



Forum for Asian Insolvency Reform (FAIR)

MAXIMISING VALUE OF NON- PERFORMING ASSETS

*Seoul, Korea
10 - 11 November 2003*

**International Standardization in the Resolution of
NPLs(Non-Performing Loans)**

by

***Mr Jae-Ryong Jung
Former Chairman,
Korea Assets Management Corporation (KAMCO)***

International Standardization in the Resolution of NPLs(Non-Performing Loans)

By Mr Jae-Ryong Jung, Former Chairman, KAMCO

Chapter 1. Introduction: Research Overview

This paper investigates regulatory policies in the resolution of the Non-Performing Loans. The researcher takes legal approaches in the resolution of Non-Performing Loans in order to make the NPL resolution process more effective and to vitalize international economy in the long term. Also, this paper suggests that international standardization of relevant legislation is an important way to resolve the Non-Performing Loans more effectively.

It is important to ensure the efficiency in the financial sector so that the market economy could function effectively. Efficient fund management is one of the important factors to achieve the stability in the financial sector. Having too much Non-Performing Loans in the financial sector not only leads to the bankruptcy in individual financial institutions but also shrinks the overall activities in the financial sector. Furthermore, if the situation gets worse, it could lead to the weakened competitiveness in the financial market, and eventually to the credit crisis at the national level. Non-Performing Loans could hinder the construction of a solid financial infrastructure. Considering the trend of internationalization and liberalization in the financial market, the resolution of Non-Performing Loans is very important for the sound bank management and the stable management of the national economy.

In this regard, in emerging market economies such as Korea and Japan, the disposition of Non-Performing Loans plays an important role in determining the future of sustainable economic growth. In order to resolve Non-Performing Loans effectively, private NPL resolution agencies need to play an active role in the market.

Non-Performing Loans are relatively more difficult to evaluate than normal assets, and they need to be handled in sophisticated ways. In nature, NPLs are difficult to be circulated in the normal asset transaction market. Considering these characteristics of NPLs, many countries have established special institutions for the resolution of Non-Performing Loans. In countries like the U.S.A., Germany, U.K., where financial markets are well developed, industry-driven asset management firms and investment companies have been established. In other countries, government-driven public companies have been established for the resolution.

Non-Performing Loans market constitutes of three entities: the provider who wants to dispose Non-Performing Loans; the broker-dealer who wants to make the transaction; and institutes/individual investors as the final consumer. Countries experienced the financial crisis in 1997, including Korea and other East-Asian countries, have established government-driven public institutions to resolve Non-Performing Loans. In countries mentioned above, private sector has been proven to be relatively inefficient in resolving Non-Performing Loans, due to the weak legal and systematic infrastructure. Thus, the resolution of Non-Performing Loans are planned and executed by public institutes at the government policy level rather than profit-oriented private level. Government-oriented resolution of NPLs has relative advantages in terms of transparency, expertise, and independency in the process. However, this also means that there could be difficulties in evaluating the fair market value of Non-Performing Loans.

Investors in the international market consider many aspects before making decisions to invest in foreign countries. The appropriateness of investment in the local market is determined on the basis of the potential profitability and the stability of the market. When considering investment in the foreign country, investors consider the legal infrastructure in the local market as well as the tax reduction system. In addition, the following aspects are important; a substructure of security market in which investors manage the liquidity and risks in the capital market; financial techniques to increase the liquidity of acquisition asset; human capital with expertise; effective system for information transmission and management; regulatory system for the corporate split-up, mergers & acquisition, reorganization, and liquidation; regulatory system to protect investors, including regulatory alleviation

and corporate disclosure. In the newly emerging market economies such as Korea, Japan, and Southeastern countries, more efforts need to be given to establish effective infrastructure to attract investors.

This paper investigates regulatory policies in the resolution of the Non-Performing Loans, especially in countries like Korea and Japan, who experienced economic crisis due to ineffective financial system. Also, newly emerging economies such as China and Malaysia need practical regulatory policies to resolve NPLs. The researcher takes legal approaches in the resolution of Non-Performing Loans in order to improve the resolution process. Also, this paper points out that international standardization is necessary in resolving Non-Performing Loans.

