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Master's Thesis of GMPA

Analysis on Anti-Money Laundering
Policy Making Process in Korea
: Policy network perspective

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Abstract

In Korea, anti-money laundering policy was introduced on November 28, 2001 with the enforcement of ‘the act on report on, and the use of specific financial transaction information’ and ‘the act on regulation and punishment of criminal proceeds concealment.’ The anti-money laundering policy is a collective system of various preventive and suppressive measures taken by the government and the private sectors to prevent money laundering in a wide range of areas including legislation, criminal investigation, financial supervision and financial activities.

This study analyzed the introducing process of anti-money laundering policy in Korea. This study demonstrated how various policy actors interacted in policymaking process and how these interactions affected policy outputs using the policy network analysis.

The analysis classified factors into policy environment factors, policy network factors, and policy output. Social awareness on policy problem, political and economic situations, and international context were considered as sub-components of the policy environmental factors. As a policy network factor, actors, the interaction among actors, and the structure of the policy network were considered. After that, analysis on the impact of these factors on the final policy output was conducted. For more detailed analysis, the process of introducing an anti-money laundering system is analyzed by dividing it into three periods based on significant changes in policy network.

In the first period, with the introduction of the real-name financial system, the need to prevent money laundering began to be discussed. The main policy actors of this period were civic groups and some lawmakers in the National Assembly who shared same policy goal, and the government and political parties still had a lukewarm attitude to enact anti-money laundering legislation. Actors were in conflict while disagreeing over the ultimate policy goals and there was no influential actor who could coordinate conflicts and make it possible to reach agreement. Policy network in the first period defined as a decentralized conflicting

network and under this network structure, conflicts between actors had been prolonged and fail to reach to policy output.

In the second period, the government changed its policy goal and announced to introduce the measures which complement the real-name financial system and the anti-money laundering system to prevent illegal financial transactions. The government and civic groups shared common goal of introducing the system though they had differences over details. However, the political parties strongly opposed the policy adoption, actors showed conflicting interaction. It was hard to find a major actor who would act as a coordinator in the policy network at this time. The policy network was a decentralized conflicting network, and the conflict between actors was prolonged. Conflicts became intense as issues such as supplementing the real-name financial transaction system and disputes over the responsibility of the economic crisis were discussed along with the anti-money system, and the lack of influential actor to coordinate and mediate the conflicts led to failure in policy adoption and prolonged conflicts.

In the third period, NGOs, the government, and the National Assembly had a consensus on the policy goal of introducing an anti-money laundering system, but they differed on detail contents of the system. Thus, there were conflicts among civic groups, the government, and the National Assembly in discussing the details. Unlike the first and second period, there was a mediator who coordinated conflicts and made agreement. With this cooperative interaction and the existence of policy intermediaries, the policy network has changed from a decentralized conflicting network to a centralized cooperative network. Policy output has been successfully achieved through a coordination and compromise.

The implications of this study are as follows.

First, the type of policy network was a major factor determining policy output. In this study, the types of policy networks were classified by the pattern of interaction (cooperative/conflicting) and distribution of influence (centralized/ decentralized) to centralized cooperative network, centralized conflicting network, decentralized cooperative network and decentralized conflicting network. In each period, the type of policy network and the corresponding policy output were analyzed. The network was transformed into a centralized cooperative network and succeeded in

introducing the new policy.

Second, it could be seen how the policy environment affected the policy network and policy output. Changes in the policy environment brought changes in policy actors' goals and interests and affected the interaction pattern and lastly policy output. These environmental changes provided an opportunity for the debate on anti-money laundering to take place, and have intensified or complicated conflicts among actors. Also, these changed the goals and preferences of the actors and changed the patterns of interaction into cooperative. In the event of a prolonged conflict, these promoted the needs of active policy coordinator to solve the conflicts. However, the impact of the policy environment on policy network and policy output was limited and only affected policy output through the influence on actors. In addition when the policy environment didn't function as coercive force, it did not directly affect the actors' goals and interaction.

Third, the interests of policy participants have had a great impact on detailed policy output. The introduction of the anti-money laundering system and strong detailed regulatory measures were normative in terms of the public interest, enhancing transparency in financial markets and secure competitiveness of the national economy by preventing illegal fund flows. However, in the policy network, the interests of policy actors affected more importantly rather than the public interest and justification. From the beginning of the discussion, the details of the anti-money laundering system had changed continuously depending on the interests of the actors. The final policy output in the third period can be evaluated as the results of negotiations and compromise of actors' interests.

Finally, the existence of a policy coordinator was important not only when policy goals differed among actors, but also when common policy goals were shared. In the case of all policies, differences over details are inevitable. The role of a policy coordinator is critical to coordinating conflicts that may occur in the short term and reaching a final policy output.

Keyword : Money laundering, Anti-money laundering policy, Policy network.

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Chapter1. Introduction

1.1. Purpose of Research

The Purpose of this study is to analyze the introducing process of anti-money laundering policy in Korea. This study aims to demonstrate how various policy actors interacted in policymaking process and how these interactions affected policy outputs using the policy network analysis.

It is noteworthy that money laundering crimes have increased rapidly in relation to serious crimes such as organizational crime and terrorism, as well as drug crimes and tax evasion. With the globalization of international financial markets and the liberalization of capital mobility, the possibility of money laundering crimes is increasing and becoming a serious threat to disturb the national financial system.

Money laundering activities are transnational crimes that threaten the stability and competitiveness of the national economy by hindering the transparency of financial market and promoting corruption. In the international community, 'The United Nations Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)', and 'The United Nations Convention on the Prevention of International Organized Crime against Transnational Organized Crime', were enacted. Financial Action Task Force on Money Laundering (FATF) introduced 40 Recommendations in 1990 to combat money laundering.

In Korea, anti-money laundering policy was introduced on November 2001 with the enforcement of 'the act on report on, and the use of specific financial transaction information' and 'the act on regulation and punishment of criminal proceeds concealment.' Both of these laws were adopted by the National Assembly on September 3, 2001, and promulgated on November 28th, and enforced two months later.

The anti-money laundering policy is a collective system of various preventive and suppressive measures in a wide range of areas including legislation, criminal investigation, financial supervision and financial activities taken by the government

and the private sectors to prevent money laundering.

Since 1993, when the 'Financial Real-name System' was implemented, discussions on the regulation of money laundering activities had been ongoing, but it took a long time before the related laws were enacted due to conflicts among various actors. During this period, various actors such as the Ministry of Finance and Economy, the Ministry of Justice, the National Assembly, financial institutions, NGOs, and the business community repeatedly cooperated and conflicted participating in the process of establishing related institutions.

This study examines the introduction process of anti-money laundering system using policy network concept. Actors who participate in the policy network can be formal or informal. The policy network analysis is very useful for analyzing the interactions among these intricate formal and informal participants. This research analyzes the network of various actors, each actor's goal and preference, their strategies, interaction, and how all these factors influenced the final policy output. Policy environmental factors such political and economic situation and international context will also be considered.

According to existing studies, actors who participate in policy network, their strategies and preferences, interactions among actors, and network environments, have a significant impact on policy outputs, such as whether or not policies are introduced and what contents the policy would have. The study will analyze which factors had positively affected the policy adoption, which had delayed the introduction of policy, and which had had a significant impact on the introduction of policy and details of the policy.

1.2. Scope of Research

This study is a research on the introduction of the anti-money laundering system in Korea. The period of analysis is from January 1993, when the discussions started in earnest, until September 2001, when the laws were passed on the National Assembly plenary session.

The seriousness of expansion of underground economy and money laundering activities in Korea began to be recognized after the announcement of 'The urgent financial economic order on financial real name transactions and confidentiality' in 1993. Especially the necessity of introducing the anti-money laundering system was raised in 1994 after the former presidents' illegal political fund scandals occurred. In response, the Democratic Party submitted the 'The bill on money laundering regulation' to the National Assembly in December 1994, but it didn't succeed to be legislated because of concerns about economic contraction and deterioration.

Meanwhile, in December 1995, 'The special act on the prevention of illegal trafficking in narcotic drugs' was enacted to cope with drug trafficking, which was a serious social problem both domestically and internationally, and to join 'the United Nations Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances.'. In July 1997, the Ministry of Finance and Economy submitted 'The bill on real name financial transactions and confidentiality' and the 'The bill on anti-money laundering' to the National Assembly in accordance with the supplementary policy of the financial real name system. However, 'The bill on anti-money laundering' was automatically discarded with the expiration of the National Assembly's term of office.

Since 1990s, the pressure to strengthen the anti-money laundering system from the international community had continued and the necessity of introducing the anti-money laundering system to participate in international efforts had emerged. In April 2000, the planning group for the establishment of an external financial transaction information system was established under the Ministry of Finance and Economy. In November 2000, the Ministry of Justice and the Ministry of Finance and Economy jointly submitted 'the bill on report on, and the use of specific

financial transaction information' and 'the bill on regulation and punishment of criminal proceeds concealment' to the National Assembly.

The National Assembly held discussion about the bills, but failed to reach agreement due to differences in opinions on the details of the provisions. After one year, the bills finally passed the plenary session of the National Assembly in September 2001. The anti-money laundering system was introduced in Korea with the passage of two laws, and the Korea Financial Intelligence Unit was established on November 28, 2001.

For more detailed analysis, the process of introducing an anti-money laundering system is analyzed by dividing it into three periods based on significant changes in policy network.

The first phase is from 1993 to 1996, when the real-name financial transaction system was introduced and the need for introducing anti-money laundering system was formed in Korea. Bills were made by some NGOs and lawmakers. The second phase is from 1997 to 1999 when the government changed its stance. In July 1997, the government submitted 'The bill on anti-money laundering' to the National Assembly, but was automatically scrapped due to the expiration of the term of the 15th National Assembly. The third phase is from 2000 to 2001 when the related laws were finally passed after the government set up a planning group for the establishment of an external financial transaction information system.

The scope of the study is the overall introduction process of anti-money laundering systems in Korea. In particular, this study analyzes how the policy network on new policy issue of anti-money laundering was formed and changed, how the policy network as an informal institution affected the pattern of actors' policy preferences and interactions, and thus how it affected policy outputs. The factors that affect the policy output will be divided into policy environmental factors and policy network factor. This study analyzes the international environment surrounding the policy adoption as well as the political and economic environment. Through the policy network analysis, this study will examine which actors participated, what their goals were, and what patterns of interaction they had, and how these factors affected on policy outputs.

1.3. Research Method

This study examines which actors have participated in the introduction process, what policy objectives they have, how they interacted, and how these interactions have affected policy outputs throughout the whole introduction process. For the analysis, theoretical analysis and case studies will be conducted.

First, major concepts and policy implications are derived from the review of existing academic researches on the policy network. Next, a case study on the adoption of the anti - money laundering policy will be conducted through policy network analysis.

The data required for case studies were collected through a literature review, and legislations made during the introducing process of the anti-money laundering system, parliamentary minutes and reports on bills, materials on public hearings and discussion, statements from actors, press releases and media papers.

Chapter2. Theoretical Background

A policy-making process is a process in which various actors participate and act to reflect their goals or interests in a policy and produce policies through a the interactions among actors.

This study assumes that policy environment, actors, and interaction among the actors have significant impacts on policy outcome and analyzes the adoption process of anti-money laundering policy with the policy network analysis.

In this chapter, through the theoretical research, framework of analysis will be set.

2. 1. Policy Network

1) Concept of Policy Network

According to prior research, the concepts of policy networks vary according to scholars. Policy network is defined as 'a set of informal rules that regulate the interaction between the government and the organized interests' in view of the policy network as an institution (Blom-Hansen, 1997), 'the interaction between various actors with individual interests participating in the policy process and linking them to mutually dependent interaction (Song Hee-joon, Song Mi-won, 2002) and 'the structure of interactions of various formal and informal actors who participate in the policy-making process to influence the policy outputs (Kim Kyung-joo, 2003).

The characteristics of the policy network concept through prior researches are, various formal and informal actors who participate in the policy-making process, the interaction among actors with various goals influences based on the dependence of resources, the effect of the patterns of interaction on policy output, and the relationship between policy network factors and external variables (e.g. environmental factors), especially in recent researches. (Sung Wook-joon, 2013)

In this study, policy networks are defined as a process in which various formal and informal actors interact and derive policies to achieve their policy objectives under a given environmental context.

2) Factors of the Policy Network Analysis Model

To analyze the policy-making process systematically using the policy network model, the composition of the model and the setting of the factors are required. Prior studies have used factors such as network structures, actors, influence and resource of actors, type of interactions, and etc.

Recent studies have shown that each study uses different factors and sub-indicators, but in common actors, interactions, and network structures are used.

<Table 1> Factors of policy network

| Researcher | Factor | Subfactor | Content |
|---|-----------------------------|-----------------------------------|--|
| Song Hee-joon, Song Mi-won (2002) | Actor | Number | Number of actors |
| | | Type | Governmental sector or non-governmental sector |
| | Degree to resource sharing | Cooperative | High degree of resource sharing |
| | | Conflicting | Low degree of resource sharing |
| | The existence of main actor | Centralized | There is a main actor who has dominant influence to other actors. |
| | | Decentralized | There is no main actor and the actor is influenced and subjected each other. |
| Song Mi-won, Kwon Ki-chang (2003) | Actor | Number | Number of actors |
| | | Type | Governmental sector or non-governmental sector |
| | Interaction | Cooperative /Conflicting | Degree of resources sharing to pursue the same goal |
| | | Intersector/ Within the sector | Intersector, within the sector |

| | | | |
|---|-------------|--|--|
| | Structure | The existence of main actor | Centralized/Decentralized |
| Kim Soon-yang (2005) | Interaction | Pattern | Cooperative /Conflicting |
| | | Strategy | Strategy |
| | Structure | Composition of membership, leading actor, understanding of actor, compliance with game rules | |
| Yoo Dae-sun (2004) | Actor | Initiative of public sector | Does the public sector lead the policy network or the private sector lead the network? |
| | Structure | Concentration level | The degree to which one actor has a dominant influence on another in the decision-making process |
| | Interaction | Degree of conflict | Degree of conflict between actors |
| Park Sang-won, Kim Jae-young (2006) | Actor | Scope | Type and number of actors |
| | | Role and function | Leading/ supportive |
| | | Purpose of participation | Motivation, interests |
| | Structure | Openness | Opened/closed |
| | | Connectivity | Vertical/ horizontal |
| | | Continuity | Continuous/ temporary |
| | Interaction | Frequency, pattern | Channel and frequency cooperative/conflicting |
| | | Influence | Degree of influence (strong, weak), source of influence |
| | | Coordination | Coordination mechanism, procedure of agreement |

| | | | |
|------------------------|----------------------------------|---------------------------|---|
| Lee Sang-bok (2012) | Actor | Actor | Number, type |
| | | Interest | Motivation, cost and expected benefit |
| | | Resource | Influence, leadership |
| | Interaction and flow of agenda | Level of interaction | The content, intensity, and rules of the interaction |
| | | Agenda setting | Agenda setter, agenda setting method |
| | | Strategy of raising issue | Symbolizing activity |
| | Structure of conflict in network | Structure of conflict | Cause and type of conflict |
| | | Centrality and density | Betweenness Centrality, closeness Centrality |
| | | Conflict management | Competition, avoidance, compromise, cooperation, acceptance |

(Resource : Sung Wook-jun, 2003, Revised)

(1) Actor

Actors participate in the policy-making process and exercise their resources and influence to reflect their goals and interests. Actors as a factor is subdivided into the number of actors, types of actors, their policy objectives, and available resources that they can mobilize. The number of actors participating in the policy network determines the size of the policy network. The type of actors means whether they are government-sector or private-sector. Type of actor has a significant impact on the resources and official authority of actors. Resources are sources of influence that an actor can use to achieve policy goals, which are generally divided into official power resources guaranteed through systems such as administrative, legislative and judicial power, and informal power resources such as expertise, information, public opinion and political pressure. Actors use

strategies which are the way they use their resources and influences to achieve their goals. Differences in resources could result in differences in the influences of actors in policy processes, which also affect network structures and policy outputs.

(2) Interaction

Interaction is the process by which actors relate to other actors to achieve their policy goals. Actors use their resources to achieve policy goals, and the pattern of interaction in this process can be largely divided as cooperative and conflicting interactions. The pattern of interaction appears in the form of cooperation when each actor's goals are similar. On the other hand, conflicts tend to arise when the goals among actors differs each other. As well as the pattern of interaction (cooperative and conflicting), the existence of influential actor, the direction and rules of interaction (one-sided, two-way), and the frequency and duration of the interaction affect policy output. For example, the goal and preference of the influential actor are likely to lead policy adoption and determine the contents of policy. The actors in the policy network learn about the contents and need of the policy adoption, related knowledge, and the policy effect through the interaction, which can lead to changes in behavior.

(3) Policy Network Structure

Policy network structures refer to specific forms and patterns of networks that are derived as interactions between actors continue. Policy network structure is formed by the interaction of actors, but such structure serves as a constraint or incentive to actors. Sub-factors to classify the network structure are various, primarily: openness of the network (open or closed to the participation of other actors), connectivity (whether the relationship between actors is vertical or horizontal), persistence of interaction (whether the interaction is constant or transient), and the presence of main actors (whether one actor exercises dominant influence while playing a important role). These factors determine different types of network structure. (Sung Wook-joon, 2013)

3) Types of Policy Network

The types of policy networks should be distinguished in advance because each policy network affects policy outcomes differently. The types of policy networks can vary according to the classification criteria, and the existing studies vary the types of networks based on criteria such as openness of the network, connectivity, frequency and persistence of interactions, and the presence of main actor.

The classification of policy networks which is most commonly used is Marsh & Rhodes (1992) classification. Marsh & Rhodes (1992) classified the policy network into policy community and issue network, and explained two types according to the four criteria of membership, interaction, resource, and power.

A policy community is a solid network in which a small number of participants share basic values and exchange resources. According to Marsh & Rhodes (1992), in policy community, actors have a consensus on policy preference, value, and ideology. Negotiations and exchanges are also created among members with resources within the policy community. In other words, there is a consensus on the purpose and the value among the actors, the relationship between the few actors is stable, and the coherence among them is very high. Because there are shared beliefs and value systems, they evolve toward avoiding sudden policy changes and sharing interests.

To summarize the characteristics of the policy community, there are limited number of participants, frequent interactions among participants, continuity of membership, value and policy outcomes, consensus among participants on ideology, values, policy preferences, interaction through actors who have resources and power.

An Issue network is a loosened form of a policy network that is temporarily formed among policy actors when specific policy issues are raised. The distinctive features of an issue network are its large number of participants and their limited degree of interdependence (Marsh & Rhodes, 1992). Hecló (1978) defined issue networks as a shared-knowledge group that ties a large number of participants with technical expertise together. Participants do not need to be aware of each other and have a low level of interdependence or cohesion. The boundaries between the

network and environment are unclear and open to external participants. Therefore, new associations are formed from time to time as the issue progresses.

The issue network differs from the policy community as it is characterized by a large number of participants, low continuity of membership, values and policy outcomes, flexible interaction and unequal power relationships.

<Table 2> Types of policy network: policy community and issue network

| Dimension | | Policy Community | Issue Network |
|-------------|---------------------------|---|--|
| Membership | Number of participants | Very limited number, some groups consciously excluded | Large |
| | Type of interest | Economic and/or professional interests dominate | Encompasses range of affected interests |
| Interaction | Frequency of interaction | Frequent, high-quality interaction of all groups on all matters related to policy issue | Contacts fluctuate in frequency and intensity |
| | Continuity | Membership, values and outcomes persistent over time | Access fluctuates significantly |
| | Consensus | All participants share basic values and accept the legitimacy of the outcome | A measure of agreement exists but conflict is never present |
| Resources | Distribution of resources | All participants have resources, basic relationship is an exchange relationship | Some participants may have resources, but limited and basic relationship is consultative |
| | Distribution of resources | Hierarchical, leaders can deliver members | Varied and variable distribution and capacity to regulate members |
| Power | | A balance of power between members. One group may dominate, it must be a positive sum game if community is to persist | Unequal powers, reflects unequal resources and unequal access. It is a zero sum game |

Source: Marsh & Rhodes (1992)

After then, efforts have been made to explain changes or differences in policy output through the classification of types of policy networks. Song Hee-joon and Song Mi-won (2003) classified the policy network into centralized cooperative network, centralized conflicting network, decentralized cooperative network, and decentralized conflicting network, and analyzed the change in type of policy network and its effect on policy output. This research used two criteria: the pattern of interaction and the presence of influential actor. First, depending on the pattern of interaction, it becomes a collaborative network if the interaction is cooperative, on the other hand, it becomes conflicting network if the interaction is conflicting. Actors try to use their influence based to reflect their policy goals and preference in the policy output. When there is a powerful actor who strongly affects policy output, the network is a centralized network. There is no powerful actor, the network becomes decentralized network.

