How effective is the Korean model of regulatory reform to cut down existing regulations?

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1. Introduction

Korea has achieved a remarkably quick recovery from the financial crisis of 1997, thanks to a wide range of reform policies including regulatory reform. To overcome the economic crisis Kim, Dae-Jung government of 1998 launched drastic structural reform policies of four sectors: finance, corporate, public and labour. These reforms aimed for enhancing the efficiency and effectiveness of Korean economy by using market principles and market force. These reforms, in a broad sense, include change in regulatory systems and methods.

Regulatory reform has been one of key tools for economic recovery in 1998 through 2000. The aim of the regulatory reform is to facilitate the shift for Korea from a highly interventionist model for compressed economic development to a market oriented and open model, which is based on values such as market competition, autonomy, creativity, democracy and consumer choice. This reform has the potential to change fundamentally the relationship between the state, market, and civil society.

Regulatory reform has a major impact on the transformation to a market driven economy. Korea has made a rapid progress by reducing the number of regulations for 1998 through 1999 and eliminating the use of administrative guidance that is not based on laws. Such a progress is indeed impressive. This paper discusses the following questions. What is the institutional framework for regulatory reform in Korea? How did Korea achieve the rapidly massive abolishment of existing regulations in 1998 through 1999? What are the assessment and implication of the massive deregulation? And what is the next step?

2. Institution building for regulatory reform

2.1. Evolutionary development

Korea made a great successful story of economic growth led by government since 1961. The state led development was efficient and effective in an initial stage of economic development due to scarcity of private capital, lack of viable productive technology and the weakness of the private sector. The government was deeply involved in the market economy and resource allocation, which led to massive legislation of regulations.

However, the state led development began to lose effectiveness in the 1980s. Along with increasing criticism, long term problems of inefficiency, moral hazard and non-transparency had become apparent. Thus, the government began to take reformative actions since 1981. Intergovernmental meetings or *Ad hoc* committees on administrative reform and deregulation were emergent whenever a new government took office.

Government bureaucrats usually controlled such reform bodies by taking chairmanship. They played a dominant role in conducting reform work. Although civilian experts were invited from the private sector, their role and influence remained limited. Government bureaucrats still maintained their regulatory power embedded in the period of a state led development at an initial stage of the 1980s.

Regulatory reform was still regarded as a part of administrative reform until the middle of the 1990s. Deregulation and administrative simplification were major focus of regulatory reform at the time. However, experts from the private sector increasingly participated in the reform bodies as the Korean society began to fragment with the growth of the private sector. Kim, Young-Sam government of 1993, known as a civilian government, served as a turning point that civilians' role was substantial in the policy process. Several reform bodies were established in the government. Even though they acted on *ad hoc* or advisory basis they played a substantial role in the reform process. The Presidential Committee on Administrative Reform and the Economic Deregulation Committee worked for regulatory reform from February 1993 to February 1998. The Economic Deregulation Committee was based on an administrative directive while the Presidential Committee on Administrative reform on a presidential decree.

In 1997 Korea enacted the Basic Act on Administrative Regulation (BAAR) to conduct regulatory reform by a single central body with a legal authority. The government tried to incorporate all possible best practices, tools and measures for regulatory reform in BAAR to cover the issues and problems raised from the past experience. Consequently, the current institutional framework of regulatory reform is based on the act.

2.2. Institutional framework of regulatory reform

BAAR has provided a sound foundation for regulatory reform by stipulating its objective, scope, principles, organizations and management mechanism. The act defines a wide range of reform mechanism and tools as seen in chapters.

- General terms of objectives, principles and legal authority.
- Rules dealing with making new regulation, including the use of RIA, sun-setting, and review by the Regulatory Reform Committee (RRC).
- A comprehensive regulatory improvement plan, requiring that all existing regulations be reviewed by agencies in conjunction with RRC.
- The establishment, membership and functions of RRC
- Regular reviews on progress and publication of an annual white paper on regulatory reform.

