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

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

**APEC Economic Committee II Roundtable Discussion  
June 28<sup>th</sup> 2007, Cairns, Australia**

## **A. Horizontal Criteria Concerning Regulatory Reform**

### **A1: To what extent is there an integrated policy for regulatory reform that sets out principles dealing with regulatory, competition and market openness policies?**

In 1998, Korea initiated its full-scale regulatory reform to overcome the financial crisis. It enacted the Basic Act on Administrative Regulations (BAAR) that provides regulatory principles such as the transparency of regulations and competition, etc. It also established the Regulatory Reform Committee (RRC) in April 1998 and introduced procedures for reviewing regulatory proposals such as the Regulatory Impact Analysis (RIA). The RRC set the goal of “creating a business-friendly and life-enriching environment” and reduced the number of regulations across the government in a manner consistent with the following principles:

- *Ex ante* regulations should be changed into *ex post* ones in accordance with a set of criteria.
- Regulatory transparency should be enhanced by changing subjective or abstract wording into objective or concrete one.
- The regulations that are hard to comply with or to justify on the merits of costs versus benefits should be eliminated or amended.
- The different regulations that serve the same purpose should be integrated into one.

By taking such a quantitative approach, the Korean government abolished 5,958 regulations and revised 2,981 regulations in 1998 and 1999. This means that more than half of a total of 11,125 regulations were eliminated or rationalized for the two years.

The administration of President Roh, inaugurated in 2003, set the goal of “achieving regulatory quality and national competitiveness at the level of advanced countries.” Under this goal, it reoriented the reform process away from simply reducing the number of regulations to a greater focus on regulatory quality. The basic direction of its regulatory reform is changed as follows:

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

For this reason, the RRC's strengthened its capacity to review regulations. To implement user-oriented regulatory reform, the government established the Regulatory Reform Task Force (RRTF) and the Business Difficulties Resolution Center (BDRC). The RRTF, a group

of public officials and private-sector experts, has carried out plans to rationalize 57 bundle regulations which involve multiple ministries and have great impacts on the life of the general public (e.g. regulations related to the establishment of factories, business start-up, investment in logistics facilities, transportation, etc.).

**A2: How strongly do political leaders and senior officials express support for regulatory reform to both the public and officials, including the explicit fostering of competition and open markets? How is this support translated in practice into reform and how have business people, consumers and other interested groups reacted to these actions and to the reforms in concrete terms?**

Korea made big strides in implementing regulatory reform in a short period of time due in large measure to a high level of political support and commitment to reform process. The nation's regulatory reform, which was implemented to great extent in the late 1990s, was strongly advocated by the President and high-ranking public officials. The Kim Dae-jung administration, inaugurated at the height of the Asian financial crisis, carried out regulatory reform across the board in order to overcome the economic crisis at the earliest possible time and to promote the market economy. To make an efficient government, President Kim directed that more than half of regulations should be abolished or rationalized. As a result, in 1998 and 1999, out of 11,125 regulations, 5,958 were eliminated and 2,981 were revised.

His successor, President Roh Moo-hyun, too, has strong commitment to regulatory reform. He once said that "We will put all resources to reform regulations lagging behind market changes." Under his leadership, all ministries undertook a comprehensive review of regulations in 2006, identifying regulations that lagged behind market changes such as the trend towards knowledge and information society, the e-Government, and other rapid technological developments. As a result, the government eliminated or updated some 18% of the registered regulations in 2006 alone.

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

**A3: What are the accountability mechanisms that assure the effective implementation of regulatory, competition and market openness policies?**

The Regulatory Reform Committee (RRC) plays a leadership role in implementing and coordinating the nation's regulatory reform policies. The Fair Trade Commission (FTC) and the Ministry of Foreign Affairs and Trade (MOFAT) have responsibility for applying policies on competition and market openness, respectively.

The RRC is composed of 25 members, 18 of whom are private-sector experts and 7 of whom are government officials. It is co-headed by the Prime Minister and one member from the private sector appointed by the President. It sets the basic direction of regulatory reform and reviews draft regulations.

Based on RRC's annual master plan for regulatory reform, ministries should come up with concrete plans for regulatory reform at ministry level and submit them to the RRC. The RRC encourages ministries to strengthen their regulatory reform efforts by evaluating progress of their regulatory reform at the end of every year. If a ministry is to introduce or revise a regulation, it must conduct the Regulatory Impact Analysis (RIA), a policy instrument to examine possible impacts of draft regulations on society in general. The RRC reviews the RIA documents submitted by the ministry concerned and analyzes opinions on the regulatory proposal from various stakeholders. If the RRC finds the proposed regulation or legislation is unreasonable or irrelevant, it can recommend that the ministry improve or remove the draft. The RRC is required by law to publish a White Paper on the status of regulatory policy implementation.

