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REGULATORY TRANSFORMATION IN THE REPUBLIC OF KOREA

CASE STUDIES ON REFORM IMPLEMENTATION EXPERIENCE

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EXECUTIVE SUMMARY

The Republic of Korea's first attempt at regulatory reform began in the 1980s. The aim was to dismantle the regulatory structure favoring government intervention that had been built up during the 1960s and 1970s. Korea therefore designed its regulatory reforms not as ad hoc programs of deregulation but as broad institutional and procedural reforms. These reforms, extending over a decade, addressed entire fields of regulation and tried to permanently change how regulators functioned by building sustainable capacities for good regulatory governance into the machinery of the public sector.

Korean institutions are relatively developed. But the lessons from Korea's reform experience can help developing countries that are encumbered by costly regulatory legacies and habits from earlier development strategies and are now building new capacities to regulate open, dynamic markets.

The 1998 Reforms

While regulatory reform in Korea began in the late 1980s, initial efforts produced few results. But the Asian financial crisis of 1997 changed the political economy of reform, giving new strength to reformers and weakening the supporters of a regulatory state whose habits were two decades out of date. Having suffered one of the worst economic crises ever experienced by a member country of the Organization for Economic Co-operation and Development (OECD), Korea launched an ambitious regulatory reform program in 1998 as part of its recovery strategy.

The 1998 regulatory reform program, the focus of this case study, included two key initiatives. The first was a massive deregulation initiative in which the president ordered each government ministry to eliminate 50 percent of its regulations. The second was an enduring institutional reform that established institutions and mechanisms at the center of government to promote reform and monitor and guarantee the quality of regulations and the regulatory process.

The financial crisis had given regulatory reform in Korea added urgency and forced the government to commit to stronger reform measures. After the financial crisis reformers initially took forceful actions. But their willingness to undertake major reforms later weakened as a result of problems faced by reformers in many countries. As the need for reform became less desperate and the political strength of the president waned, the support for regulatory reform diminished. The new institutions were not enough to overcome implicit resistance to reform in the bureaucracy. And because the reforms reduced the regulatory burden less than had been hoped for, many Koreans lost interest in further regulatory reform.

Lessons of the Reforms

One important lesson from the Korean experience is that to sustain an ambitious program of regulatory reform, the government and the country must accept that market discipline is not a threat but a tool for achieving important national goals. That is, to ensure support for pro-market reforms, a national liberal consensus must have reached a sufficient threshold.

This lesson supports strategies that seek to embed regulatory reform in existing macroeconomic and structural reforms. If the liberal consensus is still in the early stages, institutionalizing reform is even more important for creating active defenders of reform. In Korea strong institutional reforms were needed because this consensus was weak. The cultural shift toward greater self-reliance and consumer choice is still in the early stages.

The regulatory reform experience in Korea also offers other lessons, through the factors favoring success as well as through the shortcomings.

Success Factors

Korea's strategy for building sustainable capacities for good regulatory governance featured several elements that supported success.

- *Reform was opportunistic. Economic crisis galvanized an emerging liberal consensus that was needed for regulatory reform to gain support and momentum. Governance problems were also useful: political support for the reform was built on a popular campaign to wipe out corruption.*

Though Korea tried to deregulate and to reform regulation starting in the late 1980s, serious and effective reform began only after the 1997 financial crisis, which coincided with a surge in civil society organizations focusing on government corruption. This confluence of economic and governance crises allowed the major political parties to support regulatory reform. Excessive regulation was perceived and portrayed as the source of economic inefficiency and corruption—with the corruption argument proving to be especially appealing to the public.

- *Embedding regulatory reform into government functions, particularly institutions and the administrative procedures law, was important to sustaining reform.*

Public agencies normally resist change, but their conservatism and inertia can work in favor of reform if it can be normalized in their operations. In Korea regulatory reform—in the form of quality control of new and revised regulations—has become a routine part of government operations. Indeed, it has become a permanent function of government, protected by the public administration.

Regulatory reform was internalized in the public administration system through the reform of the Basic Act on Administrative Regulations, which mandated the regulatory reform and review processes. This legal change created a government-wide system, backed by internal institutions, law, rights, courts, and vigilant citizens, that ministries could not evade.

- *Regulatory quality was controlled by an independent agency at the center of government that could counter the "pro-regulation" tendency of ministries.*

Modern public administrations have a structural bias toward introducing new regulations, much as decentralized spending decisions tend to result in budget deficits. To correct this problem, international experience suggests giving an independent, nonregulatory agency the authority to oversee the quality of regulations and the rule-making process. Korea did so by setting up the Regulatory Reform Committee, a presidential commission chaired by the prime minister. Unlike the ad hoc advisory entities of past reform efforts, the Regulatory Reform Committee is a body backed by law with clear authority in the day-to-day policy process.

- *Along with efficiency disciplines, transparency and predictability were built into regulatory structures.*

Among the costliest problems in Korean regulation are the lack of clarity and room for interpretation in many regulatory rules and procedures. Regulators tend to have much discretionary power as a result, creating uncertainty for regulated entities. Regulatory risks are among the most frequently cited concerns of investors in Korea.

Making rules and procedures more transparent and predictable can substantially reduce such risks. To do so, Korea adopted information disclosure acts as part of its administrative reforms, and opened up its regulatory system by introducing independent review of regulatory quality and more consultation with stakeholders.

- *Korea made effective use of international good practices such as regulatory impact analysis in both designing and promoting reforms.*

Korea substantially accepted the OECD recommendations and guidelines on regulatory impact analysis (1997b) in shaping and introducing its own process. In addition, Korean reformers exploited the OECD peer review of regulatory reform as an outside pressure on the government.

Shortcomings

While the Korean efforts highlight the advantages of a strategy of rapid and massive reform, they also showcase its disadvantages.

- *The regulatory reforms in Korea focused unduly on top-down legal changes and not enough on actual implementation. In particular, the system lacks a detailed strategy for improving practices at the local level, undermining visible benefits for citizens and businesses.*

The Korean experience shows that the regulatory quality strategy needs to go beyond a centralized review of legal texts to inspections of the administration of regulatory changes to ensure that they are being carried out. At the local level the regulatory reform process was not monitored and integrated as it was for the central government.

- *While the top-down approach produced impressive short-term results, a lack of incentives for regulatory reform within the government undermined cooperation and slowed progress.*

Korea succeeded in many ways in putting into place the appropriate tools and mechanisms to carry out true reform, but it has been largely unwilling to use them. While the regulatory reform mechanism initially produced impressive gains, lack of incentives in the ministries made it difficult to sustain cooperation between the ministries and the central agencies responsible for regulatory reform.

More attention to creating incentives for performance, such as by increasing the involvement of budget authorities, would have been helpful in inserting regulatory reform into the daily routines of governing. In addition, government structures should have been reorganized to reflect changes in regulatory powers and roles between ministries and agencies, translating regulatory reform into organizational and budget reform.

- *The regulatory reform program was not sufficiently harmonized with larger policy goals such as protecting health and safety, giving opponents of reform an opportunity to question its legitimacy.*

If seen as too narrowly focused on economic efficiency, regulatory reform can appear to conflict with other national policy goals. The rigid focus on rapid deregulation in the initial stages of the Korean reforms—though perhaps necessary as shock therapy—tended to undermine popular support for regulatory reform because people began to view it as conflicting with other politically popular national objectives and agendas, such as health and safety. Reformers failed to reassure opponents of regulatory reform that it would not weaken protections.

- *The Korean reforms tackled individual rules rather than groups of interlinked rules.*

When economies become overregulated, piecemeal changes to individual regulations are almost meaningless. Where regulations are packaged with others, the most effective approach to reform is to reconstruct the system of regulations from scratch—with the aim of finding the most efficient means to achieve policy goals. Korean reforms have not yet adopted this "scrap and build" approach.

- *The Korean reforms did not rely on market forces and self-regulation.*

Regulatory reform can be an important step toward a freer and more open society. But this requires that reform be based on an understanding of the changing role of government and of the interaction of government, businesses, and citizens in the market. And the success of reform would be measured by how much behavioral change it brings about in market actors and in the public sector and whether these changes are permanent.

In Korea regulations tend to become excessive and restrictive in part because regulators, embedded in a decades-old culture of control, are skeptical about the private sector's ability to self-regulate and "maintain order." But the ability to self-regulate is not inherent. This capacity of a market needs to be cultivated by allowing the private sector an opportunity to practice self-regulation and to become more involved in market functions. The Korean reforms have not yet sufficiently challenged the essential regulatory role of the state to give the private sector this opportunity.

Lessons for Other Countries

Context, opportunities, external shocks, and changing environments frame the design and implementation of reform in every country. Many of the lessons from the reform experience of Korea can be interpreted only through the political, administrative, and cultural situation of that country. But several lessons may prove helpful to countries facing similar challenges:

- *Build a society-wide coalition around regulatory reform.* Relying on narrow political bases to drive reform puts sustainability at risk. The momentum for reform can be maintained by educating the public about the desirability of reform and keeping it informed of the progress made.

- *Create a permanent system of reform.* Internalizing reform in the public administration can make it permanent. One way to do so is to create an independent agency at the center of government to control regulatory quality.

