

Korean role as a center of international climate change

-focusing on the related legislation of GCF(Green Climate Fund)
Secretariat

국제기후변화의 중심으로서의 한국의 역할
-GCF(Green Climate Fund)사무국 운영관련 입법을 중심으로

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Contents

- I. Introduction
- II. GCF as international organizations
- III. Legal support and operational plan for GCF secretariat
- IV. Korean legislation of the emissions trading
- V. Conclusion

국문초록

GCF가 국제기구로 설립되고 한국에 사무국을 이전하기 위한 법적토대도 형성되었다. 본 연구에서는 국제기후변화의 중심적인 역할을 할 한국의 GCF의 운영과 이와 관련한 입법 현황을 다양한 관점에서 연구하였다. GCF 기구 자체의 법적관리 기능부여 방안, 자본 시장 통합법 개정과 함께 국제 신뢰성,

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투명성을 확보하는 방안을 제안한다. 또한 민간 자본을 동원하는 녹색펀드에 관한 법제도 지원을 통한 GCF의 성공적 재정운영을 강조한다. 한편 ODA법 개정과 함께 하는, GCF의 개발협력상의 역할을 모색하였다. 이와 함께 GCF가 선진국의 개도국에 대한 기술지원을 지지하는 역할을 할 수 있기에, 기술 이전 관련 법정비와 함께 재생가능 에너지자원에 대한 금융지원과 연계된 업무를 하는 것을 제안하였다. 또한 본 논문에서는 배출권거래제에 관련한 입법이 완료되었고 2015년 제도가 시행되는 시점에서 GCF사무국을 유치한 한국이 국제기후변화의 중심으로서 국제탄소시장의 연계를 준비하고 시도하는 것의 의미를 재고하였다.

주제어 : 국제기후변화, GCF, 자본시장법, 녹색금융, ODA, 배출권거래제

I . Introduction

The Green Climate Fund was established at the 16th Conference of the parties held in Cancun, Mexico in December 2012. Green Climate Fund(GCF), an international organization with which South Korea established their first secretariat in December 20th, 2012, is a specialized fund for climate change created in order to support the reduction of greenhouse gas and adaption of climate changes in developing countries. Due to the failure of generating an amount of funds from the existing Global Environment Fund¹⁾ and Climate Adaptation Fund, design of funds was set up in December, 2011 after the first and second board meetings, and the 3rd board meeting was initiated in Berlin, Germany from March 12th to 15th in 2013. This board meeting was

1) GEF was founded on the principle that well-deployed capital can bring significant improvements to the environment and quality of life throughout the world, and GEF's success is a testament to that vision. GEF also strives to live the values we expect to see in the world, holding ourselves and our portfolio companies to the highest standards of corporate governance, ethics, and sustainability(<http://www.globaleenvironmentfund.com>).

composed of 12 developed countries and 12 developing countries, and Australia and South Africa served as co-chairman.

At the 3rd meeting, the headquarter agreement²⁾ was approved between South Korea and GCF. This agreement mainly focuses on the special rights and exemptions for GCF and the employees. As it takes effect when the Korean government and GCF mutually notify about the completion of internal procedure necessary for effectuation of the agreement, the headquarter agreement could set a legislative foundation for moving the GCF secretariat to Songdo, Incheon. Since South Korea was publicly approved to be the host country for GCF, we have to fulfill the public pledge and swiftly take legal and institutional action for smooth progress of the independent secretariat establishment procedure. The 4th board meeting was held in Songdo, Incheon in June, 2013 to discuss about selecting a secretary general, managing plan for business model(BMF), attracting private capital, and creating a logo for GCF.

The 5th board meeting in Paris dealt with business models as well as business objectives, GCF first organization type, size, financial status, the next co-chair of the election, Financing & administrative agreement between the Government of the Republic of Korea and the GCF meant to finalize the legal and administrative process for moving GCF secretariat to Korea. The Board of the Green Climate Fund met February 2014 in Indonesia to progress the eight essential requirements for its initial resource mobilization and take fundamental decisions to advance the institution's operations.³⁾

2) The main content of Headquarters Agreement is for the privilege and exemption of the GCF and its employees.

3) During three days of meetings, Board members agreed on several key decisions that will shape the Fund's work streams and activities as it moves forward, including the following parameters and guidelines for allocation of resources during its initial phase:

Beginning with the discussion about GCF as an international organization, this study examined how Korea is able to support GCF secretariat with the domestic and international law as well as how we could manage it. And the aim of this study is examining a little about the legislation with the introduction of emissions trading. Finally the suggestions for the role of Korea as a center of international climate change policy will be emphasized.

