powers (e.g. provisions such as: "One who intends to do ... must receive approval from the Minister OO) state such provisions in Table 2-1.

<Table 2-2> Concreteness/objectiveness of discretionary regulations

No. ^①	Discretionary Power (Legal Basis) ^②	Individuals or Entities Exercising Discretionary power ^③	Process/Requirement for Exercising Discretionary Power ^④	Scope/Degree of Discretionary Power ^⑤	Control Mechanism ^⑥
1	• Calculation of a penalty surcharge (Appendix 1 of the Enforcement Decree of the Act on Fair Labelling and Advertising)	• Fair Trade Commission	• Article 15 of the Act • Appendix 1 of the Act	• Imposing reduced (up to 50%) penalty surcharge • Exemption from penalty surcharge	• Reasons for imposing reduced penalty surcharge are specified in the resolution letter

<Additional Comments> Rationale behind granting preferential treatments and its adequacy^⑩

No.	Rationale behind abstract/subjective discretionary regulations
1	• To impose penalty surcharges in a flexible manner, considering inevitable circumstances (e.g. violating entity's inability to pay fines, changes in or worsening conditions of market/industry, occurrence of economic crises, etc.)

<Reference Materials>^⑪

No.	Details of Reference Materials
2	• Public announcement regarding specific standards for imposing penalty surcharges on businesses that violate the Act on Fair Labelling and Advertising (The Korea Fair Trade Commission, Notification No. 2014-12)

① List the enacted or revised provisions stipulating the discretionary powers, using serial numbers

② State the articles of the act stipulating the discretionary powers

③ Briefly describe the details of the discretionary power (subject, scope, standards and procedures for exercising discretionary powers, etc.)

Note

Even if the discretionary power is not directly stipulated, please state the details of the provisions which requires working-level public officials or related agencies to make discretionary decisions (e.g. interpretation and application of indeterminate concepts or the selection of effects, etc.) which shall be considered de facto discretionary statutes.

④ List the enacted or revised provisions stipulating the discretionary powers (pursuant to the serial numbers given in Table 2-1)

⑤ State the articles of the act stipulating the discretionary powers (including key details of the discretionary powers stipulated in the concerned bills, laws and regulations, or other discretionary powers that can be induced by interpreting the provisions)

⑥ State the individuals and/or entities exercising discretionary powers

⑦ State the articles of the act which stipulate the processes and requirements for exercising discretionary powers (If relevant details are stated in an appendix section or in subordinate statutes, summarize and attach the document separately)

⑧ Describe in detail the actions or effects that can be enforced by exercising discretionary powers

Examples of actions or effects:

- granting permissions, issuing licenses, cancellation or suspension of permissions or licenses, interpretation or application of indeterminate concepts.
- length of the period (cancellation or suspension period, etc.).
- upper or lower limits of the amount (standards for aggravating or mitigating fine or penalty surcharges).

⑨ Describe in detail the types and contents of the control mechanism stipulated in bills, laws and regulations to prevent the excessive exercise of discretionary powers

⑩ State the rationale behind abstract/subjective discretionary regulations (pursuant to the serial numbers given in Table 2-2)

⑪ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: subordinate statutes stipulating the concerned discretion in detail, etc.

"Transparency and accountability of entrustment/commissioning" criterion: Are the requirements, scope, limitation and selection procedure of entrustment and commissioning clearly defined when the authority and duties are entrusted to public service-related organizations or different private organizations?

① Yes ② No

Is there a management and monitoring mechanism in place to secure the accountability of entrustment/commission?

① Yes ② No

Assessment Template with Examples

<Table 2-3> Details of laws and regulations related to entrustment and commissioning

No. ^①	Name of Concerned Affairs ^②	Legal Basis ^③	Requirements ^④	Scope/Limitation ^⑤	Selection Procedure ^⑥	Management/Monitoring Mechanisms ^⑦
	▫ Official approval of national technical qualifications	▫ Article 23, Paragraph 2 of the National Technical Qualifications Act ▫ Article 29, Paragraph 4 of the Enforcement Decree of the Act	▫ Non-profit corporation equipped with organization, work force and facility required for official approval, which has expertise and representativeness in each field of qualification (Article 29 (4) of the Enforcement Decree)	▫ Article 29, Paragraph 4-6 of the Enforcement Decree	Submission of the request for entrustment → announcement of official notice → submission of the application for entrustment → deliberation, designation and notice (Article 41 of the Enforcement Regulation of the Act)	▫ Assessment of entrusted agency, cancellation of entrustment, legal fiction as public officials (Article 24, 24-2, 25 of the Act)
	▫ Operation of designated education and training courses	▫ Article 10, Paragraph 2 of the National Technical Qualifications Act	▫ Any party meeting the standards (e.g. faculty, facility and equipment for experiment and training, and curriculum) prescribed by Presidential Decree (Article 10, Paragraph 2 of the Act)	▫ Article 10, Paragraph 2 of the Act	Application for designation → consultation with Minister of Employment and Labor → deliberation, designation and notice (Article 14-2 of the Enforcement Decree)	▫ Investigation on designated agencies, cancellation of designation (Article 24-4, 24-5 of the Act)

<Additional Comments> Rationale behind the obscure regulations on entrustment and commissioning^⑧

No.	Rationale behind the obscure regulations on entrustment and commissioning

<Additional Comments> Rationale behind the absence of management and monitoring mechanisms^⑨

No.	Rationale behind the absence of management and monitoring mechanisms

<Reference Materials>^⑩

No.	Details of Reference Materials

- ① List the enacted or revised provisions stipulating the matters regarding entrustment and commissioning (including re-entrustment), using serial numbers

Note

Please also state the provisions stipulating the designations to grant administrative affairs.

- ② Describe the key affairs of entrustment and commissioning
- ③ State the articles of the act stipulating entrustment and commissioning
- ④ Briefly describe the standards for selecting the subject of entrustment and commissioning (including the concerned articles of the act)
- ⑤ Briefly describe the scope and limitations of the entrustment and commissioning affairs (including the concerned articles of the act)
- ⑥ Briefly describe the procedure for selecting a subject of entrustment and commissioning (including the concerned articles of the act)
- ⑦ Briefly describe the details of the management/monitoring mechanism for entrustment and commissioning (including the concerned articles of the act)
- ⑧ State the rationale behind obscure regulations on entrustment and commissioning (pursuant to the serial numbers given in Table 2-3)
- ⑨ State the rationale behind the absence of a management and monitoring mechanism (pursuant to the serial numbers given in Table 2-3)
- ⑩ List any additional materials that can serve as a reference, and attach each document separately
Examples of reference materials: research papers, public hearing materials, etc.