According to BAAR, objectives of regulatory reform can be summarized as the following: enhancing the quality of life and national competitiveness by eliminating unnecessary regulations and preventing inefficient new regulations.

Regulatory reform programs focused on abolishing these outdated and excessive regulations as well as establishing a systematic mechanism to effectively review and manage new regulations. In other words, objectives of regulatory programs are to improve economic performance, quality of life and government effectiveness including regulatory transparency and accountability. It clarified the goal that reform policies should purse market-driven regulations suitable for a global environment by replacing command and control with market competition.

The scope of the regulatory reform programs became broader compared to previous period. BAAR concretely defined regulatory reform programs on economic regulations and social regulations except those concerning taxation and administrative regulations between administrative agencies.[12] Reforms on taxation have been handled in macroeconomic policy management. Administrative regulations have been handled in terms of administrative reform. In this sense, regulatory reform programs put much more focus on adjusting relations between the state, market and civil society. It deals with regulations imposing obligation or restriction on social and economic activities by laws and subordinate rules such as presidential decree, ministerial ordinance, notice and instruction.

Effective regulatory reform requires a multi-part strategy aimed at improving the quality of new regulations, deregulating unnecessary regulations and creating new management capacities to promote reform and oversee reform implementation.[13] Based on BAAR the government set up RRC as a central body for regulatory reform under the authority of the President in April 1998.

RRC is mandated to develop and coordinate regulatory policy and to review regulations. Concretely RRC covers the following issues.

- The basic direction of regulatory policy as well as research and development on the regulatory system.
- Review of new and strengthened regulations.
- Review of existing regulations and annual plans of regulatory clearance suggested by ministries.
- Registration and publication of regulations.
- Collecting and responding to public opinions on regulatory improvement.
- Monitoring and evaluation of regulatory improvement efforts of agency.
- Other matters approved by the chair.

RRC is located at the higher policy level. Political support especially from the President has been well provided. RRC is composed of 20 members, with 13 non-government members as majority, which included a civilian co-Chair as well as members who are professors, lawyer, pressman, economic researcher, businessperson and NGO representatives of consumer and environment. The seven government members are the Prime Minister as a co-Chair and 6 ministers representing the Ministry of Finance and Economy, Ministry of Commerce, Industry and Energy, Ministry of Government Administration and

12. OECD classifies regulations as economic regulations of market entry or exit, social regulations of health and environmental protection, and administrative regulations of red-tape and administrative formalities. See OECD 1997 *The OECD Report on Regulatory Reform, Synthesis*

13. See OECD (1997), *The OECD Report on Regulatory Reform, Volume II: Thematic Studies*, Ch. 2, p. 93.

Home Affairs, Ministry of Legislation, the Office of Government Policy Coordination (Prime Minister's Office) and the Fair Trade Commission. The civilian members as a majority reflect the fact that regulatory reform places weight on initiatives and perspectives of the private sector.

RRC has played a key role in the reform process, meeting biweekly and sometimes weekly, depending on the workloads. RRC has exercised substantial power in reviewing reform plans of ministries and reducing regulations. The President has fully supported the activities of RRC. Decisions made by RRC have been decisive because the President has endorsed them. The Prime Minister and ministers have directly participated in the decision making process and undertook responsibility for implementation. Once decisions were made at RRC the Prime Minister undertakes responsibility for implementation in public administration.

An administrative unit was created in the Office of the Prime Minister to assist RRC. The unit acts as a secretariat to RRC on the one hand and, as a staff unit to the Prime Minister on the other. The unit is headed by a deputy minister and is comprised of thirty career civil servants and some researchers seconded from research institutes. The unit assists RRC by preparing meetings and agendas, and taking administrative actions for implementation and management.

Under the auspices of the Prime Minister the unit mobilizes administrative resources and leads intensive reform in ministries and agencies. The Prime Minister's Office is located at a good position to coordinate and manage reform policies. Central ministries are mandated to work for regulatory reform programs. The Office of the Prime Minister plays a linking pin role in networking between central ministries and RRC. In addition a special task force in the Fair Trade Commission assists RRC on competitive issues.