II. GCF as international organizations

1. Background and purpose of the establishment of GCF

GCF was established with the objective of taking a pivotal role in supporting developing countries for future climate changes. The establishment of GCF is meaningful in that the funds related to the existing climate changes are supporting other agreements such as biological diversity and anti-desertification or have limitation on the supporting area to small scale, specific field.⁴⁾

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- The Fund will aim for a 50:50 balance between mitigation and adaptation over time
 - The Fund will aim for a floor of fifty percent of the adaptation allocation for particularly vulnerable countries, including least developed countries, small island developing States and African States
 - The Fund will maximize engagement with the private sector, including through a significant allocation to the Private Sector Facility, in order to provide incentives that encourage a paradigm shift to low-carbon development
 - The Fund will be a leader on gender mainstreaming and will define its gender action plan in October 2014.

(http://gcfund.net/fileadmin/00_customer/documents/pdf/GCF_Press_Release_fin_20140222.pdf)

- 4) In the past, the international community has moved to reduce detrimental human impacts with unambiguous societal consequences. For example, the Montreal Protocol prohibited release of chlorofluorocarbons in response to evidence that these chemicals caused loss of ozone and increased levels of cancer-producing UV-B radiation(F. Stuart Chapin III, F. Stuart Chapin III, Erika S. Zavaleta, Valerie T. Eviner, Rosamond L. Naylor, Peter M. Vitousek, Heather L. Reynolds, David U. Hooper, Sandra Lavorel, Osvaldo E. Sala, Sarah

Korea took an opportunity to strengthen Korean Soft Power by holding GCF which is going to take a major role in climate changes in Korea and cooperation with developing countries. Furthermore, reinforcement of the capabilities for the business in developing countries by Global Green Growth Institute(GGGI) could generate synthetic effects in conjunction with the GCF's support project. If GCF uses diverse private financial instruments, it would also contribute to the advance of the finance sector. Korea is going to expand the environment ODA over 50 hundred millions by 2020 and is planning to launch Global Green Growth Partnership(GGGP) as well. GCF secretariat might be able to have a long-term relationship with the ODA business of Korea, a country that turned into a sponsoring country from a beneficiary within a half century.

2. A legal personality of the international organization

The international organization was acknowledged as the main subject of the international law, and 3 conditions are being discussed as criteria to have individual and legal personality. First, the criteria include ability to make the international agreement such as conclusion of treaty, dispatch or be dispatched a diplomatic mission, and raise or receive international disputes.⁵⁾ Special rights and exemptions are also included.⁶⁾ To carry the functions efficiently, the international organization needs to receive special rights and exemptions associated with personal assets, official residence, employees, and member country representatives, but this is also included in the international

E. Hobbie⁹, Michelle C. Mack & Sandra Díaz, Consequences of changing biodiversity, Nature 405, 2000, p. 234-242)

5) Han Hee Won, 『Introduction of International Institutional Law』, LnBpress, 2009, p.54

6) Min Jung CHUNG, "A legal personality of the Green Climate Fund (GCF)", Seoul International Law Journal, Volume 19 Number 2, Seoul International Law Academy, 2012, p.130

legal personality.⁷⁾ GCF was credited for such legal personality.

Legal capacity refers to the ability of the international organization to act with legal force in the process of performing its function. While the international legal personality includes concepts such as international rights, duties, and special rights, legal capacity represents the ability of an international organization to implement a concrete juristic act. The juristic act includes conclusion of contracts, acquisition/disposal of real estates and movable assets, and filing lawsuits.⁸⁾ GCF has been able to conclude contracts, become a contracting party, and acquire/dispose real estates, movable assets, and other types of assets through 'the Article 2 associated with the operational support for GCF' after granting the legal personality from the council. GCF's specific role and capacity will be consistently discussed in the design phase.

3. Special right and exemption

1) Immunity

Immunity of an international organization can be classified as privilege and exemption for the organization itself or for the people who work in the organization.⁹⁾ The heart of special right and immunity for the international organization is the exemption of jurisdiction, and this is to protect an organization as well as representatives of the member countries and the organization's employees from any lawsuits that could be filed to the national court.¹⁰⁾ This model was created based on the UN's general

7) Ibid., p.131

8) CHUNG, Op. cit., p.132

9) Han, Op. cit., p.179

10) CHUNG, Op. cit., p.133

immunity agreement¹¹⁾ provided by Article 2(2).

2) Content

In the draft¹²⁾ about GCF written by UNFCCC COP, the board of administration and secretariat specified that legal and administrative procedure will be developed to hold GCF. Evaluation criteria approved by the board to select a secretariat host country include legal status, privilege, immunity, and administrative preparedness. General diplomatic immunity will be given to workers in the international organization and workers with special duty. This immunity is effective to individual workers as it is not for personal benefit, but for the international organization's smooth job accomplishment.¹³⁾ The 3rd board meeting has been evaluated for granting special rights and exemptions to employees through the GCF's headquarter agreement.

4. International and national legal status of GCF

1) International legal status

Until the early 20th century, only independent nations and multinational states had the rights and duties by the international standard.¹⁴⁾ Current international law specifies that the international organization is subject to the law along with nations, individuals, and multinational corporations.¹⁵⁾ An

11) Regardless of managing subject and place, whether or where the UN's real estate assets and real estate can get any form of immunity to it if the UN has apparently not given up the immunity.