- *Synchronize regulatory reform with government reform and budget reform.* This will make regulatory reform more permanent and effective. Regulatory reform normally entails changes in the functions of government agencies. Changes in personnel and budget should follow naturally.

- *Focus on compliance costs.* Since the ultimate goal of regulatory reform is to reduce the regulatory burden, the top priority should be reforming regulations with high compliance costs, not simply reducing the number of regulations.

- *Make rules and procedures more transparent and predictable.* This will reduce regulatory and business costs. Registries of regulations and the process of regulatory impact analysis may help.

- *Develop the concepts and practical application of regulatory alternatives, and train civil servants in this area.* Alternatives can overcome the seeming conflict between regulatory reform and national policy objectives and boost the visible benefits from reform.

- *Manage regulatory reform to help build the market's capacity for self-regulation,* not to sustain bureaucratic methods.

1. INTRODUCTION

At the end of 1997, Korea suffered one of the worst economic crises ever experienced by a member country of the Organization for Economic Co-operation and Development. To restore stability and re-create the foundations for sustainable growth, the government embarked on a far-reaching program of regulatory, financial, and structural reforms. The regulatory reform program launched in 1998 as part of this recovery strategy affected thousands of regulations and administrative formalities across the whole of government. This case study examines the strategies of Korea in carrying out this ambitious program of regulatory reform.

The 1998 regulatory reform program included two key initiatives. The first was a deregulation initiative in which the president ordered each government ministry to eliminate 50 percent of its regulations. The second was an enduring institutional reform that established institutions and mechanisms at the center of government to promote reform and monitor and guarantee the quality of regulations and the regulatory process.

The deregulation initiative was radical, aimed at reinvigorating the economy in the wake of the economic crisis. By contrast, the institutional reforms can be considered evolutionary; they were an outgrowth of past attempts at regulatory reform and adopted many of the earlier forms and structures. Korea hoped for a synergy effect between the two prongs of reform.

The reforms have led to many moderate successes. Whether they have effected a fundamental shift in the relationship between the state and the market in Korea is not yet clear, however.

2. CONTEXT OF THE REFORMS

Korea's first attempt at regulatory reform began in the 1980s with the aim of dismantling the regulatory structure favoring government intervention that had been built up during the 1960s and 1970s. Three presidential administrations made episodic efforts to reduce regulatory burdens through institutional changes. These efforts were usually made at the beginning of an administration, to gather political support, or during recessions, to reinvigorate the economy.

The timing of Korea's 1998 regulatory reforms was therefore not unusual. But the severity of the Asian financial crisis, and the peer pressure applied by other member countries of the OECD to its newest member, gave the reforms an added sense of urgency and greater seriousness.

Historical Context: 1960s–1997

In the early stages of its economic development, Korea depended heavily on direct intervention and allocation of national resources. This was most true in the 1960s and 1970s, when there were doubts that market institutions were functioning efficiently. As a result, a tradition of government intervention in the economy became established—a tradition that became increasingly costly as Korea entered its mature market development phase in the 1980s.

As the Korean economy grew and its structure became increasingly complex, limits in the government's ability to control the economy began to become obvious. The costs of government failures began to outweigh the benefits of government intervention (RRC 1999, 23–24). Korean businesses had long complained of inefficiencies arising from Korea's complex and opaque regulatory regime, and as noted, there had been episodic attempts at regulatory reform since the early 1980s (Choi 2002, 58–60). Thus even before the financial crisis, regulatory reform had been an official government policy in Korea for almost 20 years.

Early Regulatory Reform Efforts

In 1980, as Korea recorded its first negative growth rate, widespread support for reform began to emerge. In 1981 newly inaugurated

President Doo Hwan Chun ordered his Cabinet to reform the laws, policies, administrative acts, and precedents that were inefficient and slowing the growth and development of Korea. To effect these changes, the government formed the Examination Committee to Reform Factors That Hinder Growth and Development, headed by the prime minister and with relevant ministers and civilians as members. To provide support, the government established the Support Team for Policy Reforms as a temporary secretariat in the Blue House (the executive office and official residence of the president).

Between 1981 and 1986, the committee focused on reforming laws and policies that inconvenienced the majority of the public, government supports and regulatory policies that reduced the public's autonomy, laws and policies that had become inappropriate as a result of changes in the administrative environment, and laws and policies that were inefficient and undemocratic. In all, the committee reformed 120 major policies and 1,434 individual measures.

In 1987, a new president, Ro Tae Woo, was elected. In the following year his administration established the Administrative Reform Committee, directly under the president. This committee focused on reducing the size of the government but made little progress.

In 1990, to combat the recession of the time, the Ro administration announced a comprehensive economic plan. As part of that plan the administration established the Committee to Reduce Administrative Regulations, headed by the prime minister and with various ministers among its 21 members. The committee was responsible for reducing regulations on businesses, though two subcommittees were to carry out the actual work. One, created in the Economic Planning Bureau, was responsible for administrative regulations dealing with economic issues; the other, formed in the Office of the Prime Minister, dealt with general administrative regulations.

In 1992, the incoming Kim Young Sam administration established several committees to pursue regulatory reform as a way to combat the ongoing recession. It created the Regulation Renovation Committee as an advisory group to the president, the Economic Administrative Regulation Reform Committee in the Economic Planning Bureau, and the Committee to Examine Regulations on Business Activities in the Ministry of Commerce and Trade. The administration also formed the temporary Deregulation Examination Team in the Blue House.

These committees achieved some successes, including financial deregulation, more flexible labor and employment rules, and greater competition in trucking, telecommunications, gas stations, wholesale industries, and liquor manufacturing.

The general consensus, however, is that the committees were ineffective in pursuing meaningful regulatory reform. Their successes were generally limited and narrow in scope. The perception among the general public was that the regulatory burden was actually increasing—and that the government would never be willing or able to reform Korea's many "sacred" regulations (Box 1). These regulations, recognized as untouchable because they protect national agendas important to Korea, impose some of the heaviest burdens on business and economic activity in the country.

Korea also adopted some market liberalization measures from the late 1980s to the mid-1990s. Most notable were those aimed at liberalizing land use (1990), liberalizing imports (1992), opening the stock market to foreigners (1992), opening the domestic capital market (1994), and deregulating loan financing in the foreign market. Driving these changes were domestic pressures for more market competition combined with pressure from foreign groups seeking to invest in Korea. These legal amendments contributed to open up the Korean economy, but major changes were still needed.

BOX 1

"Sacred" Regulations in Korea

The "sacred" regulations in Korea include those designed to protect farmers, workers, and consumers; to protect small and medium-size enterprises from competition; and to protect the environment. They include regulations to stabilize prices and employment, to prevent real estate speculation, and to ensure that financial institutions follow sound prudential standards. They also include regulations dealing with chaebol (conglomerates) and with education and culture.

Source: Kim 2000.

Why the Reforms Before 1998 Were Unsuccessful

Why were these previous reforms not successful? Examining this question is useful because the factors working against the success of reforms before 1998 are the same ones that affected the 1998 reforms reviewed in more detail in this case study.

One major reason that the previous reforms had a limited impact was a lack of demand for comprehensive reform. Korean businesses have usually called for "soft" reforms—aimed at reducing bureaucratic intervention and red tape—and it is on these reforms that the Korean government has therefore focused. Soft reforms have the effect of reducing regulatory controls over business activities, and their costs fall mostly on the bureaucrats. Thus bureaucrats put up direct and indirect resistance to the reforms, resulting in a cycle of deregulation and reregulation corresponding with episodes of political interest in reform.

Korea has engaged much less enthusiastically in "hard" reforms—those promoting competition and market principles. Because hard reforms have a direct impact on the interests of companies, the business sector has tended to resist them. Moreover, bureaucrats have been less than eager to introduce market principles that would reduce their discretionary powers over the economy.

As a result of these very different political economies, soft reforms had business allies but bureaucratic enemies, while hard reforms were orphans.

Another reason for the lack of success is that Korea used a bottom-up approach to regulatory reform that limited its effectiveness. Regulators were responsible for determining which regulations to reform or abolish—tantamount to the public asking the regulators to admit that their rules were mistaken or misguided. Although some efforts were made to collect suggestions from the private sector, the regulating bureaucrats always had the final authority, and proposed changes that met with strong opposition from a ministry would not take place. Even when changes were forced on a ministry by political pressures, the ministry could dilute their effect when implementing the reform.

These problems were worsened by regulatory capture. Many Korean ministries have long maintained a "cooperative" relationship with interest groups and organizations under their jurisdiction. The regulators naturally tended to sympathize with the regulated interest groups that supported them. Voluntarily proposing regulatory reforms that might adversely affect "their" interest groups has been particularly difficult for the ministries.

Another problem was that reforms focused on the stock of regulations, with no controls over the flow. Thus while the reformers were improving existing regulations, new ones were continually introduced. That existing regulations have to be modified, and new ones introduced in response to continual social and economic changes, is inevitable. But the new regulations were just as low in quality as the old ones. Improvements were rapidly undermined by new problems.

