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GOVERNANCE OF EXTRACTIVE INDUSTRIES

IN THE REPUBLIC OF KOREA:

A BRIEF INTRODUCTION

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**Introduction**

Economy of the Republic of Korea (ROK) in terms of GDP was 29th largest in 1962 in the world, but is now 15th (*1,2*), due to the state government’s policy focusing on real GDP growth. From 1962 to 1994, the state had achieved an average of 10% annual GDP growth (*3*). The domestic extractive industries, especially of coal and a number of minerals, including tungsten, talc, lead, zinc, iron, gold, and limestone, undoubtedly contributed significantly to such a rapid economic growth, but unfortunately most of those resources are now depleted.

ROK consumed about 279 million TOE of total energy (*4*) and 23 billion USD worth of minerals in 2012 (*5*). More than 96% of the annually consumed resources are supplied from overseas. Domestic mining contributes merely less than 1% of total GDP (*4*,*5*). This heavy dependence of Korean economy on the imported resources leads the state to have policies emphasizing the overseas resource development and investment while enhancing the capability of domestic extractive industries for strategic reasons (*6*).

As is in other countries as well, extractive industries have been always a crucial part of the state’s economy. Good governance of the extractive industries is thus essential for the state to have not only safe, sound, and robust economy, but also good relationships with neighbor countries to bring active collaborations for the prosperity in the region.

This report briefly summarizes the governance of extractive industries in ROK, which may help a number of different parties understand how they should operate and collaborate in resource businesses, including development, investment, and trading with ROK.

**Policies and Measures**

*Generals*

The Ministry of Trade, Industry and Energy (MOTIE) set up the general directions of the policies of resource development as below (*6*);

* expanding financial aids from private sector for the promotion of extractive industries,
* continuing consolidation and specialization of the resources-development public corporations,
* strengthening the cooperation in energy and mineral resources with the promising resource-rich countries through summit diplomacy or ODA, and
* strengthening the infrastructure handling information, training professionals, and upgrading technology in the resources development.

The following measures are being implemented to go along the directions:

1. **Increasing financial aid through government and state-run banks** which will allocate most of the loans to the private companies and introduce various financing programs, e.g. reserve based financing (RBF) and syndicate loans, to develop overseas resources.
2. **Raising more private funds by rewarding tax benefits**, including expanding tax exemption and postponing the deadline of repayment, while collecting a matching resource-develop funds contributed from the public-companies having the corresponding specialties.
3. **Creating large-scale projects through well-coordinated cooperation between public and private sector**. Public corporations are advised to be consolidated through possible M&A and participate something like “Korea consortium” with private resource-related and general trading companies, being capable of launching gigantic multipurpose projects
4. **Securing REE resources**, which is nominated as one of the six quasi-strategic minerals and absolutely essential for the smelting and other advanced technology industries of today.
5. **Strategically designing cooperation customized to each energy-mineral rich partner country** and supporting overseas resource development with the know-hows and networks obtained from ODA
6. **Encouraging diverse packaged resource development with multiple parties** through a pan-governmental supporting system and reducing investment risks of the private companies by expanding financial aid and sharing the risks with the public companies.
7. **Reinforcing more investment to obtain the infrastructure** of gathering the information both from on/off line network, funding the Specialized University for Resource Development (SURD), and increasing R&D budget on overseas resource development

For an efficient carry of these policies and measures, the state established Resources Cooperation Committee consisting of Minister and Vice Minister of MOTIE, CEOs of public and private resource companies, and presidents of the research institutes of the corresponding specialties who discuss all the policies, information, and collaborations in extractive industries. The state also launched programs for human resource cultivation in oil and mineral development. The program includes designation of 10 SURD for a long term training and establishment of Academy of Resource Development for a short-term training to produce resource expert.

*Promoting Domestic Extractive Industries*

Although domestic mining takes minimum fraction of GDP, it is strategically significant to maintain the mining operations of some critical minerals. The state recognizes that the domestic mining should be environmental friendly and gain more competitive edges through technical improvements and innovation, while she has to be providing a reasonable supporting system quickly and appropriately reacting to the changes in the resource market conditions. Complying with these requisites, MOTIE pursuits a number of projects focusing on the following subjects

* Basic surveys and reevaluation of the potential resources
* Promotion of exploration and efficient development of the metal deposits
* Upgrading of the equipment for better productivity of active mines
* Heightening the added-value and strengthening the competitiveness by providing more funds to R&D
* Pushing up the business to higher-levels by creating more added-values
* Training to obtain more experts in the corresponding area
* Providing enough safety facilities to prevent mine casualties
* Minimizing ‘resources curse’ for the sustainable resources development
* Introducing further automation and informatization of mining management system
* Taking advantage of more electronic commerce by standardizing the qualities of (mine) products
* Having regular meeting of private-public sector joint council to promote more investment in extractive industries
* Improving laws and regulations for the advanced governance of the extractive industries

It may be worth noting that much of the domestic development funds put on the continental shelf and gas hydrates projects

*Promoting Overseas Resource Development*

Among many factors controlling the success of overseas resource development, the two most significant ones should be the governance of the extractive industries in the host country and the supporting system in the home country. The former is obviously out of scope of this report and thus the latter in ROK is briefly described here (*6,7*). Taking advantage of the supporting system, one should report development plan and obtain an admission from the Minister of MOTIE beforehand any investment practices. The legal matters on this overseas development will be briefly described in the next section.