12) GCF/B.02-12/09, 2012.10. 11, Meeting of the Board, Agenda item 12

13) Han, Op. cit., p.188

14) David J. Bederman, "The Soules of International Organization : Legal Personality and the Lighthouse at Caper Spartel" 36 VaJIL, 1996, p.275-277

international organization normally has international legal personality, capacity, special right, and exemption. According to an establishment arrangement or a member country's national law, an international organization with the international legal personality retains right to negotiate and sign the international agreement or treaty, right to file an international lawsuit and attend a court of international justice, right to establish diplomatic relations with a nation or an international performer, and special right/exemption. Retaining such an international legal personality makes it easier for an international organization to achieve goal, implement functions, and work independently.¹⁶⁾ GCF could obtain international legal status through the 3rd board meeting.

2) National legal status

As an international organization, GCF was accepted as an international legal personality, but it still needs to be reviewed if it has a national legal status as well. First of all, GCF secretariat could be accepted as a national legal personality by the national law when it is held in Songdo though it is an international organization. Article 60 of the Constitution of Korea states that national assembly has right to consent with a treaty of mutual aid and security, important international organization treaty, treaty of friendship, commerce, and navigation, sovereignty restriction treaty, peace treaty, treaty which puts a big financial burden on the nation or people, and conclusion/ratification of treaty regarding legislation articles. As Korea is a nation with monistic attitude about national legal status¹⁷⁾ and effectiveness of the

15) Case for compensation for UN staff(1949 ICJ Report 174) : in order to properly perform their duties, as an international organization UN must be recognized as having international personality like the country, thereby international organization has responsible for the country to make claims about the country which have responsibility.

16) CHUNG, Op. cit., p.131

international law, treaties would directly have a national legal status by Article 6(1) of the Constitution. However, the establishment of GCF secretariat could gain the status through 'a new law on GCF establishment and operation'.¹⁸⁾

III. Legal support and operational plan for GCF secretariat

1. Grant of legal management function to secretariat

An international organization secretariat may or may not have its own legal management function. It is desirable that GCF is established as a secretariat with a legal management function. The secretariat has a legal management function which is used in the legal and compliance department of global fund. Global fund is composed of 6 divisions, and legal and compliance department manages legal competence, mitigates risks, complies with regulations, and supports the board with the major secretariat. Global fund focuses on the detailed organization structure of GCF secretariat. GCF secretariat could easily respond to operational problems with the departmental support. For instance, legal review and action are necessary for the administrative procedure prior to the secretariat.

An independent secretariat will be responsible for special rights related to

17) Countries such as the Netherlands have Constitution(in Article 93) can allow the domestic legal acceptance and the direct effect about through resolutions of international organizations.

18) Arab Monetary Fund Case (1991), Arab Monetary Fund v. Hashim, the British Senate, 2. WLR 729,1991 : High Court of England the Arab Monetary Fund was denied legal personality within the UK under the premise 'among other sovereign nations can not exercise jurisdiction about legal issues'. However, the UK's Senate has recognized the legal personality of the Arab Monetary Fund through more practical approach.

legal management function as well as exchange between host countries regarding immunity.¹⁹⁾ In case Korea becomes the operational head of GCF secretariat, GCF will be able to directly have legal contract with the subjective parties without interim trustee so that it will be possible to remit between interim trustee and subjective parties under GCF's decision.

2. Capital market amendment act and GCF operation

1) Content of the amendment

Partial amendment about capital market and financial investment²⁰⁾ passed the congressional national policy committee²¹⁾ in April 10, 2013. The kernel of the capital market amendment act is 'enlargement' and 'advanced infrastructure construction'. The most notable part of the main contents in the capital market amendment act is the vitalization of domestic investment banks. Qualifications were set to promote the development of investment banks which can support overseas projects with advanced financing techniques. A securities company was designated to be the investment bank, 'a financial speculator' that meets certain criteria such as risk management ability. If the large securities firms are permitted to take IB roles, they will be able to become global financial companies with loans for corporate mergers and acquisitions, direct transaction of unregistered stocks, and transaction of hedge funds.

19) Civil and international law, legal advice can solve the problem inside the apparatus between the headquarters and the branch including legal matters, contract issues. GCF Secretariat in Bonn, Germany has actually the temporary lawyer who can make advice for international issues.

20) Article 8.8, Article 77.2 & 77.3 was created in the 'Agenda on the Activation of domestic investment banks'

21) <http://www.namgu21.com/>

This was an act what securities companies hoped for a long time and was closely connected to GCF. The global economy going through the global and Eurozone financial crisis is focusing on the 'sustainable economy', and green industry is positioning in the center of this effort. GCF secretariat could support the development and investment of the initial project and create matching funds (F/S funds of GCF+the ministry of environment, The Ministry of Trade Industry and Energy, KOTRA, and KOICA) when green funds from domestic and foreign countries are activated. GCF could also support with the development of new energy incentives for government in developing countries, fund support, and guaranteed financial service. Therefore, operation of GCF secretariat can expand further through the capital market amendment act.