International standards could be defined as the exemplary model or system which need to be circulated and followed universally. This paper approaches the issue of NPLs in terms of fair trade in the market and active growth in the international economy. Effective NPLs resolution would lead to the stabilization of financial systems and would eventually lead to the international economic growth through global cooperation.

Chapter 2. International Standardization: Why and How?

Financial system in a society is often compared as the blood system in human body. Financial insolvency could result in the economic crunch in a society. In general, economic globalization naturally leads to financial globalization. In accordance, the financial crisis in one nation consequently could lead to the financial problem in the neighboring countries. Considering the increasing trend of globalization in the financial system, it is imperative to discuss possible and realistic ways to stabilize the international financial structure. International cooperation would be the foundation in the effective resolution of Non-Performing Loans. In turn, this would lead to the sustainable growth in the international economy, not to mention individual nation's increased economic stability.

The resolution of Non-Performing Loans is not an isolated problem in a few countries, considering the inter-related nature of financial system at the global level.

If issues like adjustment of double taxation and the free movement of international capital could be improved, Non-Performing Loans could be resolved more efficiently worldwide. This paper explores systematic ways to improve the problem of NPLs with an emphasis on regulation.

1. Two approaches

Two approaches could be taken in the discussion of the internationalization in Non-Performing Loans related legislation.

First, it would be helpful to share individual nation's regulatory policies and experience in the successful resolution of Non-Performing Loans. Successful examples could be internationalized and transferred to countries like Russia, China, and Japan, where the legislative effort in association with NPLs is rather limited.

Second, it is important to improve the investment condition in Non-Performing Loans in the international and financial markets.

Non-Performing Loans are considered as an attractive subject for domestic and international investment when they exhibit the following characteristic; profitability, stability, and liquidity. In reality, foreign investors have experienced much difficulties in participating in the market since Non-Performing Loans in nature show different characteristics among different nations, especially in terms of government intervention and the regulation in the inflow/outflow of the capital. More specifically, in countries where accumulated Non-Performing Loans could not be resolved effectively with private/public capitals, this phenomenon has been a bigger problem. Many Southeastern Asian

countries, including Korea and Japan, experienced similar problems, due to recent financial difficulties they have encountered.

In such countries, it is required to have appropriate arrangements so that Western capital could be actively flowed into the Non-Performing Loans market under the condition of fair competition. For foreign investors, accessible regulatory system is an important factor when considering.

2. Harmonical progression with individual nation's sovereignty

In nature, Non-Performing Loans market in each country has domestic particularities. Thus, it is necessary to consider the domestic context when legislating the resolution of Non-Performing Loans. Individual governments have established and developed financial systems based on individual nation's particular circumstances. Therefore, it is important to consider individual nation's sovereignty in the process of pursuing internationalization of NPLs-related legislation. In this regard, we might be able to learn lessons from the GATS financial clauses in the WTO. The GATS financial clauses made at the time of UR negotiation point out that the opening of the domestic market in the financial service sector needs to be based on individual nation's measures for prudential reasons and financial supervisory regulation. It clearly indicates that each country need to recognize the differences in other nations' financial regulatory system.

International cooperation is essential in the process of arbitrating different financial systems. In order to achieve this goal, it is necessary to recognize other nation's governmental regulations and to consult together over the differences.

International cooperation could be facilitated through mutual exchange of information, introduction of regulation, and establishment of new international organization for standardization and fund raising.

In this regard, this paper explores the possibility of international standardization in the resolution of Non-Performing Loans. This paper also emphasizes that it is important for individual nations to recognize other countries' legislative nature and economic circumstances in order to facilitate international standardization.

Chapter 3. Areas Appropriate for International Standardization

This section explores the possibilities of international standardization by classifying participants in the NPLs resolution market. The participants in Non-Performing Loans market could be categorized as the provider, consumer, and broker-dealer.

The providers are public organizations purchasing Non-Performing Loans from various financial institutes. Then, they resolve Non-Performing Loans. Investors own capital resources and they act as mediators in the market. Usually, these entities include asset securitization company, REITs, Corporate Restructuring Company(CRC), and Corporate Restructuring Vehicle(CRV). Dealers and brokers include security companies taking care of security acquisition and sale, consulting firms and accounting firms providing financial advice, credit rating agencies, and law firms as legal advisor.