"Potential for misallocation or misuse of government support" criterion: Do financial support programmes (including government subsidies) overlap with each other? Are there any risk of budget waste resulting from unclear standards for government support?

① Yes ② No

Are there any management and monitoring mechanisms designed to prevent budget waste?

① Yes ② No

Assessment Template with Examples

<Table 2-4> Details of laws and regulations related to the financial support

No. ①	Legal Basis ②	Type of Support ③	Beneficiary ④	Standards/ Procedure ⑤	Similar Programmes ⑥	Management/ Monitoring Mechanisms (including sanctions) ⑦
1	▫ Article 10 of the Act on the Promotion of Skilled Workers	▫ Grant	▫ Outstanding skilled workers prescribed by the Presidential Decree	▫ Recipients shall be selected among skilled workers with 7 or more years of experiences in specific manufacturing fields designated by the Minister of Employment and Labor. Application shall be made upon the recommendation of business owners. Details on the application including procedure, selection criteria, and the number of final recipients shall be notified by 30 April (Article 9 of the Enforcement Decree). ▫ The Deliberation Commission for Promoting Skilled Workers shall select the recipients (Article 22 of the Enforcement Decree)	▫ Article 10, Paragraph 2 of the Act	▫ Assessment of entrusted agency, cancellation of entrustment, legal fiction as public officials (Article 24, 24-2, 25 of the Act)

<Additional Comments> Uniqueness of the financial support or rationale behind the unclear regulations on financial support^⑧

No.	Uniqueness of the financial support or rationale behind the unclear regulations on financial support
1	= Considering the diversity of fields subject to financial support (96 fields) and the disparity of technological levels and deliberation standards between different fields, it is somewhat inevitable that recipients be selected by means of public notice (fairness shall be ensured by establishing the Deliberation Commission for Promoting Skilled Workers)

<Additional Comments> Rationale behind the absence of management and monitoring mechanisms^⑨

No.	Rationale behind the absence of management and monitoring mechanisms

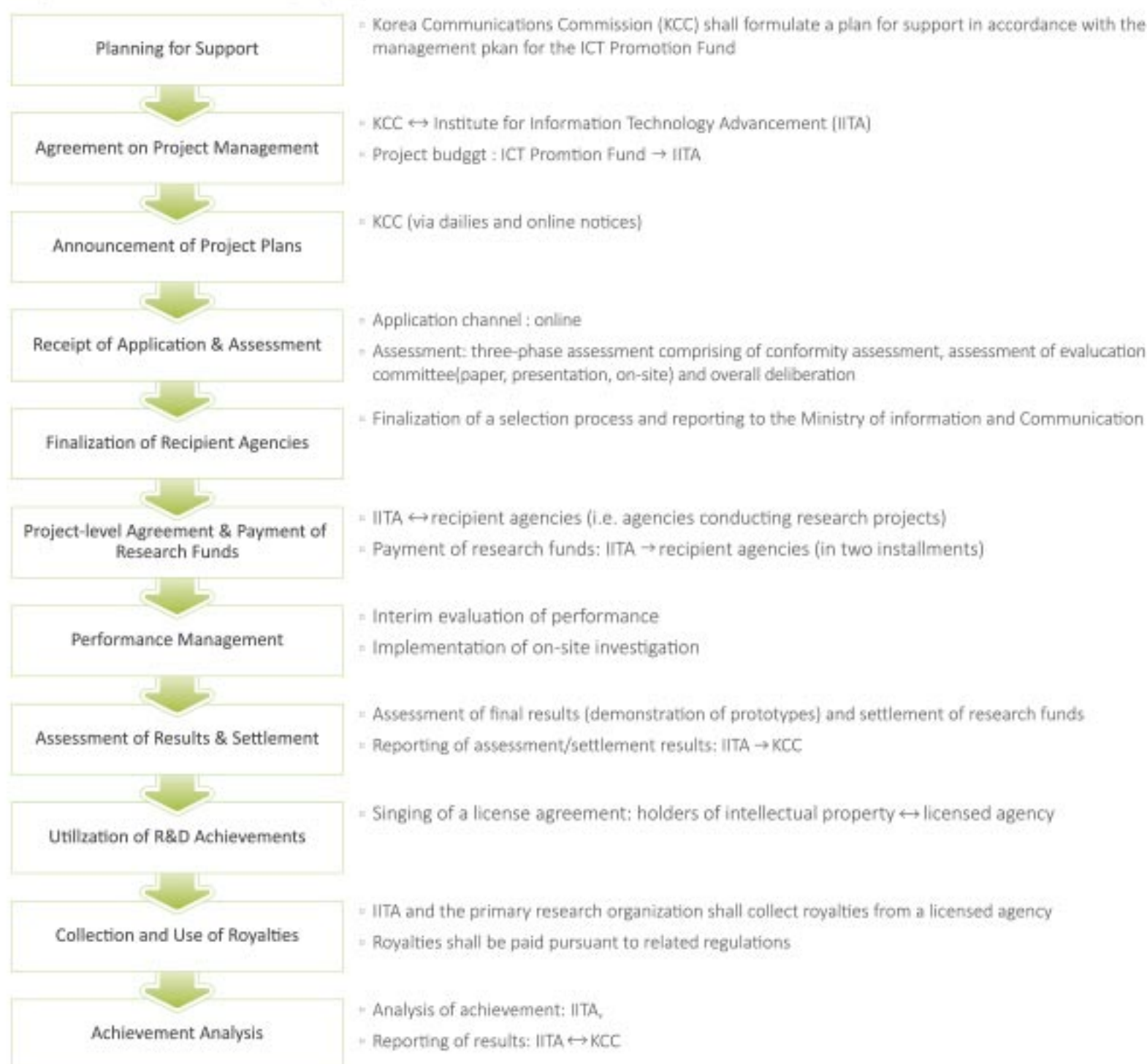
<Reference Materials>^⑩

No.	Details of Reference Materials
1	= Regulations on the selection of outstanding skilled workers and granting preferential treatment (bylaws of the Human Resources Development Service of Korea)