Sung Wook-joon (2003) analyzed how the type of policy network affected policy outputs, suggesting that policy outcomes are likely to be derived from a centralized cooperative network.

<Table 3> Type of policy network by interaction pattern and distribution of influence.

| | | Pattern of interaction | |
|--|---------------|-----------------------------------|-----------------------------------|
| | | cooperative | conflicting |
| Distribution of influence, existence of powerful actor | centralized | centralized cooperative network | centralized conflicting network |
| | decentralized | decentralized cooperative network | decentralized conflicting network |

Source: Sung Wook-joon (2013)

The policy network structure has a significant impact on the policy-making process and policy output. First, in case of centralized cooperative network, there is a major actor with great influence and all actors share common policy goals. In this case, the influential actor takes a role as a mediator and coordinator. Actors reach policy output that each actor would be satisfied with in relatively short time.

Second, in centralized conflicting network, there is strong main actor, but there are conflicting goals among actors. In this case, although policy outputs may be

derived through coordination and mediation of the main actor, the interests of some actors are likely to be ignored in the policymaking process and there may be potential conflicts even after the policy adoption.

Third, decentralized cooperative network does not have a powerful main actor, but a collaborative interaction occurs as policy objectives are shared among actors. In this case, the policy is produced through mutual cooperation and coordination of interests by actors, but the policy contents and required time for policy adoption vary depending on the extent to which actors share their goals.

Finally, in decentralized conflicting network, there are no strong main actor and actor conflict each other with different policy goals. In this case, actors are often unable to reach mutual agreement, and likely to fail to introduce policies, while continuing the conflict without a coordinator.

2.2. Framework of Analysis

1) Variables of Analysis

To analyze the anti-money laundering policy making process, it is necessary to select variables that have influenced the process. The variables of the analysis are largely divided into the environmental factors, which are the external factors, and the policy network factors, which are the internal factors. The level of social recognition, political and economic situation, and international context are classified as the environmental factors and actors, policy network structures, and interactions are classified as policy network factors.

Finally, the analysis on the policy outcome, which is the final product of the interaction, also will be conducted.

<Table 4 > Variables of Analysis

| Dimension | Variable | Content |
|--------------------|-----------------------------|--|
| Policy Environment | Level of social recognition | Public awareness of money laundering crime |

| | | |
|----------------|-------------------------------|--|
| | Political· economic situation | Political opportunities such as corruption scandals, Economic crisis |
| | International context | Pressure from international organizations, Legislative Trends in Major Countries |
| Policy Network | Actors | Number of actors, Motivation, Policy Goal, Strategy, Resources. |
| | Interactions | Interaction patterns of actors, the influence of the leading actors |
| | Policy network structures | Centralized cooperative network Centralized conflicting network Decentralized cooperative network Decentralized conflicting network |
| Output | Policy | Enactment of related laws and contents |

(1) Policy Environment

The policy network model focuses on actors, the interaction among actors participating in the policy network, the policy network structure, and the effects of above Factors on policy output. However, not only the above policy network factors, but also the environmental factors surrounding the policy network also affect the policy network factors, ultimately affect policy output. Therefore, this study includes the policy environment factor as an analytical component.

Policy environment includes the recognition of the public about seriousness of money laundering crime, the political and economic situation, and the international context. However, unlike the past analysis of the policy network in which external factors directly change the policy network, in this study, it is considered as external factors which affect the policy network through influencing the actors' goal and strategies.

- Level of Social Recognition

As the policy maker perceives a particular problem as serious in society, the

possibility of choosing policy as a policy agenda becomes greater. Systematic indicators, dramatic events, and response to existing policies influence awareness of policy issues.

As policy-makers are aware of the limitations of the effectiveness of existing policy alternatives, the more seriously they perceive the negative impact of money laundering behaviors, the more they will actively consider alternatives. There is also the possibility that it will be greatly affected by decisive events such as accumulation of slush funds by the former president and illegal fund concealment by the social leaders.

- Political and Economic Situation

Political and economic factors both influence policy decisions. Tarrow (1994) explains policy decisions using the concept of political opportunity structure. The political opportunity structure means the level of acceptance or weakness of the dynamics of the political system about the issues arisen by organized groups. He defines the changes in political opportunity structure as raising the possibility of access to power. Even if the power of the respondent group is weak, they can affect a significant impact on the policy outcome. He suggests that the political opportunity structure changes when the ruling coalition became unstable or changed, the influential allies emerged, or there are conflicts in dominant elite group (Tarrow, 1994).

The anti-money laundering policy is affected by the economic situation as well as the political situation because it brings huge changes the financial market. Just as financial real-name system was postponed due to concerns about economic contraction, strengthening regulations for preventing money laundering are also affected by economic conditions such as the financial crisis.

- International Context

The international community's efforts to prevent money laundering and organizational crimes become a constraint on the introduction of domestic anti-money laundering policies.

The FATF has already proposed 40 recommendations as international standards

for anti-money laundering policy. It is necessary to consider these criteria in introducing anti-money laundering policy. Also, pressure for introduction of anti-money laundering can be a positive factor for new policy adoption.

(2) Policy Network

- **Actors**

Those who are influenced by anti-money laundering policy or want to influence the policy participate in the policy making process in order to reflect their interests. In the anti-money laundering policy network, various Ministries and agencies such as Ministry of Finance, civil organizations, the National Assembly, and private financial companies which are affected by anti-money laundering regulations participate with different interests.

In the policy making process, actors have a specific preference for policy by calculating the profit and loss that a new policy will bring. If they believe that it would be beneficial to introduce anti-money laundering policy rather than maintaining the existing policy, they will support the policy. Therefore, it can be predicted that the more actors who have a positive preference in policy adoption, the easier it will be to introduce the new policy.

Actors in the process of introducing anti-money laundering policy are designated as those who participated in the introduction of the system, including the government, the National Assembly and civic groups. In addition, actors are assumed to be organizational level as aggregates of individuals or organizations that share the same policy goals than an individual level. If the policy objectives differ according to the party, even if they are all the members of National Assembly, each party is designated as an individual actor.

- **Interaction**

In the process of introducing anti-money laundering policy, actors in the policy network exchange their beliefs, preferences, resources, and strategies while interacting with each other based on interdependence. Whether to adopt the anti-money laundering policy and the contents of the policy differ depending on the

interaction patterns of these actors.

The patterns of interaction appear in the form of cooperation when each actor's goals are similar. On the other hand, conflicts tend to arise when the goals among actors differs each other.

The goals and preferences of the influential actors are likely to lead policy adoption and content. In this study, the influential actor is defined as "the main actor who plays the role of mediation and coordination in mitigating conflicts creating compromises" as well as "the actor who lead policy making process and reflect his preferences and policy objectives while having overwhelming influence"

The actors in the policy network learn about the contents and justification of the policy adoption, related knowledge, and the policy effect through the interaction, which can lead to changes in behavior. Whether policies are adopted depends on the direction in which such policy learning takes place.

- Policy Network Structure

Policy network structure means a certain form of interaction within the network as actors continue same patterns of interactions. This study classifies the policy network structure based on the pattern of the interaction and the existence of the influential actors and the distribution of influence. This study examines how the type of anti-money laundering policy network has changed over time, and how it affected the policy outcome.

<Table 5 > Network structure and type of network

| | | Pattern of interaction | |
|--|---------------|-----------------------------------|-----------------------------------|
| | | cooperative | conflicting |
| Distribution of influence, existence of main actor | centralized | Centralized cooperative network | Centralized conflicting network |
| | decentralized | Decentralized cooperative network | Decentralized conflicting network |

(3) Policy Output

Since the debate on adoption of anti-money laundering system began, it took a long time for the related laws to be enacted. During this time, policy environment had been changed and affected the policy actors' goal and strategies. Through this process policy alternatives and outputs also had changed a number of times. Through this study, it can be seen that policy environment and policy network factors such as actors, their goal and strategies, interaction, and policy network structure affected the policy outputs.

2) Research Questions

The study aims to explain the process of introducing anti-money laundering as a result of the interaction among the actors policy network. The main research questions are, what were the characteristics of the policy network that emerged in the process of introducing the anti-money laundering system, and how it affected policy output.

The focus of analysis are :

- What was the policy environment like throughout whole policy making process and how did it affect the policy network and policy output?
- What were the policy network factors like? Who were the actors participating policy network and what were their strategies and goals? What was the pattern of interaction among them? What was the structure of anti-money laundering policy network like?
- How did all of the above factors affect the final policy output?
- What are the implications of a network analysis on the policy making process?

Chapter3. Overview of AML

3.1 Anti-Money Laundering

1) The Concept of Money Laundering

Money laundering is the process of transforming the profits of crime and corruption into ostensibly 'legitimate' assets. In a number of legal and regulatory systems, however, the term money laundering has become conflated with other forms of financial and business crime, and is sometimes used more generally to include misuse of the financial system involving things such as securities, digital currencies, credit cards, and traditional currency, including terrorism financing and evasion of international sanctions. Most anti-money laundering laws openly conflate money laundering with terrorism financing when regulating the financial system.

According to 'The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances', Article 3, money laundering is¹

- i. the conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with article 3, a, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions
- ii. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph article 3, a or from an act of participation in such an offence or offences
- iii. The acquisition, possession or use of property, knowing, at the time of receipt,

¹ 'United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances'

that such property was derived from an offence or offences established in accordance with article 3, a or from an act of participation in such offence or offences.

In Korea, definitions of money laundering are mentioned in Article 2 of ‘the act on report on, and the use of specific financial transaction information.’ Money laundering means any of the following.²

- i. Crimes under Article 3 of the Act on the Regulation and Punishment of Concealment of Gains from Crimes.
- ii. Crimes under Article 7 of the Act on Special Cases concerning the Prevention of Illegal Trafficking in Narcotics, etc.
- iii. Disguising the acquisition or disposition of assets, or the causes of accrual thereof or concealing the assets, with intent to commit a crime under Article 3 of the Punishment of Tax Evaders Act, Article 270 of the Customs Act, or Article 8 of the Act on the Aggravated Punishment, etc. of Specific Crimes

2) Concept of Anti-Money Laundering

Anti-Money Laundering is a term mainly used in the financial and legal industries to describe the legal controls that require financial institutions and other regulated entities to prevent, detect, and report money laundering activities. Anti-money laundering guidelines came into prominence globally as a result of the formation of the Financial Action Task Force (FATF) and the promulgation of an international framework of anti-money laundering standards.

An effective AML program requires a jurisdiction to criminalize money laundering, giving the relevant regulators and police the powers and tools to investigate; be able to share information with other countries as appropriate; and require financial institutions to identify their customers, establish risk-based controls, keep records, and report suspicious activities.

² Article 2 of the act on report on, and the use of specific financial transaction information

3) International Cooperation for AML

International cooperation is essential to prevent money laundering. International organizations and regional councils for international cooperation have been created, and FATF, Egmont Group and APG are considered as important international organizations.

(1) FATF (Financial Action Task Force on Money Laundering)

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally. In collaboration with other international stakeholders, the FATF works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse (FATF. 2018).

FATF's three primary functions with regard to money laundering are:

- Monitoring members' progress in implementing anti-money laundering measures,
- Reviewing and reporting on laundering trends, techniques, and countermeasures, and
- Promoting the adoption and implementation of FATF's anti-money laundering standards globally.

As of 2016 its membership consists of 36 countries and territories and two regional organizations. FATF works in collaboration with a number of

international bodies and organizations. These entities have observer status with FATF, which does not entitle them to vote, but permits them full participation in plenary sessions and working groups.

(2) Egmont Group of FIUs

The Egmont Group of FIUs was established in June 1995 to promote cooperation between FIUs, led by the United States and Belgium, and plays a key role in the operation of international anti-money laundering measures in conjunction with the FATF. The Egmont Group supports international cooperation between financial information units (FIU) and establishment of a new financial information unit and establishes a model MOU to for the exchange of information between the FIUs in each country.

In order to become a member of Egmont Group, it must meet the criteria such as introduction of suspicion transaction reporting system, establishment of financial information reporting system by domestic law or regulation, establishment of FIU related to money laundering. Currently, 106 countries are the members of the Egmont group and Korea joined in June 2002.

The Egmont Group consists of the Meeting of Heads of FIUs, the Egmont Committee, and the Working Group. The Egmont Group's Working Group consists of Training Working Group, Legal Working Group, Outreach Working Group, Operational Working Group, and Information Technology Working Group. The Annual Meeting is held in June every year and the Egmont Committee and Working Group meetings are held in March and November, and various workshops and training seminars are regularly held to support FIUs of member countries.

(3) Asia-Pacific Group on Money Laundering

APG was launched as the official international organization for anti-money laundering between Asian and Pacific countries at the 4th FATF symposium held in Bangkok, Thailand in February 1997.

The APG is committed to improving understanding of the nature, scope and

impact of money laundering, agreeing on comprehensive measures to prevent money laundering, implementing comprehensive anti-money laundering measures recognized by APG. In addition, it provides expertise and personnel on money laundering to member countries and other related countries and provides joint regional solutions to the global money laundering problem, including technical support for information exchange mechanisms and the enhancement of financial investigation techniques, and the evaluation of anti-money laundering systems in Asian countries.

Currently, there are 36 APG member countries including Korea, USA, Australia, Japan, Taiwan and Singapore. Korea joined in October 1998.

4) Measures of the AML System

FATF has developed 40 recommendations on money laundering in 1990 and revised with 9 special recommendations regarding terrorist financing. The FATF Recommendations set out a comprehensive and consistent framework of measures which countries should implement in order to combat money laundering and terrorist financing, as well as the financing of proliferation of weapons of mass destruction. Countries have diverse legal, administrative and operational frameworks and different financial systems, and so cannot all take identical measures to counter these threats. The FATF Recommendations, therefore, set an international standard, which countries should implement through measures adapted to their particular circumstances. The FATF Recommendations set out the essential measures that countries should have in place to:

- Identify the risks, and develop policies and domestic coordination;
- Pursue money laundering, terrorist financing and the financing of proliferation;
- Apply preventive measures for the financial sector and other designated sectors;
- Establish powers and responsibilities for the competent authorities (e.g.,

investigative, law enforcement and supervisory authorities) and other institutional measures;

- Enhance the transparency and availability of beneficial ownership information of legal persons and arrangements;
- Facilitate international cooperation.

The FATF conducts peer reviews of each member on an ongoing basis to assess levels of implementation of the FATF Recommendations, providing an in-depth description and analysis of each country's system for preventing criminal abuse of the financial system³. On July 1995 FATF completed the first round of mutual evaluations of the anti-money laundering measures taken by its members. The Fourth round of mutual evaluations is ongoing.

It also issues list of countries that lack efforts to prevent money laundering and recommends that countries should take precautions in financial transactions with these countries. In June 2000, the FATF announced the list of Non-Cooperative Countries and Territories (NCCTs) by defining a country that advocates various regulations and practices to money laundering activities.

The criteria for NCCTs totaled 25, including financial regulatory loopholes (11 criteria), commercially improper requirements (3 criteria), non-cooperation to international community (8 criteria), and lack of resources to prevent and redress money laundering activities (3 criteria). A total of 15 countries were designated in 2000⁴. The FATF recommended special care in business relations and transactions with individuals, businesses and financial institutions belonging to these countries, and it is also possible to adopt countermeasures if these countries do not take corrective action against unfair laws and practices.

³ [https:// www.fatf-gafi.org](https://www.fatf-gafi.org)

⁴ Bahamas, Cayman Islands, Cook Islands, Dominica, Israel, Lebanon, Liechtenstein, Marshall Islands, Nauru, Niue, Panama, Philippines, Russian Federation, Saint Kitts and Nevis, Saint Vincent and the Grenadines

3.3 Current Anti-Money Laundering System in Korea

1) Legislation

The legislations to the Korean government's fight against money laundering and terrorist financing are Act on report on, and the use of specific financial transaction information and Act on regulation and punishment of criminal proceeds concealment,

'The act on report on, and the use of specific financial transaction information' is a key AML law in Korea. It provides establishment and operation of the KoFIU, and its authority to collect, analyze, and disseminate financial transaction information, preventive measures to be undertaken by financial institutions and casinos such as CDD, STRs, and CTRs, and the establishment and operation of internal control systems.

'The act on regulation and punishment of criminal proceeds concealment' criminalizes money laundering and provides for the confiscation of criminal proceeds. Under Article 3 any person who disguises the acquisition or disposition of criminal proceeds, disguises the origin of criminal proceeds or conceals criminal proceeds is subject to imprisonment not exceeding five years or a fine not exceeding KRW 30 million. Article 8 provides for the confiscation of criminal proceeds and Article 10 provides for the confiscation of property of equivalent value to criminal proceeds.

2) Anti-Money Laundering Regime

(1) Customer Due Diligence (CDD)

In Korea, financial institutions are required to conduct customer due diligence under the Act on real name financial transactions and confidentiality and 'the act on report on, and the use of specific financial transaction information.'

'The real name financial transactions system was enacted in 1993, frameworks the

basic CDD measures. It effectively prohibits the opening or maintaining of anonymous accounts or accounts under fictitious names and requires financial institutions to check and verify the real name of customers.

The Amendment of 'the act on report on, and the use of specific financial transaction information', which was promulgated in January 2005 and came into force in January 2006, expanded the scope of the CDD in terms of the variety of financial transactions subject to CDD requirements and customer identification information subject to verification.

CDD is required under following situation

- Opening of New Accounts

Article 5-2(1)(1) requires financial institutions to identify their customers when they open new accounts. Article 10-2(2) of the Enforcement Decree of 'The act on report on, and the use of specific financial transaction information' defines 'opening a new account' as 'entering into a contract with a financial institution to initiate a financial transaction'. Article 2(2) of 'the act on report on, and the use of specific financial transaction information' comprehensively defines "financial transactions" thus requiring CDD whenever establishing business relations.

- Occasional Financial Transactions above the Designated Threshold

Article 8-2(1) of the Enforcement Decree of 'the act on report on, and the use of specific financial transaction information' requires customer identification and verification for occasional transactions of domestic currency that are above the designated threshold of KRW 20 million. An occasional transaction is a financial transaction carried out without an opened financial institution account. Occasional transactions include receiving and paying cash without the use of an account, obtaining or cashing a cashier's check, purchasing or selling a traveler's checks, safeguard deposits, buying and selling prepaid cards, and wire transfers.

- Violating the CDD Obligation

The Korean government amended the 'the act on report on, and the use of

specific financial transaction information' in March 2012 and came into force the Act in March 2013. Article 17 of the act stipulates an administrative fine of KRW 10 million or less for CDD or CDD obligation violators in order to impose sanctions against financial institutions and their employees violating customer due diligence obligations.

Required CDD measures are;

- Customer Identification Information

Under Article 5-2(1)(1) of 'the act on report on, and the use of specific financial transaction information' and Article 10-4 of the Enforcement, financial institutions are required to identify and verify customer identification information. The customer identification information that financial institutions are required to check and verify for each category of customers is set out in the table below.

- Verification of Authority

In accordance to Article 10-4(1) of the Enforcement Decree, financial institutions will check the authority of those who conduct financial transactions on behalf of natural and legal persons or organizations. These individuals will be referred to as 'agents' and will undergo CDD.

- Verification of Existence

Financial institutions shall verify the existence of a legal person or arrangement through documents that can prove the establishment of legal entities such as a copy of a corporate register pursuant to Article 38(4) of the AML/CFT Regulation.

