

Regulatory Transparency: What We Learned in Korea

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I. Introduction

In developed and developing countries, the importance of regulatory reform, including administrative reform, is becoming more apparent. In developed countries, as many of the traditional engines of growth such as increases in labour force and increases in capital stock are slowing down, these countries are paying more attention to how to increase the efficiency of the existing factors of production. These countries have found that improving the quality of regulations can substantially raise the productivity of their economies.

Regulatory reform is gaining prominence in developing countries as well, as developing countries are beginning to realise that inefficient regulatory regime can hinder the efficient allocation of resources and valuable investment from abroad, as well as raise the possibility of corruption. Thus, these countries have realised that comprehensive regulatory reform is a crucial part of economic development.

Effective regulatory reform consists of many different components, but one of the most important is increasing the level of transparency. Without transparency, any regulatory reform will be crippled since the reform may not give the people what they need, and the people will not know what changes have taken place.

In this paper, we examine transparency and regulatory reform. First, in section II, we will state what we mean by transparency, giving a general framework to our discussions. In section III, we look at regulatory reform in developing countries specifically, based on Korea's development history. One of the lessons Korea has learned is that the government can set an effective industrial policy by establishing an economic environment which fosters competition, rather than choosing winners and losers. Raising transparency is an important part of such an industrial policy. In section IV, we focus on general lessons on how to raise transparency from Korea's regulatory and administrative reforms. In the last section, we look at Korea's market openness policies and transparency as a concrete example of what type of policies Korea used to raise the level of transparency.

II. What We Mean by Transparency

As OECD (2001)¹² states, the term transparency is famously non transparent in operation. The same report differentiated "transparency of market information" which deals with information, and "regulatory transparency" which deals with the operations of the state.

12. OECD (2001) "Flagship Report on Regulatory Quality".

In that report, regulatory transparency was defined as *the capacity of regulated entities to express views on, identify, and understand their obligations under the rule of law*.¹³ This definition of transparency is far more complex and far-reaching than the idea of information transparency, and transparency becomes an essential part of all phases of the regulatory process.

In OECD (2001), the elements of regulatory transparency included such items as:

- Consultation with interested parties.
- Plain language drafting of laws and regulations.
- Legislative simplification and codification.
- Registers of existing and proposed regulation.
- Electronic dissemination of regulatory material.
- Controls on regulatory discretion established through standardised, transparent procedures for making, implementing and changing regulations.
- Appeals processes that are clear, predictable and consistent.

The report also stated quite forcefully the reasons why transparency is so important. Transparency is key to regulatory quality. Transparency helps cure many of the reasons for regulatory failures such as regulatory capture, bias toward concentrated benefits, inadequate information in the public sector, rigidity, market uncertainty, inability to understand policy risk, and lack of accountability. Transparency encourages the development of better policy options, and helps reduce the incidence and impact of arbitrary decisions in regulatory implementation, and it helps create a virtuous circle – consumers trust competition more because special interests have less power to manipulate government and markets. Transparency is also a major tool in fighting corruption. Furthermore, by helping to increase the activity of civil society, transparency has democratic implications as well.¹⁴

As stated above, OECD (2001) differentiated “regulatory transparency” and “information transparency.” However, transparency of information is also a crucial component of regulatory transparency. In order for the public to make an accurate assessment of their obligations and their rights, they must have not only regulatory information, but also statistical information, and information on ongoing policy discussions within the government. Furthermore, information should be accurate, up-to-date, timely and easy to access.

Thus, this paper examines both regulatory transparency and information transparency, since information transparency is an essential component in achieving and maintaining regulatory transparency.

OECD (2001) has suggested various means to raise the level of regulatory transparency, most notably public consultation; improvements in regulatory clarity, communication and access; and improvements in due process and administrative certainty.