- ① List the enacted or revised provisions stipulating financial support, using serial numbers
- ② State the articles of the act stipulating financial support
- ③ State the types of financial support in detail
Examples of financial support: subsidy, grant, contribution, utilization of national and public property, loan, reduction and exemption of royalty or loan fees, etc.
- ④ State the beneficiary of the financial support as stipulated in bills, laws and regulations
- ⑤ State the standards and procedures for providing financial support (if details of standards and procedures are stated in an appendix section or in subordinate statutes, please summarize and attach the documents separately)
- ⑥ Describe the articles of other acts that provide similar financial support to the recipients
- ⑦ Describe in detail the contents of the mechanism designed to prevent any illegal or unfair financial support (including the concerned articles of the act)
- ⑧ Describe the uniqueness of the financial support (in comparison with similar support programmes) or the rationale behind the unclear regulations on financial support (pursuant to the serial numbers given in Table 2-4), when deemed necessary
- ⑨ State the rationale behind the absence of a management and monitoring mechanism (pursuant to the serial numbers given in Table 2-4)
- ⑩ List any additional materials that can serve as a reference, and attach each document separately
Examples of reference materials: subordinate statutes stipulating the standards of financial support in detail, etc.

Assessment Area: Administrative Procedures

Assessment Template with Examples

<Figure 3-1> Workflow of funding ICT projects^①

<Table 3-2> Details of laws and regulations related to collecting opinions and making an appeal

No. ^②	Legal Basis ^③	Details of the Participatory Mechanisms ^④
1	▫ Article 14 of the Act on Planning and Use of National Territory	▫ Holding a public hearing and collecting opinions from residents and experts when formulating or revising a metropolitan plan
2	▫ Article 26 of the Act on Planning and Use of National Territory	▫ Allowing residents (including interested parties) to draft urban area and county management plans

<Additional Comments> Rationale behind the absence of participatory mechanisms^⑤

No.	Rationale behind the absence of participatory mechanisms

<Reference Materials>^⑥

No.	Details of Reference Materials

- ① Illustrate a workflow of the administrative process that can be easily understood by civil petitioners

Note

please also state the legal basis for each task described in the workflow. The legal basis should include the concerned bills, laws and regulations as well as relevant laws and regulations (e.g. superior/subordinate statutes, administrative rules, municipal regulations, etc.).

- ② List the enacted or revised provisions stipulating the civic participation opportunities, using serial numbers

- ③ State articles of the act stipulating the civic participation opportunities

- ④ Describe the contents of the participatory mechanisms allowing stakeholders (e.g. citizens, companies, organizations, etc.) to express their opinions

Examples of participatory mechanisms: public hearings, collecting opinions of residents, submission of opinions, etc.

- ⑤ State the rationale behind the absence of participatory mechanisms

- ⑥ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: subordinate statutes stipulating participation methods, research papers, public hearing materials, etc.

Checklist for evaluating the “adequacy of disciplinary regulations” criterion

- Ⓐ When the Administrative Procedures Act already provides sufficient participation opportunities

Note

In such cases, please explain how participation opportunities stipulated in the Act can sufficiently secure procedural transparency.

- Ⓑ When the civic participation needs to be minimized to prevent potential negative impacts such as information leakage

Note

In such cases, please explain the risks of expanding civic participation and its potential impacts.

- Ⓒ When swift decision-making and immediate actions are required

Note

In such cases, please explain why swift decision-making and taking immediate actions are needed and how civic participation may slow down administrative process.

- Ⓓ When expanded civic participation is expected to undermine the professionalism and efficiency of administrative procedures

Note

In such cases, please explain how civic participation may undermine the efficiency of administrative procedures.

“Openness” criterion: Is administrative process-related information (e.g. content, handling procedure, etc.) sufficiently disclosed to stakeholders and the public?

① Yes ② No

Assessment Template with Examples

<Table 3-3> Information disclosure mechanisms

No.①	Legal Basis②	Details of Information Disclosure③
1	▫ Article 4-3, Paragraph 5 of the Public Education Officials Act	▫ Prior disclosure of information regarding recruitment of university staff (including positions of jobs, number of job openings, qualifications for application, and evaluation criteria)
2	▫ Article 14 of the Enforcement Regulation of the Road Act	▫ Public announcement of types of road, the number and name of a route, section, opening date or closing date when utilizing or abolishing partial or entire road zone
3	▫ Article 9-2 of the Occupational Safety and Health Act ▫ Article 8-4 of the Enforcement Decree of the Act	▫ Public announcement of relevant data, including the number of industrial accidents in workplaces, accident rate, ranking

<Additional Comments> Rationale behind the absence of information disclosure mechanisms④

No.	Rationale behind the absence of information disclosure mechanisms

<Reference Materials>⑤

No.	Details of Reference Materials

① List the enacted or revised provisions stipulating the information disclosure and mandatory information sharing with interested parties, using serial numbers

② State the articles of the act stipulating the information disclosure

③ Describe the contents of disclosed information, information disclosure period and its methods in detail

④ State the background and rationale for not disclosing information

⑤ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: subordinate statutes stipulating the information disclosure in detail, research papers, public hearing materials, etc.

"Clarity in public service delivery and administrative process" criterion: Can citizens clearly understand and anticipate administrative procedures such as required documents, administrative procedures, handling periods and results?

① Yes ② No

Assessment Template with Examples

<Table 3-4> Clarity of administrative procedures

Category	Legal Basis	Details of Administrative process
Preparation materials ^①	▫ Article 9 of the Regulation on the Safety of Drugs, etc.	▫ Materials regarding details of the origin, discovery or development of the product, chemical structure, physiochemical properties, toxicity and safety
Procedures ^②	▫ Not stipulated	
Results ^③	▫ Not stipulated	
Period ^④	▫ Not stipulated	

<Additional Comments> Rationale behind the low clarity of administrative process^⑤

No.	Rationale behind the low clarity of administrative process
1	▫ Determining whether a specific drug is safe and effective requires a high level of expertise and a scientific verification process. Therefore, it is difficult to predict the evaluation period and when the results will be produced

<Reference Materials>^⑥

No.	Details of Reference Materials
1	▫ Standard for toxicity testing of drugs (The Ministry of Food and Drug Safety, Notification No. 2014-136)
2	▫ Standard for safety testing of drugs (MFDS, Notification No. 2014-59)
3	▫ Regulations for approval and review of biological products (MFDS, Notification No. 2015-41)

① Describe the materials that citizens are required to submit to receive public services or to file complaints (including the concerned articles of the act)

② Describe the administrative procedures stipulated in the enacted or revised provisions (including the concerned articles of the act)

③ Describe how citizens can access handling results (including the concerned articles of the act)

④ Describe the handling period of administrative process (including the concerned articles of the act)

⑤ State the rationale behind the low clarity of administrative process

⑥ List any additional materials that can serve as a reference, and attach each document separately

Examples of reference materials: subordinate statutes stipulating the procedure and period for handling administrative affairs, and related research papers, etc.