The FTC is a government agency responsible for removing the conditions that hinder fair competition. It states opinions on regulatory proposals that are inconsistent with competition rules, under the inter-ministerial consultation procedure (established by the Administrative Procedures Act) and the regulatory review procedure (established by the Basic Act on Administrative Regulations). The FTC comes up with competition policies for industries in general and deals with a breach of Competition Laws and Policies. The MOFAT is a ministry that assesses whether a proposed regulation is consistent with the existing WTO agreements, and that deals with a problem, if any, under the inter-ministerial consultation and the regulatory review procedures. As for bilateral or multilateral talks on market openness, the MOFAT plays a leading role. Depending on items on the negotiation agenda, it consults with the ministries concerned such as the Ministry of Finance and Economy, the Ministry of Commerce, Industry and Energy, the Ministry of Agriculture and Forestry, or the Korea Customs Service.

**A4: To what extent do regulation, competition and market openness policies avoid discrimination between like goods, services, or service suppliers in like circumstances, whether foreign or domestic? If elements of discrimination exist, what is their rationale? What consideration has been given to eliminating or minimizing them?**

The Korean government prohibits discrimination against foreign suppliers in accordance with a WTO agreement requiring that "Treatment by one Member of services and services suppliers of any other Member be compared with treatment of like services and service suppliers of any other country." In drafting policies, regulations or legislations, ministries concerned and the MOFAT check whether they are consistent with the existing WTO agreements (and deal with inconsistency, if any). The ministries announce new legislations under the Administrative Procedures Act to collect opinions from interested parties including foreign businesspeople, thereby eliminating discriminatory factors in the first place. In addition, the government strives to place domestic and foreign suppliers on an equal footing by participating actively in bilateral or multilateral trade deals such as the Korea-Chile FTA

(which went into effect in Apr. 2004), the Korea-Singapore FTA (which went into effect in Mar. 2006), the Korea-EFTA FTA (which went into effect in Sept. 2006) and the Korea-US FTA (which was signed in Apr. 2007).

The Korean government established Free Economic Zones (FEZs) which offer foreign companies exemption from a number of regulatory requirements. To promote foreign investment, Korea enacted the Act on Designation and Management of Free Economic Zones in 2002, designating Incheon, Busan and Gwangyang as the nation's FEZs. Businesses establishing themselves within a free economic zone can take advantage of various benefits, including exemptions from regulatory requirements relating to healthcare and education services and an integrated one-stop administrative process that streamlines compliance with regulations. To improve the image of Korea and prevent discrimination against foreign companies, the government established the Office of Investment Ombudsman in 1999, dealing with complaints filed by foreign businesspeople. In 2003, the Korea Trade Investment Promotion Agency established a unit called "Invest KOREA" with the objective of providing a one-stop shop to facilitate foreign investment. On top of that, the Regulatory Reform Committee (RRC) and ministries established consultation mechanisms with foreign business organizations such as the American Chamber of Commerce. They receive complaints from foreign business organizations on a regular basis and remove factors that hold back foreign investment.

As mentioned earlier, the MOFAT and the RRC take measures to prevent discrimination against foreign businesses. However, there are concerns that ministries do not thoroughly review the possible impacts of regulations on trade and foreign investment since they are not required by law to do so at the moment. That's why the government plans to make it obligatory for ministries to analyze Regulatory Impact on trade and foreign investment.

**A5: To what extent has regulatory reform, including policies dealing with regulatory quality, competition and market openness, been encouraged and coordinated at all levels of government(e.g., Federal, state, local, supranational)?**

At central government level, ministries work together to coordinate regulatory policy, competition and market openness policies. By doing so, they avoid the duplication of regulations and inconsistency between policies. More precise coordination between ministries is made possible by the procedure for inter-ministerial consultation (established by the Administrative Procedures Act) and the Regulatory Reform Committee's procedure for reviewing regulatory proposals (established by the Basic Act on Administrative Regulations).