13. OECD (2001) Para. 255.

14. OECD (2001) Para. 249~250.

Public consultation includes *notification*, which is the communication of information on regulatory decisions to the public; *consultation*, which is the active seeking of the opinions of interested and affected groups; and *participation*, which is the active involvement of interest groups in the formulation of regulatory objectives, policies, approaches, or in the drafting of regulatory texts. Tools used for public consultation includes informal consultation, circulation of regulatory proposals for public comment, public notice and comment, hearings, and the use of advisory bodies. The use of information and communication technologies can also be useful.

In the public consultation process, the following principles should be followed:

- Consultation programs must be flexible enough to be used in very different circumstances, within a framework of minimum standards to provide consistency and confidence.
- In order to raise the effectiveness of public consultation, information should be available before the consultation process.
- Consultation should be sought in a continuing dialogue with a wide range of interests.
- Consultation process should be transparent and responsive.
- More investment should be made in the evaluation and review of current consultative approaches.
- A habit of consultation must be built into the administrative culture of regulatory organisations.

Regulatory clarity, communication, and access is crucial to the rule of law, because it affects the accessibility of regulated entities to the rules. Thus, regulatory complexity, fragmentation, inconsistency, unreadability and problems with simply identifying relevant regulations must be reduced if the accessibility to the rules is to be improved. Among the strategies that can be used to increase regulatory clarity, communication and access are the use of regulatory reviews, legislative simplification and codification, plain-language drafting of regulation, publication of future plans to regulate, and the electronic dissemination of regulatory documents.

To improve due process and administrative certainty, transparent and consistent processes for making, implementing and revising regulations are fundamental in ensuring public confidence and safeguarding opportunities for the public to participate in the regulatory process. Establishing objective criteria for making administrative decisions as well as setting formal procedures for when and in what ways to document these decisions help build needed controls around the exercise of regulatory discretion, which in turn help assure greater consistence and fairness in managing regulations, and ultimately boost market confidence and investment, while reducing opportunities for government favouritism and corruption. Methods for improving due process and administrative certainties include such tools as administrative procedure acts; “silence is consent rule” which implies that legislation deems an authorisation to be granted if no formal decision is made and notified within a specified time period; and clear, predictable and consistent appeals processes.

III. Competition Policy vs. Industrial Policy in Developing Countries: Compatible through Regulatory Reform with Transparency

Some developing countries may question whether regulatory reform, which has been carried out mostly in developed countries, is relevant for developing countries. In the Korean case, because Korea had to overcome its lack of natural resources and capital stock in its early stages of development, government instituted various regulations and industrial policy to speed up the development process. While such strategy may have been effective at the earliest stages of development, by 1980s it was clear that the social and economic costs of these regulations were greater than the benefits. Also, many of these regulations were abused, as they were being used to protect the interests of the powerful, rather than achieve economic efficiency or increase social welfare.

These problems became acute in the 1990s. The increasing globalisation made it difficult for Korea to afford the high economic and administrative costs arising from these outdated regulations. Also, regulations from the days of government-led development tended to concentrate on various restrictions to facilitate command-and-control type of development. However, such regulations stifled the creativity of individuals and firms, a crucial disadvantage in the 21st century economy which depends on innovation. Thus, one of the most critical roles of regulatory reform has been to free the innovative capacity of the country.

A crucial component of regulatory reform is the introduction or the strengthening of competition policy. In order to foster an environment for creativity and innovation, new firms must be allowed to enter the market freely, while inefficient firms must exit from the market to free up resources for the more efficient firms. Competition policy helps create such an environment. Also, a comprehensive reform, involving many areas of regulations including competition policy is more effective in increasing the efficiency of the economy. For example, according to Tilton (1997), Japan insists on managed deregulation, where reforms are carried out partially and selectively in order for the government to try to increase the international competitiveness of Japanese firms, rather than trying to maximise consumer welfare as in the case of the U.S.¹⁵ Tilton (1997) argues that, because the government overemphasises the needs of the firm over the needs of the consumers, Japan, even though it has been engaged in extensive regulatory reform, still retains a complex regulatory structure, and has not substantially increased regulatory transparency. Such problems hinder the inflow of foreign direct investment. Furthermore, various regulatory barriers as well as unofficial regulations from industry groups hinder market access for imports, thus raising the price level in the Japanese economy. In short, by trying to increase the competitiveness of the domestic industry through managed deregulation, the Japanese economy restricted competition, and in the end, reduced its competitiveness.