- Verification of Ownership

Regardless of suspicion of money laundering or terrorist financing, when a customer opens a new account or engages in financial transactions in the amount or in excess of the threshold prescribed in the Presidential Decree, the natural person who owns or controls the customer must be identified. The following is also the case for legal persons or arrangements, regardless of suspicion of money laundering or terrorist financing (Article 5-2(1)(1) of 'the

act on report on, and the use of specific financial transaction information.’)

- **Verification of Intent**

In accordance to Article 37(2) of the AML/CFT Regulation, financial institutions shall obtain information on the purpose and intended nature of a business relationship when conducting financial transactions with customers.

- **Ongoing CDD**

Financial institutions shall conduct ongoing CDD for customers as long as the business relationship continues and shall cover the following in pursuant to Article 34(1): Financial institutions shall thoroughly examine transactions to check if information they have on customers, businesses, risk-evaluation, and source of funds is consistent with transactions. Financial institutions shall determine the frequency of CDD required based on the risk level of customer transactions. Financial institutions will regularly review the existing CDD documents, data and information to ensure their accuracy and validity.

- **Customer Refusal to Provide Information**

If reporting entities are unable to perform customer due diligence due to a customer’s refusal to provide information for identification purposes, they will not open new accounts or perform new transactions and will terminate existing business relationships related to that customer. (Article 5-2(2)(4) of the Financial Transaction Reporting Act) If financial institutions refuse to perform transaction or terminate transactions according to Article 5-2(4), they should consider making a suspicious transaction report under Article 4 (Article 5-2(2), (5) of 'the act on report on, and the use of specific financial transaction information.’)

< Table 6 > Customer Identification Information

| Category of Customers | Customer identification information |
|------------------------------|---|
| Individuals | Real name, resident registration number, address, contact information |

| | |
|---|--|
| For-profit legal entities | Real Name as per the business registration certificate, business registration number, business type, locations of headquarters and offices, contact information, real name of the representative |
| Non-profit legal entities and other organizations | Real name, purpose of business establishment, locations of the main offices, contact information, real name of the representative |
| Foreigners and foreign organizations | Information specified in the corresponding category of the three categories above, nationality, location of local residence or office |

Financial institutions shall fulfill their CDD obligations without delay (Article 33(1) of the AML/CFT Regulation) if they conduct CDD after the completion of financial transactions in accordance to Article 10-5 of the Enforcement Decree and Article 23 of the Financial Transaction Reports and Supervisory Regulation.

Financial institutions shall establish AML/CFT risk management procedures for CDD under Article 33(1) (Article 33(2) of the AML/CFT Regulation).

(2) Suspicious Transaction Report (STR)

The Suspicious Transaction Report (STR) is one of the core measures to fight money laundering and terrorist financing. Financial institutions and casinos are required to file STRs when they have reasonable ground, based on their expertise and subjective judgment, to suspect that the funds that they have received are criminal proceeds or that the customer is engaged in money laundering or terrorist financing.

Financial institutions and casinos are required to report to the KoFIU when they have "reasonable ground" to suspect that the funds they received in relation to a financial transaction are illegal assets, the customer is engaged in money laundering or financing for offences of public intimidation, or they have reported to a law enforcement agency any funds that they have come to know are criminal

proceeds or any transaction that they have come to know is involved in money laundering can result in sanctions such as disciplinary actions for employees of financial institutions and administrative fines for financial institutions, all of which are implemented by the Korea Financial Intelligence Unit.

If, based on one's expertise, experience, and the usual transaction profile of the customer, a front desk teller suspects that a transaction or fund is related to money laundering or terrorist financing, he will report to the reporting officer in his or her organization. The reporting officer will review what was reported by the front desk teller and, if there really is reasonable ground to suspect money laundering or terrorist financing, he will report the transaction using the standard STR form. The STR must include the name of the reporting entity, the ground for suspicion, information about the customer, a description of the transaction, and the list of data kept in relation to the reported transaction.

The KoFIU will conduct comprehensive analysis of the STRs it receives based on the information contained in the STR, and additional information that it obtains such as foreign exchange transactions data, credit information, and information provided by foreign FIUs, etc. If it finds reasonable ground to suspect that the reported transaction is related to money laundering or terrorist financing, it will provide the STR to an appropriate law enforcement agency. The appropriate law enforcement agencies for STR dissemination include the Public Prosecutor's Office, National Police Agency, National Tax Service, Korea Customs Service, Financial Services Commission, and National Intelligence Service. The law enforcement agencies will conduct further investigation on the cases and take appropriate law enforcement actions.

(3) Currency Transaction Report (CTR)

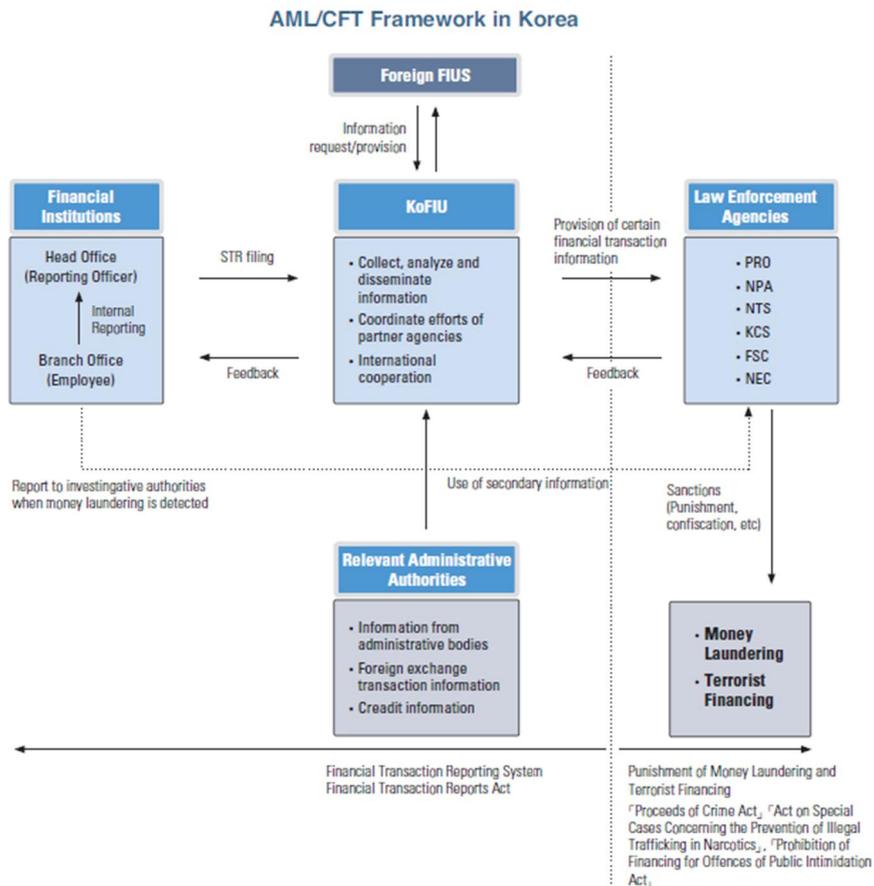
On January 18th, 2006, Korea implemented Currency Transaction Report (CTR) system under which financial institutions and casinos are required to report to the KoFIU all cash transactions above a designated threshold. Under Article 4-2 of the FTRA and Article 8-2 of the Enforcement Decree of the 'the act on report on, and the use of specific financial transaction information' reporting entities are required

to report to the KoFIU when the amount of cash paid or received in transactions conducted in one trading day under the same name is above the threshold, which is currently KRW 20 million. While the STR relies on the expertise and subjective judgment of employees of reporting entities, CTRs are only reported when transactions meet certain objective criteria without any subjective judgment.

The CTR data are used in strategic analysis and as supplementary data for the individual analysis of STRs. The effectiveness of information analysis is expected to be enhanced when STR data are analyzed in conjunction with CTR data. This comprehensive analysis assists analysts in getting a better understanding of the flow of suspicious funds

3) Organization and Authority

<Figure1> AML/CFT Framework in Korea



Resource: KoFIU

(1) KoFIU

The KoFIU was established pursuant to Article 3 Paragraph 1 of 'the act on report on, and the use of specific financial transaction information' and Article 5 of the Enforcement Decree in order to effectively implement the AML/CFT system. The KoFIU was originally within the Ministry of Finance and Economy (MOFE), but, as a result of the government reorganization of February 2008, it was transferred to the Financial Services Commission (FSC). The KoFIU is staffed with AML/CFT experts from the FSC, Ministry of Justice, National Police Agency (NPA), National Tax Service (NTS), Korea Customs Service (KCS), Financial Supervisory Service (FSS), and other relevant law enforcement agencies. The law guarantees the independence and autonomy of the KoFIU. The KoFIU works as an institutional link between financial institutions and law enforcement agencies by receiving STRs from reporting entities, analyzing the STRs and disseminating them to law enforcement agencies for further action. The KoFIU is also the primary organization responsible for AML/CFT policy formulation and implementation, AML/CFT supervision and the education of reporting entities.

(2) Law Enforcement Agencies

The Financial Intelligence Unit provides specific financial transaction information related to money laundering activities to the Public Prosecutors' Office, the National Police Agency, the National Tax Service, Korea Customs Service, the Financial Supervisory Service, and the National Election Commission. Based on analytical information, investigation and enforcement activities are carried out according to each authority such as investigation of criminal cases, investigations of taxation and customs offenses. Due to the nature of money laundering crime, investigations take a long period of time, which differs by law enforcement agencies, the burden of work and the nature of the cases.

4) International Cooperation

Amid growing concerns about frequent money laundering and terrorist financing activities using cross-border financial transactions, the international community has found it increasingly necessary to facilitate global cooperation in fighting such activities. Korea is actively participating in international collaboration in the AML field.

(1) Financial Action Task Force (FATF)

After the establishment of the KoFIU in 2001, Korea vigorously sought full membership at the FATF. Korea obtained the FATF observer status in August 2006 and completed the mutual evaluation, an essential process to become a member of the FATF, in November 2008. The Mutual Evaluation Report was adopted at the FATF Plenary in June 2009 and Korea gained full membership in October 2009.

As the FATF is the 'standard-setter' in the field of AML, Korea's full membership at the FATF allows Korea to more actively participate in the process of establishing and revising the international standards instead of simply implementing the standards set by the international community. The FATF membership bestows the official recognition over a country's AML system. Korea's membership in the FATF will help enhance the international credibility of the Korean financial system, and consequently grant favor towards Korean financial institutions' overseas operations.

(2) The Egmont Group

The KoFIU joined the Egmont Group in 2002 and has been actively participating in its activities. In 2008, the KoFIU hosted the 16th Egmont Group Plenary and Working Group Meetings in Seoul for five days from May 25th to 29th. It marked the first Egmont plenary held in Asia and the first one since the Egmont Group was launched as an official international organization in 2007. 250 representatives from 90 FIUs around the world and 12 international organizations including the World

Bank and the United Nations Office on Drugs and Crime attended the 2008 Egmont Group Plenary and discussed methods to reinforce international AML cooperation among FIUs across the world.

(3) Asia/Pacific Group on Money Laundering (APG)

Korea has been an active member of the APG since its admission back in 1998. Korea took the APG Co-Chair position from 2003 to 2004 and hosted the 7th APG Annual Meeting in 2004 in Seoul. The Annual Meeting was held for five days from June 14 to 18, 2004 and was attended by 210 representatives from 28 member jurisdictions, 9 observer jurisdictions and 13 international organizations. Korea is currently a member of the steering Group and the DAP (Donors and Providers) Group.

Chapter4. Analysis on Policy-Making Process

4.1. Introduction

The debate on the enactment of laws and regulations related to money laundering began 1993 when 'the real-name financial system' was implemented. Over the years, many organizations and groups participated in legislation before the laws passed the National Assembly in 2001. Anti-money laundering legislation has been enacted through these very dynamic and complex process, and conflicts or cooperative relationships among the actors with different policy goals. In this study, the introduction process of anti - money laundering policy will be divided into three periods based on the significant changes of the policy network.

- The first period (1993 ~ 1996)

In the first period of introduction of anti-money laundering system is from 1993 to 1997. At this time, awareness of money laundering has increased, and the atmosphere has been created for the system adoption to prevent money laundering.

- The second period (1997 ~ 1999)

The second phase is the period when the government, the National Assembly, and related stakeholder groups face each other in order to adopt anti-money laundering system.

- The third period (2000 ~ 2001)

The greatest feature of the third period is the establishment of a formal organization in which relevant ministries and agencies can discuss the establishment and contents of anti-money laundering system. Under the Ministry of Finance and Economy, the planning team of FIU was established. The National Assembly also made a general consensus on the provision of anti-money laundering system at this time, but policy adoption was delayed because of disagreement on details. Civic groups have started to act strategically as one united organization so that strong regulatory system could be adopted. The financial and industrial sectors also saw the adoption of the

anti-money laundering system as an inevitable international trend, and tried to adjust the details to more closely match their interests.

4.2. Policy Network Analysis

1) The First Period (1993-1996)

(1) Overview

In the first phase, with the introduction of the real-name financial system, the need to prevent money laundering began to be discussed. After the financial real-name system was implemented in 1993, the Ministry of Justice and the Citizens' Coalition for Economic Justice pushed for the enactment of the laws to combat the money laundering activities to settle the financial real-name system, but it was dismissed because of the opposition of the National Assembly due to the financial environment at the time.

The debate on the anti-money laundering system to complement the financial real-name system became more active in 1995 due to the illegal political funds scandals of the former presidents, Chun Doo-Hwan and Roh Tae-Woo.

‘People's Solidarity for Participatory Democracy (PSPD)’ had continued activities to raise social awareness, by public debates and signing campaign for establishment of anti-corruption law. In November, 1996, PSPD made petition of the anti-corruption legislation to the National Assembly, and the petition contained anti-money laundering regulations to supplement the financial real-name system.

At that time, the anti-money laundering system was considered as a means to achieve anti-corruption purposes such as illegal political fund accumulation, rather than focusing solely on money laundering crimes.

It is worth noting that in this period, anti-money laundering regulation related to drugs crimes was established. The Government enacted ‘the Special Act on the Prevention of Illegal Trafficking in Drugs’ on December 6, 1995 to join the UN Convention on the Prevention of Illegal Transactions of Drugs and Psychotropic

Substances (Vienna Convention, 1988.11)?). This Act stipulated that money laundering activities related to drugs are criminal and contained punishment provisions. However, since this act stipulated that money laundering activities only related to drug trafficking were crimes, it was still impossible to punish other money laundering activities related to organized crime, economical and other serious crimes.

The main policy actors of this period were civic groups and some lawmakers in the National Assembly who shared same policy goal, and the government still had a lukewarm attitude to enact anti-money laundering legislation.

Although there was no apparent output, the discussions of this period have led the National Assembly and the government to become an active actor in introducing anti-money laundering system in the future.

(2) Policy Environment

The perception of money laundering crime began to spread through the public when the financial real name system was implemented and the corruption scandals of former presidents caused great social controversy. In particular, the illegal political fund scandal of former Presidents Roh Tae-woo and Chun Doo-hwan was a political event that became the decisive moment for the introduction of anti-money laundering system.

In 1995, former President Roh's scandalous crime and the scale of the fund were revealed. In the process of accumulating illegal political funds, money laundering activities was detected, which legalized illegal political funds hidden in the bank account of someone else's name by swapping checks. The bank employees were closely related to this process, but there was no provision for punishment at the time so it was impossible to handle judicial proceedings against those who ordered money laundering and those who helped that in financial institutions. As a result, it became necessary to establish an anti-money laundering law as an effective way to prevent the creation, inflow and use of illegal funds⁵.

The opposition party, National Congress for New Politics Party had consistently

⁵ The Segye Times, 10.26.1995.

insisted on a thorough investigation of the former presidents' corruption scandals and the introduction of anti-money laundering system which could prevent it in the future.

After President Roh Tae-woo's slush fund scandal, media reports continued to urge the government to introduce measures to prevent money laundering activities⁶, and social calls for the introduction of the system increased.

Internationally, the FATF was established in 1989 by the Ministers of its Member jurisdictions. It had made constant efforts to promote effective anti-money laundering system internationally. In April 1990, less than one year after its creation, the FATF issued a report containing a set of forty recommendations, which were recognized as the international standard for combating money laundering. It was intended to provide a comprehensive plan of action needed to fight against money laundering. Since South Korea was not a member of the FATF, there was no direct pressure on the introduction of the system. However, the FATF's 40 recommendation became as criteria in designing the scheme of anti-money laundering system and affected the actors' preferences and strategies.

(3) Policy Network Factor

① Actors

The actors who participated in the policy network in first period are the political parties and the government as formal actors and NGOs as informal actors.

<Table 7> Actors in the first period

| | goal | resource | strategy | action |
|------|---------------------|-------------------------|---------------------------------|---|
| NGOs | policy introduction | Creating public opinion | Making issue, Raising influence | public hearing, statement, signature campaign, petition |

⁶ The Korea Economic Daily editorial, 10.26.1995, Kyunghyang Shinmun editorial, 10.27.1995, Maeil Business Newspaper editorial, 10.30.1995, Segye Ilbo editorial, 10.30.1995, Seoul Shinmun economic review, 11.02.1995, etc.

| | | | | |
|----------------------|----------------------------|--------------------------------------|--------------|---|
| The government | opposition to introduction | official authority of administration | avoid | avoid dispute and present the government position |
| The Democratic party | introduction | legislative power | Making issue | propose a bill |
| New Korea Party | opposition to introduction | legislative power | avoid | avoid dispute, developing grounds for opposition. |

i . NGO

In the first period, NGOs were the actors who showed clear policy preference. The NGOs such as 'People's Solidarity for Participatory Democracy' and 'the Coalition for Economic Justice' were aware of the seriousness of the corruption structure in Korea society and insisted on the introduction of the anti-money laundering system in order to prevent anti-social behavior such as corruption through legal cohesion and to establish sound and transparent financial system. Since they did not have official authority, NGOs used various strategies to expand their influence. They continued to meet and persuade with lawmakers and put pressure on the National Assembly and government by raising public awareness of money laundering issues.

Particularly, 'People's Solidarity for Participatory Democracy (PSPD)' tried to raise money laundering issues through debates and public hearings, while making the foundation stone by obtaining signatures of the National Assembly member and enforcing the pledge that would have a positive effect on the enactment of laws. After the election of the members of the National Assembly in April, 1996, the PSPD initiated "The Movement for signing of politicians and voters for the enactment of the anti-corruption law." On November 7, 1996, the PSPD petitioned 'the Anti-Corruption Act' to the National Assembly with signatures of 23,521

citizens and 151 members of the National Assembly⁷.

The PSPD insisted two principles to prevent money laundering in the Anti-Corruption Act. One was that the money laundering itself should be punished as a crime, and one was cash transactions above a certain amount must be reported to the government by financial institutions. However, this law was scrapped after the end of the session without any deliberation.

The main contents of the bill were as follows.

- (Prohibition of Money Laundering) Any person shall not confiscate or disguise the facts concerning the acquisition and disposition of illegal property arising from one of the following crimes by financial transactions through domestic and foreign financial institutions:
 - The crimes prescribed in Articles 129 to 133 of the Criminal Act (public official bribery, third party bribery, etc.)
 - The crime prescribed in Article 9, Local Tax Act Article 67 or Article 180 of the Customs Act (tax invasion)
 - The crimes prescribed in Articles 60 to 62 of the Narcotic Drugs Act, Articles 18 to 20 of the Cannabis Control Act or articles 40 to 42 of the Psychotropic Drug Administration Act
 - The crimes constituted by a criminal organization under Article 114 of the Criminal Act (crimes of a criminal organization)
 - The crimes prescribed in Articles 66 to 83 of this Act (Corruption of public officials such as purloin of government property, private use of public funds, dereliction of duties, private use of official secrets, violations of employment restrictions, etc.)
- (Obligation to report the employees of financial institutions) Executives and employees of financial institutions shall report financial transactions to the investigating authorities in documents if there is a good reason to suspect that the financial assets involved in the transaction are related to the offense.
- (Cash Transactions Report) (1) A financial institution shall report the

⁷ 54 members from New Korea Party, 67 from National Congress for New Politics, 17 from United Liberal Democrats, 11 from Democratic party, 2 from no party

National Tax Service within 30 days after the occurrence of a transaction of cash of more than 20 million won (including cashier's check). Anyone shall not conduct financial transactions by distributing cash (including cashier's checks) to avoid reporting of the preceding paragraph.

