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Korea's Response to the APEC-OECD Integrated Checklist on Regulatory Reform - Summary

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Summary

Introduction

In 1998, Korea initiated its full-scale regulatory reform to overcome the financial crisis. The Kim Dae-jung administration carried out regulatory reform across the board in order to resolve the economic crisis of 1997-98 at the earliest possible time and to promote an effective market economy. In April 1998, it established the Regulatory Reform Committee (RRC) under the 1997 Basic Act on Administrative Regulations (BAAR). The RRC set the goal of “creating a business-friendly and life-enriching environment” and began to implement bold regulatory reform. As a result, it halved the number of regulations in just two years.

However, acknowledging that such quantitative regulatory reform has its limitations, the Korean government began to take a broader approach to regulatory quality in 2003. It reoriented the reform process away from simply reducing the number of regulations to a greater focus on regulatory quality. The basic direction of its regulatory reform has been changed as follows:

- Shift from regulator-oriented regulation to user-oriented regulation;
- Shift in the focus of reform away from individual regulations to “bundle regulations” that involve multiple ministries;
- Shift from a government-only effort to a joint government-private effort; and
- Shift from a quantitative approach to a qualitative approach to rationalizing regulations.

Regulatory Reform System

The Regulatory Reform Committee (RRC), the Regulatory Reform Task Force (RRTF) and the Business Difficulties Resolution Center (BDRC) are the nation's key institutions that play a leadership role in implementing regulatory reform. They provide direction to regulatory reform process, take measures to ensure that a set of principles of quality regulation is followed, and review the quality of existing and new regulations.

The RRC is an overall regulatory reform coordination body and it has wide ranging responsibilities and powers. These include the preparation of annual reform plans, the research of the regulatory system, and the review of Regulatory Impact Analysis documents prepared by ministries. The RRC is comprised of 7 government members and 18 private-sector members and is co-headed by the Prime Minister and a private-sector expert. The secretariat function supporting the RRC is undertaken by the Regulatory Reform Bureau which is located in the Prime Minister's Office. This unit includes around 40 civil servants

and 3 professional experts.

The RRTF, established in 2004, consists of 16 private-sector experts and 21 government officials. From the user-oriented perspective, it rationalizes “bundle regulations” which affect numerous people. The BDRC was established in 2004 as a one-stop shop ombudsman to resolve regulatory issues facing businesses. In addition to centralized regulation reform efforts, an individual ministry makes voluntary regulatory reform efforts by establishing and implementing its own annual regulation reform plans in a manner consistent with annual reform guidelines issued by the RRC.

Regulatory Impact Analysis (RIA)

The RIA is a system introduced to restrain the creation or reinforcement of unreasonable regulations and to create more reasonable regulations. Regardless of the type or form, be it law, enforcement decree or enforcement rule, all ministries must conduct a RIA when drafting or revising regulations.

The RIA is applied to review a wide array of issues concerning the purposes of regulations, regulatory costs and benefits, the appropriateness and effectiveness of regulations, feasible alternative policies, overlap between traditional and new regulations, regulatory elements restricting competition and the clarification of the wording of regulations. Starting in July 2006, ministries must publicly disclose the results of their RIA through either the government gazette or the internet when making a notice of pending legislation for 20 days. As such, interested parties and ordinary people alike have access to information on the foreseeable impacts of regulatory proposals.

Based on the RIA, ministries conduct self regulatory reviews and request a review by the RRC. To concentrate its resources on a review of regulations with great ripple effects, the RRC only reviews major regulations that may have large social and economic impacts. It assesses the desirability (feasibility) of draft regulations and recommends that the regulatory proposals it sees as unreasonable should be repealed or revised. As of the end of 2006, the RRC has reviewed a total of 9,018 cases of new or reinforced regulations and has recommended repeal or improvement on 2,805 cases (31%), restraining the creation of unreasonable regulations.

The Korean government strives to strengthen the systematic use of the RIA through basic/advanced training programs targeted at public officials. The Central Officials Training Institution (COTI) and the Korea Institute of Public Administration (KIPA) offer a one-week course on regulatory reform and a crash (two-day) course on the RIA, respectively.

Improving the Quality of Existing Regulations

The RRTF identifies bundle regulations which affect numerous people and involve various ministries. Regulatory improvement policies based on suggestions made by ordinary people or businesses are discussed and approved at the Ministerial Meeting on Regulatory Reform chaired by the Prime Minister, following a series of expert review, consultations between ministries concerned, public hearings and onsite investigations. As of the end of 2006, the

RRTF drafted improvement plans in 57 strategic areas such as the construction of factories, golf course licensing, transportation, and the development of tourism and leisure industries.