Assessment Area: Corruption Control

"Risk of conflict of interest" criterion: Are there standards, procedures or mechanisms to prevent private interests intervening in administrative processes?

① Yes ② No

Assessment Template with Examples

<Table 4-1> Mechanisms for preventing conflict of interest

No.①	Legal Basis②	Details of Mechanisms③
1	▫ Article 41 and 41-2 of the Invention Promotion Act	▫ Regulations on the qualifications and tenure of civilian members of the Industrial Property Dispute Resolution Committee as well as automatic exclusion, request/petition for exclusion, and recusal (voluntary abstention) mechanisms regarding committee members
2	▫ Article 20 and 22 of the Enforcement Decree of the Construction Technology Promotion Act	▫ Regulations on automatic exclusion, request/petition for exclusion, recusal (voluntary abstention), and dismissal mechanisms regarding committee members
3	▫ Article 17-2, 17-3, and 43 of the Game Industry Promotion Act	▫ Regulations on automatic exclusion, request/petition for exclusion, recusal (voluntary abstention) mechanisms regarding committee members, disclosure of meeting minutes, legal fiction as public official in the application of penal provisions
4	▫ Article 24 of the Industrial Accident Compensation Insurance Act	▫ Regulations on automatic exclusion, request/petition for exclusion, and recusal (voluntary abstention) mechanisms regarding members of the Deliberation Committee of the Industrial Accident Compensation Insurance

<Additional Comments> Rationale behind the absence of mechanisms for preventing conflict of interest④

No.	Rationale behind the absence of mechanisms for preventing conflict of interest

<Reference Materials>⑤

No.	Details of Reference Materials

① List the enacted or revised provisions stipulating the mechanisms to prevent conflict of interest, using serial numbers

② State the articles of the act stipulating the mechanisms to prevent conflict of interest situations

③ Describe in detail the types and contents of the mechanisms designed to prevent conflict of interest

Examples of mechanisms: regulations (e.g. qualification of members, tenure and reappointment of members, etc.), certain mechanisms (i.e. mechanisms providing: automatic exclusion; request/petition for exclusion; recusal (voluntary abstention); and dismissal), legal fiction as public official, and regulations prohibiting concurrent employment of government officials and making profits, etc.

④ State the rationale behind the absence of mechanisms for preventing conflict of interest

⑤ List any additional materials that can serve as a reference, and attach each document separately

"Risk of conflict of interest" criterion: Are there standards, procedures or mechanisms to prevent private interests intervening in administrative processes?

① Yes ② No

Assessment Template with Examples

<Table 4-2> Related corruption cases and corruption control mechanisms

No. ①	Corruption Cases ②	Related Regulations ③	Corruption Control Mechanisms ④
	▫ Discovery of a false appraisal report for the issuance of a huge amount of loan, which had been written in return for a bribe	▫ Article 68 of the Act on the Acquisition of Land, etc. for Public Works and the Compensation	▫ Three appraisers shall be appointed for evaluating compensation for lands, etc.
	▫ Corruption cases such as excessive cost estimation and the signing of dual contracts with a subcontractor, during the delivery process of a cost-reimbursement contracts conducted under the defense procurement project	▫ Article 28 of the Regulation on the Cost Estimation of Defense Procurement	▫ The Act on the Fair Defense Acquisition Programme Cost Management System is being enacted to prevent future occurrence of corruption

<Additional Comments> Rationale behind the absence of mechanisms for preventing conflict of interest ⑤

No.	Rationale behind the absence of corruption control mechanisms

<Reference Materials> ⑥

No.	Details of Reference Materials

① List every enacted or revised provision stipulating the corruption control mechanisms (including provisions where relevant corruption cases have occurred)

② Briefly describe the corruption cases as relevant to the enactment of revised provisions

Note

Please also include reported and handled corruption cases, investigations of an internal audit or BAI, observations of the National Assembly, and relevant press releases when describing the corruption cases.

③ State the articles of the act that are relevant to the corruption cases stated in the corruption cases section

④ Describe the corruption control mechanisms to prevent potential corruption risks that may occur due to the enactment or amend of provisions

Examples of corruption control mechanisms: Conducting joint investigation (consisting of more than two people) for guidance, crackdown and inspection; operating a civic participation system (civilian members, council, etc.); utilizing committees for evaluation; assessment and deliberation process; and enhancing a goods verification system to prevent any fraud related to supply of goods, etc.

Note

Even if there are no relevant corruption cases, any mechanisms designed to prevent potential corruption cases shall be described.

- ⑤ State the rationale behind the absence of corruption control mechanisms
- ⑥ List any additional materials that can serve as a reference, and attach each document separately

Checklist for evaluating the “adequacy of disciplinary regulations” criterion

- Ⓐ When the bills, laws and regulations subject to CRA do not contain corruption-causing factors (e.g. granting preferential treatment, unclear regulations, etc.)
- Ⓑ When corruption-causing factors within the bills, laws and regulations subject to CRA are not directly linked to the occurrence of corruption

Note

In such cases, please explain the rationale behind the above argument and provide evidentiary materials.

- Ⓒ When it is considered that the occurrence of corruption is more relevant to the ethics and practices of the person in charge, rather than the incompleteness of laws or the absence of corruption control mechanisms

Note

In such cases, please explain the rationale behind the above argument and provide evidentiary materials.

- Ⓓ When the concerned institution plans to specify corruption control mechanisms by stipulating them in subordinate statutes or administrative rules to remove corruption-causing factors within bills, laws and regulations subject to CRA

Note

In such cases, please state the key contents of the drafted subordinate statutes or administrative rules, and attach the document separately.