- (Penalty) In violation of prohibition of money laundering, imprisonment for not more than 10 years and fine of not more than 50 million won shall be imposed. In violation of obligation to report, imprisonment for not more than 2 years and fine of not more than 20 million won (imprisonment for not more than 1 years and fine of not more than 10 million won) shall be imposed.

ii. Political parties

In case of the National Assembly, preference and strategy for the anti-money laundering system were different for each political party. The 15th National Assembly (1996-2000) was consisted of 151 members of the Democratic Liberal Party (New Korea Party), 88 members of Democratic Party (National Congress for New Politics Party), 49 members of the United Liberal Democrats, 8 members of the National People's Party, and 3 independent members. The major New Korea Party opposed the introduction of the money laundering system, while the ruling party voted for the introduction of the system.

< The Democratic Party >

The Democratic Party started first movement in November 1994 as submitting to the National Assembly 'The bill on anti-money laundering' that punishes a person who has engaged in financial transactions for the purpose of disguising ownership while knowing that financial assets are related to illegal activities such as tax evasion. The bill criminalized money-laundering activities and stipulated the introduction of STR and CTR.

The contents of the bill were as follows.

- Criminalization money laundering activities in which conduct transactions through financial institutions to disguise the source or possession of assets

derived from criminal activities such as tax evasion, smuggling, organizational crime, and bribery, etc.

- Imposing obligations on financial institutions to report suspicious transaction, confirm customers' actual names in financial transactions, report cash transaction of over 30 million won, and preserve financial transaction records.
- Confiscation or collection of financial assets related to money laundering
- Authority to check the documents to the public prosecutor, judicial police officer, and the National Tax Service, Customs Service, and the National Assembly.

After the Democratic Party changed its name to the National Congress for New Politics Party in November 1996, The National Congress for New Politics Party formed a committee for anti-corruption legislation and decided to enact a law.

At the time, the ruling party, Democratic Liberal Party also held a meeting between the ruling party and the government and began discussions on enacting the Anti-Money Laundering Act as one of the measures for anti-corruption related to politician and high-ranking officials.

From this period, the enactment of the anti-money laundering law had begun to be discussed in earnest at the level of the government and the National Assembly. However, the position of the Democratic Liberal Party and the Ministry of Finance and Economy was that it was unnecessary to enact legislation since illegal activities were punishable under the existing law.

<New Korea Party >

The position of the ruling party, New Korea Party was that it was unnecessary to enact legislation since illegal activities were punishable under the existing law. New Korea Party criticized the opposition party's bill, which obliges banks to report 30 million won or more of banking transactions and suspicious transactions to authorities, would have a negative impact on the economy, such as shrinking bank transactions, and it also violated the principle of secrecy of depositors. Instead of enacting the Anti-Money Laundering Act, the ruling party proposed an

alternative way to prevent corruption and money laundering by amending the Political Fund Act.

iii. The government

The government was passive in introducing anti-money laundering system. Despite of the necessity to establish a system for preventing money laundering raised after former Presidents' illegal political funds scandal, the government's position was firm. The government's position was that it was difficult to establish an anti-money laundering law because of the financial market contraction. Instead, the government introduced indirect measures to regulate money laundering activities, such as developing methods that detect irregular and unusual accounting techniques, strengthening the punishment of financial institutions involved in money laundering, and expanding the rules on money laundering not only to banks but also to nonmonetary institutions such as securities companies, insurance companies, and investment companies.

The Ministry of Finance and Economy said the real-name financial transaction system was the best anti-money laundering law and that there was no need to establish anti-money laundering law⁸. The government stressed that under the current criminal law, illegal activities such as tax evasion, smuggling and organized crime would be punished, so there was no need for new separate law.

This position had continued till the end of 1996. On October 23, 1995, Prime Minister Lee Hong-koo clarified the government's position on the adoption of the anti-money laundering system at the National Assembly plenary session. He answered that since the financial real name system was in the process of being settled normally, the anti-money laundering system should be considered carefully in the long term with careful forecast of the impact on the financial market. Again, on October 29, 1996, at the plenary session of the National Assembly, the prime minister also said, "Since all financial transactions are carried out under the real name now, it can be considered that the basic system for preventing money

⁸ Director general of Department of Tax and Customs, Kang Man-soo's remarks. The Korea Economic Daily, 10.26.1995.

laundering was established. The introduction of the anti-money laundering law at the present time, in which the financial real-name system is steadily being settled, should be considered carefully regarding the fluctuation of the financial market and the impact on the economy as a whole.

② Interaction

The policy network is a form of linkage based on the interdependence of actors involved in the policy making process, so policy actors interact and exchange their beliefs, goals, strategies and resources through this interaction based on interdependence.

In this period, actors were in conflict while disagreeing over the ultimate policy goals. Especially there has been a conflict between NGOs and opposing government and ruling party aimed at the introduction of anti-money laundering. However, PSPD formed advocacy coalitions with some members⁹ in National Assembly, which led them to submit the legislation. While many lawmakers participated in the People's Solidarity for Participatory Democracy's signature campaign to enact the anti-corruption law, some said that although they participated in the signing on their own terms, they had no choice but to comply with the party's opinion if the party opposed it¹⁰. At that time, no political party adopted the introduction of a money laundering system as party's official position. This can be seen from an interview by Kim Han-gil, the member of the National Assembly, who said, "At first, the National Congress for New Politics Party considered to adopt the law as the party's platform, but it failed since most of members opposed it. Moreover, the ruling party banned its members from submitting their own bills and joining the signature campaign"¹¹

Later, legislative cooperation between civic groups and the opposition parties was increased. The opposition parties have changed their party platforms and decided to submit a bill to the National Assembly as a joint proposal by the two

⁹ 8 members including Chun Jung-Bae, Lee Mi-Kyoung, Kim Won-kil, Park Ju-Chun, etc

¹⁰ Hankyoreh Shinmun, 11.8.1996.

¹¹ Kim Han-gil of the National Congress for New Politics Party, 11.11.1996.

parties, the National Congress and the United Liberal Democrats, on November 16, 1996. They accepted much of the People's Solidarity for Participatory Democracy's anti-corruption bill, and announced 'the measures to improve the personnel management system of public officials and prevent corruption'.

Actors used various resources to achieve their goals, and had taken steps to strengthen their influence by forming alliances with actors with the same policy goals. For example, In this case, cooperative interaction based on shared interests among actors had a positive effect on the introduction of new policy system.

However, as the government took a negative stance on introducing the anti-money laundering policy, and the ruling party which was major party in National Assembly also took the same stance, in the first period, there were conflicts among the government, the ruling party and NGOs, which negatively affected the introduction of the new policy.

Policy actors exercise influence in policy network to reflect their interests in new policy. The size of influence depends on the existence of formal authority, expertise, the representativeness, and the amount of resources and information actors hold. NGOs exerted influence to introduce the system in a variety of ways, including media contributions¹², statements, public discussion sessions¹³, signature campaigns, and coalition with lawmakers. The People's Solidarity for Participatory Democracy tried to influence the National Assembly by collecting signatures from candidates who participated in the general elections in 1996 while campaigning for a pledge to enact an anti-corruption law. In the 1996 general elections for the National Assembly, 68 candidates who signed for anti-corruption legislation were elected¹⁴. On November 1996, The People's Solidarity for Participatory Democracy achieved tangible results by submitting the anti-corruption bill to the National

¹² 'Citizens must step forward to combat corruption' Kim Chang-guk, Director of the People's Solidarity for Participatory Democracy's article, Hankyoreh Shinmun , 4.3. 1996.

¹³ The People's Solidarity for Participatory Democracy held 'The debate on anti-corruption legislation agenda' at the Seoul Press Center on January 24, 1996, and announced a bill on anti-corruption which included the disclosure of public officials' property, protection of whistle-blower, regulations on money laundering and the creation of a special investigation department against corruption.

¹⁴ Hankyoreh Shinmun, 4.22.1996.

Assembly after receiving signatures from a majority of lawmakers. However, ultimately, the lack of formal authority to enact legislation and the lack of support from the National Assembly failed to reach policy adoption.

③ Policy network structure and type of policy network

i . The existence of the main actor

In the policy network, the presence of a principal actor who acts as a policy mediator affects policy output through the interaction among actors in the policy network. The principal actor actively engaged in policy making process to achieve their policy goal, and at the same time they play a role as a mediator by coordinating conflicts among actors. In first period, there were conflicting interactions among NGOs, political parties and the government, but there was no main actor who could coordinate conflicts and reach agreement.

Although the need to introduce anti-money laundering measures was required in the context of the environment, conflicting interactions among actors and the absence main actor who could coordinate conflicting interests resulted in failure. Conflicting interactions between actors and lack of policy intermediaries to coordinate them have resulted in failure of policy introduction.

Despite the existence of the Ministry of Finance and Economy and the Ministry of Justice as administrative agencies, the National Assembly and political parties as official legislative bodies and civic groups as informal actors seeking interest, none of them functioned as an active policy mediator.

First of all, the government was an actor with official authority, but it acted on the sidelines on the money laundering issue while opposing the introduction of the anti-money laundering system. Since the introduction of the real-name financial transaction system, the government has focused on settling it and has been passive in introducing a new money laundering regulation. The government only expressed opposition to questions from some lawmakers who were positive about introducing the system during a parliamentary audit and interpellation session

In the case of the National Assembly, the parties continued to confront each

other with different policy goals. They confirmed in their own opinion and didn't try to reach compromise. The National Assembly failed to act as a policy mediator as it did not even start discussing the bills submitted by the People's Solidarity for Participatory Democracy or the bills submitted by the Democratic Party.

Even in the case of civic groups, they did not have enough official authority and support from public to perform the role of mediator. It was also difficult to obtain the trust from politicians for the role of arbitrator. In addition, as the anti-money laundering system was discussed as a preventative measure against corruption, conflicts over individual issues in the anti-corruption measures were intensified, making it more difficult for powerful mediator to appear.

In conclusion, in the first period, conflicts between the opposition parties-civic groups and the ruling party-the government appeared to continue without mutual coordination and mediation.

i i . Type of policy network

In the first period, policy network defined as a decentralized conflicting network, showing conflicting interactions between actors without an influential intermediary. Under this network structure, conflicts between actors are likely to arise due to conflicting policy objectives, but the conflict is likely to be prolonged because there are no policy intermediaries to coordinate them. And in a decentralized conflicting policy network, it is not easy to reach to policy output unless the actors change their policy goals, their interests change, and their influence remains same.

<Table 8> Type of policy network in the first period

| | | Pattern of interaction | |
|--|---------------|-----------------------------------|---|
| | | cooperative | conflicting |
| Distribution of influence, existence of powerful actor | centralized | centralized cooperative network | centralized conflicting network |
| | decentralized | decentralized cooperative network | <u>decentralized conflicting network</u> |

(4) Output

In the first period, as the bills of PSPD and National Congress for New Politics Party were fail to pass the National Assembly, policy adoption didn't succeed. The policy network in the first period showed the form of a decentralized conflicting network, which resulted in a prolonged period without the arbitrator of conflict between actors, and did not lead to final policy output. Civic groups continued to insist on introducing the system, but failed to make an agreement with the ruling party and the government, only showing conflicts over the years.

Although the policy failed to be introduced, it is meaningful that public debate on the introduction of the money laundering system was sparked and the government, the National Assembly and civic groups began to discuss the anti-money laundering system in earnest.

(5) Conclusion

<Table 9 > Variables of analysis in the first period

| Dimension | Variable | Content |
|--------------------|-------------------------------|---|
| Policy Environment | Level of social recognition | Increased awareness of money laundering crimes and demand for anti-corruption systems |
| | Political· economic situation | The former presidents' illegal political fund scandal |
| | International context | Establishment of FATF and 40 recommendations |
| Policy Network | Actors | NGOs, the government, political parties |
| | Interactions | Conflicting interaction |
| | Network structure | Decentralized conflicting network |
| Output | Policy | Fail to introduce the policy |

In the first period, as the bills of PSPD and National Congress for New Politics Party were fail to pass the National Assembly, policy adoption didn't succeed. The policy network in the first period showed the form of a decentralized conflicting network, which resulted in a prolonged period without the arbitrator of conflict between actors, and did not lead to final policy output. Civic groups continued to insist on introducing the system, but failed to make an agreement with the ruling party and the government, only showing conflicts over the years.

Although the policy failed to be introduced, it is meaningful that public debate on the introduction of the money laundering system was sparked and the government, the National Assembly and civic groups began to discuss the anti-money laundering system in earnest.

One notable point is that in this period, the anti-money laundering system was mainly discussed as one of the anti-corruption measures, not by itself. Although there were international organization, FATF and international standards for anti-money laundering system, money anti-money laundering regulations in Korea were discussed as one of the anti-corruption devices. Therefore the crimes, which are the premise of money laundering, were limited to those related to corrupt crimes of public officials and members of parliament such as bribery, tax evasion, and smuggling. In other words, there was a difference between the discussion in Korea and the establishment of a systematic money laundering system that met international standards.

2) The Second Period (1997-2000. 3.)

(1) Overview

The important change in the second period was the change of the government's position. On March 31, 1997 the government announced that measures which complement the real-name financial transaction system would be made, which impose penalty fee instead of waiving the investigation of the source of fund in order to support small and medium-sized enterprises. The government also

announced that too tighten the control over illegal financial transaction, the anti-money laundering system would be introduced. After three months of controversial meetings between the government and the ruling party, in July of 1997 ‘the bill on real-name financial transactions and confidentiality’ and ‘the bill on anti-money laundering’ were submitted to the National Assembly by the Ministry of Justice and the Ministry of Finance and Economy.

The bills were supposed to be processed at the provisional session of the National Assembly in August or at the regular session in September, 1997. However, due to the difference between the ruling party and the opposition party, only ‘the bill on real-name financial transactions and confidentiality’ was passed with few amendments in December 1997, and the anti - money laundering bill was automatically abolished with the expiration of the term of the 15th National Assembly.

At the time, ‘the bill on anti-money laundering’ extended criminality, which was the premise of money laundering, to major crimes in addition to drug crimes, but the criteria and scope of selection were insufficient compared to international standards. In addition, it was insufficient in terms of establishing the overall anti-money laundering system since it did not consider the introduction of the suspicion transaction reporting system, the installation of FIU, and the establishment of the internal reporting system of financial institutions.¹⁵

(2) Policy Environment

The issue of enactment of the anti-money laundering system came to the surface again, as the Supreme Court acquit the employees of financial institution who were involved in money laundering activities using a mutually agreed borrowed-name bank account in April, 1997.

It had been argued again that there was a need for regulations that punish employees of financial institutions who convert the owner’s name of the money illegally. At that time, there was no obligation of the financial institution employees to confirm the actual owner of the money, only the obligation to

¹⁵ KoFIU(2005). Annual Report on Anti-Money Laundering System in 2004

confirm the name of who asked to convert money into a real name bank account.

Also favoritism scandal of Hanbo Group raised the need for institutional mechanisms to prevent corruption and collusive links between politicians and businessmen. It had been revealed that Hanbo Group Chairman Chung Tae-soo's slush fund amounts to 200 billion won, and that he had used them as lobby fund for politicians and financial institutions. As money laundering activities had been found to have occurred in the process of accumulating slush funds, needs to introduce anti-money laundering system to prevent corruption and root out collusive links between the politicians and the businessmen.

Politically, the presidential election was about to take place in the end of 1997, so it was difficult to predict whether the National Assembly would function properly and bills would be discussed and passed in the National Assembly in 1997. There were 13 bills related to financial reform including financial real name system and the anti-money laundering system. However, as political debate among the political parties continued over the Kim Dae-Jung, the presidential candidate's illegal political funds, the parliamentary review of the bills was stopped. In February 1998, Kim Dae-Jung took office, the regime between the ruling party and the opposition party was changed for the first time in constitutional history. The ruling party, National Congress for New Politics Party was positive in introducing the anti-money laundering system, however, the New Korea Party opposed the anti-money laundering system and held larger number of seats in the National Assembly, and this negatively influenced the introduction of anti-money laundering system.

On the economic front, the prolonged economic recession has prompted a demand for deregulation of the real-name financial system as an emergency measure to boost the economy without side effects. The real-name financial transaction system included the obligation to convert borrowed-name funds into real-name and investigation on the source of large amounts of real-name conversion fund. This has been criticized for causing instability of asset owners, reduced savings, bankruptcy of small and medium-sized enterprises and economic contraction. As the demand for measures to mitigate the real-name financial transaction system emerged, it was considered to introduce regulations on money

laundering as a supplementary measure. Introducing money laundering regulation to punish illegal funds was the last resort while boosting the economy by easing the real-name system.

When the financial crisis occurred in December, 1997, demand for economic deregulation has grown. Some expressed concerns that the anti-money laundering system could have a negative impact on economic recovery by suppressing the circulation of funds in non-monetary institutions as well as in monetary institutions. It was insisted that the introduction of anti-money laundering system in that timing was too early and it should be postponed until after the economic recovery.

Internationally Korea faced international pressure to liberalize foreign exchange transaction as the country was supported by the IMF's bailout fund in the wake of the 1997 financial crisis. As a result, the government should promote measures to liberalize foreign exchange transaction. The government adopted the free-floating exchange rate system in December, 1997 and subsequently implemented the first foreign exchange liberalization measures in 1999. This was expected to increase in financial crimes, such as the outflow of illegal funds and money laundering, and increased the need to introduce anti-money laundering system to prevent them.

<Measures to liberalize foreign exchange since the Asian financial crisis>

- Opening of the Stock and Bond Markets
 - Liberalize foreign investment in domestic listed bonds (1997.12)
 - Liberalize foreign investment in corporate bills, trade bills and commercial bills (1998.2)
 - Liberalize investment in CD, RP and covered bills (1998.5)
 - Liberalize investment in listed stocks and registered companies' stocks (1998.5)
- Additional liberalization measures to promote foreign investment (1998.7)
 - Liberalize companies' mid-term to long-term foreign currency borrowing and issuance of foreign securities longer than one year
 - Liberalize the issuance of trade credit by companies
 - liberalize most foreign exchange transactions related to foreigner's domestic investment (non-listed stocks and bonds)

The international community has also begun to pressure Korea to introduce anti-money laundering measures. Since the Organization for Economic Cooperation and Development (OECD) and the International Monetary Fund (IMF) were expected to recommend member countries to come up with an institutional mechanism to prevent money laundering. In 1998, the OECD urged the Korean government to join the FATF.

The need to introduce anti-money laundering system has grown with increasing pressure from the international community and raised social awareness through corruption scandals. However, the introduction of anti-money laundering system, which was considered as economic regulation and political regulation to some politicians, was unpredictable due to the complexity of the political and economic situation.

(3) Policy Network Factors

① Actors

In second period, the government, civic groups and the National Assembly differed in their opinions and the intensity of policy preference on the introduction of an anti-money laundering system. The government and civic groups agreed on the ultimate goal of introduction of policy, but they were at odds over details. In the National Assembly, the National Congress for New Politics Party had shown reservations about the introduction of the system before the presidential election, and turned to positive in 1998. However, the majority party, New Korea Party opposed the introduction of the system. The National Assembly, which was skeptical about the anti-money laundering system, was at odds with the government and civic groups.