Since 2004, ministries have developed their annual regulatory reform plans based on the guidelines prepared by the RRC and made improvements on existing regulations. At the end of each year the RRC evaluates the degree to which an individual ministry has made progress in implementing regulatory reform, thereby encouraging their voluntary regulatory reform efforts.

Sun-setting has been used as a mechanism to keep existing regulations up-to-date. Under Article 8 of the BAAR, a regulation is required to come up for the review of the RRC prior to its expiration. (As of now, 45 regulations are subject to sun-setting.) As a variation of the sun-setting provisions, the RRC may order a ministry to assess the extent of regulatory compliance after a certain period of time, or may demand the regulatory situation be reported.

Enhancing the Transparency of Regulations

Prior to drafting new regulatory proposals, ministries are required to consult with relevant ministries. In particular, if a regulatory proposal is expected to restrict competition, the ministry concerned must consult with the Fair Trade Commission. And if a regulatory proposal is deemed inconsistent with the WTO agreements, the Ministry of Foreign Affairs and Trade must review the issue and report the results of its review to the ministry concerned.

In times of drafting new regulatory proposals, the ministry concerned is required to gather public opinions during the 20-day notice and comment period. The reason draft regulations are notified publicly is to secure fairness, transparency and reliability of administration through actual participation of ordinary people in regulatory decision-making. Members of the public can voice their perspectives on the proposed regulations and the ministry concerned is obliged to review every input thoroughly and to report the results of its review to those who provided the inputs.

In order to raise the level of regulatory reform efforts felt by the public and businesses, the RRC collects various public opinions through many different routes. The RRC formed a cooperative system with the nation's five major economic associations in 2000. Since then, it has received regulatory reform proposals on a regular basis and come up with improvement measures. It received a total of 1,093 regulatory proposals on 17 different occasions and devised 543 improvement plans (49.7%). Furthermore, a regular consultation channel is operated between the RRC and foreign chambers of commerce in Korea to address issues facing foreign businesses. In the case of the American Chamber of Commerce, a total of 36 proposals were received and processed through numerous rounds of friendly gatherings since June 2005.

The RRC makes public a bill subject to its review, the review results and regulatory review process through its homepage. Also it is compulsory to make public a White Paper on the status of regulatory reform each year. Ministries have to register with the RRC the name, details, legal basis and processing body regarding the regulation of its responsibility. The RRC should draw up and publish a list of regulatory operations and make a relevant database available on its website.

Assessing the Performance of Regulatory Reform

In November 2005, a survey of 300 people (businesspeople, experts and ordinary people) was conducted on regulatory reform policies implemented by the government. More than 70% of the respondents said that they were satisfied with the government efforts to implement regulatory reform. Despite such positive evaluation, however, there is still room for improvement. Many respondents said that they were not satisfied with the speed at which follow-up measures are implemented, the regulatory enforcement procedure and the behavior of public servants towards regulatory information and application. As part of efforts to fix these problems, the RRC posts information on follow-up reform measures on its internet homepage and educates public servants about the appropriate procedure for enforcing regulations.

Since 2006, ‘Regulatory Reform Monitoring Agents’ have been selected for each sector, and monitoring has been conducted on reform progress. Thirty monitoring agents, who have been selected for 10 areas including construction, transportation, environment, health and welfare, have assessed the regulatory reform efforts and achievements as well as the impacts (and side effects) of regulatory reform. User-oriented regulatory reform policies that reflect the monitoring results are expected to improve regulatory compliance.

Lessons from self-assessment by the Checklist

The application of the APEC-OECD checklist revealed that Korea’s regulatory reform is right on track since it has dealt adequately with key issues of regulatory quality and coordinated related policy areas. The checklist also provided valuable insight of regulatory issues and gave us chance to identify lessons for further improvement of Korean regulatory reform policies. By using the checklist, Korea has recognized the need for broader regulatory reform as follows:

- Measures need to be taken to require ministries to analyze regulatory impact on trade and foreign investment in order to prevent discrimination against foreign businesses.
- A specific procedure for gathering and evaluating public opinions on regulatory proposals needs to be introduced to reduce the discretionary power of ministries, considering the contents of proposed regulations and the interests of affected parties.
- A permanent review body needs to be established under the National Assembly to rigorously review regulations proposed by lawmakers, as is done for government bills.
- The capacity to conduct the RIA needs to be strengthened by creating a pool of experts who can provide technical support and providing pilot models and training programs on the RIA.
- A new system aimed at measuring and reducing regulatory compliance costs needs to be established to help businesses comply fully with regulations.

The APEC-OECD integrated checklist includes all the key issues that should be addressed to improve and implement regulatory policies. So our self-assessment based on the checklist was very useful and effective in developing our regulatory reform capacity. Self-assessment by checklist will be a good opportunity for APEC member economies to share and learn the best practices.