ANNEX 2. CRA Baseline Assessment Materials for Municipal Regulations

※ Reference Number	Basic Application for the Corruption Impact Assessment			
Title of Municipal regulation				
Type	Ordinance	Rule	Educational Rule	
Category	Enactment	Amendment	Current regulation	
Name of relevant laws		(names of delegation laws, enforcement laws of the assessment subject law, etc.)		
Local Governments	Drafting Division	Division (Section or Team)		
		Person in charge: Rank / Name / Phone number		
Legislative timeline (planned)	Consultation with relevant agencies	Counterpart (Division)		
		Period	From To (Day)	
	Pre-announcement	From To (Day)		
Opinion Gathering	1. Whether the subject materials are reviewed by a legal affair division or an audit division 2. whether a public hearing or seminar, etc. is held			
Attachment	1. Legislative proposal (including a comparison table of before/after provisions) 2. Explanations of the enactment or amendment of regulations ※ If a request is being made to have the ACRC conduct an assessment, the reason for this request shall be included as an attachment			
Drafter	Division	Rank	Name	Phone number

※ The reference number shall be filled in by the assessment division

ANNEX

3. Detailed Assessment Materials for Municipal Regulations

Name of law

Provision subject to assessment

Criteria

Current Status

Issues

Result

ANNEX 4. Notification of Results Templates for Municipal Regulations

Name of law			
Assessor	(Division)	(Rank)	(Name)
Drafting division		Notification date	
Relevant provision	Assessment result	Measures to taken	
<ul style="list-style-type: none"> » If the assessment result suggests room for improvement, the concerned provision shall be described 	<ul style="list-style-type: none"> » Problems and measures for improvement shall be briefly described 	(Example 1) The assessment division shall directly amend the concerned provision (Example 1) The assessment division shall notify the drafting division of the results and request amendment	

ANNEX 5. CRA Baseline Assessment Materials for Rules and Bylaws

※ Reference Number				
Title of Municipal regulation				
Type	Ordinance	Rule	Educational Rule	
Category	Enactment	Amendment	Current regulation	
Name of relevant laws		(names of delegation laws, enforcement laws of the assessment subject law, etc.)		
Local Governments	Drafting Division	Division (Section or Team)		
		Person in charge: Rank / Name / Phone number		
Legislative timeline (planned)	Consultation with relevant agencies	Counterpart (Division)		
		Period	From To (Day)	
	Pre-announcement	From To (Day)		
Opinion Gathering	1. Whether the subject materials are reviewed by a legal affair division or an audit division 2. whether a public hearing or seminar, etc. is held			
Attachment	1. Legislative proposal (including a comparison table of before/after provisions) 2. Explanations of the enactment or amendment of regulations ※ If a request is being made to have the ACRC conduct an assessment, the reason for this request shall be included as an attachment			
Drafter	Division	Rank	Name	Phone number

※ The reference number shall be filled in by the assessment division

ANNEX 6. Detailed Assessment Materials for Rules and Bylaws

Name of law

Provision subject to assessment

Criteria

Current Status

Issues

Result

ANNEX 7. Notification of Results Templates for Rules and Bylaws

Name of law			
Assessor	(Division)	(Rank)	(Name)
Drafting division		Notification date	
Relevant provision	Assessment result	Measures to taken	
<ul style="list-style-type: none"> If the assessment result suggests room for improvement, the concerned provision shall be described 	<ul style="list-style-type: none"> Problems and measures for improvement shall be briefly described 	(Example 1) The assessment division shall directly amend the concerned provision (Example 1) The assessment division shall notify the drafting division of the results and request amendment	

ANNEX 8. Request for Advice on CRA

Serial number	Request for Advice on Corruption Risk Assessment

Receiver: Organization

Name of advisor

The Anti-Corruption and Civil Rights Commission hereby requests advice from the person above on the Corruption Risk Assessment pursuant to Article 31 of the Enforcement Decree of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission and Article 23 of the Operational Guidelines for Corruption Risk Assessment.

Date:

Requester Name: O O O of the Corruption Risk Assessment Division

ACRC (Phone/Fax:)

(E-mail:)

Assessment Subject	Title of legislation							
	Category	Enactment			Amendment		Current laws and regulations	
	Type	Act	Presidential Decree	Prime Ministerial Decree	Ordinance of Ministry	Administrative Rules (incl. bylaw, articles of association)	Ordinance	Regulation
	Ref. no.							
Rationale behind requesting advice								
Requested advice	- review opinions on legal draft by assessment criteria							
Attachments	1. Baseline assessment materials submitted by the concerned agency 2. Preliminary assessment report prepared by staff of the CRA division 3. Copy of relevant bills, laws and regulations							
Remarks	Please respond to the request for advice by (mm/dd/yyyy)							

ANNEX 9. Operational Guidelines for Corruption Risk Assessment

Operational Guidelines for Corruption Risk Assessment

Chapter 1 General Provisions

Article 1 (Purpose)

This regulation aims to prescribe the requirements needed to ensure efficiency of the Corruption Risk Assessment in accordance with Article 28 of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission and Articles 30 to 32 of the Enforcement Decree of the same Act.

Article 2 (Definition)

The Corruption Risk Assessment (hereinafter "assessment") in this regulation refers to analysis and reviews of corruption-causing factors in assessment subjects (hereinafter "assessment subjects") stated in Article 3, and to present any of the following opinions:

1. Approving the original bill: Concludes that no corruption-causing factors exist in the assessment subjects stated in Article 3 and consequently accepts the assessment subjects as they are
2. Partial approval: Recommends actions such as revision, supplementation, or deletion of entire or partial provisions of assessment subjects to remove or rectify corruption-causing factors existing in assessment subjects
3. Withdrawal: Proposes the withdrawal of assessment subjects if corruption-causing factors are so prevalent that the improvement of the assessment subjects are deemed to be unlikely

Article 3 (Assessment Subjects)

An assessment is conducted for any of the following bills, laws and regulations:

1. Enactment of or amendment of acts, presidential decrees, prime ministerial decrees, and ministerial ordinances (hereinafter "enacted/amended bills");
2. Acts, presidential decrees, prime ministerial decrees, and ministerial ordinances as well as directives, regulations, announcements, and notices (including the enactment or amendment of directives, regulations, announcements, and notices) delegated by them; and ordinances and rules (hereinafter "acts and subordinate statutes");
3. Enactment of or amendment of ordinances and rules of which the head of the local government has requested an assessment (hereinafter "enacted/amended municipal regulations"); and
4. Internal regulations of organizations related to public service, such as company regulations and articles (including those that are to be enacted or amended), of which the head of the organization has requested an assessment (hereinafter "internal rules/bylaws of public service-related organizations")

Article 4 (Assessment Criteria)

If an assessment is conducted on assessment subjects, decisions will be made according to the attached criteria (hereinafter "assessment criteria").