<Table 10 > Actors in the second period

| Actor | goal | resource | strategy | action |
|-------|--------------|-------------------------|---------------|----------------------------|
| NGOs | Introduction | Creating public opinion | Making issue, | public hearing, statement, |

| | | | | |
|--|-----------------------------------|--------------------------------------|-----------------------------------|---|
| | | | Raising influence | signature campaign, petition, coalition |
| The government | Introduction | Official authority of administration | Early enactment | submission of bills, persuading the National Assembly |
| The National Congress for New Politics Party | Reservations → Introduction | legislative power | Blame avoidance → enactment | consultation with the government and the opposition party |
| New Korea Party | Opposition to introduction | Legislative power | Blame avoidance | Avoid dispute, developing grounds for opposition. |

i . NGOs

The actor who had the strongest policy preference in the second period was civic groups. The major civic groups in the second period were almost same with the first period. There were the People's Solidarity for Participatory Democracy, the Coalition for Economic Justice, and etc, but the most active one was the People's Solidarity for Participatory Democracy. The People's Solidarity for Participatory Democracy had consistently advocated the enactment of the anti-money laundering act. NGOs actively used their influence to arouse public opinion and actively participated in public hearings to express their opinions. They also used various means, such as issuing statements and coalition with other civic groups, media and

lawmakers to expand its influence.¹⁶

They continued to insist on the introduction of the system, while attending a public hearing held at the National Assembly Finance and Economy Committee on August 27, 1997 and holding a discussion session on measures to assess and prevent corruption on September 3.

In October 1997, after the government submitted the bill on anti-money laundering, the PSPD submitted a petition to the National Assembly to revise the government submission bill. In the petition the PSPD insisted for currency transaction report system, expanding obligations to report illegal transactions (when there are considerable reasons to be questioned) of financial institutions, and the reinforcement of the penalty clause. In 1998, the PSPD continued its activities to expand its influence while collecting 175 lawmakers' signatures through active signature campaign.

The Solidarity for Economic Justice also submitted a petition for the enactment of the anti-money laundering in July 1997 after sufficient discussion by experts in academia and legal circles to prevent anti-social behavior, such as corruption, bribery and organized violence.

i i . The government

The Ministry of Finance and Economy announced measures to supplement the real-name financial transaction system on March 18, 1997 after the order of President Kim Young-sam. The government announced that it would take some measures to ease the real-name financial transaction system to the extent that it would not fundamentally neuter the real-name financial transaction system. It included measures such as extending the range of confidentiality of financial transactions, exempting the investigation of the source of real-name conversion funds, and excluding term insurance transactions and small remittances from the

¹⁶ On February, 1997, the People's Solidarity for Participatory Democracy held a forum with Hankyoreh Shinmun titled "How to eradicate power-related corruption and black money," insisting the enactment of an anti-corruption law.

regulation.¹⁷

The government announced the introduction of an anti-money laundering system to prevent the illegal financial transaction that could arise from easing the real-name financial transaction system. In other words, the government decided to ease regulations on financial transactions by easing the real-name transaction system while strengthening control over the laundering of illegal funds.

This means the government's official policy goals have changed. The position of the Ministry of Finance and Economy, which was that money laundering activities could be prevented by the existing real-name financial transaction system, comprehensive taxation on financial income, and regulations of the Bank Supervisory Service, has been changed to ease regulations on real-name financial transaction system but to strengthen the regulation on money-laundering activities.

The draft bill was made by the Ministry of Justice through consultation with the Ministry of Finance and Economy, and the final bill was set after public hearings and government-ruling party consultations. The government announced the real-name financial transaction bill and the anti-money laundering bill on May 29, 1997 and submitted to the National Assembly.

The Government's anti-money laundering bill contained the following:

- Prohibition of money laundering activities related to certain crimes, such as bribery and organized crime using financial institutions (bribery by government officials, embezzlement and breach of trust by accounting staff of state or local governments, illegal political fund collection, tax invasion, bribery by executives and employees of financial institutions, and organizational violent crimes)
- Financial institutions' obligation to retain currency transactions records exceeding a certain amount
- Warrantless access of the investigation agencies to this record.
- Imprisonment of up to seven years or a fine of up to 30 million won for money laundering crimes

¹⁷ The Korea Economic Daily, 3.19.1997.

The government had a policy goal of introducing an anti-money laundering system, but the motive for introducing the system was complicated. At that time, the government promoted the introduction of the anti-money laundering system as an inevitable measure due to the easing of the real-name financial transaction system, rather than as an independent system.

The bill was not passed the National Assembly in July 1997 due to continued political conflicts in the National Assembly ahead of the presidential election and differences on contents of the bill between the ruling and opposition parties.

After the Kim Dae-jung administration had been started in February 1998, the government pushed the enactment of the anti-money laundering act again. It was one of his president campaign promises and also required to prepare for the liberalization of foreign exchange transactions in May 1998. The government requested the National Assembly to review the bill submitted in 1997 and announced that it would push for the inclusion of anti-money laundering clauses in the Foreign Exchange Transaction Act if the National Assembly do not pass the bill. The government planned to enact the anti-money laundering act in the regular session of the National Assembly in September 1999, but the bill wasn't passed and automatically scrapped after the National Assembly ended the session.

i i i . National Assembly

At that time, the National Assembly was the most passive in introducing the anti-money laundering system. The opinions of the National Assembly differed from party to party.

<New Korea Party>

The New Korea Party finally agreed to the government's bill during a government-ruling party meeting in 1997, but its official position was not in favor of introducing an anti-money laundering system. The New Korea Party constantly asked the government to shelve or scrap the government's ongoing anti-money laundering bill for the reasons of that it would be an obstacle to overcoming the

economic downturn. The New Korea Party kept insisting that the enactment of the anti-money laundering law was unnecessary because crimes could be punished under the relevant laws, such as the Criminal Code for obstruction of business, the Tax Crimes Act, and the Political Fund Act.

<The National Congress for New Politics Party >

Unlike the National Congress for New Politics Party, which voted in favor of enacting the anti-money laundering law. Although the National Assembly temporarily showed reservations about introducing an anti-money laundering system in the debate over the effectiveness of the real-name financial transaction system and the responsibility for the economic recession during the presidential election, it agreed with the government to introduce an anti-money laundering system after the presidential election.

② Interaction

In this period, actors showed conflicting interactions. Although the government and civic groups shared common goal of introducing the system, they conflicted showing differences over details of bill. The conflict between the government and the National Assembly was intense as the introduction of the anti-money laundering system was discussed as a complement to the real-name financial transaction system.

Participants in the policy network at the time were civic groups, the government and political parties. Though the bill on anti-money laundering was made after the meetings between the government and the ruling party, the ruling party still opposed the adoption. Civic groups were also working individually to introduce anti-money laundering systems.

i . The conflict between the government and NGOs

The government and civic groups shared the same policy goal on introducing the system, but differed over the details. The People's Solidarity for Participatory

Democracy announced a commentary¹⁸ on May 31, 1997 that it is expected to enact the bill as soon as possible, as the government bill contained the most contents of the anti-money laundering bills which the PSPD submitted to the National Assembly. However, the PSPD assessed that the government's bill was generally insufficient criticizing the absence of currency transaction reporting system and the exclusion of no-conditions-attached bribes received by politicians from premise crimes.

<Table 11 > Comparison of PSPD's and Government's Bill

| | PSPD's Bill | Government's Bill |
|--|---|---|
| Violation the Political Fund Act | Include as a premise crime | Regulate according to the current relevant law. No-conditions-attached bribes are excluded. |
| Currency transaction reporting | Report cash transactions worth more than 20 million won to the National Tax Service | Financial institutions must keep records of cash transactions Prosecutors and National Tax Service can access without warrant. |
| Punishment on money laundering | Imprisonment of 10 years or less or fines of KRW 50 million or less | Imprisonment of 7 years or less or fines of KRW 30 million or less |
| Punishment on violating the reporting obligation | Imprisonment of 2 years or less or fines of KRW 20 million or less | Imprisonment of 1 years or less or fines of KRW 5 million or less |

i i . The conflict between the government and the National Assembly

In second period, The National Assembly and the government have been in constant conflict. It was difficult to reach an agreement on the contents of the bill

¹⁸People's Solidarity for Participatory Democracy's Commentary on announcement of Ministry of Finance and Economy on supplementary measures to the real-name financial transaction system, 3.19.1997.

and the timing of its introduction during the ruling party and government meeting. The ruling party constantly argued that the anti-money laundering bill was against the purpose of liberalizing the real-name financial transaction system and could cause an economic depression. On May 29, 1997 after a three-month-long dispute, the bill was confirmed at a government-ruling party meeting and submitted to the special session in the National Assembly. However, this agreement was about the general aim of easing the real-name financial transaction system, still the party's position on the introduction of an anti-money laundering system was negative¹⁹. A senior official of New Korea Party commented in the interview, "The anti-money laundering law, which is currently being legislated by the Ministry of Justice, could be a major obstacle to make black money flow into industrial funds," saying that "Most of the lawmakers who attended the party's economic task force on March 26 agreed that the anti-money laundering law could cause big problems at a time when all measures should be taken to resolve the economic crisis."

The government, however, viewed opposition from the National Assembly and political parties in a different view. An official in the Ministry of Finance and Economy judged that the opposition from the National Assembly was not only due to economic reasons saying "I know that some lawmakers are opposed to the law as it would result in regulating political funds".²⁰

The conflict was complex, since the cause of the conflict was not only for economic reasons, but also for political reasons, such as punishment for violating the Political Fund Act and regulation of political funds.

The conflict continued in the National Assembly. After the bill was made and submitted to the National Assembly, the ruling party, New Korea Party, opposed the bill at a special session of the National Assembly in June, saying that it would have a negative impact on economic revival by preventing the inflow of funds to the primary and secondary financial markets. The handling of the anti-money laundering bill was put on hold in the July extraordinary session as members of the Finance and Economy Committee opposed the legislation. The Finance and Economy Committee decided to continue the discussion in the next extraordinary

¹⁹ Hankyoreh Shinmun, 5.30.1997.

²⁰ Segye Ilbo, 5.30.1997.

session or in the regular session of the National Assembly in September and after opening public hearings in August. In the public hearing²¹ at the National Assembly's Finance and Economy Committee in August, New Korea party insisted that the government should not only focus on social justice but should fully take into account the economic situation. The party opposed the government's anti-money laundering bill, saying it ran counter to the purpose of deregulating the real-name financial transaction system to revive the economy, and restricting all financial transactions for investigation convenience is biased and would burden financial institutions.²²

As the economic recession continued and the presidential election campaign begun in earnest, political strife over bills related with financial system reforms including anti-money laundering bill had intensified. The real-name financial transaction system emerged as the subject of political attacks among presidential candidates, and official discussions at the National Assembly were practically stopped. The effectiveness of the real-name financial transaction system and the need to introduce supplementary measures were the main issues, and the introduction of the anti-money laundering system was pushed out of the discussion list as a secondary issue.

The three parties - the New Korea Party, the National Congress for New Politics and the People's New Party - strongly advocated supplementation and retention of the real-name financial system, pointing to the real-name financial system as one of the main causes of the recent economic crisis.

This led to a serious conflict between the government and the political parties. The political parties requested at the government to supplement the real-name financial transaction system beyond the level of previously submitted bill. President candidate Lee Hoi-chang asserted that it is urgent to correct the real-name financial transaction system to stabilize financial markets and support

²¹ The general director on the Department of Tax and Customs, senior prosecutor at the Seoul District Public Prosecutor's Office, professor of Korea University of Law, editorial writer of the Mael Business Newspaper, director of the Korea Federation of Banks, representatives of small and medium-sized enterprises, executive director of the Korea Chamber of Commerce and Industry, and the secretary general of the People's Solidarity for Participatory Democracy participated.

²² Seoul Economic Daily, 8.28.1997.

small and medium enterprises. Candidate Kim Dae-jung also insisted that the real-name financial transaction system should be temporarily suspended as a state of emergency.²³

The government responded that such arguments by politicians were irresponsible political offensives. The Blue House criticized, "The real-name system is not related to the current economic crisis. It is very irresponsible to blame the government as the National Assembly delaying the enactment of 'the bill on real-name financial transactions system' and 'the bill on anti-money laundering' which were submitted to the National Assembly already."²⁴

The anti-money laundering system issue was buried under the issue of the effect and continuation of the real-name financial transaction system, and the discussion and agreement on the introduction of the anti-money laundering system as a supplementary measure was delayed as the discussion focused mainly on the reservation and supplementation of the real-name system to overcome the economic crisis during the extraordinary session held on December 22. Eventually, the bill to replace the real-name system passed the National Assembly on December 12.30 and the bill to prevent money laundering was not passed.

In conflicts, discussions and agreements on the introduction of anti-money laundering system were delayed in the extraordinary session of the National Assembly on Dec. 22 as the discussion focused mainly on withholding and supplementing the real-name financial transaction system to overcome the economic crisis. Eventually, the bill on real-name financial transaction system only passed the National Assembly on December 12.30 and the anti-money laundering bill failed to be passed.

After the administration changed in February, 1998, the Ministry of Finance and Economy pushed the enactment of the anti-money laundering bill again, and tried to pass the anti-money laundering bill submitted to the National Assembly in 1997 during the extraordinary session of the National Assembly in March. However, the discussion on the anti-money laundering bill was not continued due to other

²³ Kyunghyang Shinmun, 11.28.1997

²⁴ Kim Kwang-il, special presidential advisor for policy's statement, MBC News, 11.28.1997.

anti-corruption legislative.

In second period, as the dispute over the anti-money laundering system was discussed not only as a anti-money laundering system, but also as part of the political dispute over the deregulation of financial institutions and the accountability for financial crisis, the pattern of conflict has become intense and there has been little sign of the conflict being resolved.

③ Policy network structure and type of policy network

i . The existence of the main actor

The economic recession and the presidential election made the conflict more complicated when there was no agreement on introducing anti-money laundering system. It was hard to find a major actor who acted as a coordinator in the policy network at this time. In second period, although the government pushed for the enactment of the bill, its influence was not strong enough to persuade the National Assembly and achieve passage of bills. In addition, the government's influence decreased further as the debate on responsibility for the economic crisis had grown. In the run-up to the presidential election, the government's drive for policy adoption was practically lost, as the responsibility for the economic crisis intensified.

It was also impossible for civic groups to perform the role of a neutral policy coordinator because they lacked official authority and showed significant differences with the National Assembly over measures to supplement the real-name financial transaction system and anti-money laundering system.

In the case of the National Assembly, the introduction of anti-money laundering systems was not the National Assembly's priority. As the cause and responsibility of the economic crisis became a political issue ahead of the presidential election, the National Assembly focused on the side effects of the real-name financial transaction system and measures to supplement it, while the discussion on the introduction of an anti-money laundering system had been relegated to a lower priority. Until December 30, 1997, when the National Assembly passed the bill on

the real-name financial transaction system, discussions on the anti-money laundering bill were put on hold. The discussion in the National Assembly on the anti-money laundering system was not activated, and it was impossible to expect an actor who played an active mediating role.

It was same after the presidential election and the government was changed. As the anti-money laundering system was discussed as part of the anti-corruption measures, other issues such as the establishment of a special anti-corruption committee, the strengthening of property registration for public officials, the protection of whistle-blowers, the establishment of a special investigation team against corruption, and the introduction of special prosecutors were at the center of controversy, the anti-money laundering system was pushed back from the priority list.

i i . Type of policy network

The policy network in second period was a decentralized conflicting network, as was the first period, and the conflict between actors was prolonged. Conflicts became intense as issues such as supplementing the real-name financial transaction system and disputes over the responsibility of the economic crisis were discussed along with the anti-money system, and the lack of influential actor to coordinate and mediate the conflicts led to failure in policy adoption and prolonged conflicts.

<Table 12> Type of policy network in the second period

| | | Pattern of interaction | |
|--|---------------|-----------------------------------|---|
| | | cooperative | conflicting |
| Distribution of influence, existence of powerful actor | centralized | centralized cooperative network | centralized conflicting network |
| | decentralized | decentralized cooperative network | <u>decentralized conflicting network</u> |

(4) Output

In the second period, conflicts among actors continued and failed to come up with a final system. The change of the government's position was noticeable, but there is no substantial policy output in this period.

(5) Conclusion

In the second period, the interaction of the network shows the type of conflicting interaction. The government changed its policy goal and took the initiative in introducing policy by submitting the bill to the National Assembly. However, the ruling party which was a majority party opposed the introduction of an anti-money laundering system and conflicted with the government and civic groups. As the anti-money laundering system was discussed as a supplement to the real-name financial transaction system and as part of the anti-corruption law, the conflicts were intense and complicated by differences in the actors' positions on the main issues. Moreover, conflicts over major issues were sharpened with the economic crisis and the presidential election, and discussions on the anti-money laundering system itself were not the priority of the National Assembly.

The government participated in the enactment of the bill in earnest and actively engaged in debate with the National Assembly. However, none of actors acted as a mediator. Despite the government's attempt to promote its policies in earnest, the government's policy motive was not focused on the introduction of the anti-money laundering system itself but to justify easing the real-name financial transaction system. Therefore, the anti-money laundering system could not be discussed separately from the real-name financial transaction system and the current economic situation in the National Assembly, which restricted the government from playing an active mediating role.

Environmental factors also had a negative effect on deriving the policy output in second period. Although the awareness of the introduction of anti-money laundering systems was widely spread, the financial crisis in 1997 also increased concerns that anti-money laundering policy would dampen the financial market and

delay the economic recovery, which negatively affected the introduction of the anti-money laundering system. In addition, the political environment caused delays in the introduction of the system, with the temporary suspension of the legal review process in the National Assembly ahead of the presidential election in December 1997.

In this period, the government bill as well as other actors' bills were behind the anti-money laundering system required by the international community, as the criteria and scope of premise crimes were insufficient compared to international standards, and it did not take into account the introduction of the suspicious transaction reporting system, the installation of FIU, and the establishment of an internal reporting system for financial institutions.

<Table 13 > Variables of analysis in the second period

| Dimension | Variable | Content |
|--------------------|-------------------------------|--|
| Policy Environment | Level of social recognition | Increased public awareness of money laundering crime |
| | Political· economic situation | Presidential election, economic crisis |
| | International context | Pressure from OECD and IMF |
| Policy Network | Actors | NGOs, the government, political parties |
| | Interactions | Conflicting interaction |
| | Policy network structures | Decentralized conflicting network |
| Output | Policy | Fail to adopt the policy |

3) The Third Period (2000-2001.9)

(1) Overview

In the third period, the government was active in introducing the anti-money laundering system and the National Assembly had basically agreed on the introduction of anti-money laundering system.

On March 7, 2000, the government announced the plan to enact legislation on anti-money laundering system after the ministerial meeting. The purpose of the government was to establish a sound financial market by combating the money laundering activities using financial institutions. It was also intended to prevent the crimes by basically eliminating the motive of crime through confiscation of criminal proceeds. In particular, the second phase of the liberalization of foreign exchange transactions, which would be implemented in 2001, had increased the need to establish a system to prevent illegal fund leaks and money laundering activities that occur abusing foreign exchange liberalization. In addition, the international community urged countries to strengthen their anti-money laundering systems, and it was necessary for Korea to improve related systems and participate in international anti-money laundering efforts.

On April 10, 2000, according to Prime Ministerial Directive, a planning group to build an international financial transaction information system was set up in the Ministry of Finance and Economy. The Ministry of Finance and Economy and the Ministry of justice had prepared two legislative proposals to introduce anti-money laundering system. After researches about the cases of main countries' related systems, coordination among the governmental departments, and public hearings from experts and NGOs, the government submitted two bills, which are 'The bill on report on, and the use of specific financial transaction information' and 'The bill on regulation and punishment of criminal proceeds concealment,' to the National Assembly on November 23, 2000.

'The bill on regulation and punishment of criminal proceeds concealment' was not discussed at the regular session of the National Assembly, since the National Assembly Legislation and Judicial Committee decided to deliberate two

legislations together as they had a close relationship. Legislation and Judicial Committee had waited until The Finance and Economy Committee finished the deliberation on ‘the bill on report on, and the use of specific financial transaction information and transmit the bill to Legislation and Judicial Committee.

On December 18, 2000, the Finance and Economy Committee held a plenary meeting and after general debate, transmitted the bill to the Bill Examination Subcommittee in the Finance and Economy Committee. The bill was not passed by the end of 2000 as the Subcommittee postponed the deliberation of the bill to the next provisional session of the National Assembly for further deliberation. As a result, the government's goal to enact laws by the end of 2000 was not achieved.

In February 15, 2001, the Finance and Economy Committee held Bill Examination Subcommittee meetings three times and passed the bill with amendments. Through the amendment process, the information disclosure claimants were limited to the Public Prosecutor General from a District Public Prosecutor General and the request on raw data on suspicion transactions was restricted. In addition, criteria for suspicious transaction reporting had been amended to reasonable grounds to suspect from probable grounds to suspect.