2) Significance of the amendment

(1) Association with green industry

GCF funds will be temporarily managed by the World Bank (WB) for the next 3 years, but a permanent trust organization will be selected later through a competitive bid. Based on GCF variation, the capital market act enabling domestic securities firms to become large IBs passed.²²⁾

Fund raising is the core function of the international organization. It is hard to achieve the organizational goal without proper fund raising. Most organizational expenses increase due to the growing activities and sometimes due to the external factors like inflation.²³⁾ The disbursement of organizational funds needs to be fixed by the article of association and estimated annually

22) Climate change represents the greatest challenge but also the greatest opportunity facing this generation(Achim Steiner, *New Ideas for Green Economy*, ICT WORLD TODAY, Spring 2009). Perhaps, GCF may give the greatest opportunity to korean industries.

23) C.F.Amerasinghe, *Principles of the Institutional Law of International Organizations*, Cambridge University Press, 2005, p.352

with income and expense.²⁴⁾

(2) Types of GCF fund raising

There are 5 types of GCF fund raising discussed by the GCF design committee: ① Government donation ② Non-government donation (for example: private fund) ③ Global innovation mechanism (financial transaction tax, transportation tax) ④ Reflows within the funds ⑤ Inflows from the capital market (climate bonds) and 3 ways (form): ① grant finance ② concessional loans ③ investment. However, private funds are dispensable for fund raising. The acceleration plan for private funds include supporting green investment fund with grants, issuing sovereign backed bond, providing incentives to private pension and funds (PSF, global externality rewards), and easing the investment barrier with climate change related business (investment liberalization, investment protection).²⁵⁾

3) GCF fund operation direction

GCF has to secure international public confidence, transparency, and trust. This would lead to secure fund raising, transparent use of funds, and action towards climate change in developing countries. Thus, the role of Korea would be to support GCF to secure international public confidence, transparency, and trust while acting as a liaison between developing and developed countries in order for them to agree on the UN's climate change convention.²⁶⁾

Recent capital market amendment act enabled the domestic amendment

24) Ibid., p.355

25) Sur jungmin, "Discussion of GCF funding and Implications", KIEP Forum Material about GCF's Successful launch, 2012, p.8-13.

26) Yi jeongseok, "GCF Secretariat's role, Features and Korea's response", KEI, 2012, p.4.

to be passed as well, so 5 big securities firms given the opportunity to take IB roles were allowed to take responsibilities in IB investment for GCF and private fund raising. Though GCF funds help reduce the greenhouse gas in developing countries, private funds are necessary to diminish the global carbon amount as well as the integration of public and private funds for innovative investment.²⁷⁾ GCF design committee has been discussing about vitalization of private fund raising and finding a way to increase private fund raising through private investment funds. IB investment of big securities firms and private fund raising promoted by Korean capital market amendment facilitated strategic investment design with GCF and contributed to a successful operation of GCF funds. The actual role and range of IMF funds are significantly limited.²⁸⁾ Similar to IMF, World Bank may be able to cause loans to be paid back, but they cannot lead a nation or government to do something by force.²⁹⁾

3. Proposition for the operational support of green climate funds

Proposition for the establishment and operational support of GCF was first proposed in April 2, 2013. This proposition was introduced because 'Korea was anticipated to be the financial center for global climate change as GCF secretariat was decided to be hosted in Incheon, South Korea at the 2nd GCF board meeting held in October, 2012, and we want to contribute to the effective operation of the funds and promotion of cooperation with the international communities by supporting establishment and operation of GCF

27) Um Kijeung, Strategy development on the projects for the climate change response of developing countries using climate, green ODA, and Green Climate fund, kosecc, 2012, p.1

28) Ian Hurd, International Organizations, Cambridge University Press, 2011, p.75

29) Ibid., p.83

managing financial function of United Nations Framework Convention on Climate Change. The proposition regulates act for the international organization funds conform to the establishment and operation objectives of GCF (Article 2(1)), asks the government for resolution of the national assembly to participate in GCF (Article 3), and allow the nation and local government to provide administrative and financial support necessary for the establishment and operation of GCF (Article 6).

The proposition proposed under the same title by 13 other congressmen besides Hwang in April 2, also states that GCF has legal capacity as an international organization conform to the establishment and operation objectives (Article 2(1)), the government is required to get a resolution of the national assembly to participate in GCF (Article 3), an economy minister could prepare for GCF related supporting policy only under the cooperation with relevant authorities and local government head (Article 5), and the nation and local government are allowed to provide administrative and financial support necessary for the establishment and operation of GCF (Article 6).

These two propositions have common characteristics in that they do not entail additional cause of finance as they were created to establish a legal basis for occurring expenditure due to legislation, budget, and operational plan for funds (Article 3,5, and 6).

Proposition for the establishment and operational support of GCF was proposed by 20 other congressmen besides Yun in May 1, 2013, and the proposition was passed in its original form by reflecting the existing propositions in July 2, 2013. Preparing a related bill empowered cooperation between the central administrative organization and fund as well as policy enforcement through the fund raising activity supporting plan. Additional

legislation for the administrative and financial support for the nation and local government funds is required.