A similar philosophy drove much of the Korean regulatory system up to the 1990s, and even today, such consideration remains in the mindset of some Koreans. According to various US and EU market openness reports, government regulations often act as import barriers.

As the Korean and Japanese examples show, in order to raise competitiveness as well as increase consumer welfare, a government must increase the level of competition in the economy, through active regulatory reform and competition policy which eliminate anti-competitive regulations. Measures must include the elimination of formal and informal regulations which hinder market access for foreign as well as domestic firms. The abundance of informal regulations, made possible because of a lack of transparency, raises transactions cost and market access cost for domestic and foreign firms, which reduces

15. The discussion on Japanese deregulation is taken from Tilton, Mark (1997), "Japanese Deregulation: What you should know – Why Regulatory Reform won't open Japan's Markets to Imports", available via internet at (<http://www.nmjc.org/jiap/dereg/papers/deregcon/tilton.html>).

the gains from market openness. In order to reduce such problems, the level of transparency must be raised in the regulatory reform and regulatory implementation process, so that informal controls will be eliminated, and the needs of all interested parties can be reflected in the regulatory system.

Industrial Policy: Set the Environment, but Not the Winner

For developing countries which may lack natural resources or technology, industrial policy should not seek to replace the market mechanism concerning investment, production or employment by competing firms, or share the economic decision making process, which may foster a monopolisation of the market.

Rather, the government should try to develop an economic environment which allows the efficient use of what natural resource and technology the country has. Policies which can help establish such an environment include improvements in information technology infrastructure, support for research and development, improved training and education to foster a skilled labour force.

Regulatory reform ultimately fosters individual creativity, which in turn increases economic efficiency, and in the end, increases welfare for the nation. A crucial component of this process is increased competition, and competition policy helps increase competition.

Once economic reforms establish a competitive economic environment where market principles can operate, regulatory reform and competition policy should be used in conjunction to maintain an environment where the winners are selected by the marketplace rather than by government fiat.

A crucial part of this process is an increase in the level of transparency. Regulatory reform will be successful only if the process is transparent so that new regulations as well as the implementation of these regulations reflect the interests of all parties.

IV. Experiences of the Korean Regulatory and Administrative Reform

During the financial crisis of 1997~98, the Korean government instituted a large-scale reform of its economy. The reforms encompassed such areas as anti-corruption, administrative reforms, and regulatory reforms. Koreans learned much in the process of the reform process, including the importance of transparency and how to raise the level of transparency. Some of the lessons that Korea learned from the reform process are listed below.

1. Regulatory reform should be approached in a unified and systematic fashion to raise the general expectations of the public, which would ultimately fortress the public's expectation for transparency permanently.

Based on the Korean experience, regulatory and administrative reforms should be carried out broadly, encompassing as many areas as possible. Regulatory reform and administrative reforms in Korea was wide-ranging, encompassing such areas as anti-corruption, the establishment of an e-government, and reforms of administrative procedures. The Korean reforms were not only comprehensive in terms of area, but also intensive, as most of the reforms were carried out within a relatively short span of time.

Such intensive and comprehensive reform is useful because it helps raise the consciousness of the public, and ultimately helps gather more support for the reforms. The range and the intensity of the reform efforts help convince the public that the government's will to carry out these reforms is strong, and in turn, while there may be some strong short term resistance from the public, in the end, the public will stand behind the reform efforts because they are convinced that the government is serious.

The public expectation on the seriousness of the reform has special meaning for raising transparency. When the public starts receiving accurate information from several different channels, and when information gathering becomes easier, the public will begin to expect such trend to continue. Soon, the public will consider an easy access to information as a granted political right, and the public will no longer allow the government or various officials to hide information. Thus, it will become almost impossible to go back to a state where little information was available to the public. The public will no longer tolerate not receiving information, and they will monitor the government to make sure that they provide relevant and timely information.