The Office of Planning and Management of each ministry is responsible for administrative actions for regulatory reform programs, which facilitates coordination and management within the ministry. Cooperation with local governments is established via the Ministry of Government Administration and Home Affairs dealing with local government issues. Local governments also have the same institutions and function as RRC in central government. Thus, RRC is well networked with central and local governments through the Office of the Prime Minister.

3. Accomplishments

3.1. First stage of massive deregulation for 1998 through 2002

When the new government took office in February 1998, its most urgent task was to deal with the economic crisis. President Kim, Dae-jung of the new government fairly well recognized the consequences of BAAR and fully leveraged it to launch vigorous regulatory reform. The President was quite aware of his role in conducting this reform. He set up RRC by appointing members of RRC for the first time based on BAAR. And thus, RRC could be present in the policy process and enabled to take radical reform initiatives since 1998. The president also set a target for regulatory reform, which was to reduce regulation by half.

3.1.1 Abolishment of existing regulations by half

The stock of regulations was audited and drastically reduced via the Comprehensive Regulatory Improvement Plan in 1998 and 1999. RRC had set the guideline and target to eliminate existing regulations by half.

The goal of this massive deregulation program was to improve the quality of life and national competitiveness. Regulatory reform programs following the economic crisis of 1997 focused on much more market-driven regulations. This requires changing the role of the state in the economy and society by encouraging market competition instead of government intervention.

Based on BAAR guiding principles applied to this reform work are as follows:

- Eliminating, in principle, all anti-competitive economic regulations.
- Improving the efficiency of social regulations such as environment, health and safety.
- Shifting methods of regulations from *ex ante* control to *ex post* management.
- Basing regulations on adequate legal authority.
- Benchmarking global standards.

These principles usefully addressed both economic regulations and social regulations, and distinguished how they are to be addressed. The policy orientation is market-based. Yet it is argued that these principles, while intended to provide operational guidance to the ministries, are less concrete and less comprehensive in producing cost effective regulations and considering the compatibility with competition, trade and investment-facilitating principles.[14]

However, the principle of cost effective regulation was reinforced by implementation of regulatory impact analysis (RIA). RIA has become an effective tool to improve the quality of regulation on the basis of a cost benefit analysis.

The process of the massive deregulation work had been done as follows:

- Ministers and agency heads were required to formulate a draft plan to reform regulations under their jurisdiction after consultation with affected parties and experts. These plans were then submitted to RRC.
- The Office of the Prime Minister in its capacity as Secretariat to RRC reviewed the plans at working level. Technical specialists were invited on an *ad hoc* basis to provide input to this review.
- The relevant subcommittee of RRC reviewed the plans.
- The full committee reviewed the plans.

In practice, the draft plans had been returned to ministries, sometimes for improvement. The President provided strong support by pushing cabinet ministers to meet the target. Overall, the plan resulted in eliminating 5 430 and improving 2 411 out of 11 125 regulations in place at the time and submitted 344 bills for implementation to the National Assembly in 1998. 321 of those bills were passed in 1998. The second wave of activities for a full-scale review of remaining regulations was made in 1999. Consequently, 503 regulations were further eliminated and 570 regulations were revised. 51 bills for implementation were submitted to the National Assembly and 43 bills were passed. Accordingly, relevant actions within the executive such as revision of presidential decrees and ministerial ordinances proceeded promptly.

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14. See OECD (2000), *Regulatory Reform in Korea*, pp. 52-53, pp. 136-137.

3.1.2. Control of new regulations with RIA

Although existing regulations were cleared on a large scale, there still remains the need to make new regulations or update them as regulatory environment changes. For this, the *ex ante* review system was established as a required stage in the government legislation process. The review is conducted by RRC before submitting government bills to the State Council meeting (equivalent to the cabinet minister meeting).