4. Korea's green finance proposal examined in extra climate funds

1) Global Environment Facility (GEF) monitoring

GEF is an international fund established in 1991 with the objective of promoting and supporting business in developing countries against any conducts that lead to environmental deterioration on earth such as climate changes, international water resources, and protection of ozone layer. Korea contributed approximately 550 thousand USD each over the first (1994. 7~1997. 6), second (1998. 7~2002. 6), and third stage (2002. 7~2005. 6) ever since registered with GEF in May 1994. Korea also appeared in the 4th stage of GEF fund supplement held in July, 2005 to be actively involved in the financial effort of the international community and to strengthen stature of our environmental diplomacy. The U.N. convention on climate change adopted in 1992 also has GEF as a main body of operation. GEF could be a guideline for monitoring and estimating GCF in the future since it is independently assessed by the exclusive staff. Continuous review is required to assess if the GCF was formed correctly in the process of resolving mutually-agreed terms between countries. GCF evaluation system should have advanced feature than GEF as it is the main body of operation for the U.N convention on climate change with GEF. Communication exchange is not facilitated because GEF's evaluation unit is separated from secretariat and performing organizations. Thus, independence of the evaluation department can be achieved by institutionalizing the following; everything related to GCF evaluation needs to be discussed with the head decision making organization and authority over human resources should be conferred to the

head of the evaluation department.³⁰⁾

2) Major operational status of green fund

As a solution for GCF fund raising, increasing private funds from 1 to 5% or more was suggested. Vitalization of private funds for GCF has been constantly discussed. It is important to review the green fund and find supplementary solution for partnership between the government and private organization.

Environmental Home Equity Program is an example of BOA's green product development in the U.S. This product was designed to donate 100 USD to conservation group for over \$2,500 of a mortgage loan.³¹⁾

German banks are receiving benefits from the government sponsored Fiscal Funds since 1995. People could receive exemptions or discounts on capital earnings tax by investing their money to green bank or purchasing stocks from green fund. While banks could offer loans to green fund projects with lower cost, investors can receive lower interest rates for their investments.³²⁾

Fiscal Green Funds in Netherlands was formed in early 2000. Triodos Bank in Netherlands represents green fund operation by investing over 20% of personal assets only to green fund, and the model has been influencing the design of Korean green fund. A system like Netherlands that benefits all the stakeholders including banks, investors, and government is required

30) Ji One Jung·So Young Lim, "Evaluation System of the Green Climate Fund and its Implication for Korea.", *Environmental Policy*, Volume 20 number 2, 2012, p.121

31) *Environmental Valuation & Cost-Benefit News*(envirovaluation.org)

32) UNEPFI, *Green Financial Products and Services*, 2007, p.34.

to promote private fund raising for GCF. In other words, increasing green private investments through GCF would facilitate fund operation and secure long-term financial resources. Increased support of green fund establishment from Korean government would promote the national interests.

<Table 1> Fiscal Green Funds in Netherlands³³⁾

Bank	Type	Marketability	Profit Rate	Size
ABN AMRO	Closed-end equity fund	Stock exchange	Average 8.6%	467 million
ING/Postbank	Fixed rate guarantee	None	2.1-3%	530 million
ASN Bank	Open equity fund	Limited	Average 4.3%	95 million
Triodos Bank	Semi-open equity fund	Limited	Average 4.4%	124 million

3) Green fund act in Korea, institutional support condition

Korea is preparing various strategies for low carbon green growth as a main national policy, and to promote the green growth, financial support and promotion were legalized. Article 2 of [Low carbon green growth act] not only states about fund raising and financial support for green economy/industry, new financial product development and private investment promotion to support low carbon green growth, reinforcement of public announcement system about corporate green management information, and expansion of financial support for green corporations, but also requires separate act for the system operation dealing with greenhouse gas exhaustion rights, exhaustion

33) Jeucken, M., Sustainability in Finance: Banking on the Planet, 2004

tolerable amount distribution method, registration and management process, exchange installation/operation. Accordingly, domestic financial organizations are planning for green finance, but the institutional infrastructure is in early stage owing to the uncertainty of risk management existing in green companies and techniques and incomplete green company designated system. For independent companies, many financial organizations are recently hardening foundation of green finance by participating in global networks such as GRI, UNEP/FI, and UN PRI, and CDP started by CDP Korean committee in 2008 for 50 listed companies is constructing infrastructure for carbon information use by requesting carbon exhaustion information release of 100 firms with 2009 KRX 100 index and publishing in white paper. Banks are the major force of deposits, installment savings, and loans related to green finance. Industrial banks and export-import banks are the main organizations for green industry financing in the policy loan sector. The trust guarantee funds and technology guaranteed funds provide raised guarantee rate or deduct guarantee rate, and technology guaranteed funds especially supports green growth businesses as well as assurance through the agreement with banks.³⁴⁾