Chapter 2 Procedures for Corruption Risk Assessment

Section 1. Conducting Corruption Risk Assessment of Enacted/Amended Bills

Article 5 (Receipt of Bills and Basic Applications)

When the head of a central administrative agency requests an assessment to the Anti-Corruption and Civil Rights Commission (hereinafter "ACRC") by submitting enacted/amended bills and the baseline CRA assessment materials stated in Appendix 1 (hereinafter "baseline assessment materials"), the ACRC receives written assessment request documents of the relevant central administrative agency (hereinafter "concerned agency"). When enacting or revising entire provisions of bills, ACRC should verify whether the detailed CRA material stated in Appendix 2 (hereinafter "detailed assessment materials") is also attached.

Article 6 (Assignment of Specific Agencies per Assessor)

1. In order to enhance effectiveness and professionalism in assessment, each assessor is assigned to specific agencies where he/she takes the exclusive responsibility of conducting assessments.
2. Upon receiving a written assessment request, officials in charge of receiving submitted documents shall pass the documents to the designated assessor.
3. The assessor that received the documents may provide the director of the CRA division prior access to the documents.

Article 7 (Receipt of Additional Materials and Preparation of Assessment Report)

1. When a written assessment request is submitted, the assessor reviews the submitted documents. If any documents are missing, or the baseline/detailed assessment materials are not adequate, the assessor shall request the concerned agency to submit missing materials or supplement the submitted documents.
2. The assessor determines the corruption-causing factors within enacted/amended bills based on the legislative proposal and the baseline/detailed assessment materials submitted by the concerned agency, utilizing the assessment criteria. The assessor then drafts a basic assessment report as stated in Appendix 3. When providing recommendations for improvement/opinions for withdrawal, or when other important matters need to be reviewed, the assessor drafts a detailed assessment report as stated in Appendix 4.
3. When conducting an assessment in accordance with Paragraph 2, the assessor may comprehensively analyse and review corruption-causing factors in: superior statutes; subordinate statutes such as administrative rules and ordinances; and other related or similar laws that are relevant to the assessment subject.

Article 8 (Assessment Period)

The assessor shall complete the assessment before the last day of pre-announcing the enacted/amended bills, and shall immediately notify the assessment results to the concerned agency. If the assessor cannot complete the assessment owing to unavoidable circumstances, such as delayed submission of assessment materials or delays in consultation process with the concerned agencies, the assessment period may be extended up to 40 days from the last day of the pre-announcement of the legislation.

Article 9 (Request for Advice and Consultation with Related Agencies, etc.)

1. The assessor may consult experts in accordance with Article 21 of the regulation in any of the following cases:
 - a. When professional and technical knowledge and experience are required
 - b. When facing severe conflicts of interest, or when ACRC and the concerned agency have contradictory opinions
 - c. When external advice is required for other reasons, for example, when the concerned agency requests a re-assessment
2. The assessor shall consult with the concerned agency when providing recommendations for improving the bills, laws and regulations. The assessor may, if necessary, consult with related agencies—such as the Ministry of Government Legislation (MOLEG)—for the effective implementation of recommendations.
3. The assessor may collect opinions of stakeholders and related agencies if the substance of assessment falls under any of the following subparagraphs (hereinafter “significant matters”):
 - a. Matters that have a significant impact on the peoples’ lives
 - b. When facing severe conflicts of interest, or when ACRC and the concerned agency have contradictory opinions
 - c. Matters that concern multiple central administrative agencies

Article 10 (Report and Notification of Assessment Result)

1. Before notifying the concerned agency of the recommendation for improvement or withdrawal of the enacted/amended bill, the assessor shall receive approval from the chairperson of ACRC (hereinafter “chairperson”). For notifying simple or repetitive recommendations, the assessor shall receive approval according to the following subparagraphs:
 - a. For general matters: Director General of the anti-corruption bureau
 - b. For minor matters: Director in charge of the matter
2. When assessment results (i.e. partial approval or withdrawal) are judged as significant matters, it may undergo deliberation by ACRC in accordance with Paragraph 1. In such case, the matter shall be reviewed by legal advisors (who are responsible for carrying out anti-corruption initiatives in accordance with Article 7 Paragraph 2 of the Presidential Decree on the Organization of the Anti-Corruption and Civil Rights Commission and Affiliated Organizations) before being introduced to ACRC.
3. When approving the original enacted/amended bill, the assessor should receive approval from the director in charge of the matter.
4. The assessor shall notify the assessment result to the concerned agency as soon as the assessment result has been approved.
5. The assessor reports the assessment result and notifies the concerned agency by filling the notification of results template (stated in Appendix 5) with the Detailed Assessment Material stated in Appendix 4 (except for agreement on the original assessment subject).
6. If the assessment results are partial approval or withdrawal, and are closely related to the regulatory impact analysis conducted in accordance with Article 7 of the Framework Act on Administrative Regulations, it may be sent to the Regulatory Reform Committee and be utilized for a regulatory review.
7. If the assessment results are partial approval or withdrawal and may be utilized as reference for the legislation review and the modification/improvement of laws in accordance with Articles 21 and Article 24 of the Legislative Duty Operation Rule, it may be sent to MOLEG and utilized for legislative works.

Article 11 (Re-assessment Process)

1. If the concerned agency requests a re-assessment of the assessment result, ACRC conducts a re-assessment, considering the points stated in the following subparagraphs:
 - a. Intention and validity of requesting a re-assessment
 - b. Change in circumstances, such as changes in external environment
 - c. Other justifiable reasons (e.g. difficulties of consulting and coordinating with relevant institutions), which may require a re-assessment
2. When conducting re-assessment of the enacted/amended bill, it shall be re-assessed by assessors other than the initial assessor, and undergo processes such as collecting opinions of experts or conducting joint discussions among divisions.
3. If a re-assessment result reaffirms the initial assessment result, the result shall be notified to the concerned agency after receiving approval from the chairperson.
4. If a re-assessment result is different from the initial assessment result, the result shall be notified to the concerned agency after receiving approval from the chairperson. If the initial assessment result was notified after undergoing deliberation by ACRC, the re-assessment result shall be reviewed by legal advisors and shall receive approval from the chairperson. Then the re-assessment result shall undergo a deliberation before being announced to the concerned agency.