Yet another element undermining effectiveness is that public officials are generally passive or defensive about regulatory reforms. The reason is not only that they want to hold onto power and territory but also that they are generally risk averse. Government officials often give greater weight to the potential adverse side effects of reform than to its potential benefits.

The Kim Young Sam administration made a more systematic attempt at regulatory reform than its predecessors, creating committees in charge of reform in different areas. But even this reform attempt is generally judged to have failed because the committees were not very effective. A crucial problem was lack of expertise and a failure to allocate skilled and dedicated personnel (Lee and Han 1999, 225–33). Other factors were also at play:

- While the administration established advisory committees on scores of different issues, overall regulatory reform did not receive focused attention. The roles of different committees sometimes overlapped, so that it was unclear who was responsible for regulatory reform.

- The Regulation Renovation Committee in charge of regulatory reform was an advisory body with little actual power over policy. The committee had neither legal powers nor clear political support.

- Some of the committees were temporary, reducing their credibility in persuading ministries and interest groups to accept change.

- Members of the committees were often chosen on the basis of politics rather than expertise, and the civilian members were part time and unable to devote all their attention to regulatory reform. Thus the committees could not integrate into the administrative bureaucracy, and the bureaucracy had the upper hand in deciding the direction and extent of regulatory reform.

- While the administration adopted tools that could have been used to improve regulatory quality, it failed to establish a systematic process for doing so. As a result, it could neither directly affect the regulatory process nor change the bureaucratic culture.

For all these reasons, the many measures Korea introduced for regulatory reform—with the aim of strengthening market competition and liberalization—led to few results and little reduction of regulatory burdens. The measures were ad hoc, leaving major regulatory barriers untouched. And even when some of the more formal measures were removed, informal measures such as administrative guidelines remained.

Context of the 1998 Reforms

Reformers recognized this failure. Toward the end of the Kim Young Sam administration that recognition led to the drafting, after much debate, of the historic Basic Act on Administrative Regulations. The foundation for the 1998 institutional reforms, this law created a powerful, long-term regulatory reform body, the Regulatory Reform Committee, and mandated regulatory quality controls such as regulatory impact analysis.

Like previous attempts to reduce regulatory burdens and reform the regulatory system, the 1998 reforms took place in the context of a new presidential administration and a severe domestic recession. As a result of the 1997 Asian financial crisis and the recession that followed, 1998 was the first year since 1980 in which

Korea recorded a negative growth rate. The crisis and the recession were triggered by an external contagion effect from Southeast Asia, but Korea suffered a much harsher recession than most other Asian countries because of its structural problems. These included a lack of flexibility throughout the economy, a consequence of a rigid, anticompetitive regulatory environment for all firms, from the smallest to the largest.

The crisis gave new strength to reformers and weakened the supporters of a regulatory state whose habits were two decades out of date. To overcome the financial crisis and promote faster microeconomic adjustment, Korea launched reforms aimed at promoting efficiency and discipline through market principles and market forces. Most reform measures stemming from the financial crisis were classified into one of four categories:

- Public sector and regulatory reforms
- Financial sector reforms
- Corporate sector reforms
- Labor market reforms

There were other major reform measures, such as those to promote foreign investment and to reduce trade barriers. But these categories are often referred to collectively as the "four major reform areas" to emphasize their importance. These reforms were begun by the outgoing president, Kim Young Sam, but did not take hold until the incoming president, Kim Dae Jung, took the initiative.

Many of the reform measures required changes in regulatory methods and policy tools, and in a broad sense they were all regulatory reforms. Public sector reforms included passage of the Basic Act on Administrative Regulations, which contained basic provisions on the institutions and processes of regulatory reform.

The most important goal of economic reform after the financial crisis was to reinstate effective market governance structures in the public, financial, and corporate sectors. The reforms were intended to change the traditional relationship between the government and the market, as well as the role and behavior of individuals, by redefining the rules of the game in market interactions.

The crisis had shown that the regulatory structure in Korea was woefully inadequate, especially for the financial sector. The regulatory regime could not adequately monitor the transactions of financial institutions nor maintain their soundness. Another area highlighted by the crisis was regulation of foreign investment. To overcome the lack of foreign reserves, the direct cause of the financial crisis, Korea needed greater foreign direct investment. But direct investment by foreigners faced not only explicit barriers but also excessive regulations and inefficient regulatory structures that made such investment difficult and unattractive. Regulatory barriers to entry were not entirely an accident, since significant economic interests in Korea were concerned about the market effects of inward investment and increased competition.

The government, in cooperation with the International Monetary Fund, began to reform regulations in these two areas from the earliest days of the financial crisis. The reforms focused on building a regulatory structure to improve prudential supervision of the financial industry and on deregulating foreign investment.

The results proved to be encouraging, and President Kim Dae Jung quickly decided to expand regulatory reform and deregulation to all sectors of the government. In 1998 he instructed ministers to eliminate 50 percent of the regulations held by each ministry by the end of the year. In addition, the reform measures prescribed by the Basic Act on Administrative Regulations were adopted with strong support from the president and the prime minister. At least in the short run these broad regulatory reforms also gained the support of the National Assembly and the major political parties.

Another important political development was the rise of nongovernmental organizations (NGOs) in the 1990s. Rare in Korea until the late 1980s, these organizations have since multiplied rapidly; by 2000 they numbered roughly 8,000. Government policy may have been instrumental in this rapid growth: major new legislation such as the Administrative Procedures Act and the Administrative Disclosure Act provided far greater opportunities for input on government policy and legislation from the nongovernment sector. Many of the NGOs were active across a wide range of policy areas relevant to regulatory policy, reform, and anticorruption. These included broad coalitions such as the Citizens' Coalition for Economic Justice and the Citizens' Coalition for Better Government.

3. CONTENT OF THE REFORMS

The Basic Act on Administrative Regulations forms the legislative core of today's regulatory reform policy in Korea and is still a key driver of the reform process. According to explanatory material published with the act:

> The aim of the [Basic Act on Administrative Regulations] is to break away from the hitherto fragmentary and dispersed attempts at regulatory reform and to move toward building a foundation for a more fundamental, enduring and systematic regulatory reform . . . The purpose of this Act is to promote private initiative and creativity in the social and economic sphere in order to improve the quality of life for the people and to enhance national competitiveness.[1]

The Basic Act defines general principles for regulation, including minimum necessary regulation and greater transparency and efficiency. It sets out rules for making new regulation, including the use of regulatory impact analysis, sunsetting, and review by the Regulatory Reform Committee and the Office of Legislation. The act also requires that all existing regulations be reviewed by agencies in conjunction with the Regulatory Reform Committee and that all regulations be registered in a central registry.

Design of the 1998 Institutional Reforms

The Kim Dae Jung administration established the Regulatory Reform Committee, as required by the Basic Act on Administrative Regulations, in April 1998. Work on the Basic Act had begun in late 1996, but not until after the financial crisis was there enough political will and bureaucratic momentum to actually establish the committee. This proved to be Korea's most important institutional reform: the committee reviews new and existing regulations and bears the main responsibility for maintaining regulatory quality.

The Regulatory Reform Committee is meant to have sufficient political and bureaucratic strength

1 *Basic Act on Administrative Regulations,* Act 5368, August 22, 1997. References to the act are to the English edition, dated June 1999, which includes explanatory and supplementary material.

to lead government-wide reforms. It is an official government body directly accountable to the president and co-chaired by the prime minister. The other co-chair is a civilian, to ensure that the committee represents both the government and the civilian sector.

Role of the Regulatory Reform Committee

In October 2004 the committee had 20 members, 13 of whom were civilian. The civilian members included academics (among them the chairman of the Korea Society for Regulatory Studies), industry leaders, a foreigner who had been the head of the American Chamber of Commerce, the ombudsman for foreign direct investment, and a representative from a consumer group. Besides the prime minister, the seven government members included relevant ministers. While the committee's structure is similar to those of previous organizations entrusted with regulatory reform, it is a permanent standing agency rather than a temporary one, and its legislative mandate gives it greater power.

The committee's functions include quality control of individual regulations, but go far beyond that to reform of regulatory strategy and functions. The committee's charter declares that it shall (RRC 2003, 32):

- Establish the basic direction for regulatory reform and regulatory research and development.
- Review proposals for new and strengthened regulations.
- Examine and update existing regulations.
- Establish and implement a program for comprehensive review and reform of existing regulations.
- Register and publish regulations.
- Receive opinions and suggestions on how to reform or revise regulations.
- Examine the current status of regulations in each executive government agency.

All new regulations or amendments must be approved by the Regulatory Reform Committee. Three subcommittees are responsible for examining the technical details of regulations submitted for approval. Two examine economic regulations—the first, regulations dealing with finance, public finance, industry, and construction; and the second, regulations dealing with agriculture, maritime affairs, the environment, and information technology. The third subcommittee examines administrative and social regulations—those dealing with administration, welfare, education, culture, and labor (OECD 2000, 139–40; RRC 1999, 34–46).