In Korea, there are precious few differences in regulations between central government and local government or between local governments. The reason is that under the nation's regulatory system, the central government has most of the authority to bring in new regulations, while local governments are allowed to do so only in very limited circumstances. Specifically, the central government introduces regulations on the principle that a regulation must be based on law, and local governments may enact some ordinances only within the scope of authority delegated by law.

If and when the central government delegates local governments to work out details on

regulatory reform, it only focus on inform local governments of details on regulatory reform in a timely manner. To that end, the government has operated a regulatory reform task force for local government, a group of experts from the Prime Minister's Office, the Ministry of Government Administration and Home Affairs, and the Korea Institute of Public Administration. The task force provides local governments with information on new and amended regulations, thereby helping them respond quickly to central government's regulatory reform. In addition, a regulatory reform manual for local government organizations was published and regulatory reform education targeted at local government officials has been promoted.

**A6: Are the policies, laws, regulations, practices, procedures and decision making transparent, consistent, comprehensible and accessible to users both inside and outside government, and to domestic as well as foreign parties? And is effectiveness regularly assessed?**

Administrative action must be transparent and public information must be disclosed. Under Article 5 of the Administrative Procedures Act, administrative action by an administrative agency shall be concrete and unambiguous, and if the provisions of the Acts governing administrative action are deemed ambiguous, a person affected by the administrative action may request the administrative agency to interpret the meanings of the provisions and the administrative agency shall meet his/her request for interpretation unless otherwise indicated. Pursuant to the Article 3 of the Act on Disclosure of Information by Public Agencies, all people have the rights to ask for disclosing information that the public agency possessed and managed.

In accordance with the Administrative Procedures Act, ministries must announce new regulatory proposals and legislations for a minimum of 20 days in the government gazette or on their internet homepages. Starting in July 2006, they must publicly disclose the results of their Regulatory Impact Analysis during the 20-day notification period. The results of the analysis include information on the need for the regulations, technical feasibility, the costs and benefits of draft regulations, alternatives to the regulations, and budget and staff for application of the regulations. During the notification period, everyone can submit his/her opinion about the proposed regulations and legislations and the ministry concerned is obliged to receive and review every input on the proposed regulation or legislation and to report the results of its review to those who provided the inputs.

All laws and ordinances, and regulations are available on the internet homepages of the Ministry of Government Legislation (<http://www.moleg.go.kr>) and the ministries concerned. Ministries are required to register regulatory affairs under their jurisdiction (contents of regulations, legal basis for regulations, organizations in charge of enforcing the regulations, etc.) with the Regulatory Reform Committee (RRC) pursuant to Article 6 of the Basic Act on Administrative Regulations, and the RRC must disclose the list of the regulatory affairs registered. The list and contents of all regulations are open to the public on the RRC website (<http://www.rrc.go.kr>).

The government's review of the opinions collected during the notification period is reported individually to those who stated the opinions. Some ministries enhanced the transparency of

the procedure for consulting with stakeholders by informing on their internet homepages how their opinions are incorporated into the draft regulations. To further enhance regulatory transparency and promote discussion on draft regulations and legislations, the government will make public both opinions on proposed regulations and its response to the opinions. Currently, the way opinions on regulatory proposals are collected and processed is determined by each ministry. To reduce the discretionary power of ministries, the government will establish a concrete procedure for collecting and processing opinions, considering the contents of proposed regulations and interested parties.

**A7: Are the reform of regulation, the establishment of appropriate regulatory authorities, and the introduction of competition coherent in timing and sequencing?**

At the early stage of regulatory reform, Korea focused on reducing the number of regulations. Subsequent regulatory reform, however, was shifted towards a stage of regulatory quality improvement and regulatory management. In line with the policy shift, the government has established and operated new regulatory authorities. When it comes to the electricity and telecommunications markets, independent regulatory bodies were established to reflect the characteristics of the markets.

The Regulatory Reform Committee (RRC) was established in April 1998 under the authority of the President in accordance with the Basic Act on Administrative Regulations that went into effect in August 1997. The RRC implemented bold regulatory reform by cutting the number of regulations by half in a short period of time. However, recognizing the limitation of quantitative regulatory reform, it began to take a broader approach to regulatory quality.

To substantively implement qualitative regulatory reform, the RRC has increased the number of its private-sector members and the effectiveness of the Regulatory Impact Analysis. The new institutions, the Business Difficulties Resolution Center (BDRC) and the Regulatory Reform Task Force (RRTF), were launched. The BDRC was established in April 2004 as a one-stop shop ombudsman to resolve regulatory issues facing businesses. The RRTF, established in August 2004, consists of private-sector experts and government officials. From the user-oriented perspective, it rationalizes bundle regulations, which have great impact on the general public.