1) Provider aspect

Non-Performing Loans are provided by the creditors. Creditors could wait until the maturity to exercise relevant legal interests, or they could go through certain procedures of loan securing by attachment and auction. However, by providing credits to public investors, creditors could give debtors the opportunity to restructure companies and they also give institutes with NPLs the opportunity to circulate capital resources. It would also mean a new investment opportunity for general investors. What's important in this process is whether the debtor of NPLs could actually pay for the original debt.

For this process to work smoothly, it is important to establish effective corporate accounting and corporate credit rating systems. This paper considers only the individual financial institutions and public NPLs resolution agencies as the provider, excluding the corporate enterprises as debtors. Governments could be considered as providers because they are in charge of the establishment and the management of Non-Performing Loans resolution agencies.

a. Classification criteria for Non-Performing Loans

Financial institutions first evaluate whether the loan is insolvent or not, and then they take care of the loans in a number of ways. Public resolution agencies undertake Non-Performing Loans from financial institutions and then resolve them. In this process, financial institutions and public organizations follow national standards in evaluating the nature of Non-Performing Loans and in resolving them.

Financial institutions and public resolution agencies usually dispose the Non-Performing Loans by issuing ABS, international bidding, individual disposition, or establishing joint venture company (AMC).

While going through these processes, investors naturally weigh the possibility of future cash flow. Matters of weight and importance include credit line or credit enhancement through warranty, future expected exchange rate, transferability of capital gain, and statutory stability in the resolution of legal conflict.

For reasonable price in the market to be established, regulatory systems need to be in place. First, it is necessary to maintain working relationship among banks, public organization, and the government. In order to achieve the working relationship among different entities, it is necessary to ensure autonomous management in financial institutes as well as efficiency and transparency in public organizations.

Next, Non-Performing Loans as goods in the market need standardized criteria for accurate evaluation. It would be helpful to have consolidation of international standard and the establishment of credit screening(review) system. Furthermore, accounting standards in corporate enterprises and financial institutions need to be approximated to the international accounting principles.

The disposal of Non-Performing Loans could be pursued in the following area; issuing ABS, international bidding, individual disposition, and establishing joint venture company.

b. Issuing ABS

The resolution of Non-Performing Loans would be more active if Non-Performing Loans are in the form of ABS. For issuing domestic ABS, it is required to go through the listing and disclosure process. Also, ABS laws regulate the conditions and procedures. However, in Korea, issuing ABS to resolve Non-Performing Loans was not proved to be effective in attracting foreign capital. In order to attract international investors, internationalization in the credit rating system would be a key factor.

Legislative efforts need to be placed in order for the ABS companies to ensure their rights for the credit. In the long term, securitized Non-Performing Loans could be listed in the security market, if the international credibility of listed information increases. In this case, the value of Non-Performing Loans as an object for investment would become higher.

c. International bidding

International bidding method has been used in Korea, U.S.A., Thailand, and Indonesia. Considering the competitive nature of bidding, this method could maximize the value of Non-Performing Loans. Also, it is an effective way to let foreign investors know the value of Non-Performing Loans.

The process of international bidding needs to be standardized to minimize the purchase deposit and the cost associated with the process. This would result in the magnification of the subject assets and the mitigation of oligopoly behavior of major investment companies.

d. Individual disposition

Individual disposition includes Merger and Acquisition, individual Corporate Loan Sale, etc. This is a method often used in the U.S.A., Thailand, and Indonesia. Individual disposition is influenced by conservative legislation in each nation.

As a part of Non-Performing Loans, real estate properties or collateral of insolvent companies could be resolved through independent auction or court auction. Foreign investors could participate in the auction. Increasingly, there is a trend in many countries to allow for foreigners to acquire real estate properties. Regulations need to be made clear for the realty and credit related matters. However, regulations about real estate properties is usually based on individual nation's legislation and tradition. Thus, it would not be easy to pursue international standardization in this area. However, it is possible to explore ways to internationally circulate asset securities with the guarantee of NPLs and real estate properties.

e. Establishing joint venture AMC

This is a method to establish asset management companies, corporate restructuring companies, or corporate restructuring vehicles as a joint effort between organizations which own Non-Performing Loans and international investment organizations.