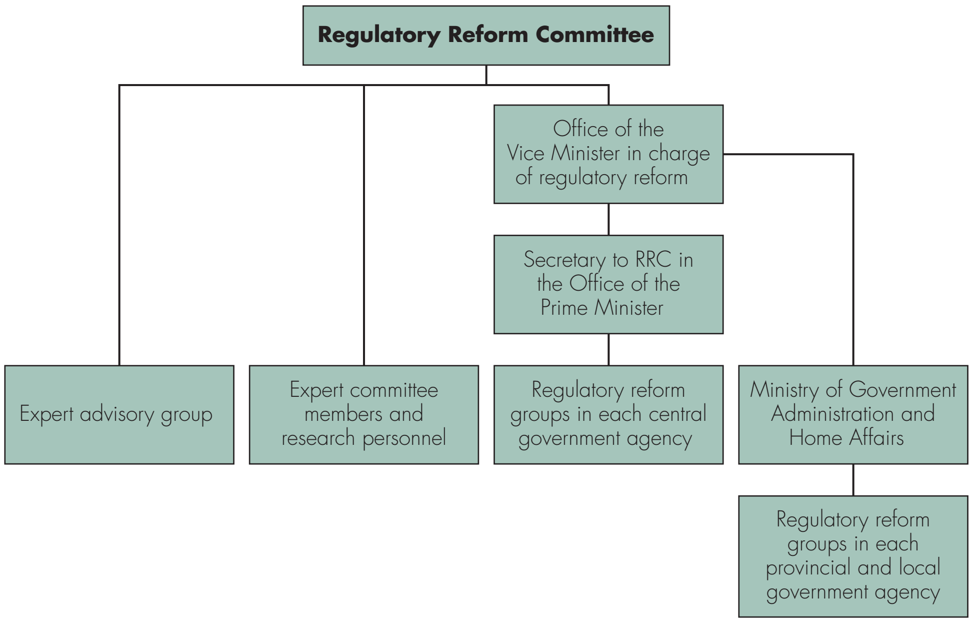
Most regulations to be adopted or strengthened must undergo the following process of quality control:

- The ministry proposing the regulation must write a regulatory impact assessment, a formal document that explicitly considers the costs and benefits of the proposed regulation and considers alternative methods of achieving the regulatory goal.
- The proposal and the regulatory impact assessment undergo an internal examination within the ministry.
- The ministry requests that the Regulatory Reform Committee examine the proposal. The proposal is first examined by the committee's technical subcommittee, then by the committee itself.

The Regulatory Reform Committee also maintains a comprehensive registry of regulations, accessible through the Internet (http://www.rrc.go.kr). Technically, a regulation is valid and enforceable only if it has been entered into the registry.

FIGURE 1

Structure of Regulatory Reform in the Korean Government, 2004



Note: RRC is Regulatory Reform Committee.

Regulatory Reform Process and Structure

The Regulatory Reform Committee is in charge of the entire regulatory reform process (Figure 1). The Office of the Prime Minister, through the office of a vice minister in charge of regulatory reform, carries out the reforms within the government. In turn, this office, through the Central Government Regulatory Reform Team and the Ministry of Government Administration and Home Affairs, controls regulatory reform in each ministry as well as in provincial and local governments. The Expert advisory group advises the Regulatory Reform Committee.

Each year core areas for reform of existing regulations are chosen, and each ministry forms a plan for eliminating or reforming regulations under its control and establishes an annual goal for reducing the number of regulations. The total number of regulations is limited by the Basic Act on Administrative Regulations. In addition, under the Basic Act all regulations have a five-year sunset clause, so that unless a regulation is explicitly renewed, it will lapse within five years.

The government of Korea has defined principles of regulatory reform in line with international good practice. The *2002 White Paper on Regulatory Reform* sets out the following principles to guide the practical application of regulatory reform:

- Economic regulations are to be eliminated, while social regulations are to be made more efficient.
- The method of regulation should change from a negative system (where actions are prohibited unless exemptions are made) to a positive system (where actions are permitted with a simple registration or notice, and prohibited actions are clearly spelled out).
- The transparency of regulation is to be increased, and excessive discretion by field-level bureaucrats reduced.

- Regulations with low compliance rates, and those whose costs outweigh their benefits, are to be eliminated.

- Overlapping regulations are to be merged into a single, unified regulation.

- Regulations that are contrary to international agreements and global standards are to be eliminated.

These principles have focused reforms and given them a certain consistency across the government and over time, though they have sometimes failed to prevail against vested interests and sacred regulations.

Regulatory reform by provincial and local governments was also encouraged. This was done through education and training for local public officials, dissemination of successes at each level of government, and monitoring and evaluation by central government agencies such as the Ministry of Government Administration and Home Affairs, the Bureau of Auditing and Inspection, and the Office of the Prime Minister.

The performance at the local level is not well reported. But many believe that reforms by local governments were less extensive than those by the central government, with the unfortunate result that many Korean people remain largely unaffected by the reforms in their everyday lives.

Strategy of the 1998 Deregulation

President Kim Dae Jung, from the beginning of his administration, had expressed a desire to carry out comprehensive regulatory reform. He ordered each ministry to submit plans for reform, but was reportedly unimpressed with the results. That led to the presidential order to the ministries to review their regulations and eliminate 50 percent of them across the board (RRC 1999, appendix chapter 1). The president made each minister personally responsible for meeting that goal.

This deregulation strategy was designed by the presidential advisers at the time, notably the adviser to the president for economic policy, Tae-dong Kim. Chosen from outside the traditional bureaucracy, these advisers held a negative view of bureaucratic intervention in the economy. They pursued various reforms to reduce the government's influence on the economy, with deregulation a centerpiece.

The administration justified the president's order on the grounds that recovering from the financial crisis demanded quick and drastic deregulation. It also hoped that deregulation would build popular political support for the administration, forced to make unpopular economic and political decisions in the wake of the financial crisis. The administration needed to create an identity for itself, and it wanted to use the popular sentiments against bureaucracy, corruption, and regulation to its advantage.

Following the presidential order, the ministries reviewed all their regulations to determine which were to be eliminated on the basis of the following principles:

- All regulations were to be examined on a "zero basis"—that is, from the point of view of stakeholders, with no prejudices, predispositions, or preconceptions. Regulations hindering competition and the market were to be eliminated, but those required to protect health, public safety, or the environment were to be modified to achieve their goals as efficiently as possible.

- All regulations without a legal basis would lose their status by the beginning of 1999. Regulations without a legal basis therefore had to be either eliminated or given a legal basis through appropriate legislation.

Because the ministries already had data on the regulations under their jurisdiction, they were able to identify which to eliminate through internal reviews. Each ministry submitted its plan to eliminate or reform regulations to the Regulatory Reform Committee, as required by the Basic Act on Administrative Regulations. The committee reviewed each plan and regulation before making final decisions on which regulations to eliminate or revise.

This process was not nearly as smooth as this short description indicates, however. Because of the intense political pressure and an impending deadline set by the president, the process was perhaps more hurried than warranted. But given the reluctance of the bureaucracy, the massive deregulation might not have occurred without such pressure.

4. IMPACT OF THE REFORMS

The volume of research assessing the impact of regulatory reform in Korea is fairly small, as is the case for most countries. Nevertheless, the research results that are available suggest that the 1998 institutional reforms and deregulation produced benefits for both businesses and the economy as a whole.

Impact of the 1998 Institutional Reforms

While little research has dealt directly with the impact of the institutional reforms in Korea, the Regulatory Reform Committee has published data on the regulatory proposals that it has examined. These data show that between 1998 and 2002 the committee examined 4,518 regulations associated with 1,339 laws—and recommended that 1,544 of these regulations be revised or withdrawn (Table 1).

According to official data, Korea had 7,435 regulations at the end of 2002. That total suggests the significance of both the number of regulations that the committee examined and the number of regulatory proposals that it recommended for revision or withdrawal. Taken together, the numbers also suggest that the Regulatory Reform Committee did much to help reduce the growth in new regulations.

Impact of the 1998 Deregulation

For the deregulation initiative, direct measures of the outputs are clear. By the end of 1998, as a result of the presidential order calling for a 50 percent reduction in regulations, the government had eliminated 5,430 (48.8 percent) of the 11,125 regulations previously in place and had revised another 2,411 (21.7 percent). By 2002, however, new regulations had begun to increase in number, bringing the reduction since 1998 to only 33 percent (Table 2).

The deregulation touched virtually all areas of the economy and of Korean life in general. It covered such areas as paperwork, social regulations, corporate regulations, financial sector regulations, regulations on venture firms and on small and medium-size enterprises, and regulations relating

TABLE 1

Proposals for New or Strengthened Regulations Examined by the Regulatory Reform Committee, 1998–2002

	Associated Laws	Regulations Examined	Regulations by Results of Examination: Revision Recommended	Withdrawal Recommended	Passed
Economic Subcommittee I	581	1,724	512 (29.7%)	122 (7.1%)	1,090 (63.2%)
Administrative and Social Subcommittee	379	1,347	300 (22.3%)	200 (14.8%)	847 (62.9%)
Economic Subcommittee II	379	1,447	345 (23.8%)	65 (4.5%)	1,037 (71.7%)
Total	1,339	4,518	1,157 (25.6%)	387 (8.6%)	2,974 (65.8%)

Source: RRC 2003, p. 58.