The Korea Communications Commission and the Korean Electricity Commission were founded to enhance the competitiveness of the communications and electricity sectors, respectively. The independence of the sector-specific regulators has been steadily increased in ways that foster a business-friendly environment and promote competition. As a result, the transparency of regulations has been significantly improved since increases in their independence made it harder for the government to give preferences to state-owned enterprises or interested groups.

**A8: To what extent are there effective inter-ministerial mechanism for managing and coordinating regulatory reform and integrating competition and market openness considerations into regulatory management systems?**

A ministry, which drafts regulations and legislations, is obliged to consult with relevant ministries in accordance with the Administrative Procedures Act and the Rules of Operating Regulation on Legislation. In particular, if a regulatory proposal or legislation includes constraints on competition (e.g. restrictions on pricing, the terms and conditions of transactions, entry into markets and business practices, or unfair collaborative acts, or prohibited activities of business organizations), the ministry concerned must consult with the Fair Trade Commission (FTC) in accordance with the Monopoly Regulation and Fair Trade Act. In case a regulatory proposal or legislation is considered inconsistent with the WTO agreements, the Ministry of Foreign Affairs and Trade (MOFAT) should review it and notify the ministry of the results of its review.

Ministries should review the possible impacts of proposed regulations pursuant to the Basic Act on Administrative Regulations and a guideline for the Regulatory Impact Analysis (RIA). They should examine what impacts the regulatory proposals are expected to have on competition structure and regulatory transparency and should conduct the cost-benefit analysis. Then, the results of their RIA come up for a comprehensive review by the Regulatory Reform Committee (RRC). Within the RRC, the heads of government agencies (the Ministry of Finance and Economy, the Ministry of Commerce, Industry and Energy, the FTC, the Ministry of Government Administration and Home Affairs, the Office for Government Policy Coordination, and the Ministry of Government Legislation, etc.) participate in reviewing whether the proposed regulations will undermine market openness and fair competition and discuss how to avoid possible duplication among regulations. A resolution approved by them is legally binding for relevant ministries.

As mentioned in the Answer 4, it is not mandatory to assess the possible impacts of regulations on trade and investment under the current guideline for the RIA. That's why some are concerned that ministries may not thoroughly conduct the RIA on trade and investment. Therefore, measures will be taken to require ministries to conduct a RIA on trade and investment that will help them remove discriminatory factors.

**A9: Do the authorities responsible for the quality of regulation and the openness of markets to foreign firms and the competition authorities have adequate human and technical resources, to fulfill their responsibilities in a timely manner?**

The Regulatory Reform Committee (RRC) is comprised of 7 government members and 18 private-sector members and is co-headed by the Prime Minister and a private-sector expert. The 7 government members are the Minister of Finance and Economy, the Minister of Commerce, Industry and Energy, the Minister of the Fair Trade Commission, the Minister of Government Administration and Home Affairs, the Minister of the Office for Government Policy Coordination, the Minister of Government Legislation and the Prime Minister. The 18 private-sector members are experts from various fields, including law, public administration, business management and engineering professors, businesspeople, lawyers, members of civil society organizations and journalists. To promote the professionalism of and private-sector participation in the RRC, the government increased the number of private-sector members from 13 to 18 through the revision of the Basic Act on Administrative Regulations in July 2006.

The Regulatory Reform Bureau in the Prime Minister's Office, the Secretariat of the RRC, is staffed by 43 members including officials from ministries and local government organizations and private-sector experts in finance, housing and environment. The Regulatory Research Center, which was established in 2003 as an advisory body under the Korea Institute of Public Administration, supports the RRC by conducting a study on high-quality regulatory framework. The Regulatory Reform Task Force (RRTF), which focuses on a strategic task of developing "user-oriented regulations," consists of 21 government officials (officials from the Ministry of Commerce, Industry and Energy, the Ministry of Construction and Transportation, the Ministry of Information and Communication and the Ministry of Environment, etc.) and 16 private-sector experts from companies, economic organizations and research institutes. The 37 staff members focus on improving "bundle regulations" that involve multiple ministries.