The most prominent support the developer can get is the financial aid in various forms of financings, loans, funds and insurances. The public corporations can obtain loans covering up to 100% of their total budgets from Energy and Mineral Resources Development Association of Korea. In a special case of so called “Fire-Success-Loans”, the development company needs not to return the money, if it fails. This is just one of the many examples of risk sharing by the governments to boost up the overseas resource development by not only public corporations but also private companies. The development companies are often entitled to tax exemption or abatement for the profits from the investment in the overseas resource development.

**Current Legislation and Regulations**

*Generals*

Among many laws and regulations related to the extractive industries, Mining Industry Act is the fundamental law, defining most of the actions in the field. Looking up significant articles in this law, Articles 9-2, 41, and 42 state how to register mining right, Article 69 ensures the compensation for losses arising from entering and using land, Article 75 defines the types of damages due to mining which must be compensated by the mining right holder, and Articles 87 and 88 describe the collection of the charges for the mining products,

Other laws and regulations closely related the extractive industries are

* Enforcement Decree of Mining Industry Act,
* Mining safety Act,
* Enforcement Decree of Mining Safety Act,
* Presidential Decree of Mining Registration,
* Enforcement regulations of Presidential Decree of Mining Registration,
* Submarine Mineral Resources Development Act,
* Enforcement Decree of Submarine Mineral Resources Development Act, and
* Coal Industry Act.

Among the laws and regulations listed above, Mining Safety Act is the law enforcing the duties of mining right holders to prevent any mining hazard, environmental degradations, casualties, and others by Articles 5, 9, 15, 19 and 21.

The primary law for the overseas resource development is Overseas Resources Development Business Act, which states the requirement of reporting development plan (Article 5), allows to raise “Resource Development Fund” (Article 11), and defines a few benefits for the investors (Article 13-8). The associated Enforcing Decree of Overseas Resources Development Business Act described the required forms and documents for the reporting (Article 2), business feasibility assessment (Article 7) and complement of the development plan (article 5-2).

*Human Rights*

ROK shall be a democratic republic (the Constitution, Article 1). The report from the annual survey of political rights by Freedom House in 2013 grouped ROK to “FREE” countries, giving the rate of 1 and 2 out of 7 for the categories of political rights and civil liberties, respectively (*8*).

ROK is a free country indeed. The people’s basic rights, including freedom of residence, conscience, speech, press, assembly, and association and right of property, to vote, to receive education, to work, to have collective bargaining and action, and for clean environment, are all ensured by the Constitution, from Article 10 to 39 in Chapter 2. These basic rights are also well protected in the extractive industries, for example by Mine Industry Act, Articles 69 and 75. The rights of workers in extractive industries are also ensured by Labor Relation Commission Act as well. The state is trying to improve not only domestic labor conditions, but also in Asia and the Pacific and other parts of the world. Signing a one million USD funding deal with ILO this year is a good indication of such endeavor (9).

The state established National Human Rights Commission in 1997 on the ground of National Human Rights Commission Act and Enforcement Decree of National Human Rights Commission to ensure that inviolable fundamental human rights of all individuals are protected and the standards of human rights are improved. Thanks to the presence and role of this commission, ROK is classified as A, compliance with Paris Principle, according to the “Chart of the National Institutions Accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, accredited as of 28 January, 2014. (*10*)

*Environments*

Like in many other countries, environmental degradation caused by mining activities had been one of the most serious problems in Korea, especially around mining and its associated areas. In 1960s and early 70s, people was immersed in economic development, excavating natural resources from underground, while paying not too much attention to the environmental consequences from it. The details of this environmental problems and their remediation will be described in the later section entitled “Problems and Solution”. Soon after, however, it seemed obvious that reliable measures to solve these environmental problems were urgently necessary.

In 1980, Ministry of Energy and Resources (MER, currently MOTIE) funded 161 million KRW for mine reclamation for the first time (*11*). Seven years later, Coal Industry Promotion Board had been launched on the ground of Coal Industry Act and dealt with some of the environmental issues from coal mines. Complete handling of the environmental problems caused by mining activities started with the establishment of Mine Reclamation Corporation (MIRECO) in 2006 on the basis of Mining Damage Prevention and Restoration Act. The purpose of the establishment of MIRECO is to effectively manage mine reclamation, coal supplying business, other regional development businesses to provide good living environment and contribute to the vitalizing the economy. In the meantime, laws and regulations related to the mining damage have been amended to accommodate recent environmental requirements.