TABLE 2

Regulations Eliminated or Modified by Selected Ministries and All Government in Korea, 1998 and 2002

		Regulations in 1998			Regulations in 1999				
Ministry	Initial Count	Eliminated	Modified	Year-End Count[a]	Eliminated	Modified	Year-End Count[a]	2002 Year-End Count[a]	Percentage Reduction, 1998–2002
Welfare	1,703	857	256	883	90	36	793	765	55.08
Construction and Transport	917	467	232	606	23	33	583	754	17.78
Maritime Affairs	778	422	169	535	53	38	482	567	27.12
Agriculture	701	362	165	423	23	15	400	491	29.96
Commerce, Industry, and Energy	667	345	174	355	16	25	339	410	38.53
Financial Supervisory Committee	630	315	131	407	35	64	372	541	14.13
Environment	643	224	170	536	25	67	511	576	10.42
Finance and Economy	509	255	137	336	12	28	324	434	14.73
All Government	11,125	5,430	2,411	6,820	503	570	6,308	7,435	33.17

Source: Regulatory Reform Committee Web site (http://www.rrc.go.kr)

a. Includes previously omitted, newly established, or newly found regulations.

TABLE 3

Industries with Entry Barriers in Korea, 1992 and 2001

Year and Type of Industry	Total Industries	Industries with Barriers			Industries with Barriers as Percentage of Total
		Strong Barriers	Weak Barriers	Total	
1992					
Manufacturing	585	103	85	188	32.1
Nonmanufacturing	610	249	104	353	57.9
Total	1,195	352	189	541	45.3
2001					
Manufacturing	585	42	73	115	19.7
Nonmanufacturing	610	147	165	312	51.1
Total	1,195	189	238	427	35.7

Source: Kim 2002.

to foreign direct investment and to trade and market openness. Among other things, deregulation made dismissals of workers easier, made work and employment rules more flexible, increased access to foreign exchange markets, reduced regulations on foreign ownership of land,[2] and led to both privatization of and reduced privileges for state-owned enterprises.

In foreign direct investment, deregulation was generally deemed to have made inward investment easier. Korea's growth policies had resulted in numerous barriers to entry, such as government monopoly and licensing, permit, and reporting requirements. Indeed, according to a 1997 government study, 63 percent of all industries (205 out of 325) had regulations controlling market entry (KDI 1997).

A private sector study in 2002, using a more detailed categorization of industries, found a visible decline in the number affected by entry barriers. Between 1992 and 2001 the share of industries subject to entry barriers dropped from around 45 percent to 36 percent (Table 3). Even more important, the share with strong barriers dropped by almost half.

The easing of entry barriers, along with other measures to promote foreign direct investment, probably contributed to an increase in such investment. In 1997–2000 the inflows of foreign direct investment into Korea rose to unprecedented levels (Figure 2). Inflows fell substantially in 2001, however, and sank to the level of before the Asian crisis in 2002.

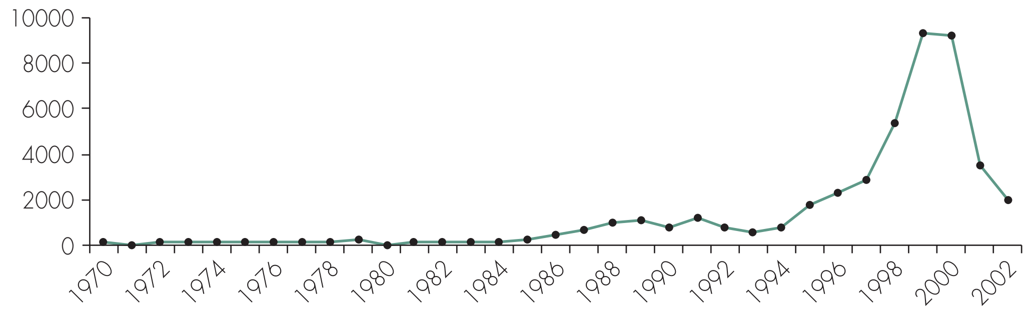
Another study projected that the 1998 deregulation would have positive macroeconomic effects. The study, by Ha and others (1999), focused primarily on regulatory reforms in such areas as employment, entry barriers, price cap regulation, inward investment, the environment, and land use. The study first estimated the direct effects and the direct net benefits of the 1998 deregulation (Table 4). Using input-output table analysis, the study then projected the effects of deregulation on major sectors of the Korean economy. Finally, it used these results in a macroeconomic model to project the overall economic effect of the deregulation (Table 5).

2 Foreign investors had often cited restrictions on foreign ownership of land as the most serious barrier to foreign direct investment. See, for example, Kiska (2003).

FIGURE 2

Inflows of Foreign Direct Investment into Korea, 1970–2002

Millions of U.S. dollars



Source: UNCTAD Web site.

TABLE 4

Projected Direct Net Benefits of 1998 Deregulation in Korea, 1999–2003

Area	Net Benefits
Job creation	1,066,200 jobs
Cost savings due to lower regulatory costs	18.69 trillion won (4.4 percent of GDP in 1997)
Reduction of government costs	590 billion won
Foreign direct investment	$36.5 billion increase expected over five years

Source: Ha and others 1999, p. 22.

TABLE 5

Projected Macroeconomic Effects of 1998 Deregulation in Korea Over 10 Years

Percent (except where otherwise specified)

Real GDP	Consumer Prices	Employment	Real Wages	Unemployment Rate (Percentage Points)
8.57	–7.18	0.94	–0.95	–0.91

Source: Ha and others 1999, p. 22.

The study projected that deregulation would result in real GDP growth in Korea of 8.57 percent in 10 years compared with the base case of no deregulation. This increase is equivalent to adding 0.64 percentage point to the annual growth rate. The deregulation also would lower consumer prices by 7.18 percent and reduce the unemployment rate by 0.91 percentage point in 10 years, again compared with the base case.

Yet another study assessed the effect of the 1998 deregulation from the point of view of stakeholders, using a relatively simple index of regulatory burden, and concluded that the effect was positive. Han (1999) rated regulations according to their perceived burden, then calculated an index of these ratings before and after the 1998 deregulation. In evaluating the burden of firm entry regulations, for example, Han gave points ranging from zero (where regulations specified no requirements) to five (where regulations effectively acted as an entry barrier). Points were assigned in a similar way for other types of regulations.

Han's assessment suggests that the regulatory burden declined by almost half as a result of the 1998 deregulation, with the index falling from 60.6 to 31.9. As can be expected, however, he found that regulations were more likely to be eliminated or revised if they were relatively unimportant and if there was no substantial opposition to the change. The Regulatory Reform Committee also recognized this limitation of the drastic push in 1998, and it responded by introducing the concept of "essential tasks"—major targets of regulatory reform that included not only a ministry's priorities or pet items but also burdensome regulations the ministry did not eliminate.

Another measure of the effects of the 1998 deregulation comes from the World Economic Forum. In its *Global Competitiveness Report 1997,* Korea ranked 48th among 53 countries on the burden from administrative regulations. In *Global Competitiveness Report 2001–2002,* however, Korea ranked 26th among 75 countries on the general burden from regulation. While the categories used by the World Economic Forum changed between 1997 and 2002, the improvement in Korea's ranking can be attributed at least in part to the reduction in regulatory burden over the period.

5. IMPLEMENTATION OF THE REFORMS

In implementing the 1998 reforms, the Kim Dae Jung administration went beyond the reform efforts of previous administrations in two crucial ways, taking significant first steps to reduce the regulatory burden on the Korean economy:

- *Institutionalizing reforms.* The Kim Dae Jung administration established permanent institutions and mechanisms of regulatory reform, such as the Regulatory Reform Committee, regulatory impact analysis, and the sunset clause. Each ministry established an internal regulatory review committee, and the activities of these committees are monitored by the Office of the Prime Minister and the Regulatory Reform Committee.

- *Improving accountability.* President Kim set a numerical target for deregulation that served as a concrete goal that ministries had to meet. Setting a numerical target had mixed effects, but it did signal that the government was serious about regulatory reform and established unequivocal goals for monitoring.

The institutional changes were intended to allow the reforms to continue even if the political leaders and the public lose interest. But the support for regulatory reform weakened near the end of the administration, when the need for reform was less desperate and the political strength of the president waned. The new institutions were not enough to overcome implicit resistance to reform in the bureaucracy. Moreover, because the deregulation measures reduced the regulatory burden less than had been hoped for, many observers lost interest in further regulatory reform.

Differences Between the 1998 Reforms and Previous Efforts

The Korean government's bold, sweeping reform measures in 1998 were in part a response to criticism of previous reform methods. Indeed, one of the major goals was to avoid the shortcomings of previous attempts at reform. The bold reform strategy was intended to signal the government's seriousness about reforming regulations and to create political and social momentum. Since the new government had taken office in the middle of the economic crisis, the need for regulatory reform was all the more urgent and widely accepted.

The 1998 reforms did differ in several important ways from previous efforts. To begin with, they resulted in a much more structured system. Managing regulatory quality became part of the administrative process by law, through the Basic Act on Administrative Regulations. Ministries could not evade the law's requirement that new regulations and amendments of existing ones must go through a review by the Regulatory Reform Committee.