In Dec. 2005, the Fair Trade Commission (FTC) was restructured to further increase the effectiveness of competition policies and its professionalism. It established the Economic Analysis Team and reinforced the Litigation Team to reduce the function of regulating conglomerates and change its core competency to strengthen market-oriented functions. The FTC publicly invites applications for 20% of the positions above the rank of Director and regularly recruits professionals such as lawyers and economists. Moreover, it tries to strengthen the professionalism of its staff through a society for research, a competition forum, external experts and cyber education.

However, Korean Government still feels lack of professional human resources in the Regulatory Reform Bureau that supports the RRC's reviews. To remedy this problem, the Regulatory Reform Bureau will form a pool of outside experts who are able to review regulatory proposals by area.

**A10: Are there training and capacity building programmes for rule-makers and regulators to ensure that they are aware of high quality regulatory, competition and market openness considerations?**

To develop and enforce high-quality regulatory policies, government officials in charge should increase their professionalism and gain various experiences. The Korean government strives to raise awareness of regulatory reform among public servants and to improve policy tools such as the Regulatory Impact Analysis (RIA) by offering public officials both basic and expert training programs on regulatory reform.

The Central Officials Training Institute has offered public officials a course on regulatory reform every year since 2004. The one-week program deals with issues concerning the enforcement of the Basic Act on Administrative Regulations, the RIA, cost-benefit analysis and case studies on regulatory reform. Every year, about 50 officials receive the education. Since 2005, a three-week course on regulatory reform has been regularly offered on an internet site (<http://cyber.coti.go.kr>). About 700 public officials take the course every year.

To foster experts in the RIA, the government has offered an advanced-level course on the RIA in collaboration with the Korea Institute of Public Administration. Those who take the

course are public officials responsible for conducting the RIA at each ministry. Experts or senior officials in charge of regulatory reform give intensive lectures on how to make the RIA documents. In 2005 and 2006, about 200 public officials took the course.

In 2006, the Prime Minister's Office provided education on regulatory reform for about 11,000 public servants at ministries or local governments. In Sept. 2006, it held a workshop to share information about regulatory reform, with public servants and experts from economic organizations, civic organizations and academia in attendance.

**A11: Does the legal framework have in place or strive to establish credible mechanisms to ensure the fundamental due process rights of persons subject to the law, in particular concerning the appeal system?**

Article 21 of the Administrative Procedures Act (APA) provides that if administrative agencies take measures to impose obligations on a person or to impose restrictions on his/her rights or interests, they shall inform him/her of the contents of and legal basis for the measures and the methods of stating his/her opinions thereof. Article 27 of the APA provides that the person concerned may make statements, either written or oral, or state his/her opinions through the internet, and that if the opinions are considered fair and correct, administrative agencies shall accept them.

If a person wants to raise objections to regulatory decisions, he or she may (1) appeal to the administrative agencies that made such decision, (2) file an administrative lawsuit with the court, (3) file petitions with the Ombudsman of Korea, or (4) lodge appeals with the Administrative Appeals Commission.

These complaints procedures should be available to foreigners, too. The APA provides that foreigners shall get the same rights as Korean people in terms of filing appeals, lawsuits and petitions.

## **B. Regulatory Policy**

### **B1. To what extent are capacities created that ensure consistent and coherent application of principles of quality regulation?**

The Korean regulatory reform system consists of the Regulatory Reform Committee (RRC), that coordinates the overall regulatory reform activities while reviewing draft regulations, the Regulatory Reform Task Force (RRTF), that improves bundle regulations among existing regulations, and the Business Difficulties Resolution Center (BDRC) that receives and processes the difficulties felt by the people and businesses at any time. Diverse regulatory reform measures are being taken and continuous checks are being made for coherent application of the principle of quality regulation through these bodies.

As the overall regulatory reform coordination body, the RRC is in charge of setting the general direction of the regulatory policies and researching the development direction of systems, while conducting regulatory reviews on each ministry's draft regulations. Ministries should first conduct a Regulatory Impact Analysis (RIA) then submit a draft regulation to the RRC before creating or reinforcing a regulation. Where necessary, the RRC will decide on an abolition or improvement measure following a comprehensive review, where the RIA is reviewed and opinions of related stakeholders are collected. According to the basic regulatory reform direction decided yearly by the RRC, ministries are improving their respective regulations by drawing up annual regulatory reform plans and the RRC is encouraging voluntary regulatory reform efforts by each ministry by evaluating the reform efforts at year end.