Now the mine damages are strictly monitored and remediated. Mining right holders should prevent any mining hazard, environmental degradations, casualties, and other damages (Mining Safety Act, Articles 5, 9, 15, 19 and 21). If there is any damage or loss by the mine activity, it should be compensated by the mining right holder (Mining Industry Act, Article 75). If there is any environmental degradation, the Minister of Environment may recommend matters necessary for the prevention of mining damage to the Minister of MOTIE (Mining Safety Act, Article 19-3). Before doing any prevention measure, carrying out an Environmental Impact Assessment would be a good practice. The details of the assessment are defined by Environmental Impact Assessment Act, Enforcement Decree of Environmental Impact Assessment Act, and Enforcement Regulations of Environmental Impact Assessment Act.

ROK has signed more than 100 international environmental conventions and protocols (*12*). A few significant ones regarding on the environment in mining areas listed below:

* International Plant Protection Convention
* Plant Protection Agreement for the South-East Asia & Pacific Region
* Convention on Wetlands of International Importance Especially as Waterfowl Habitat
* Convention on Biological Diversity

The state is trying hard to follow international environmental standards and guides to bring better environment with sustainable development.

*Transparency*

The account transparency of government bodies, state-run organizations and institutions, and public-corporations and companies are being very much demanded by

* Regulations on the Accounts of Public corporations and quasi-governmental institutions, Article 14,
* National Accounting Act, Article 1,
* Framework Act on National Taxes, Article 80,
* Local Finance Act, Article 1,
* Enforcement Decree of Local Finance Act, and
* Board of Audit and Inspection Act,

but the transparency of private companies account is somewhat cloudy. According to Heritage Foundation’s 2014 Index of Economic Freedom, Korea ranked 31st among 178 countries, rated 71.2 out of 100, increased by 0.9 in comparison to the figures of the year before, and categorized under the second best group titled ‘mostly free’ countries (*13*).

Since ROK is resource-poor country, she is included neither in Resources Governance Index ratings by Natural Resource Governance Institute (*14*) nor in the countries signing EITI (*15*). KOGAS is currently the only Korean company being one of the stakeholders of EITI. N. Kwak insisted that more Korean companies should join EITI as stakeholders to achieve good transparency of international standards (*16*).

**Problems and Solutions: An Example of Abandoned Coal Mine Problems**

Numerous coal mines had been operated all over the country by early 1980s (*17*). Most of these coals mines had been operated for more than 30 years since early 1950s and consequently depleted all the shallow coal seams. As a result, the coal mines demanded more cost for operation and became unprofitable as mining encroached on deeper levels. Korean government started to close these unprofitable coal mines from 1980 through enforcing the policy so-called “Coal Industry Rationalization”. Since then more than 90% of the coal mines have been closed and just a few will survive in a near future.

Environmental degradation was surely recognizable when most of the coal mines were operated, but became a lot worse after the mines were closed. Most of the coal mines were abandoned with mine adits left void which were eventually filled with groundwater. This groundwater contained dissolved oxygen and reacted with sulfides to produce acid mine drainage. The acid mine drainage made the stream aesthetically bad by precipitating iron compounds (so called ‘yellow boys’) on the channel bottom and almost completely destroyed the aquatic ecosystem in the stream by removing the dissolved oxygen and polluting the water with acids and many toxic heavy metals (*18*). Subsidence due to the underground void mine adits were also commonly experienced all over the abandoned mine areas, which often caused cracks on the buildings, road, bridges and other structures and bent the railroads to make trains derailed.

The first long term project dealing with the mining damages started from 1982, carried out under the title “5-year Overall mine area developing projects”, which managed piles of goaf, remediated mine drainages, and monitored suspended airborne particles (*11*). The legal basis of this project was amending Mining Safety Act. In 2005, Mining Damage Prevention and Restoration Act was enacted, which became the primary law for the reclamation of all spectra of mining damages. After then, MIRECO on behalf of the government dealt with acid mine drainage, subsidence, abandoned mining equipment and structures, and other problems. The natural environment of the mining areas is now quickly recovering and being close to the one before the mining.

Social and economic impacts to the local people might be harsher than the environmental impacts. Closing coal mines triggered massive unemployment, big decrease in population, and ultimately contraction in consumption and investment with extreme shrinkage of economy. To boost up these struggling communities, Special Act on the Assistance to the Development of Abandoned Mine Areas was legislated in 1997. The purpose of this Act is to promote the economy of abandoned mine areas that is depressed following the decline of the coal industry and to help balanced regional development and to improve the living standard of the residents in such abandoned mine areas. It designate Abandoned Mine Area Promotion District and help this district accommodate various kind of development projects and alternative industries.

**Summary**

ROK’s economy is heavily dependent on extractive industries and the state is definitely resource-import country. The amount of annual resource consumption of ROK is 9th largest in the world, but more than 96% of the resources are coming from overseas. Although considerable amount of funds is invested to the domestic resource development, the policies place much more weight on the overseas resource development. Thanks to various types of benefits, including financing and tax abatement, offered to the overseas resource developer, the business setting from ROK part might not be any better than now. Besides ROK has generally good governance of extractive industries.

For a successful overseas resource development, the governance of extractive industries of host countries are essential. ROK has excellent experiences in natural resource development with high level technology and supporting system. With this quality, ROK seeks for partners of international collaboration in resources development to bring prosperity not only in Korea, but also other regions of the world in peace.

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