The law also specifically requires regulatory impact analysis for each new and amended regulation. OECD recommendations and guidelines (1997b) were instrumental in introducing and shaping the process in Korea. Regulatory impact analysis is still at a primitive stage in Korea, however, with the government not yet having accumulated sufficient experience and know-how.

Another major difference in the 1998 reforms can be seen in the method of reducing the number of regulations. Under the bottom-up approach used by past administrations, regulations remained in place unless the responsible regulator decided to eliminate them. Regulatory impact analysis places the burden of proof for the need and efficacy of a regulation on the regulators themselves. If the regulators cannot convince the Regulatory Reform Committee—the majority of whose members are civilians—that a particular regulation is necessary, that regulation is abolished or changed.

The president also increased the accountability of regulators by setting the quantitative target for deregulation. Given the authoritative nature of the Korean government, this presidential order carried great weight.

In another innovation, the 1998 reforms introduced the idea of bureaucrat-led regulatory reform. Previous reform attempts had shown that even if a public-private committee was established to pursue and oversee the entire regulatory reform effort, it would have extreme difficulty in overcoming bureaucratic resistance. The reason was that the civilian members could not devote all their time to the reforms and lacked the expertise of the bureaucrats who lived with regulations every day. The 1998 reforms recognized the need to create a force within the bureaucracy—a pro-reform interest group—that would act as a flag carrier for reform.

In addition, the 1998 institutional reforms engineered the relationship between the Regulatory Reform Committee and the bureaucracy to increase the bureaucrats' incentives for reforms. While the Regulatory Reform Committee consists of civilian and government members, the reforms established a bureaucratic apparatus to support the committee within the Office of the Prime Minister (Kim 2003, 5–14). The committee would provide directions for reform, while bureaucrats in the Office of the Prime Minister—and the bureaucrats under their supervision in individual ministries—would carry out the actual reforms.

This structure created a more even match between the reformers and those opposed to reform, internalizing reform in a permanent "challenge function" in the bureaucracy. But it also increased the need for political support, since it put bureaucrats in charge of regulating the regulators, raising the risk of capture by a resistant bureaucracy if outside checks were not in place.

Gaining and Sustaining Momentum for Reforms

Several factors came together in 1998 to create momentum for regulatory reform. The first of these factors was the Asian financial crisis, which made it obvious early on that the efficiency and flexibility of the Korean economy had to be improved. There was strong consensus on the need for radical regulatory reform among all political parties as well as the press, citizens' groups, and opinion makers. Indeed, in the early days of the financial crisis and the recession that followed, the need for reform was one of the few issues on which national opinion was united. Moreover, given the nature of the Asian financial crisis, reform had to be both comprehensive and quick in order to regain the confidence of foreign investors and stabilize the economy. These forces created great momentum for massive and radical reform. But a quick process also meant that some aspects of the plan were not carefully thought out, and not all consequences fully considered.

The second factor was the presidential election of 1997. In 1996 and early 1997 the Hannara Party, the majority party at the time, needed to build political support, and regulatory reform was thought to be one of the economic issues that it could press. The Hannara Party therefore developed a plan for regulatory reform. In preparation for the new administration, the Office of the Prime Minister also developed a regulatory reform plan. The plans turned out to be very similar, because the Hannara Party and the Office of the Prime Minister had both turned to the same pool of regulatory experts to help develop them. And both plans dealt with common criticisms of the previous regulatory reform efforts, most notably that the efforts had been unfocused. Thus the Hannara Party and the administration worked from similar blueprints.

The third factor was the national discussion on regulatory reform during the legislative process in the National Assembly. While the Hannara Party and the Office of the Prime Minister drew up the original blueprints for reform, legislators discussed and modified the plan, and the final legislation was the product of the democratic political process in the National Assembly. The prime minister at the time, Go Geon, played a critical part in leading the legislation through the National Assembly. Prime Minister Go, a lifelong public official with first-hand knowledge of the damage caused by excessive government intervention, placed a high priority on regulatory reform.

The fourth factor was disappointment with the previous reforms. The general perception was that the reforms had been slow and had produced no solid results. As a consequence, there was broad public consensus that the only way to carry out significant regulatory reform was for the president and the prime minister to push through comprehensive and radical reform through a "top down" approach.

Criticisms of the Design of the 1998 Regulatory Reforms

National and international observers lauded the reform measures of the Korean government in 1998 and 1999, but they also warned that the measures were only the first steps on the long path toward regulatory reform. The initial measures by the Kim Dae Jung administration were considered a significant success. It was thought at the time that the forced deregulation gave a much-needed push to regulatory reform—and that establishing the Regulatory Reform Committee and regulatory impact analysis would give the government the machinery necessary to raise regulatory quality in the long term.

In the second half of the Kim Dae Jung administration, however, the drive for regulatory reform weakened. There were several reasons for this:

- Waning political support as reform advanced past easy wins and dramatic steps
- Failure to move from a top-down approach to integration of reform into the ministries
- Inability to use the Regulatory Reform Committee effectively because of a lack of investment in expertise

- Insufficient focus on producing tangible gains for businesses
- A continuing lack of cooperation on regulatory reform within the government
- A lack of coordination between the regulatory reform agencies and the provincial and local governments

Political support proved to be too narrow as the crisis passed. The Basic Act on Administrative Regulations was passed by the National Assembly in 1997 thanks in large part to personal efforts by President Kim Dae Jung and Prime Minister Go Geon, and there was little attempt afterward to widen the political support for regulatory reform. As the urgency of the crisis declined, so did active support for regulatory reform and further deregulation (see Kim 2003).

Politicians also sensed that the continuing struggle for good regulation might require more political capital than it produced. After the drastic purge of half the existing regulations, the political and socioeconomic context of the remaining agenda became much more complicated, with less political capital to be gained from dramatic measures. As the regulatory system began to deal with longer-term and more institutional problems, the attention of the president waned. Without the president's support, the government's representatives on the Regulatory Reform Committee lost their enthusiasm for reform proposals. The committee continued to examine new regulations, but gradually lost its aggressiveness.

The mechanism for regulatory review also began to show flaws. The Regulatory Reform Committee regularly examined new regulations and released regulatory impact assessments to the public. But battles with the bureaucracy continued because its traditional practice of controlling rather than enabling private sector activity had changed little. That is, the regulatory quality agenda remained top down rather than being built into the machinery of government at all levels.

Moreover, Shin (2002, 46–48) points out that interest groups could bypass the regulatory review process by going directly to the National Assembly. This alternative channel allowed interest groups to increase regulations de facto through new laws—increasing the regulatory burden—since the Regulatory Reform Committee and the regulatory review mechanism were not empowered to reject laws passed by the National Assembly.

Though powerful on paper, the Regulatory Reform Committee also lacked the legal force or expertise to deal with intentional "sabotage" by rule-making ministries:

- The civilian members of the committee did not represent a cross-section of stakeholders, nor did they have the expertise needed. There may have been a tendency to choose members because they were widely known to the public rather than on the basis of expertise.
- The committee's bureaucratic support mechanism in the Office of the Prime Minister may not have had the support needed to overcome antireform sentiments in ministries, and the support agency itself lacked expertise, in part because of the tendency for rapid managerial turnover in Korea.
- Some of the committee's first decisions as a government institution were culturally controversial and may have weakened public support for regulatory reform.

In addition, the range of regulatory reforms envisioned in the Basic Act on Administrative Regulations proved to be too narrow. The law was designed to take into account the criticism by businesses and experts that previous regulatory reform efforts had been unfocused and needed to be unified under a common framework. But there may have been some miscommunication between the government and the National Assembly. The National Assembly wanted to reduce the regulatory burden on businesses. The government, by contrast, focused on more formal, legalistic reforms to general administrative regulations, with less attention to the actual impact on businesses. The government's approach won out.

The failure to fully consider the effects of the reform on the regulatory burden was one of the weaknesses of the 50 percent reduction plan. Blindly establishing an arbitrary number for elimination and assigning the same goal to all ministries was criticized as placing too little emphasis on the most important regulations. Indeed, priority was given to eliminating less important and trivial regulations, while many duplications and overlaps were overlooked (Kim 1999, 457–58; Han 1999, 13–19). A long list of critics have pointed out that, despite the 50 percent reduction in the number of regulations, the typical citizen or business feels no reduction in the regulatory burden.

Most observers had recommended a more focused, sector-by-sector effort (for example, OECD 2000 and Kim 1999). While there has been some effort toward that goal, progress has been slow.

Within the government, cooperation on regulatory reform was lacking despite the efforts of the Kim Dae Jung administration to foster it. While the regulatory reform mechanism that the administration established was more extensive than any previous network, it still was not enough to achieve a cooperative relationship between ministries and the central agencies responsible for regulatory reform. The pro-reform interest group created within the bureaucracy was not strong enough to overcome the antireform interest group there.