The Regulatory Reform Task Force (RRTF), a joint private-public body, selects and improves strategic tasks such as major bundle regulations that are interrelated among a number of ministries and have large ripple effects on people's lives. Users participate directly starting from the task selection stage, and improve the regulations in the direction that is desired by the users. As for the Business Difficulties Regulation Center (BDRC), it receives the general public's suggestions and business difficulties and resolves these issues in a one-stop manner by visiting problem sites, related ministries and collecting the opinions of related stakeholders.

As such, Korea is making multi-faceted efforts through various reform bodies to ensure consistent and coherent application of principles of quality regulation. However, a problem exist in that regulatory quality management, equal to the level of the RRC, is not maintained for regulations that are being proposed and enacted by lawmakers. Therefore, the Regulatory Reform Bureau in the Prime Minister's Office, the executive office of the RRC, is working to enhance regulatory quality regarding regulations proposed by lawmakers by submitting review opinions in regulatory terms. However, ultimately, a measure must be taken so a permanent review body may be established within the National Assembly to review to the same level the regulations being created by lawmakers, as is done for government bills.

**B2. Are the legal basis and the economic and social impacts of drafts of new regulations reviewed? What performance measurements are being envisaged for reviewing the economic and social impacts of new regulations?**

When each ministry plans to develop a new regulation, it must conduct a Regulatory Impact Analysis (RIA) regarding the legal basis, also social and economic impacts of the new regulation. The Regulatory Reform Committee (RRC) reviews the feasibility of a draft regulation based on the RIA results and recommends a repeal or improvement if the draft regulation is unreasonable. Stakeholders may participate in the whole review processes and may make suggestions.

The RIA is a system introduced to restrain the creation or reinforcement of unreasonable regulations and to create more reasonable regulations. Regardless of the type or form, be it law, enforcement decree, enforcement rule or others, all ministries must conduct RIA when newly developing or reinforcing regulations above existing levels. In the RIA, criteria such as the purpose and objective of the regulation, the cost-benefit analysis, appropriateness, effectiveness of the regulation and whether it restricts competition and others must be reviewed. Based on this result, each ministry will conduct a self regulatory review on the feasibility such as the target, scope and method of the regulation. On the other hand, with the July 2006 amendment of the Basic Act on Administrative Regulation, it has become compulsory to open to the public the RIA when making a notice of pending legislation through either the government gazette or the internet. In this way, information regarding the impact of a draft regulation is provided to all stakeholders and also the general public.

When each ministry requests a regulatory review to the RRC, it must submit the opinions of related stakeholders along with the RIA and the self-review result. The RRC only reviews major regulations that may have large social and economic impacts and as for less important regulations, they are subject to the supervision and quality management of the ministry concerned. This is to concentrate the supervision and resources of the RRC to regulations with great effects. If the RRC finds insufficient legal basis or sees excessively greater regulatory cost than benefits, it may decide the regulation at hand as unreasonable, and recommend the regulation to be repealed or improved. If without a particular reason, each ministry should abide by the decision of the RRC. Since its establishment in 1998, the RRC has reviewed a total of 9,018 cases of new or reinforced regulations and have recommended repeal or improvement on 2,805 cases (31%), restraining the creation of unreasonable regulations.

**B3. Are the legal basis and the economic and social impacts of existing regulations reviewed, and if so, what use is made of performance measurements?**

Existing regulations are largely reviewed and improved through 'voluntary regulatory improvement' measure by ministries concerned and 'bundle regulation' reform efforts by the Regulatory Reform Task Force (RRTF). Although legal basis, also the economic and social impacts are being reviewed for existing regulations, performance measurement to the level of Impact Analysis on new regulations is not demanded. In some regulations where 'the sun-setting clause' is applies, the maintenance, improvement or abolition of the regulation is

reviewed at its expiration. At this time, performance evaluation equal to the level of impact analysis on new regulation is required.

Since 2004, each ministry has been establishing its own annual regulation reform plan in line with the RRC's general direction of regulation reform, and has been making improvements on existing regulations. The RRC evaluates each ministry's regulatory improvement status at the end of each year, as a means to encourage the ministry's voluntary regulatory reform efforts. In the case of 2006, all regulations that could not adequately adapt to market changes such as the trend towards knowledge and information society, the e-Government, and other rapid technological developments were all identified and improved. As a result, of the total registered regulations, 17.6% were abolished or improved.