5. GCF and Korea's ODA legal improvement suggestion

Korean government prepared green growth business support plan through Economic Development Cooperation Fund to support the economic and social development of developing countries, and expected to contribute to the green growth industry advancement of developing countries such as new recycling energy, water and sewage, and waste disposal. Feasibility study

34) Lee kihyung, A Study on Concept of Green Finance and on Measures for its Revitalization and Progress, Korean Business Education Association, Business Education Journal 17, 2010, p.54-56.

cost for the same field was primarily granted to support business development of the developing countries' newly growing field.³⁵⁾ GCF secretariat could provide an existing green growth related governmental support to developing countries in association with ODA. GCF was created to support businesses related to mitigation and adaptation of climate changes in developing countries and formed consensus about establishing funds easily accessible through agreement between developed and developing countries. ODA is not an important or urgent issue among the GCF secretariat roles. Actualization of payment from developed countries is more important. However, ODA is determined to be the most powerful ODA type among Korean ODA models, and GCF secretariat should review the possibility to associate with environmental ODA. Legal improvement also needs to be prepared considering ODA in case future funds are smoothly raised for GCF.

(1) Korean ODA status

According to the DAC member countries' 2013 ODA tentative statistics announced by OECD, scale of Korean aid recorded \$17.4 billion which is increased by 9.2% (\$1.5 billion) compared to 2012 (\$15.9 billion). This reflects the largest increase among the 24 member countries, and ODA size also ranked one level up to 16th that the further expansion of Korean ODA is anticipated while 15 other member countries' ODA was reduced due to the economic downturn.

\$1.75 billion of 2013 Korean ODA was composed of \$1.3 billion for direct both-sided support of supplies and funds and \$0.45 billion for multilateral aid through the international organization.³⁶⁾ Korea enacted the international development and agreement act, a basis act for ODA in 2010

35) KIPF, Establishing EDCF green growth industry support measures, Finance Forum, 2009, p.129.

36) <http://www.odakorea.go.kr/index.jsp>

and increased non-restricted aid to build an aid system conform to the international standard. We are planning to expand the proportion of non-restricted aid like credit assistance and grant, 50% and 100% respectively by 2015.

(2) Cooperation method with northeast Asia through the collaboration with Asia development bank

Up to this point Asia Development Bank prepared funds for climate change as an international financial organization and established a climate change adaptation program. GCF could be the center of ODA business in northeast Asia followed by the relocation of GCF secretariat to Songdo. '2013 Asia Pacific climate change adaptation forum' held in Songdo in March 18, 2013 was the biggest global event for APAN, a UN climate change adaptation network and was meaningful in that it was the first international conference hosted in our country after GCF secretariat. Through the forum, Korea reinforced the importance of its role in the global community as well as the cooperation system with other foreign institutions including UN. Korea also took this as an opportunity to demonstrate its leadership by actively engaged in climate change adaptation in Asia Pacific region. This forum involves the Asia development bank, and the role of Korea is recognized, so cooperation with the Asia development bank or rearrangement of functions might be necessary to specify the role of GCF with the relocation of GCF secretariat.

(3) Concurrent implementation of ODA and trader benefit offering

The principle of ODA is to aid through donation, loan, and technology transfer. Offering trader benefit to developing countries with ODA could be also considered. Korea prepared a Generalized System of Preference applied to developing countries to maximize ODA effect and increased the number

of customs-free items imposed to least developed countries. It might also be meaningful for GCF to create a system offering trader benefit in association with ODA in the future besides those form of aid. Yet developing countries receiving aids should recognize necessity to cooperate for environmental protection as environmental benefit estimation technology has advanced.

2) Legislative improvement for green ODA

In case of Korea, tasks related to ODA have distributed operation by different organizations such as government ministry and export-import bank. Grants are distributed by 'Korea International Cooperation Agency Act' through the invitation of overseas trainee and dispatch of professional manpower/global volunteer group. Credit assistance to developing countries is being implemented by export-import bank's Economic Development Cooperation Fund. Such divisions of aids were developed under the legislative effort to improve inefficiencies, and a united plan was established and implemented through 'OECD Act enforcement ordinance' effectuated since July 26, 2010. Now another legislative improvement is required to systematically accomplish cooperation with the international organization by hosting and operating GCF secretariat. For relocation of GCF secretariat, division of labor for government ministry was specified from January to April in 2013 through the amendments: 'Ministry of Strategy and Finance and affiliated organization statute'³⁷⁾ Article 21(2) and 27, 'the foreign office and affiliated organization statute enforcement regulation' Article 28, and 'Ministry of Environment and affiliated organization statute' Article 3(2). Additionally, there were legislative improvement and establishment for cooperation with the international organization in creating policies and

37) a Presidential decree 24496(Economic Related Ministers' Meeting Provisions)

planning businesses related to GCF. It was accepted as an organization that reacts to climate changes and contributes toward low carbon realization of society based on the low carbon green growth act, Article 55.