Thus, if the government is interested in raising the level of transparency in the nation, it should first raise the expectations of the public on what information the public can receive. Before considering the actual details and mechanisms of policy, the government may be better served if it first examines what type of policy can raise the public expectations of transparency, and institute such policies. The Korean regulatory and administrative reforms did a good job in this respect, as the government responded to the public's demand for transparency, which in turn raised the expectations of the public for transparency.

Korean Anti-Corruption Council

The Corruption Reporting Center under the Anti-Corruption Council receives reports for corruption via direct visits, telephone, mail, fax and internet 24 hours a day, 365 days a year. The Anti-Corruption Act specifies all processes from the reporting of corruption to its disposition, so that the public can take confidence that the corruption is being dealt with in the legally specified manner. The Article 29 of the law, which deals with how the center must deal with the reports of corruption, and the Article 30, which specifies the completion of investigation and time limits on notification, clarify the processes on corruption cases, and raise public confidence that corruption will be definitely dealt with.

Ultimately, the public expectation on anti-corruption is raised, and the public's demand for transparency will also be raised.

2. The government has to be recognised as a unified single entity by the public.

One of the most important factors which hinders transparency and also raises the frustration of the public is that the government often does not act as one entity. It is natural and necessary that depending on the task, administrative work falls to different departments and ministries within the government, but when the goals and demands of each department and ministries contradict each other or overlap, it increases the confusion and burdens of the public. Korea has engaged in a large scale effort to remove repetitive and overlapped regulations as a part of the regulatory reform process. Korea has removed multiple overlapping regulations and requirements in various license and certification processes, notification requirements, evaluation processes and regulatory processes to reduce regulatory burdens and reduce confusion in public's contact with the government. The government's efforts have received positive response from the public, and such efforts have raised the level of transparency.

Quality-Oriented Regulatory Reform: Removal of Conflicting Responsibility for Regulations

From 2000, the Korean government has emphasised the importance of the elimination of redundant regulation as a major goal of regulatory reform. For example, in the area of environmental regulation, the Ministry of Environment, Ministry of Commerce, Industry and Energy, Ministry of Maritime Affairs and Fishery, and other ministries often issue redundant regulations. During the reform, the responsibility for maintaining and enforcing these regulations were given to the Ministry of Environment, so that the confusion over regulatory standards and the cost of redundant enforcement would be lowered considerably. By having one single ministry act as a focal point for regulations and their enforcement, the public deals with one single standard, which increases the clarity of regulations, and reduces confusion over the interpretation of the regulations, thus increasing transparency.

3. Reduce information burden of the public.

Another related factor which lowers the level of transparency and increases frustration of the public is the perception that government is too complicated. Again, it is only natural and necessary that depending on the task, administrative work falls to different departments and ministries within the government, but as a service provider, the government must recognise that it takes quite a lot of effort on the part of the public to understand the roles and responsibilities for each department and ministry, understand the different mechanisms that each department and ministry use, and carry out the different processes and requirements as set by each department and ministry. Thus, to reduce the burdens on the public and raise transparency, a single-window approach becomes very desirable. For example, establishing a single-window to receive complaints by the public eliminates the need for the public to figure out which department, ministry or agency their complaints should be addressed to.

Seoul City OPEN System for Civil Affairs and Petitions

Under the Seoul City's OPEN system for processing civil affairs and petitions, the internet homepage for the OPEN System acts as a central registry for processing civil affairs and petitions in a comprehensive and open manner. Complainants can always visit the OPEN system homepage to receive all information about what department or office is handling their document at this moment, and when and where it will be processed at the next stage.

4. Maintain multiple communication channels with the public.

The government must recognise that the public is actually a diverse group of individuals rather than a single entity. Opinions, information required, advice or requests, and even the most desirable method of communications differ from person to person. Thus, in order to raise the level of transparency, the government must ensure that information flows from the government to the public and vice versa must be maintained through the largest possible number of channels, such as the internet, public documents, or various mass media.