‘The bill on report on, and the use of specific financial transaction information’ was sent to the Legislation and Judicial Committee. From February 27, 2001, the Legislation and Judicial Committee began to review the two bills. From March 6 to 9, the Bill Examination Subcommittee of the Legislation and Judicial Committee deliberated two bills and amended several points.

In the subcommittee, the main issue was whether the violation of the Political Fund Act should be subject to the discipline of the anti-money laundering law. The subcommittee agreed on that the bill would be approved at the plenary session on March 9, excluding the violation of political fund act as originally proposed by the government. However, some lawmakers²⁵ strongly opposed the agreement and the plenary session's vote ended up in failure.

After that, a nine-member committee consisting of floor leaders and senior members of the Legislation and Judiciary Committee of the Finance and Economy Committee from ruling and opposition parties was formed to make an agreement

²⁵ Chun Jung-bae and Cho Soon-hyung.

on the bill in April, 2001. Discussions and coordination process of committee continued until September on whether political fund law violations were included, whether to grant prima facie opportunities to lawmakers, the scope of FIU's right to trace accounts, etc.

In the end, the violation of the political fund act was included in premise crimes, the National Election Commission would give politicians the opportunity to prove themselves and FIU's account tracking scope was limited to foreign transactions.

In September 3, 2001, two bills passed the National Assembly plenary session and finally, anti-money laundering system was enforced on September 28, 2001.

(2) Policy Environment

As the liberalization of foreign exchange and continued and the volume of foreign exchange transactions was expanded after the Asian financial crisis, social awareness grew that crime could not be dealt with the existing methods as it became organized, intelligent, and internationalized.

After the liberalization of foreign exchange was implemented in April 1999, the volume of foreign exchange transactions was increasing significantly. In 1998, the foreign currency market, including current and futures market, averaged around \$1 billion per day, but has surged to between \$2 and \$3 billion after April 1999.

<Table 14> Volume of foreign exchange transactions (daily average/ \$100 million)

| | '98 | '99 1/4 | 2/4 | 3/4 |
|--------|------|---------|------|------|
| Volume | 10.9 | 14.2 | 21.8 | 34.0 |

The sum of spot transactions, inter-bank intestinal transactions, forward exchange and swap transaction.

Changes in the economic environment were expected to increase the inflow of international illegal funds into the country and the outflow of domestic funds to overseas, raising the necessity of the urgent introduction of anti-money laundering system. In particular, the second foreign exchange liberalization measures was supposed to be fully implemented from January 1, 2001. The second phase of the

liberalization measure was to liberalize individual foreign exchange transactions, including the abolition of limits on travel expenses, overseas migration expenses and overseas deposits, which had been reserved in the first phase of the measure. The introduction of the anti-money laundering system was considered as an urgent issue

< The second phase of the liberalization of foreign exchange transactions >

- As in the case of advanced countries, only transactions that undermine international peace and public order (international crimes, money laundering, gambling, violation of UN economic sanctions, etc.) are restricted
- Complete liberalization of personal current transactions (travel expenses, money transfers, overseas migration expenses, the transfer overseas Korean's domestic property)
- Complete liberalization of non-liberated capital transactions in the first phase in April 1999
- Liberalization of all capital transactions, such as personal overseas deposits, car businesses, credit offerings, real estate investments, etc.
 - Non-resident (for less than one year) deposits (including trusts) in Korea
 - Liberalization of corporate overseas deposits and credit
 - Investment in domestic and foreign securities not via domestic securities companies
 - Liberalization of financial derivatives transactions not through foreign exchange intermediaries

International pressure to introduce anti-money laundering systems was also being imposed on Korea. FATF had promoted effective implementation of legal, regulatory and operational measures for combating money laundering by evaluating the anti-money laundering system of each country and recommending the introduction of the system to non-cooperative countries. In particular, in June 2000, FATF announced the list of "Non-Cooperative Countries and Territories (NCCTs)". The principal objective of the Non-Cooperative Countries and Territories Initiative was to reduce the vulnerability of the financial system for

money laundering by ensuring that all financial centres adopt and implement measures for the prevention, detection and punishment of money laundering according to internationally recognized standards. 15 countries were listed as NCCTs in 2000.

Being on the list of NCCTs could lead to the downgrading of Korea's sovereign credit rating. Moreover, since it directly affects the creditworthiness of the banks in Korea, banks could face considerable inconveniences in borrowing money or in transactions with other international banks. In some countries, financial institutions were required to report separately on financial transactions with financial institutions in NCCTs, which creates disadvantageous financial transaction condition.

Among 29 member countries of OCED, Korea was the only country which didn't have a system to monitor and punish illegal money laundering activities. Korea was considered as a candidate country to be designated as a NCCT in General Meeting of FATF in June 2000. Korean government had explained the plans to establish its anti-money laundering legislation and Financial Intelligence Unit to FATF so the designation had been hold. However, the anti-money laundering system was not introduced until December 2000. In January, 2001 the FATF decided to appoint additional NCCTs and strengthen the sanctions against the countries where the anti-money laundering efforts were insufficient. There was a concern about the designation of Korea as NCCT at the FATF General Meeting in June, 2001, and all of these environmental factors acted as a factor urging the introduction of anti-money laundering system in Korea.

The United States also focused on spreading the anti-money laundering system internationally to prevent illegal fund inflows into the United States and to protect the financial industry. The United States began to recognize financial crisis of other countries as a threat to their industries as they found that the Asian financial crisis in 1997 spread to Latin America through Russia, and resulted in a considerable shock to the US economy due to declining natural resource prices including agricultural products. The United States recommended establishment of anti-money laundering system to prevent the corruption of high-ranking government officials and politicians which was major factor that caused the

economic crisis in developing countries. In this regard, FinCEN, the US Financial Intelligence Unit, recommended Korea to establish a financial intelligence agency for international cooperation to prevent financial crime, which acted as policy pressure for Korea.

(3) Policy Network Factors

① Actors

In third period, actors are the government with the planning team as the center, the National Assembly and NGOs. In this study, Government ministries, public organizations such as the Financial Supervisory Service, and the Korea Federation of Banks which participated in the planning team are regarded as one actor with the same preference for the government bill in the end, as they all participated in the bill making process and made final bills through coordination and agreement.

<Table 15> Actors in the third period

| | goal | resource | strategy | Action |
|----------------------|---------------------|---|---------------------------------|---|
| NGOs | policy introduction | Creating public opinion | Making issue, Raising influence | Coalition among NGOs and lawmakers, public hearing, statement, petition, |
| The government | policy introduction | official authority of administration, expertise | Early enactment | Establish the planning team for FIU, public hearing, research, submitting the bills |
| The Democratic Party | policy introduction | legislative power | Early enactment | Subcommittee for coordination |

| | | | | |
|--------------------------|---------------------|---------------------|---|---|
| New Korea Party | policy introduction | legislative power | Introduce moderate system | Subcommittee for coordination |
| Some reformist lawmakers | policy introduction | policy introduction | Introduce strong anti-money laundering system | Acting independently, refuse the agreement, coalition with media and NGOs |

i . The government

The government started to push for the introduction of anti-money laundering system with a clearer goals and more systematic strategy. In April 2000, the government set up a planning team for the establishment of an external financial transaction information system under the Ministry of Finance and Economy to effectively cope with the outflow of illegal funds and money laundering activities through foreign currency transactions. The planning team was consisted of the head of planning team, three subgroups, general planning, system research, computer network building, and 20 members from related agencies. The council for the establishment of a foreign financial transaction information system was also consisted to discuss and coordinate the composition and operation of the planning team, and the draft bills and system, etc. The chairmen of the council was the Vice Minister of Finance and Economy and members were from the Ministry of Government Administration and Home Affairs, the Ministry of Planning and Budget, the Office for Government Policy Coordination, the National Intelligence Service, the National Tax Service, the Korea Customs Service, and the National Police Agency, the Bank of Korea, and Korea Federation of Banks and three experts designated by chairman.

As the government pushed for the establishment of the anti-money laundering system and Financial Intelligence Unit (FIU) systematically, new actors emerged

around government in the process of making government draft bill. In the planning team, other institutions and financial sectors as well as the government ministries participated to make the draft. Public institutions such as the Financial Supervisory Service, the Bank of Korea, and the Korea Federation of Banks which represented banks and financial institutions actively participated as members of the planning team.

In the case of government ministries, the Ministry of Finance and Economy and the Ministry of Justice were previously the main government actors, but in the third period, investigative agencies such as the Public Prosecutor's Office, the National Tax Service, the Korea Customs Service, and the National Police Agency newly participated related with the scope of money laundering investigative authorities and access to financial information. The Ministry of Government Administration and Home Affairs, the Ministry of Planning and Budget, the Office for Government Policy Coordination and the National Intelligence Service also participated as a member of council. Experts and civic groups also participated in the process of making the government bill through public hearings and activities of the Council.

The planning team, led by the Ministry of Finance and Economy, made the final government bill after researches by Korea Institute for International Economic Policy²⁶, coordination with ministries, collecting stakeholders' opinion, and having public hearings²⁷. The government conducted researches on international norms related to the anti-money laundering system and case studies in major countries through research institution before introducing the system, thus enhanced understanding of the anti-money laundering system and specific measures. Through this, the government started to prepare detailed policy proposals, including criminalization of money laundering activities and establishment of a financial information system and establishment of the Financial Intelligence Unit (FIU).

The planning team can be seen as a sub-network of the policy network, since

²⁶ Fighting Against Laundering and Illegal Capital Flight in Korea, 2000.

A Study on the Introduction of the Financial Intelligence Unit System, 2000.

²⁷ Two public hearings were held by the Korea Institute for International Economic Policy on January 18 and August 19, 2000.

various actors participated in the network and the final government bills were prepared through consultation and coordination among them. However, the participants in the sub-network were intentionally limited by the government and it was not possible for an actor outside the network to participate directly in the network except through the public hearings.

At that time, sub-network participants shared the common objectives of introducing anti-money laundering system. However, they exerted influence to reflect their respective interests in detail. Investigation institutions, such as the Prosecutors' Office, the National Tax Service, the Korea Customs Service and the National Police Agency, aimed to secure the access to the financial information and investigative authorities. In the initial draft, the FIU only provided suspicious transaction information to the Prosecutors' Office, the National Tax Service, the Korea Customs Service and the Financial Supervisory Commission. There were conflicts and disagreements between the Prosecutors' Office and the National Police Agency over the National Police Agency was excluded.²⁸ This conflict was reconciled in the Cabinet meeting. The bill was shelved for a Cabinet meeting as the Ministry of Government Administration and Home Affairs expressed disagreement over the exclusion of the National Police Agency from the agencies receiving financial transaction information on November 13, 2000. Afterwards, the bill was revised to include the National Police Agency and submitted to the National Assembly after a Cabinet meeting.

In the case of the financial sector represented by the Korea Federation of Banks, it took a cautious stance on the introduction of the system, but considered the introduction of the system as given constraint. Banks have made preparations for anti-money laundering by establishing suspicious transactions report system and reporting guidelines. At the same time, the Korea Federation of Banks presented financial sector's opinions on the problems of implementation process such as discussing the feasibility of identifying suspected transactions, establishing a suspected transaction reporting system, and preparing guidelines. Banks also tried

²⁸ "The conflict between the prosecution and police over the anti-money laundering law", Munhwa Ilbo, 10.11.2000.

to minimize the burden and avoid the punishment and sanctions.²⁹

The goal of the government was to introduce the system to counter social demands in domestic and pressure from the international community. The draft bills were designed for this purpose, which punished money laundering activities related to organization crime, drug trafficking, tax evasion, bribery of government officials. In addition, a financial intelligence unit shall be set up to analyze financial transaction related to illegal fund inflows and out flows. However the bill excluded violations of the Political Fund Act, which could become an obstacle to the passage of the bill in the National Assembly. The government's policy goal can be confirmed through remarks by government officials at the time. The official in the Ministry of Finance and Economy said, "The government bill in 1997 included violations of the political fund act in premise crimes punishable by money laundering, which caused the opposition from politicians. The government bill will exclude the violations of the political fund act this time"³⁰

On November 23, 2000, government submitted two bills, which are 'a bill on report on, and the use of specific financial transaction information' and 'a bill on regulation and punishment of criminal proceeds concealment,' to the National Assembly. Government included only breach of trust and embezzlement charges of 500 million won or more, which were subject to 'the act on the aggravated punishment, etc. of specific crimes,' as the premise crimes of money laundering to minimize the impact on the national economy. Violations of the Political Fund Act, which was controversial with the National Assembly, were excluded from the premise crime.

i i . NGO

NGOs, which had acted individually before, formed 'the civic alliance for anti-corruption legislation'³¹ on September 6, 2000, shared the same policy goal

²⁹ In case of Seoul Bank, it is advised by Deutsche Bank to prepare detailed regulations and guidelines that conform to international standards

³⁰ Kyunghyang Shinmun, 8.19.2000

³¹ Consisted of 38 organizations, including the Citizens' Coalition for Economic Justice, the Anti-Corruption National Coalition, the People's Solidarity for Participatory

and strategy, and acted as a single organization. The civic alliance petitioned the National Assembly for legislation of anti-corruption bill and anti-money laundering bill on September 9, 2000.

The civic alliance strongly agreed to introduce anti-money laundering system, but disagreed with the government's bill over details. They argued to expand the premise crimes to violations of the Political Fund Act, tax evasion, fraud, embezzlement and breach of trust which were not subject to the government bill. Since the Political Fund Act alone could not punish employees of financial institutions who conspired or assisted in money laundering, the civic alliance insisted that 'Act on regulation and punishment of criminal proceeds concealment' must regulate violations of 'the political fund act'.

In addition, it continued to argue that the government could supplement the suspicious transaction report based on subjective judge by introducing currency transaction report, while securing FIUs' widen authority to trace account. It also demanded that law-enforcement agencies should have wider authority to request specific financial transaction information for their proper investigation.

i i i . The National Assembly

In the third period, all parties in the National Assembly shared same policy goal of introducing an anti-money laundering system, as evidenced by the fact that the ruling New Millennium Democratic Party and the main opposition Grand National Party all presented their pledges to enact an anti-money laundering Act in the National Assembly general elections on April 13, 2000.

In a policy consultation meeting between the ruling and opposition parties after the general elections, the ruling Millennium Democratic Party and the main opposition Grand National Party selected common pledges to push for legislation,³² including the real-name financial transaction law, anti-corruption law and anti-money laundering law.

The New Millennium Democratic Party's position was the same as the

Democracy and the Korea YMCA National Federation

³² Maeil Business Newspaper, 5.4.2000.

government's bill, but some lawmakers in the New Millennium Democratic Party insisted on stricter anti-money laundering systems including regulation on violations of the political fund act and introducing a currency transaction reporting system. They pointed out the government's lack of will to exclude violations of the Political Fund Act, which was even included in the 1997's government bill. These reformist lawmakers represented the position of civic groups who were unable to participate in the official legislative process. The reformist lawmakers such as Chun Jung-bae and Cho soon-hyung, were recommenders when the People's Solidarity for Participatory Democracy petitioned the National Assembly for the anti-corruption bill in 1995. They kept close connection with civic groups as participating in public hearing hosted by civic groups and insisted the strong anti-money laundering system.

The Grand National Party also agreed on the exclusion of violations of the Political Fund Act and had negative position on the FIU having authority to trace the account related money laundering activities.

The differences among the political parties and lawmakers were due to the political reasons such as the possibility of the anti-money laundering act acting as a regulation on political funds and the possibility of political oppression against some lawmakers by abusing FIU's authority to trace accounts.³³ However, both the ruling and opposition parties were concerned about it might be appeared to be a collective selfishness or lack of will to combat corruption, which was why they formed a consensus on the introduction of the anti-money laundering system, despite differences on details.

② Interaction

In third period, NGOs, the government, and the National Assembly had a consensus on the policy goal of introducing an anti-money laundering system, so

³³ The Grand National Party changed its stance to oppose the anti-money laundering bill, saying that the FIU's authority to track down the accounts is likely to be abused to trace the bank accounts of opposition lawmakers, The Korea Economic Daily, 4.27.2001

cooperative relationship was formed between actors who were at odds in the past period. However, despite the cooperative interaction in general, there were serious conflicts over the details. Conflicts continued till they reached agreement through coordination and compromise on details. It eventually led to a policy output of enacting an anti-money laundering law through coordination.

i . Interaction between NGOs and other actors

The government's policy goal was to introduce the anti-money laundering system at the level required by the international community, but the civic groups, they aimed for strict anti-money laundering system than the government's bills.

After the government announced the bill, civic groups and the media immediately criticized that the government bill disregarded the public opinion and social convention on the current status of corruption in Korea.³⁴ The civic group criticized for violations of the political fund act being excluded from the premise crimes and subject of suspicious transaction reporting. Also they intensively criticized for the exclusion of breach of trust, embezzlement and fraud which are closely related to illegal political funds.³⁵

The Citizens' Coalition for Anti-Corruption legislation issued an official statement opposing the government bill, saying, "The proposed anti-money laundering bill which exclude the illegal political fund crimes, breach of trust, embezzlement and fraud crimes from the premise crimes, is to neutralize the purpose of the bill."

Civic groups and media continued to come into conflict with the National Assembly and the government when the bills were discussed in the National Assembly, insisting on the introduction of a powerful anti-money laundering system even in the process of the bill being revised in parliamentary discussions.³⁶

³⁴ Editorials of The Korea Economic Daily, Segye Ilbo, Kookje Shinmun, 8.21.2000.

³⁵ A joint public hearing by civic groups and scholars, 10.16. 2000

³⁶ A member of the People's Solidarity for Participatory Democracy said. "A serious debate on legislation in public hearing process of the Finance and Economy Committee is needed with the active participation of the civic alliance for anti-corruption legislation

i i . Interaction in the National Assembly

In the third period, all the political parties agreed to introduce the anti-money laundering system, the interaction was basically cooperative.

The reasons for the policy goal changes of the National Assembly and the change in the form of interaction are as follows:

First, as demand for combating corruption continued and the Kim Dae-jung administration announced to carry out the presidential election pledge related anti-corruption system, the National Assembly felt burdened by sticking to its previous position.

Second, the National Assembly had to deal with public criticism and concerns over delayed legislation of anti-money laundering system to prevent illegal fund flows. After the foreign exchange liberalization measure, the possibility of illegal financial transactions increased. Especially, there have been discussions that Korea would be designated as a NCCT by FATF, criticism on the National Assembly has increased over the delay of the system due to political debate. Therefore, the National Assembly could not but be active in introducing the policy and coordinating conflicts.

At that time, the issues of conflicts over the anti-money laundering system were whether to include violating the political fund act as a premise crime, the introduction of currency transaction reporting system, the scope of account which were granted for the FIU to track, and the scope of investigative agencies which have authority to require transaction records. The National Assembly was to revise the government bill to reflect their demands as much as possible within the constraints of social needs.

In the National Assembly, there were difference with the government on details of the bill, therefore the bill was amended reflecting much of the National Assembly's opinion in the bill review process in the National Assembly's Finance and Economy Committee first. The criteria for reporting suspicious transactions were revised from transaction with considerable reason for suspicion to reasonable

who made an actual petition to the National Assembly." 3.2. 2001.

grounds for suspicion. However, this amendment caused criticism from civic groups. Conflicts with civic groups had intensified, especially due to the committee's closed-door proceedings and omission of public hearing procedures during the legal review.

In the Legislation and Judiciary Committee process, conflicts intensified. There were arguments over whether to include the violations of the political fund act and the complement measures if included. At that time, the government tried to reach an agreement with the National Assembly by excluding violations of the political fund act which could be an obstacle in the National Assembly, and most of lawmakers in the Legislation and Judiciary Committee agreed to exclude them. After amending other controversial regulations during the discussions of the Legislation and Judiciary Committee and the Finance and Economy Committee, the political parties tried to pass the bills at the plenary session. However, some lawmakers protested against excluding violations of the Political Fund Act and the passage of the bills was delayed.