6. Financial support for recyclable energy

German technology transfer organization has been operating its system to commercialize public technology through the Steinbeis foundation. Japan is building a technical evaluation and transfer system reflecting corporate demands with the intimate relation among the industry, university, Research Institute of Science and Technology, and government under the supervision of Super Technology Licensing Office. US imposed legal liability on federal research institute for technology transfer and business promotion through Stevenson-Wydler Technology Innovation Act. Technology transfers within a country or industrial field (from developing to developed country) are being made, but effectiveness is derived from GCF while providing financial support and technology transfer benefit for recyclable energy resources.

IV. Korean legislation of the emissions trading

In 2012, after several years of debate and discussion, Korea became the first country in Asia to pass legislation introducing a national greenhouse gas emissions trading scheme(ETS). The ETS, which comes into force from 2015, is designed to help the country reduce emissions by 30% by 2020, compared to business-as-usual levels. That pledge is one of several that follow from the commitment, made by the government in 2008, to focus on a 'Green Growth' agenda as a main national policy tool designed to use the transition to a low-carbon economy to accelerate economic

growth. Numerous policies related to green growth and the promotion of low-carbon technology have been introduced since 2008, including the government-led cap-and-trade scheme legislation. An ETS bill has been debated for the four years by the government and business community in Korea. In particular, the business community has expressed its concern over the potential impact on its international competitiveness, as a consequence of imposing a cost on carbon via an ETS. The lack of progress in the international climate talks since the 2009 Copenhagen climate summit has been an additional political burden for the Korean government as it pushes its ETS agenda. Nonetheless, the emissions trading bill was finally passed in May 2012 by Korea's parliament, the National Assembly, with this bill is to help Korea green its fossil-fuel dependent industries, as well as foster clean technology innovation and lower domestic GHG emissions. In July 2002, Korea's Presidential Committee on Green Growth(PCGG) unveiled for public consultation a draft version of a subordinate presidential decree, which sets out details of the country's cap-and-trade scheme, and which is scheduled to be finalised in November 2012.³⁸⁾

The last ten years have seen the growth of linkages between many of the world's cap-and-trade systems³⁹⁾ for greenhouse gases(GHGs), both

38) South Korea steams ahead, Global Carbon, Autumn 2012, p.16.

39) The world's largest carbon market has been holed below the water line. On April 16th the European Parliament voted to reject an attempt to bolster Europe's flagship environmental programme, the Emissions Trading System (ETS). Carbon prices, already low, plunged. The emerging network of global carbon trading and European climate policy as a whole could sink. The ETS has long been a mess. It is a cap-and-trade scheme in which permits to emit carbon—about 16 billion tonnes-worth in 2013-20, or roughly half the European Union's total carbon emissions—are allocated to firms and can then be traded between them. Partly because recession has reduced industrial demand for the permits, and partly because the EU gave away too many allowances in the first place, there is massive overcapacity in the carbon market. The surplus is 1.5 billion-2 billion tonnes, or about a year's emissions. Prices had already fallen from 20 (\$30) a

directly between systems, and indirectly via connections to credit systems such as the Clean Development Mechanism. If nations have tried to act in their own self-interest, this proliferation of linkages implies that for many nations, the expected benefits of linkage outweighed expected costs. In this paper, we draw on the past decade of experience with carbon markets to test a series of hypotheses about why systems have demonstrated this revealed preference for linking. Linkage is a multi-faceted policy decision that can be used by political jurisdictions to achieve a variety of objectives, and we find evidence that many economic, political, and strategic factors - ranging from geographic proximity to integrity of emissions reductions - influence the decision to link. We also identify some potentially important effects of linkage, such as loss of control over domestic carbon policies, which do not appear to have deterred real-world decisions to link. These findings have implications for the future role that decentralized linkages may play in international climate policy architecture. The Kyoto Protocol has entered what is probably its final commitment period, covering only a small fraction of global GHG emissions. Under the Durban Platform for Enhanced Action, negotiators may now gravitate toward a hybrid system, combining top-down elements for establishing targets with bottom-up elements of pledge-and-review tied to national policies and actions. The incentives for linking these national policies are likely to continue to produce direct connections among regional, national, and sub-national cap-and-trade systems. The growing network of decentralized, direct linkages among these systems may turn out to be a key part of a future hybrid climate policy architecture.⁴⁰⁾

tonne in 2011 to 5 a tonne in early 2013(The failure to reform Europe's carbon market will reverberate round the world, *The Economist*, April, 2013).

40) Matthew Ranson & Robert Stavins, Linkage of Greenhouse Gas Emissions Trading Systems: Learning from Experience, NBER Working Paper No.19824, 2014, NBER Program(s), p.1

By 2015, ETS(Emission Trading System) will be implemented in earnest in Korea. We are concerned about the international competitiveness of Korean domestic industry because Japan, the United States, China and other major competitors⁴¹⁾ are delaying the introduction of emission trading, and mandatory greenhouse gas reduction system is in situations of high uncertainty since the Post-Kyoto system. In Korea, the emission trading legislation is enacted, and it is significant that it provides flexibility of time and place by allowing the temporary price ceiling system. However, its detailed instructions like management plan is so far unclear. We need to reform the legal system which sub and top decree is duplicated and conforming more with greenhouse gas target management system.