Ministries have to justify their regulatory plans with submitting the statement of regulatory impact analysis (RIA). RRC, then, reviews and approves their regulatory plans. 2 974 reviews were conducted by RRC from 1998 to 2002, among which 387 cases were declined and 1 157 cases were returned for revision. Although RIA is an important element in this review, the quality of RIA was not good enough to utilize because of limited technical expertise. The government continuously made effort to improve the technical capacity for RIA by providing training and education.

3.1.3. Other performance

RRC played an active role in reforming complicated and long-standing regulations in package as a focused item. At the beginning stage, RRC focused on reforming regulations on foreign direct investment, foreign exchange management, business environment, and banking for economic recovery. And then, these focused reforms were extended to social regulations such as health, food safety and tourism.

To manage the entire stock of regulations with transparency, Korea introduced a central registration system for regulations. Ministries are required to register regulations under their jurisdiction to RRC in a form including content of regulations, legal authority and responsible agency. By this registration Korea established a good database for regulatory management. This database is open to the general public on the Internet web-site of RRC.(www.rrc.go.kr) It has provided a sound basis for the government and public to share information and enhance regulatory transparency.

Along with reforming existing regulations the Korean government tackled informal regulations, such as administrative guidance not based on appropriate legal authority, in principle, to eliminate them. As a result RRC sorted out 1840 items from ministries and let 1678 items be eliminated and other 162 items be based on proper legislative authority. By this reform work the Korean government has established a firm rule that regulation should be based on an appropriate legislative authority.

Public consultations are emphasized and widely used in the reform process. According to BAAR when ministries develop new or amended regulation they are required to collect views from other ministries, private organizations, affected groups, research institutes and experts through public hearings, notice of legislation, or any other means. RRC checks and confirms these public consultations conducted by ministries in the review process. Public consultations have become an established rule through this mechanism.

3.2. Second stage of regulatory quality from 2003

As the new government of 2003 took office the focus of regulatory reform has moved to the improvement of regulatory quality. This shift reflects lessons drawn from the past five year of experience in the first stage, which focused on quantitative reform. The new government rearranged the reform agenda and reinforced the capacity for the quality of regulation without changing the institutional framework.

First, although the new government moved its focus to quality of regulation deregulation on core area of business activities and daily life continued. RRC selected ten strategic items to deal with these core regulations on: foreign direct investment; financial service; industrial site; logistics and distributions; quasi-tax; customs formalities; land use; house construction; tourism and sports industry; food safety. To formulate comprehensive reform draft of each item RRC directly operates 10 task force teams composed of experts from ministries, research institutes and practioners. It is not easy to deal with strategic items because of interest group politics.

Second, reviewing existing regulations was continued. Compared with the first stage, which set tough targets and reviewed all existing regulations, the second stage allowed self-target-setting by individual ministry on a voluntary basis. RRC also gave a guideline for ministries to apply a zero-base approach to at least one area to clear regulations.

Third, the new government took practical steps to reinforce the capacities for RIA by creating a research unit of newly employed researchers and deploying tailored training programs including intensive lectures, case studies and on-the-job training in foreign agencies. For this, the Korean government is continuously looking for cooperative programs with foreign governments or international organizations.

Fourth, the new government has given more attention to cultural change. Cultural change including administrative behaviour is essential to ensuring the desired reform effect as intended. Especially administrative culture is a key factor directly affecting the effect of the reform. Enhancement of both public awareness and co-operation and administrative behaviour are needed to get beneficial gains of regulatory reform. Accordingly, the government has strengthened public relations and monitoring over public opinion, along with training and education for regulating agencies.

4. Assessment and implication

A drastic reduction of regulation was achieved by a target-oriented approach with a strong political commitment. Furthermore, the economic crisis provided a momentum to take radical actions against existing systems for survival. A sound institutional framework based on BAAR properly backed up this reform demand. Both the strong political support and a proper institutional framework were well combined at the critical time. To invigorate business activities reform initiatives were urgently needed. This work focused on lifting market barriers and administrative control.