5. Eliminating uncertainty leads to higher transparency.

Even if a person does not know anything about administrative procedures or administrative mechanisms, if that person knows what consequences his actions will have, one can safely assume that the administrative procedure and the administrative mechanism is effectively transparent.

Emulated Permission: Licensing in Korean Financial Industry

For entry regulations dealing with Korea's financial sector, the government is considering the adoption of a licensing system where if the government issues no negative decisions within a fixed period after a potential firm files for a license or a permission to operate, the firm may consider the license given. Such system raises the predictability of the licensing system by clarifying the regulatory standards that the filer faces, and thus raises transparency. Also, such system reduces the burdens of unpredictable administrative actions, and reduces regulatory compliance costs. This system is based on the Korean government's successful experience with similar measures in fire-prevention regulations.

6. Plain words and expressions make transparency possible.

Administrative paperwork often involves complicated words and expressions, confusing forms, complicated formats, and repetitive tasks. The time and effort for the public to complete such administrative paperwork is considerable, and thus the public seeks to avoid administrative paperwork whenever possible. In other words, for reasons of trivial bureaucracy, the public is prevented from actively participating in the regulatory process. Thus, beyond the superficial result of administrative simplification, namely to make the process easier, there is a deeper, more important goal in simplifying the wording of paperwork and rules – to increase communications between the public and the administrators, and facilitate active participation by the public in the regulatory process.

7. If it is compatible with common sense, it's transparent.

When a regulation, its purpose, its requirements, and its basis cannot be explained in terms of simple, everyday common sense, the public cannot understand the need for the regulation, and may become confused over the need and the requirements for the regulation. Furthermore, the public will suspect that the government will interfere unduly with their affairs at their discretion in an unpredictable manner, using the regulation as an excuse. Thus, the predictability and understandability of the regulation will fall, and the transparency will fall.

8. Be transparent to foreigners.

In section V, there will be more discussion on the importance of transparency in market openness, but it is important to remember that if foreigners do not have knowledge of the domestic regulatory mechanism and processes, they cannot operate effectively in the domestic economy. Also, foreigners can act as a "test" for transparency; that is, if foreigners have a clear understanding of the system and a voice within it, it should be transparent for all. Typically, foreigners have difficulties in understanding the culture and precedents in the domestic economy, and thus they will have the most difficulty in finding information or making their opinions felt by regulatory authorities. Thus, if foreigners, who are disadvantaged, believe the system is transparent, it is very likely that the system is actually transparent.

V. Korean Experience on Transparency, Market Openness, and Regulatory Reform

By now, Korea's success as an exporter is well known. What is perhaps not as well known is that, for the most part, Korean imports kept pace with the increasing exports. In fact, market openness and increased imports played a crucial part in Korea's development. In order for Korean exports to be competitive in the global marketplace, Korea had to import raw material and intermediate goods from abroad at low prices in order to maintain low costs for its exports. In addition, Korea, for the most part, maintained relatively stable macroeconomic environment and a relatively low level of price distortion, which helped set the environment for growth. Such an economic environment would have been difficult to maintain if Korea had closed its market substantially.

In the 1960s, Korea opened its markets for raw material and intermediate goods. However, it did limit imports of consumer goods, and until the 1980s, Korea only opened its market for consumer goods reluctantly. Since 1980s, Korea has begun to open its market for consumer goods as well, and the process accelerated in the 1990s. 1998 saw an important milestone in Korean market openness as the import source diversification program, which had been designed to limit imports of competitive goods from Japan, was eliminated.

While it is true that market openness played a part in Korea's involvement in the Asian financial crisis, it is also true that market openness, especially foreign direct investment, played a major part in Korea's recovery from the Asian financial crisis. Furthermore, it seems clear that had Korea maintained a higher level of information and regulatory transparency before the financial crisis, the adverse effects of the financial crisis would have been lessened.

While Korea had began to raise its regulatory and information transparency since joining the GATT in 1967, it is probably fair to say that Korea did not fully realise the importance of transparency until the financial crisis, as Korea realised that transparency plays an important part in developing investor confidence, as well as letting the checks and balances of the market system operate efficiently.