Asset Management Company

When a foreign investment company establishes an AMC with an organization which owns NPLs, the price of NPLs could be increased, since the foreign investment company operates the capital market with autonomy. Foreign companies with capitals could participate in the NPL market, and they would expect to see the internationalization in issuing ABS.

Corporate Restructuring Company

Corporate restructuring companies specialize in corporate undertaking, normalization of management, as well as disposal by sale. When CRCs are established by a joint effort between companies retaining NPLs and foreign investment companies, there are a number of advantages of using the know-hows and the capital of foreign investment companies. This case also requires the internationalization of related legislation.

2) Investor (consumer) aspect

Investors as consumers of Non-Performing Loans exhibit variety in terms of the transaction method and level. Realistically, the ultimate capital sources are domestic/international fund or financial institutions. Providers use either direct transaction with them or use intermediate buyers to make deals. Intermediate buyers are usually private enterprises who work within the market mechanism. In Korea, they are asset securitization companies, REITs, Corporate Restructuring Companies(CRC), and Corporate Restructuring Vehicle(CRV).

Because of the high risk factors involved in the intermediate buyer structure, the intermediaries are entitled to have privileges in the contribution and assumption of liability. There are not many international players in the market, since investing in Non-Performing enterprises entails high risk factors. However, considering the increase of vulture fund in the international capital market as well as in the junk bond market, a similar trend in the corporate restructuring market could be expected.

When the final consumer is the foreign capital, the mitigation of various regulation becomes an important issue. For example, it would be attractive for foreign investors to see less regulation on foreign exchange trade, as well as a better system to ensure the stability of foreign exchange market. On the other hand, Non-Performing Loans market has some speculative factors. When international Hedge Fund (Hot money) comes in, the market could be dominated by the Hedge Fund. In order to protect the market, policies need to be made.

Consumers are expected to participate in the market under the principle of fair competition. Fair trade laws could provide regulation against mutual prearrangement or the spread of unfair information. Basically, efforts need to be made to maximize investors' participation through securitization, rather than through individual disposition.

3) Broker/dealer aspect

In general, brokers/dealers are not the direct participants in the transaction, but they provide with services to close the deal. In the Non-Performing Loans resolution market, brokers and dealers work as intermediaries between the provider and the consumer. For providers, they exhume consumers with enough capital. For consumers, they provide with information about the goods.

In Korea, security companies, credit evaluation companies, consulting firms, and accounting firms offer this service. These institutes provides with expertise to the market and they follow restricted laws in each nation. To protect investors in individual countries, operation process regulations and ethical regulations are written. Under certain circumstances, they have legal responsibilities. International standardization in this involves improvements in regulatory systems. The evaluation of Non-Performing Loans is an important process from the perspective of investors. There are many risk factors due to the high uncertainty of Non-Performing Loans. Insurance is one way to prepare for the possible dispute in the future, even though the insurance premium could reduce the earning rate. When not insured, it would be more difficult to prove a causal relationship in the case of a claim for damages.

Chapter 4. Cases in the International Standardization of Economic Regulations

In pursuing the international(Global) standardization of relevant legislation, it is necessary to determine who would be the entity in charge. Generally, the international(Global) standardization in relevant legislation is processed either by a joint effort of a number of nations, or through an existing international organization. As a practical approach, the international standardization could be pursued and established in certain parts of the world and it could be transferred to a larger area to include more countries.

The nature of international standardization would be different, depending on individual nation's circumstances in which the process occurs. For example, the process would results in a very different economic regulations in different countries, based on the cultural and social-economic contexts. Even though the principle of the financial market would expect to see the maximized standardization of financial transaction in as many countries as possible, the circumstances in which each country's financial market operates are important factors to consider in reality. Therefore, the process of pursuing international standardization needs take a number of different and cautious approaches.

First of all, it would help to examine the international standardization in the field of general economic regulations in exploring possibilities of the international standardization in resolving NPLs.