One way to strengthen reform incentives within a bureaucracy is to tie reforms to budget allocations. To do so in Korea required achieving more cooperation between the regulatory reform agencies and the Office of Planning and Budget. Toward this end the minister of the Office of Planning and Budget was appointed to the Regulatory Reform Committee. Unfortunately, ministers who are members of the committee attend only formal meetings chaired by the prime minister, which take place only a few times a year. As a result, the budget and reforms were not closely tied at the working level. Though these limitations were widely recognized, the regulatory regime did not make much effort to overcome them (see Kim 2003).

Similarly, there was a lack of coordination between the regulatory reform agencies and the provincial and local governments. This lack not only explains why regulatory reform at the local level was weak. It also helps explain why public support for regulatory reform was weak, since the public most often deals with regional governments. The failure of this network reflected a shortage of resources (especially human resources) devoted to regulatory reform, particularly in the Ministry of Government Administration and Home Affairs.

Other factors also contributed to the lack of success with regulatory reform at the local level:

- The anticorruption campaign, ironically, discouraged changes in behavior toward clients. Client service became confused with corruption. Since bureaucrats feared being charged with attempted corruption—when helping a petitioner, for example—they tended to be rigid and formalistic in interpreting decrees. This suggests that coordination between regulatory reform and auditing and inspection authorities is vital for local reforms.

- The guidance and manuals for regulatory reform that the Ministry of Government Administration and Home Affairs produced and distributed were not very relevant or user friendly. For example, the development of regulatory alternatives is not presented in a way that can be put into practice.

- Reforming laws and decrees takes time, but people are sometimes impatient, even if reforms are beginning to filter down.

Implementation and Monitoring of Reforms

The implementation and monitoring of the 1998 reforms reflected significant improvements compared with the previous reform efforts. The scrutiny of international organizations and investors during and after the Asian financial crisis served as a monitoring mechanism. Moreover, for the deregulation initiative the numerical goal of 50 percent was relatively simple to implement and monitor: each ministry was required to report the initial number of regulations, and the president's office then monitored the numbers throughout the year.[3] The critical review required for new or strengthened reforms was also relatively simple to implement and monitor, since it is basically a "yes or no" proposition. Quality in deregulation and in the reviews was harder to implement and monitor, however, and here less progress was seen.

Another factor that helped improve implementation and monitoring was the composition of the Regulatory Reform Committee. As one of the cochairs, the prime minister himself was responsible for the working of the committee. A couple of times a year the committee and relevant ministries organized a task force to monitor the practical results of regulatory reform in the street and at the local level. In addition, the committee members included the ministers of several of the most important regulatory ministries (including the Office of Planning and Budget, the Ministry of Finance and Economy, the Korea Fair Trade Commission, and the Ministry of Government Administration and Home Affairs). Their membership made them personally responsible for implementing and monitoring in their own ministries the reforms discussed in the committee. It also allowed ministries to more quickly negotiate and reach compromises on reforms.

3 Some critics have argued that some ministries inflated the initial number of regulations under their domain by "splitting" regulations.

Summing Up and Looking Forward

It will take some time before Koreans feel the full impact of the regulatory reform of 1998. The level of regulatory intervention in Korea is still considered to be quite high. Moreover, while half the previous regulations were eliminated, the quality of the remaining ones—the source of most regulatory burdens—has yet to be addressed. In addition, at the regulatory window where people come into contact with the bureaucracy, changes in behaviors and attitudes have been slow to emerge.

While the machinery of reform continues, there has been no sustained, focused effort for further regulatory reform since the initial deregulation in 1998. Instead, most reforms have been piecemeal, concerned with specific regulations in specific areas, such as deregulation of zoning or liberalization of operating hours for bars. All this has led to the perception that the recent regulatory reform efforts have not reduced regulatory burdens.

Still, the 1998 reforms should not be written off as a failure. The method was authoritative and perhaps even crude. But the reform efforts did move the stagnant bureaucracy and managed to substantially reduce the number of regulations. Many measures of the regulatory environment show improvements in Korea.

Indeed, Korea succeeded in many ways in putting into place the appropriate tools and mechanisms to carry out true reform. According to an OECD review of Korean regulatory reform, for example, Korea's formal mechanisms for maintaining transparency and public participation had exceeded the average for OECD member countries by 2000 (OECD 2000). In addition, Korea's regulatory reform policies and regulatory review mechanisms surpassed the OECD average in rigor and design (Box 2).

The issue lies in Korea's willingness to actually use the tools and mechanisms of reform. Businesses in Korea still cite the regulatory burden and the lack of transparency as major problems

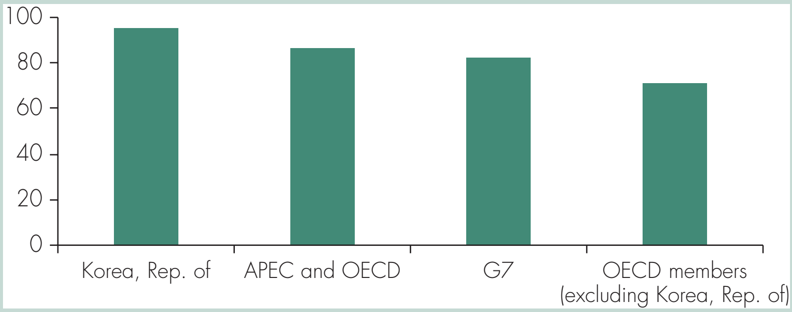
BOX 2

A Measure of Commitment to Regulatory Reform

The OECD produces a synthetic indicator that measures the existence and content of explicit government policies on regulatory reform and the organizational arrangements put into place to support them—the indicator of policy and organizational commitment to regulatory reform. This indicator gives a high score to policies on regulatory reform that are adopted or revised by the current government, those that include explicit objectives and principles of good regulation, and those that are supported by the establishment of a specific body with responsibility for promoting, supporting, and reporting on the progress of regulatory reform.

In 2001 Korea's score on this indicator was one of the highest among OECD member countries. It was also significantly higher than the average for the G7 countries and that for the other member countries of both OECD and the Asia-Pacific Economic Cooperation (APEC). Because the indicator measures formal aspects and not the intensity of implementation of reform policies, however, it may not be a good proxy for policy results.

Indicator of policy and organizational commitment to regulatory reform, 2001.



Source: OECD 2000.

in the business environment. This suggests that the Korean government and the Regulatory Reform Committee have not been able to use the formal tools and policies at their disposal to effectively reduce the regulatory burden and tackle problems in Korea's regulatory structure. The system of regulatory impact analysis has been particularly misused and neglected. Though every ministry fulfills its legal obligation to submit regulatory impact assessments to the Regulatory Reform Committee, the quality of the assessments is too poor to show the true costs and benefits of proposed regulations.

Even so, there may be cause for optimism about the future of regulatory reform because of continued pressure from the business community. The business sector, both Korean and foreign, still considers regulations to be among the biggest problems in Korea, and businesses have asked the Roh Moo Hyun administration to focus on further reducing the regulatory burden. According to the FKI Press, a poll of the presidents of 13 Korean economic research institutes ranked regulatory reform second among the 10 most urgent economic policy reforms for Korea. A poll by the Korean Chamber of Commerce showed that more than 60 percent of respondents were dissatisfied with current government efforts on regulatory reform, and the organization's chairman cited excessive regulation as a major reason for Korea's low domestic investment. True to historical patterns, the Roh government pledged to carry out regulatory reform in 2005 to combat the ongoing recession.

6. LESSONS OF THE REFORMS

Regulatory reform in Korea did not originate with the Asian financial crisis, but the crisis gave reforms an added urgency and forced the government to commit to stronger measures. After the crisis the Regulatory Reform Committee initially took forceful actions. But in the second half of the Kim Dae Jung administration its willingness to undertake major reforms diminished sharply. This weakening seems to have stemmed from a waning of the political strength of the Kim administration combined with reform fatigue.

In addition, many Koreans mistook the establishment of a reform organization for actual reform. That is, Koreans created the mechanism for reform without realizing that true reform also requires a continual effort.

While perhaps weak, a permanent mechanism for regulatory reform has nevertheless been put into place, and a pro-reform interest group created within the bureaucracy. The cultural change in Korea's public administration, though still in its early stages, has begun.

Success Factors

Korea's institutional reforms tried to permanently change how regulators functioned by building sustainable capacities for good regulatory governance into the machinery of the public sector. Several factors supported the success of this initiative.

- *Reform was opportunistic. Economic crisis galvanized an emerging liberal consensus that was needed for regulatory reform to gain support and momentum. Governance problems were also useful: political support for the reform was built on a popular campaign to wipe out corruption.*

Though Korea tried to deregulate and to reform regulation starting in the late 1980s, serious and effective reform began only after the 1997 financial crisis. The most powerful support came from politicians. Major political parties supported regulatory reform to combat the financial crisis. Their assumption was that excessive regulation was the source of economic inefficiency and corruption.

This corruption argument proved to be appealing to the public, and regulatory reform became an important campaign promise for most political parties. Business groups, citizens' groups, academics, and opinion leaders voiced support for regulatory reform in the media and at conferences. Most newspapers and broadcasters reflected these public opinions, and the politicians followed suit. As a result of the broad consensus that had emerged among experts, opinion leaders, and the media, supporting regulatory reform became a political advantage.