Of the existing regulations, the Regulatory Reform Task Force (RRTF) identifies bundle regulations which have large effects on people's lives and are interrelated among various ministries for strategic improvement. The improvement measures to the tasks identified through people's suggestions and business proposals are ultimately confirmed at the 'Regulatory Reform Ministerial Meeting' presided by the Prime Minister, following a series of expert review, consultations between ministries concerned, public hearings and also site investigations. Over the three years since its establishment in 2004, the RRTF has identified 57 bundle regulations such as factory establishment, golf course licensing, logistics facilities investment, and invigoration of tourism and leisure industry as strategic tasks and has prepared improvement solutions.

In the case of developing new or reinforcing existing regulations, the Basic Act on Administrative Regulation limits to less than 5 years the minimum necessary continuance period of a regulation for achieving its objective, unless there are clear reasons why such regulation must be maintained, by including a sun-setting clause. In the case of extending the period of a sun-setting regulation, a revised bill must be submitted to the National Assembly six months prior to the sun-setting of the regulation. As of 2007, the sun-setting clause applies to 45 regulations. As a variation to the sun-setting provisions, the RRC may order a compliance review of a certain regulation after exceeding a certain period of time, or may demand the regulatory situation be reported. In such case, the RRC comprehensively integrates the review results after a certain period and decides on whether to maintain, improve or abolish a regulation.

**B4. To what extent are rules, regulatory institutions, and the regulatory management process itself transparent, clear and predictable to users both inside and outside the government?**

According to the Administrative Procedure Act, ministries must announce new regulatory proposals and legislations in the government gazette or on their internet homepage for a minimum of 20 days when enacting or amending related laws and regulations. During the notice period, anyone can submit their opinions regarding the enactment or draft revision of a law or regulation. According the Basic Act on Administrative Regulations, the Regulatory Reform Committee ( RRC) makes public the bills it reviews, the review results and other regulatory review process through the homepage. Also it is compulsory to make public a White Paper on the status of regulatory reform each year.

The current laws and policies of each ministry can be found at the Ministry of Government Legislation homepage (<http://www.moleg.go.kr>) or the respective ministry homepages. Also, according to the Basic Act on Administrative Regulation, each ministry has to register with the RRC the name, details, legal basis and processing body regarding the regulation of its responsibility. The RRC will draw up and publish a list of regulatory operations and also form a database in a computer system to be published on the internet homepage (<http://www.rrc.go.kr>).

Through such regulatory registration system, information on the general regulatory situation can be obtained, however, there are limits to showing the interrelation between regulations. Especially, it is difficult to grasp the regulatory details of a regulation where a number of laws and complex procedures of competent ministries are intricately linked. In this regard, a regulatory map, inclusive of the regulatory system, process and related necessary documents, is being drawn up to allow an understanding of the series of regulatory processes at a single glance. Two pilot regulatory maps in the areas of 'factory construction' and 'multi-family housing building' were drawn up in 2006. There are plans to prepare the regulatory maps for other areas where the great effects on the lives of the people are big, based on this initial attempt. As of 2007, there are regulatory maps currently being prepared for 10 sectors, and these maps will be readily available on the RRC's homepage to allow even more convenient access and use by the public and businesses.

**B5. Are there effective public consultation mechanisms and procedures including prior notification open to regulated parties and other stakeholders, non-governmental organizations, the private sector, advisory bodies, accreditation bodies, standards-development organizations and other governments?**

According to the Administrative Procedure Act, each ministry should collect the opinions of the public for 20 days through a notification of pending legislation when newly establishing or revising laws and proposed regulations. The purpose of the notification is to secure fairness, transparency and reliability of the administration through administrative participation of the public. It has become compulsory to simultaneously announce the Regulatory Impact Analysis (RIA) along with the notice of pending legislation since July 1, 2006. Therefore, regardless of law or subordinated statutes, the need to develop a new regulation, the cost and effects, alternative means, required budget, human resources all have to be analyzed and opened to the public. Anyone can comment on these and a public hearing for stakeholders are also held, if necessary. The Regulatory Reform Committee (RRC) must consider the suggestions of stakeholders in the regulatory review process. Also, if there is a need, the RRC sometimes invites stakeholders to its deliberation sessions to hear directly the opinion of these people.

In order to revive the Korean economy and to raise the level of regulatory reform efforts felt by the public and businesses, the RRC identifies various regulatory reform proposals through many different routes. The RRC has formed a cooperative system with the five major economic associations since 2000, and has been periodically receiving regulatory reform proposals and providing improvement measures to them. A total of 1,093 tasks have been received over 17 rounds, and improvements have been made on 543 cases (49.7%).