The international standardization of economic regulations can be categorized into two: 1) the establishment and transfer of the standards; and 2) the bilateral agreement between two parties. Again, The autonomous acceptance of the international standard could be accomplished by the following four ways: 1) Governments could cooperate to standardize the procedures; 2) Governmental agencies of private institutions residing in different countries could standardize the procedures; 3) A

model of agreement could come to a conclusion among different countries; and 4) A model of domestic regulations could be transferred to other nations. Also, more directly, international standards could be set up through both parties agreement or multi-parties agreement.

1. Autonomous Acceptance of International Standards

a. Setting the standards of cooperative procedures between governments

An actual example of setting up standards between governments is the procedural guideline from the OECD cabinet meeting on environment. The guidelines suggests that OECD nations cooperate in the development and execution of policies on trade/environment. Even though this guideline does not have the mandatory power, most OECD nations follow the guideline.

b. Proposing standards for the business

Governmental agencies of private institutions residing in different countries could standardize the procedures. Examples include: Capital Adequacy ratio of the BIS, Bank of International Settlement; and the Labor Standard of OECD.

The Capital Adequacy ratio of the BIS(Bank of International Settlement) is an agreement between the Presidents of central banks in Western developed countries. The ratio has been set for the standardization of the process in financial supervision. It entails mandatory power.

The International Labor Standard of OECD includes guidelines for multinational companies, and the ILO agreement. Usually, domestic labor standards have mandatory power. However, the international labor standard does not have such power. OECD guidelines, specifically, are general clauses that could be applied to all OECD nations. The interpretation and execution of the clauses follow individual nation's regulations and legislation. However, OECD's multinational committee has clarifications for the fulfillment of the guidelines.

c. Proposing the model agreement

A model of agreement could be proposed among different countries. An example would be the model of tax agreement, including the UN model and OECD model. The U.S.A. has its own model of agreement. The U.S.A. model exerts strong influence on the counterparts in terms of the mandatory power. In the case of the UN model, the perspectives of the developing countries are well represented. The OECD model generally represents the perspectives of developed countries. With the trend of valuing free market system, the OECD model is observed in these days. The model of tax agreement plays an important role in the international business environment.

d. Proposing the domestic regulation as a model

Examples of proposing the domestic regulation as a model include the Product Liability Law and the Environmental Law. OECD nations have laws to regulate the liability of producers and sellers. The Product Liability Law was introduced by the U.S.A. who exerts a great influence in international trade. This law tries to ensure the protection of domestic consumers as well as the increasement of domestic producers' competitiveness in the world market. In this regard, the Product Liability Law is based on the voluntary imitation to protect the interest of one's own country.

On the other hand, internationally influential countries often use regulatory mechanism in the field of international trade. For example, the U.S.A. uses one-sided (unilateral) trade policies, including a countervailing duty to resolve regional environmental problems.

e. Integration of the Bankruptcy Act

The Bankruptcy Act in association with the corporate restructuring has shown the trend of international standardization. In a broader concept, the resolution of NPLs includes the liquidation of insolvent companies and corporate restructuring. The regulations on the restructuring of insolvent corporations in Korea are the bankruptcy-related 3 acts and the Corporate Restructuring Investment Company Act. There also is an international trend of integrating many different bankruptcy-related acts into one. First of all, the UNCITRAL(United Nations Commission on International Trade Law) proposes a model law as a guideline. This is important in two ways: 1) It shows the integration of bankruptcy-related acts. Individual acts are integrated in order to restructure corporations more effectively. The international standardization of this law will facilitate more active international capital shift.

Korea is in the process of establishing the Integrated Bankruptcy Law, considering the international trend. Also, a number of Southeastern countries are making efforts in this area.

2. Conclusion of coercive agreement

In establishing international relations, agreements are made among relevant countries in order to resolve international economic issues. International agreements could take the forms of the both-party agreement or the multi-parties agreement. One example of the international agreement would be the ILO agreement on the labor standards. Environmental agreement usually takes multi-parties. Each party has general responsibilities according to the agreement. Environmental agreement specifically enforces regulations on non-member countries.

The ILO agreement on the labor standard requires each country to accept the terms and regulations. However, the ILO agreement, unlike the environmental agreement, does not exert its influence to the areas of trade in the case of breach.