Article 12 (Post Management of Corruption Risk Assessment, including Monitoring and Reviewing the Implementation Status, etc.)

1. The director of the CRA division shall monitor and review the concerned agencies' implementation of recommendations derived from the assessment result every six months and report to the chairperson.
2. The director of the CRA division may conduct an on-site inspection to monitor and review how the recommendations are implemented when deemed necessary.
3. If the concerned agency does not implement recommendations within the given period without justifiable reasons, ACRC may take necessary actions such as reporting the situation to the vice-ministerial or cabinet meetings to ensure the implementation of recommendations.
4. If it is recognized that post management needs to be terminated owing to changes in circumstances, it may end after receiving approval from the director general of the anti-corruption bureau. When terminating post management of a significant matter, it must undergo deliberation process by ACRC.
5. The chairperson may determine the items to be considered in the post management of CRA.

Section 2. Conducting Corruption Risk Assessment of Current Acts and Subordinate Statutes

Article 13 (Establishment and Implementation of the Mid- to Long-term Plan for conducting Corruption Risk Assessment)

1. ACRC may establish and implement mid- to long-term plans for conducting CRA on current acts, presidential decrees, prime ministerial decrees, and ministerial ordinances; and directives, regulations, announcements, and notices delegated by them; and ordinances and rules (hereinafter "current acts and subordinate statutes").
2. In order to establish mid- to long-term assessment plans, the director of the CRA division may request central administrative agencies and local governments to submit assessment subjects related to current acts and subordinate statutes.
3. The director of the CRA division receives and manages assessment subjects submitted by central administrative agencies and local governments.
4. ACRC consults with the concerned agencies based on assessment subjects submitted by each agency and establishes mid- to long-term assessment plans.
5. ACRC confirms the mid- to long-term assessment plans after undergoing a deliberation process, and then notifies the plans to the concerned agencies. According to the assessment schedule, ACRC receives baseline and detailed assessment materials regarding acts and subordinate statutes subject to assessment from the concerned agencies and conducts an assessment.

Article 13.2 (Corruption Risk Assessment conducted on Salient Issues)

Apart from conducting assessments based on mid- to long-term plans, ACRC may conduct CRA on current acts and subordinate statutes when it falls under any of the following subparagraphs:

1. When corruption or other irregularities have been recognized as social issues, or are expected to heighten social concerns
2. When it is deemed necessary to conduct CRA on areas structurally prone to corruption
3. When the policy relevant to the concerned law is implemented as a national policy or when its budget expenditure increases, by requiring the urgent removal or reduction of corruption-causing factors
4. When CRA conducted on enacted/amended bills reveals corruption-causing factors in current laws relevant to the bills.

Article 14 (Receipt of Baseline/Detailed Assessment Materials and Drafting Assessment Reports, etc.)

Articles 5, 7, and 9 of the regulation shall be applied when receiving baseline and detailed assessment materials, supplementing assessment materials, drafting assessment reports, and requesting external advice to conduct CRA on current acts and subordinate statutes.

Article 15 (Request for Supporting Materials and Fact-finding Investigation, etc.)

1. The assessor may request the concerned public organizations to submit relevant materials and documents (e.g. technical guidelines, results of disciplinary actions/audits/investigations, and status of complaint-handling) when it is deemed necessary for conducting CRA in accordance with Article 30 Paragraph 3 of the Enforcement Decree of the Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (hereinafter "Enforcement Decree").
2. The assessor may conduct a preliminary review, such as literary review to examine relevant materials and documents (e.g. results of disciplinary actions/audits/investigations, and status of complaint-handling), and visit the concerned public organizations to conduct an on-site investigation. The assessor may also request the attendance of interested parties, testifiers or related public officials and may ask for their statement of opinions if it is deemed necessary for conducting an assessment.

Article 16 (Consultation with the Concerned Agencies and Collection of Opinions)

The assessor drafts recommendations based on an analysis of the current implementation status of legislation as well as assessment results derived from assessment criteria, and consults with the concerned agency regarding the recommendations. For addressing significant matters, public hearings and discussions may be organized to collect opinions from related agencies and organizations, stakeholders, and other experts.

Article 17 (Reporting CRA Recommendations and Making Deliberations)

1. If a recommendation is related to significant matters, the assessor may make an interim report to the chairperson before engaging in consultations with the concerned agency.
2. After consulting with the concerned agency, the assessor prepares a recommendation incorporating the consultation results and submits the document to legal advisors for reviews. Then, the recommendation is reported to the chairperson, and undergoes deliberation by ACRC. When providing recommendations for current acts and subordinate statutes, together with enacted/amended bills in accordance with Article 13.2 Subparagraph 4 of the regulation, Article 10 of the same regulation is applied.

Article 18 (Notification of Recommendation and Conducting Re-assessment, etc.)

1. The assessor shall report on the recommendations adopted by the ACRC's deliberation process to the chairperson and receive his or her approval. Then, the assessor shall make a written recommendation to the head of the concerned agency, attaching a copy of the resolution.
2. Article 11 applies to the re-assessment process.
3. Article 12 applies to the post management of CRA.

Section 3. Conducting Corruption Risk Assessment of Enacted/Amended Municipal Regulations

Article 19 (Assessment of Enacted/Amended Municipal Regulations)

1. ACRC may conduct assessment of enacted/amended municipal regulations when requested by local governments.
2. When an assessment of enacted/amended municipal regulations is conducted in accordance with Paragraph 1 of the regulation, Articles 5, 7, and Articles 9-11 of the same regulation shall apply.

Section 4. Conducting Corruption Risk Assessment of internal rules/bylaws of public service-related organizations

Article 20 (Assessment of internal rules/bylaws of public service-related organizations)

1. When the head of the public service-related organization requests ACRC to conduct CRA of its internal rules/bylaws such as company regulations and articles of association, ACRC may conduct an assessment after consulting with the concerned agency.
2. When an assessment of enacted/amended internal rules/bylaws of public service-related organization is conducted in accordance with Paragraph (1) of the regulation, Articles 5, 7, and Article 9-11 of the same regulation shall apply.
3. When an assessment of current internal rules/bylaws of a public service-related organization is conducted in accordance with Paragraph 1 of the regulation, Articles 5, 7, 9, and Article 14-17 Paragraph 2 of the same regulation shall apply.