Furthermore, a regular consultation channel is operated between the RRC and foreign chambers of commerce in Korea in order to reflect the opinions of foreign businesses. Especially in the case of the American Chamber of Commerce, a total of 36 proposals were received and processed through numerous rounds of friendly gatherings since June 2005.

As was mentioned in Question A6, there is a plan to make concrete the criteria regarding the method and procedure of collecting the opinions of the public, considering the details of the suggested law and stakeholders, in order to minimize the discretion each ministry has over the notice for the proposed legislation and to allow for sufficient reflection of the public opinion. The government also has a plan to make public the people's opinions regarding the notice on the proposed legislation and the government's responses to these suggestions, in order to promote discussions on proposed laws and draft regulations and to enhance transparency.

**B6. To what extent are clear and transparent methodologies and criteria used to analyze the regulatory impact when developing new regulations and reviewing existing regulations?**

In order to develop a new regulation or reinforce an existing regulation, regardless of the type of legal form, be it law, enforcement decree or rules, each ministry must conduct a Regulatory Impact Analysis (RIA). And the Regulatory Reform Committee (RRC) reviews the feasibility based on the RIA. Article 7 of the Basic Act on Administrative Regulation makes it compulsory to review the possibility of realizing the regulatory objective, the existence of an alternative measure, whether there are overlaps with existing regulations, cost and benefit comparison and analysis, existence of competition restrictive elements, objectivity and clarity of regulatory details in the RIA.

Based on the RIA prepared by each ministry, the RRC should review (1)the regulatory objective and anticipated results (2)clarity of regulation (3)whether consultation with stakeholders was held (4)the impact on competition (5)and anticipated problems in the regulatory enforcement process. The RRC recommends that ministries withdraw or improve the draft regulations if the result of the review does not recognize the justification for such action.

Due to the characteristics of the public sector in that it is difficult to make quantitative measurement, the RIA has been focused on qualitative analysis. But in areas such as environment and construction, there are gradual developments towards quantitative analysis. In 2005, as a measure to reinforce the cost-benefit analysis in the RIA, the 「Regulatory Impact Analysis Manual」 was published and distributed to all ministries. Also there are basic and expert training programs for government officials to enhance the expertise of regulatory policies such as the RIA.

However, as regulation drafters still express lots of difficulties in drawing up the RIA, there are plans to dispatch related experts to all ministries to provide analytical training for RIA drafting and to induce substantial RIA by providing a RIA pilot model, in addition to RIA related lectures and discussion type training.

## **B7. How are alternatives to regulation assessed?**

The ministry that drafts the regulations must consider a practicable regulatory alternative from the early initial stages where the introduction of a regulation is reviewed. It is because one of the Regulatory Impact Analysis (RIA) review criteria is whether there exists an alternative to regulation and whether there are overlaps with existing regulations. This provision consists of three evaluation criteria which are (1) whether it is possible to substitute with an existing regulation (2) whether the objective can be attained through a different method other than regulation (3) and whether it overlaps with a similar existing regulation.

「The Manual for Developing Regulatory Alternative」 was published in 2005. The content of the manual includes (1) the process of selecting a regulatory alternative (2) the types and examples of regulatory alternative (3) regulatory alternative manuals of developed countries. By distributing this manual to all ministries, the Regulatory Reform Committee (RRC) is inducing the policy decision makers to select the most efficient and effective policy tool among all regulatory and non-regulatory tools.

## **B8. To what extent have measures been taken to assure compliance with and enforcement of regulations?**

According to the ‘Regulatory Compliance Examination Guideline’ that was prepared in 2002, all ministries have to conduct compliance reviews on 1 or 2 major regulations and report of their outcomes to the RRC. Those regulations with low compliance should be abolished or a new alternative to the regulation should be presented.

Since 2006, ‘Regulatory Reform Monitoring Agents’ have been selected for each sector and monitoring has been conducted on regulatory reform achievements. A total of 30 monitoring agents who have been selected in 10 areas such as construction and transportation, environment, health and welfare, have been monitoring the regulatory reform efforts and achievements, the effects and side effects of regulatory reform and others. User oriented regulatory reform policies that reflect the monitoring results are expected to contribute to enhancing the level of regulatory compliance.

In order to support regulatory compliance of businesses, there are plans to introduce a system that measures regulatory compliance costs and reduce them by minimizing procedures, improving guidelines and introducing a one-stop service.