Chapter 5. Plans to Pursue International Standardization

The resolution of NPLs expects to realize the establishment of the NPL market and related regulations. The resolution of NPLs has the trade-off problem as in other general regulations. The efficiency and speed in the process of the resolution of NPLs need to be ensured as well as the protection of rights for involved entities and the pursuit of legislative stability. Also, in the practical regulation, vested interest of the participants needs to be protected. Individual nations need to decide where they want to put more emphasis.

The international standardization of relevant legislation in resolving NPLs could be pursued in various ways. Efforts for fundamental cooperation constitutes of the exchange of information and the introduction of different systems. Then, efforts need to be put in the establishment of similar regulations, transfer of model laws, establishment of international agreements and special organizations. Mutual support program would be effective in the fund raising as well.

1. Establishment of cooperative systems among public organizations in different countries

Public organizations among different countries could exchange an MOU(Memorandum of Understanding) in the process of the international standardization of relevant legislation. An MOU have legal validity, similar to the cases of agreement. Generally, an MOU is made as a subsequent measure or a follow-up measures. However, an MOU among private organizations are not legally mandatory.

The KAMCO in Korea have established a number of MOU with public organizations in many different countries. They constitute the following : 1) the resolution of NPLs through cooperative work; 2) Annual conference for the promotion of business exchanges; 3) Experience sharing for the

resolution of NPLs; 4) cooperative work for establishing marketing strategies for the insolvent asset; and 5) the rule of confidentiality obligation, legal consequences, and termination of MOU.

An international forum was held to pursue international cooperation among public NPL resolution agencies. Representatives from 31 countries participated in the forum, including international organizations such as World Bank, Asia Development Bank, International Monetary Bank, and International Investment Bank. An international forum could be effective in the long-term development.

With the cooperation and understanding among public NPL resolution agencies in different nations, it would be helpful to set up a system for exchanging asset information. International investors as well as domestic investors would like to collect information before entering the market. This is an approach taken by KAMCO in Korea, and it is a realistic way of pursuing the resolution..

The effectiveness of an MOU will be greater when Public organizations in different nations have realistic and practical rights within the government and financial institutions. The effectiveness of this method depends largely on whether the parties concerned on agreement have influential power in the international society. The Basel Committee on Banking Supervision, which is recognized as having international expertise, set up the BIS standard, and it exerts great influence in the world.

In countries where public organizations play important roles, the MOU between public organizations would exert greater influence. In general, individual governments in the process of resolving NPLs establish public organizations on a temporary basis or increase the fund of existing organization.

Therefore, governments need to play more active roles in resolving NPLs. Thus, cooperation among international financial institutes are required in order to facilitate mutual understanding and to establish more solid financial structures in turn.

2. Transfer of model laws

a. Characteristics of model laws

The systems to resolve NPLs usually take the forms of substantial laws or procedural laws. In substantial laws, the resolution of NPLs include the establishment of priority for loans, SPC(Special purpose companies), trust system, ABS, and tax support. These privilege clauses maintain the stability of existing legislation and effective resolution of NPLs at the same time.

In procedural laws, it is possible to organize meetings of creditors or a general meeting of stockholders for the purpose of solving legal conflict. Also, it is possible to simplify the procedures of loan assignment. The movement of legislation in resolving NPLs usually take the form of special laws. Individual nations make legislation under their own circumstance. However, since the globalization of international economy develops rapidly, it is increasingly more important to consult foreign countries' legislation.

Existing international organizations such as OECD, BIS, IMF or ADB could play important roles in the process. In addition, it is necessary to explore the possibilities of giving legal and mandatory power to the international regulations through multi-parties agreement.

b. Examination of more specific model laws

In establishing a model law, it would be necessary to examine different systems in many countries. This process entails the consideration of particular circumstances in which different nations operate. Then, it is desirable to prepare a number of model laws so that individual nations could select the best possible choice. Model laws could be developed according to the development stage of different NPLs markets.

Model laws in Korea, Malaysia, and the U.S.A. have been successful. The similarities of these countries are the promptness in resolving NPLs through public funds used by public agencies or governments. This approach is effective in special situations where the process cannot be depended solely on the matured market function. However, it is important to consider individual nation's legislation and specific circumstances.