- *Embedding regulatory reform into government functions, particularly in institutions and in the administrative procedures law, was important to sustaining reform.*

Political leaders tend to lose interest in regulatory reform once it ceases to provide political gains. They look elsewhere to increase their political capital. In Korea regulatory reform—in the form of quality control of new and revised regulations—has been made a routine part of government operations. The intent was to provide a structure for continuing reforms independent of political support. (Whether this laudable goal was achieved, however, is questionable.)

Earlier regulatory reform attempts in Korea featured a "tug of war" waged between civilian representatives and bureaucrats on advisory committees for deregulation or regulatory reform. Bureaucrats had the advantage—in part because civilian representatives had only honorary positions and inadequate information—and mostly won the "war."

While public agencies tend to resist change, their conservatism and inertia can work in favor of reform if it can be normalized in their operations. Establishing the Regulatory Reform Committee as a dedicated full-time reform office—along with a support structure within the bureaucracy, to create a "pro-reform" faction—began to change incentives in internal policy processes. A group of government officials formed their careers around regulatory reform. As a result, regulatory reform became a permanent function of government. Now it is a "tug of war" between regulators and the Regulatory Reform Committee, internalized in the public administration.

This institutional reform was backed by amendments to the Basic Act on Administrative Regulations to mandate the reform and review process. This created a government-wide system, such as for regulatory impact analysis, that ministries could not evade. Managing regulatory quality became a part of the administrative process, and as a result, introducing and revising regulations was no longer the exclusive right of regulating agencies.

- *Regulatory quality was controlled by an independent agency at the center of government that could counter the "pro-regulation" tendency of ministries.*

Modern public administrations have a structural bias toward introducing new regulations, even when the social cost does not justify the expected benefits. In addition, regulating agencies tend to overestimate the potential benefits of a new regulation while underestimating its potential social costs and negative side effects.

To counter these tendencies, the Basic Act on Administrative Regulations set a framework for reform that gave an independent agency, the Regulatory Reform Committee, authority to control the quality of regulations. The committee maintained a consistent set of principles to control regulatory quality. Reinforcing its function were tools to control regulatory quality, such as regulatory impact analysis.

- *Along with efficiency disciplines, transparency and predictability were built into the regulatory structures.*

Among the costliest problems in Korean regulation are the lack of clarity and room for interpretation in many regulatory rules and procedures. Regulators tend to have much discretionary power as a result, creating uncertainty for regulated entities. Regulatory risks are among the most frequently cited concerns of investors in Korea.

Making rules and procedures more transparent and predictable can substantially reduce such risks. To do so, Korea adopted information disclosure acts as part of its administrative reforms, and opened up its regulatory system by introducing independent review of regulatory quality and more consultation with stakeholders.

- *Korea made effective use of international good practices such as regulatory impact analysis in both designing and promoting reforms.*

Korea substantially accepted the OECD recommendations and guidelines on regulatory impact analysis (1997b) in shaping and introducing its own process. In addition, Korean reformers exploited the OECD peer review of regulatory reform as an outside pressure on the government.

Shortcomings

While the Korean efforts highlight the advantages of a strategy of rapid and massive reform, they also showcase its disadvantages.

- *The regulatory reforms in Korea focused unduly on top-down legal changes and not enough on actual implementation. In particular, the system lacks a detailed strategy for improving practices at the local level, undermining visible benefits for citizens and businesses.*

For regulatory reform to be effective, it is not enough to review legal texts. Authorities need to inspect the administration of regulatory changes to ensure that they are being enforced in implementation—because regulators can easily dilute the effectiveness of regulatory changes through administrative guidance and informal interventions.

Korean regulatory authorities did not sufficiently carry out such inspections. As a result, the benefits of the reforms did not reach people in their everyday lives. That led to popular dissatisfaction with the results and a loss of momentum for further reform.

Giving higher priority to regulatory reform at the provincial and local government levels could have helped ensure that gains were translated into action that people could see and feel.

- *While the top-down approach produced impressive short-term results, a lack of incentives for regulatory reform within the government undermined cooperation and slowed progress.*

The regulatory reform mechanism established by the Kim Dae Jung administration, while broader than any previous effort, did not create sufficient cooperation between ministries and the central agencies responsible for regulatory reform. Nor could the "pro-reform" forces created in the bureaucracy overcome the existing "antireform" forces. More attention to creating incentives for performance, such as by involving the budget authorities, would have been helpful in inserting regulatory reform into the daily routines of governing.

For regulatory reform to be effective and to achieve permanent results, government structures need to be reorganized to reflect changes in regulatory power between ministries and agencies. In some cases that may mean abolishing an agency or an entire bureau in a ministry. Similarly, as ministries and offices have fewer regulatory functions, their budget allowances should be reduced accordingly.

The Korean regulatory reforms were not linked with reorganization of the government structure. Coordination between the Regulatory Reform Committee and the Ministry of Planning and Budget was insufficient to reflect the changes in regulatory roles. As a result, the regulatory reforms were not translated into organizational and budget reform.

- *The regulatory reform program was not sufficiently harmonized with larger policy goals such as protecting health and safety, giving opponents of reform an opportunity to question its legitimacy.*

The rigid focus on deregulation in the initial stages of the Korean reforms undermined popular support for regulatory reform because people began to view it as conflicting with other politically popular national objectives and agendas, such as health and safety. In addition, relying on the simple numerical goal for deregulation reduced the incentives to carefully examine each regulation—essential to maximize the positive effects of regulatory reform and minimize its negative effects. And the rapid pace of the reforms did not allow the government the opportunity to form a strategy for further reform—that is, to build ongoing political support for reform.

But the strategy of rapid and massive reforms may have been necessary to ensure that the reforms took place at all. Had the authorities spent too much time mulling over the details, they might have allowed groups opposing reform or favoring the status quo many more opportunities to delay or weaken the reforms. Thus the error may not have been the strategy of rapid and massive reforms, but the failure to formulate an adequate medium- and long-term strategy that capitalized on the momentum gained in 1998.

- *The Korean reforms tackled individual rules rather than groups of interlinked rules.*

In Korea some regulations are considered too important to change, despite the heavy burden they impose on businesses. These "sacred" regulations—such as those relating to employment, the chaebol (Korean conglomerates), and land use around Seoul—generally take the form of a package, weaving together a multitude of regulations and complementary policy measures. In a situation like this, piecemeal changes to individual regulations can be practically meaningless.

To reform these packaged regulations, the most effective approach would be to reconstruct the system of regulations from scratch—with the aim of finding the most efficient means to achieve policy goals. That would involve reviewing the need for and appropriateness of policy objectives, reevaluating the effectiveness of policy and regulatory packages, and seeking alternative policy means. The Korean reforms have not yet adopted this "scrap and build" approach.

- *The Korean reforms did not rely enough on market forces and self-regulation.*

Regulatory reform can be an important step toward a freer and more open society. But this requires that reform be based on an understanding of the changing role of government and of the interaction of government, businesses, and citizens in the market. One weakness of the Korean approach to regulatory reform is that it was initiated and led by the government sector rather than being driven by the private sector and aimed at self-regulation. Thus the reforms suffer from perspectives and methods in which the government is still determined to control the private sector.

The ability to self-regulate is not inherent, however. This capacity of a market needs to be cultivated by allowing the private sector to practice self-regulation and become more involved in market functions. The Korean reforms have not yet sufficiently challenged the essential regulatory role of the state to give the private sector this opportunity.

Lessons for Other Countries

Context, opportunities, external shocks, and changing environments frame the design and implementation of reform in every country. Many of the lessons from the reform experience of Korea can be interpreted only through the political, administrative, and cultural situation of that country. But several lessons may prove helpful to countries facing similar challenges:

- *Build a societywide coalition around regulatory reform.* Relying on narrow political bases to drive reform puts sustainability at risk. The momentum for reform can be maintained by educating the public about the desirability of reform and keeping it informed of the progress made.

- *Create a permanent system of reform.* Regulatory reform is bound to face resistance from interest groups. This can be overcome by creating a bureaucracy with an organizational interest in regulatory reform. One way to do so is to create an independent agency at the center of government to control regulatory quality.

- *Synchronize regulatory reform with government reform and budget reform.* This will make regulatory reform more permanent and effective. Regulatory reform normally entails changes in the functions of government agencies. Changes in personnel and budget should follow naturally.

- *Focus on compliance costs.* Since the ultimate goal of regulatory reform is to reduce the regulatory burden, the top priority should be reforming regulations with high compliance costs, not simply reducing the number of regulations. Korea eliminated many burdensome regulations, achieving unprecedented results compared with its previous efforts. But because reformers gave little consideration to the tangible effects on businesses and citizens, the reforms reduced regulatory burdens less than had been hoped for. As a result, regulatory reform failed to maintain popular support.

- *Make rules and procedures more transparent and predictable.* This will reduce regulatory and business costs. Registries of regulations and the process of regulatory impact analysis may help.

- *Develop the concepts and practical application of regulatory alternatives, and train civil servants in this area.* Alternatives can overcome the seeming conflict between regulatory reform and national policy objectives and boost the visible benefits from reform.

- *Manage regulatory reform to help build the market's capacity for self-regulation,* not to sustain bureaucratic methods.

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