In April and June 2001, a committee composed of members from ruling and opposition parties of the Legislation and Judiciary Committee and the Finance and Economy Committee discussed details of the bill. Issues of discussion were whether to include the violations of the Political Fund Act, measures to supplement if included, and the scope of the account which FIU have authority to track.

The bill was passed in the plenary session of the National Assembly on September 3, 2001 after reaching an agreement on the issues through continued consultations between the ruling and opposition parties in August

Interaction in third period was the resolution of conflicts between the government, civic groups and political parties, through negotiation and compromise under the common goal of introducing the system.

<Table 16> Issues and position of NGOs, Government and the National Assembly

| Issues | Position | | | |
|--------|----------|-------------------|-----------------------|-------------------------|
| | NGOs | Government | The National Assembly | The reformist lawmakers |
| The | Include | Exclude violation | Exclude | Include |

| | | | | |
|--|---|---|---|---|
| violations of political fund act, scope of premise crime | Widen the premise crimes | of the political funds act, fraud, embezzlement, breach of trust in criminal law, bribery, and third-party bribery. | | Widen the premise crimes |
| FIU's authority to trace account | All accounts | All accounts | Domestic accounts | All accounts |
| CTR | Introduce | Postpone | Postpone | Introduce |
| Agencies holding authority to request information | The head of prosecution office (including the head of the local prosecutors' office), the head of the National Police Agency, the head of the National Tax Service, etc | The head of the prosecution office (including the head of the local prosecutors' office), the head of the National Police Agency, the head of the National Tax Service, etc | The head of the the prosecution office, the head of the National Police Agency, the head of the National Tax Service, etc | The head of the the prosecution office, the head of the National Police Agency, the head of the National Tax Service, etc |
| Type of data | Raw data | Raw data | Secondary data | Raw data |

③ Policy Network Structure and type of policy network

i. the existence of the main actor

An influential actor leads the policy process and other actors participating in the policy network interact around the leading actor. In the process of making the government bill, major actor was the planning team of the Ministry of Finance and Economy. The government made a planning team to set up the anti-money laundering system, and organized team with other actors such as other governmental agencies, public financial agencies, financial institutions, and experts. Based on its official authority, the planning team prepared the draft bill after coordination with the Ministry of Finance and Economy, Ministry of justice, National Tax Service, Korea Customs Service, and etc. The planning team also coordinated the interests of related stakeholders such as research institutions, financial institutions and experts' group. The proposed bills became the base for discussion on the introduction of anti-money laundering systems in the third period.

After the bills were submitted to the National Assembly, the conflicts over details continued and the passage of the bills was delayed. Biggest feature of this period is that there was a mediator who coordinated conflicts and drawing compromises.

In March, 2001, after the several failures to reach an agreement at the Legislation and Judiciary Committee, it seemed impossible to reconcile at the standing committee level. The need to resolve the issue quickly through the intervention of the leadership of the political parties emerged. Since then, a nine-member committee consisting of leaders of the three main parties, the assistant administrators of the Legislation and Judiciary Committee and the Finance and Economy Committee was formed, and this committee made it possible to reach an agreement and succeed in introducing the system.

The detailed coordination process is as follows:

<Table 17 > Coordination process³⁷

³⁷ Annual Report on Combating Money Laundering, FIU Ministry of Economy and

| date | schdule | main issues |
|-------------------|---|---|
| 2.20. | Pass the Finance and Economy Committee | The Finance and Economy Committee passed the bill with some amendment |
| 2.27 ~ 3.9 | Deliberation of Legislation and Judiciary Committee | The Legislation and Judiciary Committee had begun deliberations after the approval of the Finance and Economy Committee so that the two laws could be deliberated at the same time. |
| 3.9 | Failure of the Legislation and Judiciary Committee and the plenary session's vote | The Legislation and Judiciary Committee decided to pass the bill in the plenary session without including any violation of the Political Fund Act, but some lawmakers protested strongly. The approval of the bill was postponed because it was suggested that supplementary measures should be prepared instead of including violations of the Political Funds Act. |
| 4.23 | First nine-member committee | Committee agreed that suspicious transaction information on political funds should be provided to the National Election Commission, and pre-announcement would be given to the parties concerned. FIU's authority to track the account and request transaction information was deleted. Passage of the bills canceled as civic groups and media criticized that and political parties changed their decision. |
| 6.18 ~ 6.19 | Second nine-member committee | Including violation of the Political Fund Act and notification to the National Election Commission are agreed. The scope of the account tracking authority was |

| | | |
|-------------------|--------------------------|--|
| | | <p>still pending.</p> <p>Committee decided to pass 'the bill on regulation and punishment of criminal proceeds concealment' and put 'the bill on report on, and the use of specific financial transaction information' to a vote.</p> <p>- As the National Assembly didn't operate properly in June due to the dismissal of Cabinet members, the bills' passage was postponed.</p> |
| 8.20 ~ 8.30 | Ten-member committee | <p>Agreement on the political fund was same as before. Committee agreed to allow FIU to trace accounts, but only for the foreign transaction.</p> |
| 9.3 | Pass the plenary session | <p>There was opposition from some members of the Legislation and Judiciary Committee, but the bill was passed through vote.</p> <p>Two bills passed in the plenary session in the afternoon.</p> |

The nine-member and ten-member committees played the role of an official policy mediator and reached the first agreement on April 23. The agreement included providing suspicious transaction information related the violation of the political fund act to the National Election Commission, giving the politicians the chance to prove themselves, and deleting FIU's authority to trace accounts and request transaction information without a warrant. About the agreement, civic groups and the media intensely criticized it, calling it a coalition of politicians.³⁸ The government also mentioned about the notification to the National Election Commission that the FATF recommended a prohibition of notification to the parties and equity issues with other criminal activities might arise.

In response to criticism of the media and the public, the Democratic Party decided to review the agreement again. The Grand National Party turned to the opposition, saying that giving the FIU the authority to track down illegal funds was likely to lead to indiscriminate account tracing to opposition party lawmakers.' The

³⁸ Hankyoreh Shinmun, 4.24.2001.

Grand National Party announced through its spokesman that it had decided to seek renegotiation with the ruling party but not to accept the vote.³⁹

On June 18 and 19, the nine-member committee was held again and agreed to exclude the violations of the political fund act from the subject of the anti-money laundering law. Instead, they agreed to grant unlimited account tracking authority to the FIU. The ruling and opposition parties had set an internal policy to pass the revision bill at a next plenary session.

The agreement, however, was to reverse the revision in three months that the ruling and opposition parties have been continuously discussing to prevent illegal political fund raising. Public opinion and the media denounced the agreement as a "proposal of self-rescue measures by politicians." Lawmakers Cho Soon-hyung and Chun Jung-bae of Democratic Party, who advocated a powerful anti-money laundering system, decided to submit a revised bill to the plenary session and start the signature campaign.

The agreement was reversed in the next day and the committee made another agreement including the violations of the political fund act and the notification to the National Election Commission. However, they failed to agree on the scope of the FIU's authority to trace account and decided to vote on that issue in the next plenary session. However, the passage of the bills failed due to the crippled operation of the National Assembly over the issue to dismiss a Cabinet member.

The ruling and opposition parties held a third committee meeting from August 20. The ten-member committee agreed to include violations of political fund act, but to notify the National Election Commission in advance when the FIU conducts investigations related to political funds. The FIU's authority to trace accounts was limited to international financial transactions, so tracking domestic transactions of various illegal funds was allowed only through court warrants.

The revised bills had to be passed by the Legislation and Judiciary Committee to transfer to the plenary session. As some lawmakers of the Legislation and Judiciary Committee objected to the agreement, and the bills were passed through a vote. The bills were finally passed by the National Assembly's plenary session on September 3 and the anti-money laundering system was adopted.

³⁹ The Korea Economic Daily, 4.24.2001.

The reasons that policy intermediaries could emerge at this time can be judged by pressure of public opinion and international community. With the possibility of Korea being designated as an NCCT in the FATF General Meeting in June 2001, there were concerns over possible negative effects such as a fall in national credibility. Public opinion and pressure have been exerted on the National Assembly to pass the bill to avoid the disadvantages and sanctions. In particular, public opinion and the media were largely critical of the National Assembly delaying the passage of the bill for the benefit of lawmakers while conflicting over whether to include violations of the Political Fund Act.⁴⁰

Medias concerned about being designated reporting that "If designated as NCCT, the country's credibility would fall, dampening domestic and foreign investment and causing great inconveniences in financial transactions. Economic losses will increase as raising funds through foreign loans become difficult and additional interest rates will be added. Once designated as NCCT, it is very difficult to be excluded from the list. Russia and Panama, which were designated to the NCCT last year, are lobbying member states to remove their disgrace, but the FATF's rule is not to release from NCCT until it establish a perfect system."⁴¹

The delay in legislation had also put the government under pressure. "Although the ruling and opposition parties promised that they would pass the bill until the FATF's general meeting, I am not sure what will happen," an official in the Ministry of Finance and Economy said. "If they miss the timing, Korea would suffer huge economic losses as well as international disgrace."⁴²

Under these circumstances, the National Assembly was no longer allowed to delay the enactment of the bill. The National Assembly's Legislation and Judiciary Committee could not reach an agreement on the bills through normal procedures,

⁴⁰ Seoul Shinmun editorial, 'Coalition on "money laundering" is not allowed.' 6.20.2001. The Korea Economic Daily editorial, 'Controversy over the anti-Money-laundering Act' 3.14. 2001, Kookmin Ilbo, 'What's the Grand National Party doing,' 4.27.2001, Maeil Business Newspaper, 'A strong backlash against the exclusion of political funds.' 6.19.2001, Herald Economy Newspaper, 'Black money spoils the economy.' 6.20.2001, Herald Economy Newspaper, 'An unstable political situation ruins the economy.' 9.3.2001.

⁴¹ Segye Ilbo, 5.7.2001.

⁴² Segye Ilbo, 5.7.2001

and the ruling and opposition party leaders came to an agreement on coordination with each other and the nine-member committee began to act as an mediator.

ii. Type of policy Network

Interactions were cooperative with shared goal among actors, and there existed policy intermediaries to coordinate differences in detail. With this cooperative interaction and the existence of policy intermediaries, the policy network has changed from a decentralized conflicting network to a centralized cooperative network. Policy output has been successfully achieved through a coordination and compromise.

The nine-member committee used its official authority to coordinate opinions between political parties, and finally reached an agreement. The interests of all actors were not reflected in this process. However, it was meaningful that the first policy output was produced in the face of prolonged conflicts.

<Table 18> Type of policy network in third period

| | | Pattern of interaction | |
|--|---------------|--|--------------------------------------|
| | | cooperative | conflicting |
| Distribution of influence, existence of powerful actor | centralized | <u>centralized</u> <u>cooperative network</u> | centralized conflicting network |
| | decentralized | decentralized cooperative network | decentralized conflicting network |

(4) Output

The output of this period is the introduction of an anti-money laundering system, which was established through two acts passed by the National Assembly.

‘The act on regulation and punishment of criminal proceeds concealment’ stipulated 109 crimes of 35 specific types, such as organizational crime, smuggling, flight of domestic properties and bribery. It also stipulates that those who hide

illegal income related to organized crime, drug, bribery of government officials, flight of domestic assets and illegal political funds would be sentenced up to five years in prison or 30 million won in fines.

However, the range of premise crimes was narrower compared to international standards and major countries' cases. The FATF recommended expanding the premise crimes from drug crimes to all serious crimes, while 'the U.N. Convention on the Prevention of Organized Crime' also requires the stipulation of serious crimes in crimes with a legal sentence of more than four years. In UK, France and Germany, all crimes above a certain statutory sentence were collectively defined as money laundering premise crimes, while the U.S., Japan and others defined 226 crimes as premise offenses. In Australia, it was defined as "all crimes capable of being prosecuted." Premise crimes started with drug-related crimes in the first place and then expanded to organized crimes, large-scale economic crimes, bribes for civil servants.

'The bill on report on, and the use of specific financial transaction information' provided the establishment of Financial Intelligence Unit (FIU) to monitor the transaction of illegal funds, while allowing the FIU authority to access to various credit information and foreign transactions without warrant. Financial institutions must establish the internal reporting system and report the more than KRW 50 million (\$ 10 thousand) of suspicious transaction to the FIU. The FIU provides information to investigative agencies such as prosecution, police, the National Tax Service, the Korea Customs Service and the Financial Supervisory Commission.

However, the FIU was allowed to track domestic transactions of various illegal funds only through court warrants and should give prior notice to the National Election Commission when it conducted investigations about political funds, regardless of domestic and foreign transactions. Also, currency transactions reporting system which the FATF recommended was not adopted in consideration of the nation's cash transaction practices. At that time, there were 12 million cash transactions in the United States and 6 million in Australia in a year, and 5 million in Korea. Besides cash transaction practices in Korea, technical limitations was considered when introduced a currency transactions reporting system.

Given that the legislative purposes of the laws were to combating criminal

activities and secure transparency in financial institutions, there was criticism on the bills regarding the scope of premise crime, CTR, FIU's authority to track account, etc. The final policy output had differences with the first government's bill and strong anti-money laundering system which the NGOs and some lawmakers insisted on. The narrow scope of the crime and other restrictions are analyzed to be the output came through the coordination and compromise. While this was not a desirable outcome for all actors, it was consistent with the interests of policy network actors and their interaction.

(5) Conclusion

In the third period, the anti-money laundering policy was successfully introduced. This was the first period that the debate and discussion on the detailed issue of the system was made, as actors agreed on the need for legislation. The public awareness of the corruption and harmful effect of money laundering activities have increased and complete liberalization of foreign exchange transactions, which was implemented in January 2001, was expected to increase the possibility of money laundering activities. International community also put pressure to introduce the anti-money laundering system including the possibility of designation as a NCCT. After all, the National Assembly, the government and civic groups participating in the policy network shared the same policy goal of introduce the policy.

The government integrated the opinions of related ministries, government agencies and stakeholders, and prepared bills and submitted to the National Assembly. In the National Assembly, all parties agreed to introduce the anti-money laundering system. However, there were differences and conflicts over details, which delayed the policy introduction. Initially, the government aimed to pass the bill in the National Assembly in December, 2000 and implement the policy on January 1, 2001, but the introduction of the system was delayed to 2001 as discussions at the National Assembly failed to reach an agreement. The agreement seemed to have been reached in March, 2001 after passing through the Finance and Economy Committee and the Legislation and Judiciary Committee, but failed to

reach an agreement.

The public and media's criticism and the possibility of designation as NCCT by the international community put pressure on the National Assembly. These resulted in the emergence of a nine-member committee of the ruling and opposition parties to coordinate conflicts. The nine-member committee reached an agreement on the contentious issues and the bills eventually passed the National Assembly in September 2001. With this cooperative interaction and the existence of policy intermediaries, the policy network has changed from a decentralized conflicting network to a centralized cooperative network. Policy output has been successfully achieved through a coordination and compromise. Policy output in the third period can be seen as the result of factors such as the political and economic environment, the international environment, the shared goals of actors, cooperative interactions, and the existence of main actor who coordinated differences and conflicts.

<Table 19 > Variables of Analysis

| Dimension | Variable | Content |
|--------------------|-------------------------------|--|
| Policy Environment | Level of social recognition | Increased public awareness and demand for the policy. |
| | Political· economic situation | High volume of foreign exchange transactions. The second phase of the liberalization of foreign exchange transactions. |
| | International context | The pressure from the FATF of designating Korea as a NCCT. |
| Policy Network | Actors | The government, the National Assembly, NGOs. Shared policy goal. More systematic strategies. |
| | Interactions | Cooperative interaction in general, conflicting over details. |
| | Policy network structures | Centralized cooperative network |
| Outcomes | Policy | Enactment and contents of related laws |

Chapter5. Conclusion

5.1. Summary

This study analyzed the introducing process of anti-money laundering policy in Korea. This study demonstrated how various policy actors interacted in policymaking process and how these interactions affected policy outputs using the policy network analysis.

Discussions on the regulation of money laundering activities had been ongoing since 1995 when the 'Financial Real-name System' was implemented and former presidents' illegal political fund scandals occurred, but it took more than six years before the related laws were enacted in 2001. Anti-money laundering policy was introduced on September, 2001 with the passage of 'the act on report on, and the use of specific financial transaction information' and 'the act on regulation and punishment of criminal proceeds concealment' in the National Assembly.

For more detailed analysis, the process of introducing an anti-money laundering system is analyzed by dividing it into three periods based on significant changes in policy network.

In the first period, with the introduction of the real-name financial system, the need to prevent money laundering began to be discussed. The main policy actors of this period were civic groups and some lawmakers in the National Assembly who shared same policy goal, and the government and political parties still had a lukewarm attitude to enact anti-money laundering legislation. Actors were in conflict while disagreeing over the ultimate policy goals and there was no influential actor who could coordinate conflicts and make it possible to reach agreement. Policy network in the first period defined as a decentralized conflicting network, showing conflicting interactions between actors without an influential intermediary. Under this network structure, conflicts between actors had been prolonged and fail to reach to policy output.

In the second period, the government changed its policy goal and announced to introduce the measures which complement the real-name financial system and the anti-money laundering system to prevent illegal financial transactions. After three months, the government completed the anti-money laundering bill and submitted to the National Assembly with the real-name financial transaction bill on May 29, 1997. The government and civic groups shared common goal of introducing the system though they had differences over details. However, the political parties strongly opposed the policy adoption, actors showed conflicting interaction.

Moreover, the economic recession and the presidential election made the conflicts more intense and complicated as the dispute over the anti-money laundering system was discussed not only as anti-money laundering policy, but also as part of the real-name financial transaction bill and political dispute over the deregulation of financial institutions and the accountability for financial crisis.

It was hard to find a major actor who would act as a coordinator in the policy network at this time. The policy network was a decentralized conflicting network, and the conflict between actors was prolonged. Conflicts became intense as issues such as supplementing the real-name financial transaction system and disputes over the responsibility of the economic crisis were discussed along with the anti-money system, and the lack of influential actor to coordinate and mediate the conflicts led to failure in policy adoption and prolonged conflicts.

In the third period, the government started to push for the introduction of anti-money laundering system with a clearer goal and more systematic strategy. In April 2000, the government set up a planning team for the establishment of an external financial transaction information system under the Ministry of Finance and Economy to effectively cope with the outflow of illegal funds and money laundering activities. The planning team made the final government bill after researches, coordination with ministries, collecting stakeholders' opinion, and having public hearings and submitted to the National Assembly in November, 2000. NGOs, which had acted individually before, formed 'the civic alliance for anti-corruption legislation' on September 6, 2000, shared the same policy goal and

strategy, and acted as a single organization. In the National Assembly, parties had changed their policy goals and agreed to introduce anti-money laundering system.

In the third period, NGOs, the government, and the National Assembly had a consensus on the policy goal of introducing an anti-money laundering system, but they differed on detail contents of the system. Thus, there were conflicts among civic groups, the government, and the National Assembly in discussing the details. Unlike the first and second period, there was a mediator who coordinated conflicts and made agreement. The nine-member committee consisting of leaders of the three main parties, the assistant administrators of the Legislation and Judiciary Committee and the Finance and Economy Committee played a role as a mediator and coordinated conflicts. With this cooperative interaction and the existence of policy intermediaries, the policy network has changed from a decentralized conflicting network to a centralized cooperative network. Policy output has been successfully achieved through a coordination and compromise. The nine-member committee used its official authority to coordinate opinions between political parties, and finally reached an agreement. The interests of all actors were not reflected in this process. However, it was meaningful that the first policy output was produced in the face of prolonged conflicts.