Chapter 3 Providing Advice on Corruption Risk Assessment

Article 21 (Organization of Advisory Group)

1. In order to enhance professionalism and fairness of the assessment process, ACRC may organize a CRA Advisory Group (hereinafter "advisory group") in accordance with Article 31 Paragraph 1 of the Enforcement Decree.
2. The advisory group consists of experts in different fields who have been recommended by related agencies and organizations or been selected by ACRC who fall under any of the following subparagraphs:
 - a. Those who are working at universities, research institutes, civil groups, or public organizations, with expertise in anti-corruption works
 - b. Those who are qualified lawyers, patent attorneys, public accountants, engineers, tax accountants, or customs brokers, with experiences and knowledge of anti-corruption works
 - c. Others who belong to an academic society or association and who are recognized to have professionalism and experiences equivalent to qualifications stated in Paragraph 1 or Paragraph 2 of the regulation

Article 22 (Request for Advice)

1. If any of the reasons stated in the subparagraphs of Article 9 Paragraph of the regulation exist, the assessor may request advice from experts of the advisory group with relevant expertise, or external experts who are recognized to fall under any of the subparagraphs of Article 21 Paragraph 2 of the regulation and have been listed in the pool of external experts of ACRC (hereinafter "experts, etc.").
2. When requesting advice for addressing significant matters, the assessor may request advice from multiple experts.

Article 23 (Methods for Receiving Advice)

1. The assessor requests advice by utilizing the request for advice on CRA template as stated in Appendix 6 of the regulation.
2. The assessor may hold discussions or consultation meetings with experts, etc. when deemed necessary. In the case of addressing significant matters, two or more experts, etc. shall be invited to such discussions or consultation meetings.
3. The assessor may utilize various communication channels such as telephone, fax, e-mail, or other methods of communication for receiving advice when necessary.

Article 24 (Reward for Advice)

The ACRC provides monetary rewards for experts, etc., who provided opinions on CRA in response to the assessor's request. The rewards are paid within the budget decided by ACRC.

Article 25 (Detailed Operational Guidelines)

Other detailed issues necessary for the operation of the advisory group, which are not stated in this regulation, can be decided by the chairperson after undergoing deliberation by ACRC.

Chapter 4 Management of Documents, Materials, and Capabilities**Article 26 (Management of Documents)**

1. In order to enhance effectiveness and professionalism in assessment, each assessor is assigned to specific agencies where he/she takes the exclusive responsibility of conducting assessments.
2. Upon receiving a written assessment request, officials in charge of receiving submitted documents shall pass the documents to the designated assessor.
3. The assessor that received the documents may provide the director of the CRA division prior access to the documents.

Article 27 (Collection and Management of Materials Related to Corruption)

The director of the CRA division may collect and manage materials related to corruption (e.g. Integrity Assessment results, statistics about corrupt public officials, and reviews of cases reported to the ACRC, etc.) to utilize them for the assessment.

Article 28 (Establishment of the Corruption Risk Assessment Management System)

The director of the CRA Division may establish and operate the CRA Management System in order to systematically register and manage submitted materials such as assessment materials, advice from experts, etc., and assessment results.

Article 28.2 (Management of Corruption Risk Assessment Capabilities)

1. ACRC shall make efforts to improve assessment techniques and to enhance the expertise of assessors.
2. ACRC may establish and implement measures to improve the assessment capabilities of central administrative agencies, local governments, and public service-related organizations, and to encourage agencies at all levels to autonomously identify and eradicate corruption-causing factors.

Article 29 (Re-assessment Period)

In accordance with Presidential Directive No. 334- the Regulation on the Issuance and Management of Directives and Regulations, actions such as abolition or amendment of this regulation shall be taken by 1 January 2018 in consideration of laws or changes in circumstances after issuance of this regulation.

■ References

Anti-Corruption and Civil Rights Commission of the Republic of Korea. 2011. "Operational Guidelines for Corruption Risk Assessment".

Anti-Corruption and Civil Rights Commission of the Republic of Korea. 2012. "The Anti-Corruption Policy of Korea and Efforts to Enhance the Integrity".

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Choi, Jinwook, Park, Joonghoon, and Lee, Ahjung. 2017. Development Solutions Think Piece Series No. 2: Anti-Corruption Policies and Institutions in Korea and Singapore. United Nations Development Programme, Seoul Policy Centre for Global Development Partnerships, Seoul.

■ External Links

More about Anti-Corruption and Civil Rights Commission (ACRC): <http://www.acrc.go.kr/en/index.do>

More about Board of Audit and Inspection (BAI): <http://english.bai.go.kr>

More about Supreme Prosecutors' Office (SPO): <http://www.spo.go.kr/eng/about/departments.jsp>

Development Solutions Partnership

UNDP Seoul Policy Centre for Global Development Partnerships

For more than 40 years (1963-2009), UNDP has supported the people and Government of Korea, delivering 270 projects in 20 areas mirroring Korea's development path. UNDP closed its Country Office in 2009, as Korea joined the OECD Development Assistance Committee (DAC), affirming its status as a significant contributor of development aid. In this context, the UNDP Seoul Policy Centre (USPC) was established in 2011, with the objective of brokering new partnerships between Korea and the developing world through UNDP networks. USPC is co-funded by the Ministry of Foreign Affairs of the Republic of Korea and UNDP.

As one of UNDP's Global Policy Centres, USPC is tasked with: representing UNDP in Korea; working with Korea on international issues; and sharing Korea's development experience with other countries.

Anti-Corruption & Civil Rights Commission

The Anti-Corruption and Civil Rights Commission (ACRC) was launched on February 29, 2008 by the integration of the Ombudsman of Korea, the Korea Independent Commission Against Corruption and the Administrative Appeals Commission. As Korea's national anti-corruption body, the ACRC conducts various activities to prevent and fight corruption under the Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission, Act on the Protection of Public Interest Whistleblowers, Improper Solicitation and Graft Act, and Code of Conduct for Public Officials.

It develops and coordinates national anti-corruption policies, improves legal and institutional frameworks, measures corruption, manages anti-corruption training programs, and monitors the implementation of the Code of Conduct for Public Officials. Also, it receives and handles reports of corruption, and protects and rewards whistleblowers.

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