Many foreigners point out that a lack of transparency is still a major problem in Korea. Some government officials, especially local officials, set and implement policies in a non-transparent fashion, exercise too much discretion in interpreting regulations, and try to limit imports or foreign direct investment out of a misguided sense of economic patriotism. However, even the harshest of Korea's critics admit that Korea has done much to make Korea more open to imports and foreign investment since 1998, and the Korean government has committed itself to maintaining market openness, realising that market openness is crucial in maintaining competitiveness in the global economy, and in increasing the welfare of its citizens.

Some of the lessons in transparency and market openness that Korea learned during its 40 years of development and market opening process are listed below.

1. Use international institutions and international standards.

Korea joined GATT in 1967, APEC in 1993, WTO in 1995 and OECD in 1996. Korea also committed itself to observing general obligations set by Article 8 of the IMF charter in 1988. In addition, Korea actively participates in international standard setting organisations such as WCO, WIPO, ILO, and others. Joining these international organisations and committing itself to observing their various rules, agreements and conventions raised Korea's regulatory and information transparency because these rules, agreements and conventions set standards on how Korea acted. Thus, it raised predictability and limited regulatory discretion by individuals. Furthermore, many of these organisations have formal rules on

regulatory and information transparency. For example, GATT Article X stipulates that laws and regulations related to trade and customs matters must be made available to other countries, and there must be a procedure for review and correction of administrative matters relating to customs matters. IMF maintains various rules on information provision. Korea has opted to observe IMF's SDDS standard for information dissemination, which obligates Korea to provide macroeconomic statistical information in a timely manner, and provide definitions and methods of calculation for its statistical information.

In addition, these organisations often file reports on the state of the economy which is very useful for both market openness and transparency. OECD summarises various macroeconomic information in its annual Korea review, and WTO summarises Korea's market openness policies in its trade policy review, which is carried out once every four years.

Also, Korea participates in APEC's IAP (Individual Action Plan) program where Korea lists the current status and future plans in various policy areas related to market openness such as tariffs, standards, services, and competition policy.

The importance of using international standardised definitions for statistical information was clearly seen during the financial crisis. International investor confidence in Korea was strengthened when Korea started to use World Bank and IMF standards for its macroeconomic variables such as the amount of debt, and when Korea forced domestic conglomerates to adopt the standards for combined financial statement, which is closer to the international concept of consolidated financial statement.

2. Provide easier means of access to information.

As with most countries, Korea maintains various laws and regulations which restricts or regulates trade and foreign investment for reasons such as the protection of public health, consumer safety, and national security. However, Korea's trading partners have often stated that the laws and regulations in Korea are more complex than other countries, and traders have a hard time following the changes in these rules.

Korea has dealt with some of these problems by providing a unified list which gathers the relevant laws and regulations in one document. Korea maintains a unified list of laws and regulations dealing with import restrictions, and also a unified list of laws and regulations dealing with foreign direct investment.

In addition, for foreign investment, Korea has set up a one-stop service center, Korea Investment Service Center, where interested foreign investors can gather information on Korea's regulatory and legal environment as well as possible investment opportunities.

Since the 1998 regulatory reforms, Korea also maintains a regulatory database which includes all the regulations of various government ministries. While the database is currently available only in the Korean language, it is accessible through internet where any interested party can search and examine it.

The various ministries of the Korean government have also strengthened their internet-based information dissemination mechanism such as Web sites and e-mail. Extensive policy, regulatory and statistical information are available from the ministry Web sites. Also, for statistical information, Korea has instituted portal Web sites such as KOSIS (<http://kosis.nso.go.kr>) where information from various different ministries can be accessed through a single Web site in Korean or English, and downloaded to personal computers.

Some ministries also started to use a “foreign press spokesman” to deliver relevant policy information to foreign reporters in a timely manner.