<Table 20 > Variables of analysis in each period

| Variable | First period | Second period | Third period |
|-----------------------------|---|--|---|
| Level of social recognition | Increased awareness of money laundering crimes and demand for anti-corruption systems | Increased public awareness of money laundering crime | Increased public awareness and demand for the policy. |

| | | | |
|------------------------------|---|---|---|
| Political-economic situation | The former presidents' illegal political fund scandal | Presidential election, economic crisis | High volume of foreign exchange transactions. The second phase of the liberalization of foreign exchange transactions. |
| International context | Establishment of FATF and 40 recommendations | Pressure from OECD and IMF | The pressure from the FATF of designating Korea as a NCCT. |
| Actors | NGOs, the government, political parties | NGOs, the government, political parties | The government, the National Assembly, NGOs. Shared policy goal. More systematic strategies. |
| Interactions | Conflicting interaction | Conflicting interaction | Cooperative interaction in general, conflicting over details. |
| Policy network structures | Decentralized conflicting network | Decentralized conflicting network | Centralized cooperative network |
| Policy output | Fail to introduce the policy | Fail to adopt the policy | Enactment and contents of related laws |

5.2. Implications of Analysis

This study analyzed the interaction of actor who participated in the network and how it affected policy output using the policy network model. The policy-network theory sees policy-making processes as being coordinated through constant interaction between actors, rather than by formalizing or changing one-on-one

relationships. This case analysis also shows that the introduction of anti-money laundering systems was the result of constant interaction between actors.

The debate on introduction of anti-money laundering system was sparked by corruption scandals of former presidents after the real-name financial transaction system adopted, and gradually it was shared that it was impossible to regulate money laundering activities under the existing system, raising the need to introduce a new system.

Through the first and second period, the policy was adopted in the third period. This research analyzed the characteristics of each period such as actors, actors' goals and strategies, patterns of interaction among actors, policy network structure and derived how they affected the policy output.

Followings are the implications of analysis on the process of introducing anti-money laundering systems.

First, the type of policy network was a major factor determining policy output. In this study, the types of policy networks were classified by the pattern of interaction (cooperative/conflicting) and distribution of influence (centralized/decentralized) to centralized cooperative network, centralized conflicting network, decentralized cooperative network and decentralized conflicting network. In each period, the type of policy network and the corresponding policy output were analyzed.

In the first and second periods, the policy network was the form of decentralized conflict network. Actors conflicted over different policy goals, and conflicts were prolonged without any actor who could coordinate the conflicts. As a result, it failed to make policy output. As the policy environment changed in the third period, the preferences of some actors changed, and agreed on the fundamental policy goal of introducing the system. This changed the pattern of interaction to cooperative. Although there were differences in details, the policy arbitrator's appeared and coordinated the conflicts in the National Assembly. The network was transformed into a centralized cooperative network and succeeded in introducing the new policy.

Second, it could be seen how the policy environment affected the policy network and policy output. Changes in the policy environment brought changes in policy actors' goals and interests and affected the interaction pattern and lastly policy output. The major events in the policy environment in the process of introducing the anti-money laundering system are the introduction of a real-name financial system, corruption scandals such as a illegal political fund of former presidents, the economic crisis, presidential election, an increase in foreign financial transactions following the liberalization of foreign exchange, and pressures from the international community such as the FATF.

These environmental changes provided an opportunity for the debate on anti-money laundering to take place, and have intensified or complicated conflicts among actors. Also, these changed the goals and preferences of the actors and changed the patterns of interaction into cooperative. In the event of a prolonged or delayed conflict, these promoted the needs of active policy coordinator to solve the conflicts.

However, the impact of the policy environment on policy network and policy output was limited and only affected policy output through the influence on actors. In addition when the policy environment didn't function as coercive force, it did not directly affect the actors' goals and interaction. In the case of the third period, the possibility of the designation as NCCT acted as a compulsory means for actors to introduce the system as soon as possible, which had had a great influence on the preference of actors.

Third, the interests of policy participants have had a great impact on detailed policy output. The introduction of the anti-money laundering system and strong detailed regulatory measures were normative in terms of the public interest, enhancing transparency in financial markets and secure competitiveness of the national economy by preventing illegal fund flows. However, in the policy network, the interests of policy actors affected more importantly rather than the public interest and justification.

In the debate over introducing policy and details, actors put forward public-interest values such as securing economic transparency and economic

recovery. However, the conflicts over whether to include the violations of the political fund act, the FIU's account tracking authority, and etc., and the final policy output indicated that the interests of the actors involved in the policy process were important factors. Due to the different preferences and influences of actors within the policy network, the policy adoption and the detail contents of the policy were unpredictable. From the beginning of the discussion, the details of the anti-money laundering system had changed continuously depending on the interests of the actors. The final policy output in the third period can be evaluated as the results of negotiations and compromise of actors' interests.

Finally, the existence of a policy coordinator was important not only when policy goals differed among actors, but also when common policy goals were shared. In the first and second periods, policy goals conflicted actors and there was no powerful actor who could coordinate the conflicts. Conflicts continued and got intense, it failed to produce policy output.

Unlike the first and second periods, there was an agreement on introducing a system by all actors in the third period. Despite the agreement in general, differences existed on the details, and such differences delayed policy adoption while continuing to conflict. At this moment, the nine-member committee acted as a policy arbitrator. The nine-member committee helped to reach a final policy output through mutual negotiations coordinating conflicts among actors over detailed issues. If there had not been a committee to coordinate detailed differences, discussions at the National Assembly would have failed to reach an agreement and policy introduction would have been delayed.

In particular, the third period shows that policy coordinator can be important, even though all actors have a common goal of introducing the system. In the case of all policies, even if actors agree with the policy direction, differences over details are inevitable. The role of a policy coordinator is critical to coordinating conflicts that may occur in the short term and reaching a final policy output.

The study analyzed the process of introducing money laundering using policy network model for the first time. While existing studies have mainly studied main

countries' anti-money laundering systems and international trends, and given policy implications on how to develop Korea's anti-money laundering system, this study can suggest how to introduce and institutionalize such implications in Korea through coordination of conflicts among relevant actors.

Policy actors may be able to induce the new system by proactively responding to environmental changes and taking the opportunities, identifying the preferences and strategies of various actors, expanding influence, and making changes in policy network structure. Since anti-money laundering crimes are transnational crimes that occur across borders, and strengthening the system of one country has created the balloon effect of illegal inflow of funds into another country, international environmental changes have a great influence on the anti-money laundering system of a country. In Korea, pressures from the FATF and major countries have affected actors' preferences and strategies. In view of this, it is necessary to predict and proactively respond to international environmental changes as a member of the international community. From January 2019 to February next year, the FATF is implementing a mutual evaluation of the operation of Korea's anti-money laundering (AML) and anti-terrorism funding (CFT) system. Unlike the past mutual evaluation, this mutual evaluation evaluates whether financial institutions are properly implementing AML system such as customer identification (CDD), currency transaction reporting (CTR), and suspicious transaction reporting (STR) as well as the system itself. Under these circumstances, the government needs to introduce a policy which can guarantee effective implementation. The cost of policy introduction can be reduced by forming a consensus of policy objectives among the participants of the policy network and minimizing conflicts.

This study primarily analyzed the relationships of various actors in the policy-making process. However, since the analysis units of the policy network were limited to aggregates of organizational levels (e.g., the government, civic groups, political parties, and the National Assembly), there was a limit to the analysis of various types of interactions that existed within the individual or group level. This is due to the limitations of data collection, and there is a limit that has not been differentiated from existing studies.

Reference

- Blom - Hansen, J. (1997). A 'new institutional' perspective on policy networks. *Public administration*, 75(4), 669-693.
- Döhler, M. (1991). Policy networks, opportunity structures and neo-conservative reform strategies in health policy. In *Policy networks: Empirical evidence and theoretical considerations*. Campus Verlag, 235-296.
- Delston, R. S., & Walls, S. C. (2011). Strengthening our security: A new international standard on trade-based money laundering is needed now. *Case W. Res. J. Int'l L.*, 44, 737
- Delston, Ross S. & Walls, Stephen C. (2009). Reaching beyond banks: how to target trade-based money laundering and terrorist financing outside the financial sector. *Case W. Res. Journal of International Law*, 41(1), 85
- Hall, P. A., & Taylor, R. C. (1996). Political science and the three new institutionalisms. *Political studies*, 44(5), 936-957.
- Heclo, H., & King, A. (1978). Issue networks and the executive establishment. *Public Adm. Concepts Cases*, 413, 46-57.
- Jensen, N., & Png, C. A. (2011). Implementation of the FATF 40+9 Recommendations: A perspective from developing countries. *Journal of Money Laundering Control*, 14(2), 110-120
- Kingdon, J. W. (1984). *Agendas, Alternatives, and Public Policy* (Vol. 45, 165-169). Boston: Little, Brown.
- Knight, J. (1992). *Institutions and social conflict*. Cambridge University Press.
- Kreps, D. M., Alt, J. E., & Shepsle, K. A. (1996). *Corporate culture and economic theory. Firms, Organizations and Contracts*, Oxford University Press, Oxford, 221-275.
- Marsh, D., & Rhodes, R. A. W. (1992). *Policy networks in British government*. Clarendon Press.
- Moe, T. M. (1990). Political institutions: The neglected side of the story. *JL Econ & Org.*, 6, 213.
- Moe, Terry M. (1995). The Politics of Structural Choice: Toward a Theory of Public Bureaucracy, in Oliver Williamson ed. *Organization Theory: From*

- Chester Barnard to the Present and Beyond. New York: Oxford University Press.
- Ostrom, E. (1986). An agenda for the study of institutions. *Public choice*, 48(1), 3-25.
- Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge university press.
- Rhodes, R. A. W. (1990). Policy Network: A British Perspective, *Journal of Theoretical Politics*, 2(3), 293-317.
- Rhodes, R. A., & Marsh, D. (1992). New directions in the study of policy networks. *European journal of political research*, 21(1 - 2), 181-205.
- Shepsle, K. A. (1989). Studying institutions: Some lessons from the rational choice approach. *Journal of theoretical politics*, 1(2), 131-147.
- Simon, H. A. (1976). From substantive to procedural rationality. In *25 years of economic theory* (pp. 65-86). Springer, Boston, MA.
- Tarrow, S. (1994). *Power in movement: Collective action, social movements and politics*.
- Force, F. A. T. (2004). FATF 40 recommendations. available at: [www.fatf-gafi.org/media/documents/FATF% 20Standards](http://www.fatf-gafi.org/media/documents/FATF%20Standards).
- FATF, I. (2012). *Special Recommendations*. Financial Action Task Force, FATF-OECD.
- Guidance, FATF. (2017). *Anti-money laundering and terrorist financing measures and financial inclusion*.
- 고길곤. (2007). 정책네트워크 연구의 유용성과 사회연결망 이론 활용 방법의 고찰.
- 금융정보분석원, (2004). 자금세탁방지업무에 관한 연차보고서. 재정경제부 금융정보분석원.
- 김성제. (2003). 지능형교통체계 (ITS) 의 도입 및 확산에 관한 연구: 신제도론적 정책네트워크 분석 (Doctoral dissertation, 서울대학교 대학원).
- 김순양. (2005). 한국 보건의료 개혁과정에서의 정책 네트워크 및 정책산출 분석. *한국행정논집*, 17(4), 1063-1096.
- 대외경제정책연구원. (2000). *대외거래정보시스템 기본계획*. 대외경제정책

연구원.

- 박성민. (2006). 증권관련집단소송제도의 도입과정에 관한 연구. 서울대학교 박사학위논문.
- 성낙인, & 권건보, (2005). 자금세탁방지법제에 대한 헌법적 검토.
- 성욱준. (2013). 미디어랩 (Media Representative) 입법과정에 관한 연구 (Doctoral dissertation, 서울대학교 대학원).
- 송희준, & 송미원. (2002). 이동통신 정책네트워크와 사업자선정의 상호관계에 관한 연구. 한국정책학회보, 11(4), 359-385.
- 송미원, & 권기창. (2003). 생명윤리 입법화 과정에서의 정책네트워크 분석에 관한 연구. 한국행정연구, 12(3), 32-62.
- 유대선. (2004). 방송정책네트워크와 정책산출에 관한 연구: 위성방송산업구도 결정과정분석을 중심으로 (Doctoral dissertation, 서울대학교 대학원).
- 이상복. (2012). 한국 미디어정책 변동 과정의 갈등구조 분석: 2008-2010 년 방송법 개정과 종합편성채널 선정을 중심으로. 고려대학교 대학원, 언론학 박사논문.
- 이주희. (2009). 교육정책결정과정의 정책 네트워크 분석: 교원성과상여금 정책을 중심으로 (Doctoral dissertation, 서울대학교 대학원).
- 정웅. (2012). 국제금융거래에서의 자금세탁 위험과 제도적 대응방향. 무역보험연구, 13(1), 185-221.
- 정웅. (2007). 외환자유화에 따른 탈법위험과 외환범죄 대응방안. 관세학회지, 8(1), 105-126.
- 조성택. (2013). 자금세탁방지 제도 현황과 개선방안에 관한 연구. 한국치안행정논집, 9(4), 95-118.
- 조은영. (2010). 장애인차별금지법 입법과정 분석: 선제도주의적 정책망 분석 (Doctoral dissertation, 서울대학교 대학원).

<그 밖의 문헌자료>

- 민주당, 1994.12. 자금세정규제에관한법률안
- 참여연대, 1996.11. 부패방지법 제정청원
- 경제정의실천시민연합, 1997.7. 깨끗한 사회를 위한 자금세탁방지에 관한 법률제정 청원

- 정부, 1997.7. 자금세탁방지에 관한 법률안
- 참여연대, 1997.19. 자금세탁방지에 관한 법률 개정 청원
- 부패방지제도입법시민연대, 2000.9. 자금세탁방지법 제정 청원
- 정부, 2000. 특정금융거래정보의보고및이용등에 관한 법률안
- 정부, 2000. 범죄수익은닉의규제및처벌등에 관한 법률안
- 국회본회의회의록 (1995.10.23)
- 법제사법위원회 공청회회의록 (2001.3.)
- 특정금융거래정보의보고및이용등에 관한 법률안 심사보고서 (2001. 9.)
- 범죄수익은닉의규제및처벌등에 관한 법률안 심사보고서 (2001.9.)
- 대외경제정책연구원, 정부 대외금융거래정보시스템 구축방안에 관한 공청회
보도자료 (2000.1.)
- 참여연대, 공청회 자료 및 보도자료
- 부패방지입법 시민연대, 공청회 자료 및 보도자료
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자금세탁방지제도 도입과정의 정책 네트워크 분석

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한국의 자금세탁방지제도는 2001년 9월 3일 특정금융거래정보의 보고 및 이용 등에 관한 법률과 범죄수익은닉의규제및처벌등에관한법률이 국회를 통과하면서 도입되었다. 자금세탁방지제도는 불법자금의 세탁을 적발하고 예방하기 위해 정부와 민간영역에서 이루어지는 모든 장치를 의미하는 것으로 관련 장치로서 법·제도적 장치 뿐만 아니라 관련된 사법제도와 금융제도, 국제협력을 모두 포괄하는 개념이다.

이 연구는 한국의 자금세탁방지제도 도입과정을 세시기로 나눈 뒤, 정책네트워크 모형을 이용하여 분석하였다. 기존 연구에 의하면 정책네트워크 행위자, 행위자의 목표와 전략, 행위자들간의 상호작용, 정책네트워크의 구조와 유형, 정책환경 등이 정책결과에 영향을 끼친다. 이 연구에서는 정책환경 요소와 정책망 요소, 정책결과로 나누어 분석을 진행하였다. 정책환경 요소로는 정책문제에 대한 사회적 인식, 정치경제적 상황, 국제적 맥락 등이 해당하며, 정책망 요소에는 행위자, 행위자간 상호작용, 정책네트워크 구조가 해당한다. 그리고 이러한 요소들이 정책결과에 미친 영향을 분석하였으며, 분석결과는 다음과 같다.

제도 도입 제1기에는 금융실명제 도입과, 전직대통령의 비자금 사건 등이 발생하면서 자금세탁방지제도에 대한 논의가 시작되었다. 시민단체, 국회,

정부가 주요 행위자였으며, 제도 도입을 적극적으로 지지한 시민단체와 일부 국회의원과 제도 도입에 유보적인 입장을 취하는 정부와 국회가 갈등하였다. 행위자들은 제도 도입을 두고 궁극적인 목표에 상이한 의견을 보이면서 대립하였고 이를 중재할 주요 행위자가 부재하면서 정책 네트워크는 분산형 갈등 네트워크 형태를 나타내면서 정책도입에 실패하였다.

제도 도입 2기에는 정부가 정책목표를 변경하여, 금융실명제 보완책과 함께 자금세탁방지제도를 도입할 것을 발표하였다. 시민단체와 정부가 세부내용을 두고 갈등을 보였음에도 정책도입이라는 궁극적인 목표에는 합의한데 반해, 국회는 제도도입에 반대하며 갈등양상을 보였다. 또한 1997년 경제위기와 대통령 선거를 앞두고 자금세탁방지제도 도입 논의가 금융실명제 보완책 및 경제위기 책임론과 함께 논의되면서 갈등이 심화되었다. 결국 갈등 상황에서 이를 중재할 행위자도 부재하였고, 분산형 갈등 네트워크 하에서 갈등이 지속되었다.

제도 도입 3기에는 외환자유화 조치로 불법 자금거래에 대한 가능성이 증가하고, 국제자금세탁방지기구로부터 자금세탁방지 비협조국가(NCCTs)로 지정될 가능성이 증가하면서 행위자들의 목표에 변화가 있었다. 정부와 국회, 시민단체는 제도 도입에 합의하면서 행위자들간 상호작용의 형태는 협력적이었다. 세부 방안을 두고 국회 논의과정에서 갈등이 있었으나 여야 국회의원 9인으로 이루어진 위원회가 이를 조정하는 역할을 하면서 최종적인 합의에 도달하였다. 3기의 네트워크는 협력적 집중 네트워크 형태를 보였고, 조정과 협의를 거쳐 최종적으로 자금세탁방지제도 도입이라는 정책산출을 달성하였다.

분석을 통해 도출한 함의는 첫째, 정책네트워크 유형이 정책결과에 영향을 끼쳤음을 확인할 수 있었다. 1,2기에서 3기로 시간이 흐름에 따라 정책네트워크는 분산형 갈등 네트워크에서 집중형 협력 네트워크로 변화하였고, 제3기에는 행위자들간의 협력적 상호작용과 갈등 중재자의 존재로 정책산출에 성공할 수 있었다.

둘째, 환경요인이 정책네트워크와 정책 결과에 영향을 끼치는 과정을 확인할 수 있었다. 환경변화는 행위자들의 목표와 이해관계, 상호작용 형태, 네트워크 구조에 영향을 끼치고 결과적으로 정책 결과에도 영향을 끼쳤다. 환경 변화는 제도가 도입될 수 있는 기회를 제공하거나, 행위자들 사이의 갈등을 심화시키는

요인으로 작용하기도 하였으며, 행위자들의 선호에 영향을 주고 상호작용 형태 변화에 영향을 주었다. 또한 갈등이 지연되는 경우에는 정책 중재자의 필요성을 대두시키기도 하였다. 그러나 이 같은 정책환경의 영향력은 제한적이었고 정책행위자 끼치는 영향을 통해 정책결과에 영향을 줄 수 있었다. 또한 환경변화 그 자체가 강제성을 가지지 않는 경우 행위자에게 미치는 영향도 간접적이었다.

셋째, 정책네트워크 참여자의 이해관계가 정책 산출에 영향을 끼쳤다. 자금세탁방지제도 도입과 강력한 규제방안의 도입은 금융시장의 투명성 확보 및 국민 경제의 경쟁력을 확보한다는 점에서 규범적인 요소였음에도, 제도 도입 과정에서 정치자금법 제외여부, 선거관리위원회 전속 통보제도, FIU의 계좌 추적 범위 등의 논의를 보면 공익적 가치보다 정책도입 참여자들의 이해관계가 크게 작용했음을 알 수 있다. 최종 정책산출물 또한 이 같은 이해관계의 조정과 타협의 결과물로 볼 수 있다.

마지막으로, 행위자들의 목표가 상충하는 경우뿐만 아니라 공통된 목표를 공유하는 경우에도 정책조정자의 역할이 중요했음을 확인할 수 있다. 정책의 큰 방향에는 합의하더라도 세부적인 내용에 대한 행위자간 갈등은 불가피하다. 이 경우 세무 갈등을 조정하고 최종적 합의에 이를 수 있도록 중재역할을 하는 행위자의 존재가 정책산출에 큰 영향을 미친다.

주제어 : 자금세탁, 자금세탁방지제도, 정책 네트워크 분석.

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