3. International agreements with mandatory power

This is a way to establish international agreements with mandatory power among multi-parties or both parties. The agreements include the introduction of resolution system for NPLs and the specification of standards. The agreements could be made through existing international organizations. For example, multi-parties agreements could be made through international organizations such as IMF or regional organizations like ADB. When the system for resolving NPLs is standardized among many countries, economic surplus of investors and financial institutes could be expanded through economy of scale.

Usually, agreements are promises made among nations. They imply special status in legislation. Thus, when agreements are made in the legislation of the resolution of NPLs, they have the priority status over domestic laws. Since there is a danger to interfere with individual nation's sovereignty, it is not desirable to force one-way agreements with mandatory power. For example, in the case of financial supervisory regulation, individual nation's circumstances need to be comprehended even though there are international agreements.

The resolution of NPLs also needs to recognize individual country's economic policies. Generally, Non-Performing Loans become economic and social problem with accumulation for a long period of time. However, it is difficult to pinpoint when would be the exact time NPLs become a threat to the sound management of financial institutes. When there is financial anxiety in the market, appropriate measures need to be taken to overcome the difficulties.

Considering these factors, the establishment of agreements in resolving NPLs would not be as effective as expected. When individual nations come up with their own systems and regulations, the agreement would not exert much influence in domestic markets. This is why international agreements require much more effort for revision than domestic laws do.

The resolution of NPLs would be desirable to be pursued through the market mechanism. Markets operate on the basis of market self-control. Governments need to facilitate appropriate environment for the markets, the scope of mandatory regulations need to be minimized. Thus, the resolution of NPLs through mandatory regulations in different countries would not be successful in terms of practicality and effectiveness.

4. Cooperative systems through the establishment of independent organizations

International organizations could be established for the purpose of promoting the resolution of NPLs in the international market. Supplier groups in developed countries and potential suppliers in developing countries participate together in the form of international organizations. Or regional cooperation organizations could be established, too. The establishment of regional cooperation organizations would be more practical and realistic. For example, an international NPL resolution agency could have a similar function to the ILO in the labor field and to the IMF in the financial area.

Also, a regional organization such East-northeast Asian Development Bank could operate for the resolution of NPLs. This organization could establish regulations, raise funds, examination of situations in different countries.

However, it would be difficult to pursue effective processes when there is no government in charge of the establishment of such organizations. Public organizations and private financial institutes

have certain limitations in pursuing the process. Considering that international organizations are usually established during the time of international crisis, prevention procedures for the financial liquidity crisis certainly have difficulties.

Chapter 6. Conclusion

Even though there are differences among countries in terms of the type financial crisis and circumstances, there are following similarities among nations who resolved the NPLs successfully. First, in the process of overcoming the financial crisis, the resolution of NPLs has been in the primary focus. Second, AMCs as the NPL resolution agencies were established. Especially when the infrastructure of NPL market is not sturdy enough, public AMCs were established. Third, these institutions were given legislative rights and functions in the buyouts of NPLs and corporate restructuring. Fourth, public funds were established to support the finance of buying NPLs from insolvent companies. Fifth, various ways of selling and bidding were used in the process.

The legislation related to the resolution of NPLs has many characteristics of public laws, and it is a product of political as well as economic policy consideration. Realistically, there could be some factors preventing the effective resolution of NPLs. Thus, the international standardization of relevant legislation should be facilitated with the consideration of individual nation's circumstances and related areas.

Many suggestions proposed in this paper have their own strengths and weaknesses. However, this paper suggests that the effective standardization in any area would fundamentally require international cooperation.

In the process of overcoming financial crisis in East Asia, individual nations have tried to establish the best possible system under circumstances. However, in order to attract as many investors as possible, market competitiveness needs to be increased so that the NPLs would be valued and resolved appropriately.

In addition, although there are a couple of cases of operating public organizations for the resolution of NPLs, a stable system to protect financial security is essential. For this, different regulations and systems in different countries need to be understood and trusted. This would take efforts in the long term basis from individual nations.

The author suggests that it is important to facilitate the understanding and expansion of the scope in terms of international standardization. Cooperative system among public agencies needs to be developed. Also, the establishment of model laws and independent organization needs to be considered. In the process of the resolution of NPLs, international standardization could become an important foundation to develop the system more effectively.