As the OECD appraised, Korea's massive deregulation was very effective and intensive in dealing with the economic crisis within a short period. The reform will eventually produce large gains for moving toward a market-driven economy as reforms intended. First of all, the radical approach to existing regulations was very remarkable, giving a tremendous impact on the entire regulatory stock. It laid groundwork moving forward market-driven regulations by clearing regulations for government intervention.

The target-oriented approach was also effective in concentrating resources on reform effort. In particular, it was well matched with a country like Korea which was highly centralized under a strong presidential system. This centralized system was able to facilitate target-specific, top-down reform activities. Task oriented civil service was also good at fulfilling assigned targets. Radical reduction of regulations was possible largely through this unique characteristic of Korean structure.

However, there are some arguments that the target oriented approach focuses on the quantity of regulation rather than the quality, and heavily relied on a political support stemming from the desire to recover the economic crisis.[15] As the economy recovered the political will to reform seems to be weakening. As a result the speed and intensity of reform may be slowing down. The government has been very cautious about such a reaction. Thus, the government is putting more focus on implementing reform measures and improving the quality of regulation as well. To date, the institutionalized reform in Korea has been successful in dealing with these potential problems by strengthening policy attention and public support. The government has tried to maintain the reform momentum by giving a high priority to meet the public expectation.

To improve regulatory quality and management Korea established RRC as a central body and operates systematic reform tools such as *ex ante* review for new and revised regulations, RIA and central regulatory registration. Though these systems were only introduced in recent years, they are successfully being adopted in public administration. In this sense, Korea's regulatory system is shifting from a command and control way to a market driven way. At the same time Korea is moving forward enhancing regulatory management. Moreover, such effort is sustainable since the reform is institutionally based on BAAR.

Reform implementation is crucial to gaining reform effects and sustainability. Poor implementation may lead to low credibility and public confidence. Implementation depends on government capacities to deal with opposition and resistance from vested interest groups. Changing regulations, in theory, is easy but changing attitude and behaviour is much more difficult. Regulating agencies, however, are required to change their behaviour and attitude as regulation reformed.

If there are long standing traditions of administrative intervention and control rooted in regulatory regimes it would take a longer time to transform regulatory behaviour and attitude aligned to market-driven regulations. It is argued that changing relations between the state, market and civil society take a longer term.[16] In the long run, cultural change in public administration is essential to realizing reform effects. Continuous communication and information sharing would expand a common ground for public understanding and support. Public consultation and transparent process would help achieve objectives of reform policy with public support and sustainability.

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15. Junsok Yang (2000), "Regulatory Reform in Korea: At Crossroads" presented at the Korea-OECD Conference, Seoul.

16. Scott Jacobs (1999), "The Second Generation of Regulatory Reforms" presented at the IMF conference.

5. Conclusion

Korea became a front-runner among crisis-hit Asian countries in implementing reforms.[17] First of all, massive deregulation like a big bang gave tremendous impact on the entire regulatory system. Governmental intervention and anti-competitive regulations were eliminated, both rapidly and drastically. Market driven regulations to promote values of the autonomy, creativity and competition were aggressively introduced. This transformation was triggered by the economic crisis.

However, it is worth noticing that Korea enacted a specified act to undertake regulatory reform, institutionally and effectively, even before the economic crisis of 1997. Such action is important in forming a sequence of the reform activities. As a result, the sound framework was well implemented as intended. The Korean case shows that Korea was very effective in rapidly removing regulatory inflation at the initial stage. A target-oriented approach coupled with a top-down way under strong political support proved to be effective in getting rapid progress.

This means that Korea's reform drive has been on the right track. These reforms have the potential to change relations between the state, market and civil society. Much progress was made at the first stage. However, regulatory reform is not yet completed in Korea. To get fruitful benefit, Korea would keep going with reinforcing the capacity by fostering competent expertise on RIA, evaluation and cultural change. For this reformers would continuously look forward and evaluate reform work with improving the responsiveness to fast changing circumstances.

17. OECD (2000), *Regulatory Reform in Korea*, which is the report resulted from the OECD’s country review of Korea on regulatory reform conducted during 1999 and 2000.