Also, effectiveness of the system was questioned because emission quota adjustment according to the changes in international economic conditions became possible, and proportion of allocated free emission was increased (more than 95% in 1st Plan Period 95%). It is predicted that small and medium enterprises will have increased cost burden, meaning effective support plan is needed for them. Each local government is establishing policy as a preparation for the system, regarding minimize predicted loss and maximize profit by industry, along with national establishment of a master plan about emission trading.

Providing practical guidance for Greenhouse Gas Target Management System, which keeps pace with ETS, ground rules are already created in

41) For example, the NZ ETS will strengthen the country's clean green brand - an important issue for a small trading nation like New Zealand as international markets and consumers increasingly demand environmentally friendly products. NZ ETS thinks that "An emissions trading scheme moves the cost of emissions onto those who cause them. It creates a market around reducing emissions, and so provides us with more flexibility than a simple carbon tax."(<https://www.climatechange.govt.nz>)

Framework Act on Low Carbon, Green Growth and its decree.

Meanwhile, Korea needs to prepare the international carbon market linkages with the introduction of ETS as the center country of international climate change. International carbon market linkages already have advantages like reducing costs through economies of scale, stabilizing prices, relieving the decrease of industrial competitiveness. However, there is also drawbacks like domestic economic impact of price fluctuations, the rapid movement of capital between countries, possibility of increase in global emissions. In the case of EU, they sort valuation basis in 11 kinds, and examine whether link is true or not case-by-case. The valuation basis includes the units used, enrollment criterion, system type, voluntary/mandatory, severity degree of emissions allocation, monitoring and reporting, compliance and reinforcement, meditation and access for sources either directly or indirectly. With economic analysis, using international cooperation channels, we have to establish direction.

Korea is already cooperating with United Kingdom, Germany, China, and other countries through the expert workshops and conferences. Attracting GCF executive office, Korea needs to keep linking leading the global carbon markets, starting from the Northeast Asia.

V. Conclusion

GCF as an international organization could have a legal personality and Korea also realized that GCF could have a domestic legal status as well. Similarly, various operational plans for hosting GCF secretariat in Korea were sought. Through this study, Korea found grounds to support GCF

operation in capital market act and OECD act. In the process of building a legal basis, fund operation was essential for private fund raising and profitability creation, and the necessity of complete charge department for legal problems was mentioned. Korea suggested an excellent idea: GCF can have public concern about supporting ODA, and developing countries can benefit from financial contribution in the area of trade, technology transfer, and financial support. We are currently in the process of building infrastructure for secretariat operation, but we need to pay attention to private fund raising and profitability of funds for long-term success. A way to enhance the potential to become a global governance model is to continue to cooperate with the international organizations under the effective policy.⁴²⁾ The expectation on the tangible and intangible economic effect is getting higher after hosting GCF secretariat in Songdo. The committee started genuine conversation about fund raising in 2013.

The secretariat's role and importance can be stressed only with the visions such as raising private fund using GCF funds and securing/operating medium-and long-term financial resources. Although GCF is recognized as an international legal personality, different opinions still exist over the funds whether these should be used for public interest to prepare financial resources or designed as a profitable model due to the relation between developing and developed countries. Korea needs to create a legal and administrative foundation for the aforementioned issues as a GCF secretariat.

Next year, Emission Trading System will be effective in Korea. So Korea needs to prepare the international carbon market linkages with the introduction of this system as the pivot of international climate change.

42) Volker Rittberger, Bernhard Zangl and Andress Kruck, International Organization, Palgrave Macmillan, 2012, p.274.

Korea is already cooperating with some EU member nations through the expert workshops and conferences. With moving GCF executive office, Korea needs to try linking leading the global carbon markets, starting from the Northeast Asia in a short-term.

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[Abstract]

Korean role as a center of international climate change
-focusing on the related legislation of GCF(Green Climate Fund) Secretariat

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GCF was established as the International Organization, and formed the legal basis to relocate their office in Korea. Executive office have established its legal framework. In this study, regarding operation of GCF, which will play a central role in international climate change, we researched status of legislation in Korea from various perspectives. We suggest the way to give legal administration to GCF for its own, reforming capital market integration act, and measures to ensure the international reliability and transparency. We emphasize the need for successful financial management of GCF through legislative support regarding the green fund, mobilizing private capital. Meanwhile, we found the role of development cooperation in GCF, which is along with ODA legislation revision. Technology transfer system and related legislation are being made within a country or industrial field, GCF can play a role of providing international financial support and technology transfer benefit for recyclable energy resources. Finally, the emission trading legislation in Korea is enacted, and it is significant that preparing international carbon market linkages with the introduction of this system as the pivot of international climate change.

Key words : International Climate Change, GCF, Capital Market Consolidation Act, Green Fund, ODA, Emissions Trading

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