Reforms in Korea’s FDI Regime

During the financial crisis, the most extensive reforms in Korea probably took place in the area of Foreign Direct Investment (FDI). In order to facilitate FDI flowing into Korea, the government liberalised most of the industries which remained closed to foreign direct investment. Also, many regulations which directly or indirectly hindered FDI were eliminated, such as nationality requirements for company directors, limits on foreign ownership, and land purchase restrictions. Reforms which raised the level of information and regulatory transparency were carried out as well.

The Korean government established the Korea Investment Service Center (KISC), a “one-stop service center” for FDI which not only provided various information but also explained them for foreign investors, as well as providing various channels for linking foreign investors and domestic firms. The center provides information and explanations on laws and regulations dealing with FDI, collects information from foreign investors such as what type of problems and difficulties they encounter in investing in Korea, and works to solve these problems.

In order to solve legal and regulatory problems between foreign investors and the government, KISC maintains an ombudsman system who can directly address these problems.

In 1998, the Korean government established a foreign investment advisory committee to advise the government on various policies to facilitate foreign investment. The members of this committee consisted entirely of foreign firms: four American, four European and two Japanese. The role of this committee is to: Recommend various policy measures to facilitate foreign investment into Korea; support various seminars and promotional events; and give conferences to FDI-related government officials. In addition, the Korean government organised several “Enhanced Meetings to Promote Trade and Investment” to consult the private sector, including foreigners, on trade and investment policies.

The Korean government is now issuing a unified list of laws and regulations dealing with foreign investment.

In all, the Korean government has overhauled domestic laws and regulations dealing with foreign investment to make FDI in Korea easier, and the Korean government has instituted a system which explains these laws and regulations to foreign investors. Furthermore, Korea formally gathers opinions and advice from foreigners to revise and improve the domestic regulatory system. In all, Korea has greatly raised the level of regulatory transparency for FDI-related regulatory system.

3. Listen to foreigners.

Korea maintains various laws and regulations which enforce regulatory transparency. For example, all laws and regulations must be announced to the public at least 20 days before it goes into effect, and executive orders must be publicised through the government gazette. Also, since 1997, whenever a new regulation is introduced, or an existing regulation is strengthened, the relevant ministry must gather opinions from various interested parties. These transparency laws and regulations do not discriminate against foreigners, so foreigners can participate in the process on an equal basis with Korean nationals. Korea also maintains a review process for administrative actions, which are open to Korean nationals and foreigners on a non-discriminatory basis.

In addition, Korea actively participates in bilateral, regional and multilateral negotiations and discussions. Such discussions allow Korea to gather information on what foreigners find difficult about operating in Korea, and what type of policy changes Korea needs to make in order to make it easier for foreigners to trade and invest in Korea. Korea maintains an advisory council consisting of foreign firms which advises Korea on foreign investment policy, and Korea has recently accepted foreign firms as members of an advisory panel on setting drug prices for the National Health Insurance Program. Bilateral negotiations improved transparency in Korea in such areas as procurement of telecommunications equipment, regulations for motor vehicles, and intellectual property. Multilateral negotiations, such as the Tokyo Round and Uruguay Round, improved Korea's transparency in such areas as government procurement through the WTO Government Procurement Agreement, technical and sanitary standards through WTO Technical Barriers on Trade Agreement and Sanitary and Phylo-Sanitary Agreement.

4. Make the system simple, and allow it to reflect the international market mechanism.

One of the crucial turning points in Korea's market openness policies and Korea's development process took place in 1964 as Korea switched from a multiple exchange rate policy to a single exchange rate policy. A single exchange rate is not only simpler to understand, but also reflects the changes in the international marketplace and the foreign exchange rate market much better than the multiple rate system. A single exchange rate system also reduces the chances of rent-seeking, since various firms and individuals may expend much effort and resources into receiving a more favourable rate of exchange under a multiple rate system.

Other Korean examples include switching from a positive list system, which lists what can be imported or which industries are open to foreign investment, to a negative list system, which lists what cannot be imported or industries which are closed to foreign investment. Effectively, positive list system places the burden of proof on those who want to liberalise imports of certain goods or liberalise investment in certain industries, while negative list system places the burden of proof on those who want to limit imports or investment. Thus, the negative list system is more open to liberalisation, and more responsive to the international marketplace. Korea instituted the negative list system for imports of goods in 1967 when it joined GATT, and Korea instituted the negative system for current account transactions in 1998.

5. Adopt a regulatory system which can deal with the globalise environment.

During the financial crisis, Korea found that its existing regulatory infrastructure and environment, which had been set up in the days when the markets were not fully liberalised, was inadequate for dealing with a fully liberalised environment. Most notably, the existing supervisory and regulatory mechanism for the financial sector was inadequate in dealing with the more complex post-liberalisation environment, and thus reforms were urgently needed. These reforms usually involved a higher level of regulatory and information transparency. A new financial regulatory framework was set up where the regulatory framework was simplified from four different agencies to one centralised agency, the responsibilities of the regulators were more clearly defined, and various limits, such as the limits on debt ratios of the financial institutions, were set.

6. Engage actively in liberalisation discussions and negotiations.

When a country takes an active role in international discussions and negotiations on opening markets, it forces that country to review various domestic laws and regulations to see whether the domestic laws and regulations explicitly or implicitly promote discriminations against foreigners, or limit market and investment access to foreigners. Korea is taking an active role in promoting transparency in international negotiations in such areas as services, trade facilitation, investment, and government procurement, and the negotiations have forced Korea to review its own domestic conditions.

7. Review domestic systems regularly from the user's point of view, and update the systems.

During the financial crisis, Korea needed to quickly increase foreign direct investment, not only for the foreign currency, but also to upgrade the domestic management skills. Korea took advice from various domestic and foreign experts and businessmen on factors which made foreign direct investment in Korea difficult, and addressed those problems through direct measures such as changes in laws and regulations. These measures usually involved a higher level of transparency, since foreigners usually demanded more information about the Korean economy. As a result of these reforms, Korea has succeeded in increasing the flow of foreign direct investment from 3.2 billion dollars in 1996 to 15.7 billion dollars in 2000.¹⁶

Korea has also been engaged in installing an e-trade system since 1993. The e-trade system tries to simplify and facilitate customs procedures, especially paperwork, by using various means of information and communication technologies. However, before an e-trade system can be utilised, a comprehensive review and simplification process for customs procedure and paperwork must first take place, since if the customs procedures and paperwork are complicated to begin with, installing an electronic network will only make things worse. Also, customs procedure related information must be disseminated through an electronic network to all users, which increases regulatory and information transparency. Korea carried out such a review and simplification process, and as a result, an efficient e-trade system has been instituted. Several aspects of customs procedure is carried out entirely through the electronic communication network without paperwork, and the burdens on traders have fallen considerably.

Korean EDI System

Korea has been working on a system for paperless trading since 1993. In that year, Korea began to use the UN/EDIFACT EDI (Electronic Data Interface) standards on administrative work for trade. In 1994, Korea introduced the VAN (Value Added Network) EDI system to ease administrative requirements on trade. From 1996, with the goal of simplification, harmonisation and computerisation, the government began updating its customs procedures. As the result of these efforts, in 2001, in customs procedure areas such as export notification and import notification, as well as submission of shipping reports, reporting of port entry and exit, notification for bonded freight transport, the liberalisation ratio approached 100%. In addition, the government started a paperless import customs procedures in July 1999. These actions have greatly reduced administrative burdens for traders, and Korea's trade facilitation efforts have been lauded by developed and developing countries.

16. The amount fell somewhat in 2001 to 11.9 billion dollars, but the fall is attributed to the slowdown in the global economy, rather than measures taken by Korea.

8. If the system is transparent to foreigners, it is likely to be transparent to all.

Foreigners usually stand disadvantaged in terms of access to information and access to policymakers, since they may not understand the domestic culture or the political process, and they may not know all the formal and informal sources of information that the domestic firms do. Thus, if foreigners, who are disadvantaged, consider the domestic economy and regulatory environment transparent, it is very likely that the economy is transparent. Thus, transparency to foreigners can be considered as a test of transparency for a country.