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Employment and Labor Policies in Transition : Employment

Employee Protection to Facilitate Restructuring

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I. Introduction

Manufacturing jobs grew in the past few years at the rate of 100,000 year-on-year, but it abruptly came to a halt in 2016 when restructuring became a pressing agenda. They even declined by 110,000 year-on-year in the fourth quarter of 2016. Employment Insurance (EI) statistics on “Other transport equipment manufacturing sector” which includes shipbuilding show a decline of 30,000 jobs from 210,000 at the end of 2015 to 179,000 at the end of 2016. As the absolute majority of wage workers in this sector are grouped into shipbuilding, this data indicates that close to 15% of all EI-covered wage workers in shipbuilding have lost their jobs due to restructuring. Given that there are an estimated 20,000 shipbuilding workers in the Geoje Island alone, who are not covered by EI (known

as “Volume Team” or sub-contractors), the actual size of the workforce laid off during restructuring is likely to be well over 30,000. There are news of new shipbuilding orders coming in, as well as expectations of recovery in the demand for ocean plants thanks to pick-up in oil prices, but restructuring is likely to continue for the time being as decline in outstanding orders is outpacing increase in new contracts.

Korea is facing strong challenges from emerging economies in its traditional strongholds, and now stands at a crossroads of having its other major industries also being subject to restructuring as was the case in other developed economies. In addition, the fourth industrial revolution is set to bring about fundamental innovation in manufacturing processes, effecting changes in production jobs, the pillar of manufacturing, the consequence of which could

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bring about restructuring in the relevant occupations.

In this wave of changes, restructuring is likely to be our everyday reality, but the relevant policies have not matured enough yet. Although restructuring has the benefit of reallocating resources from declining fields to more promising players, improving productivity in the national economy in general, it also has the costs of threatening the livelihood of the displaced workers and undermining an entire region's economy if the industry is concentrated in a particular region. It is because of these costs that restructuring is often met with resistance, delaying the necessary actions from being taken.

This is why protection for workers subject to restructuring is a major policy area in major industrialized countries. In no country is restructuring left to the market alone. Even in the U.S., with relatively few regulations and strong employer rights, the trade adjustment support system is well in place, under which job training, employment service and even financial support for livelihood protection are provided for those affected by trade agreements. It also has the experience of minimizing human restructuring during the global financial crisis, when public money was injected to prevent General Motors' bankruptcy.

European firms have the legal framework and practices designed to minimize downsizing, such as work-time reduction. Even when downsizing is unavoidable, they try to live up to their social responsibility by minimizing the impact. The employees to be downsized are kept on their payroll for around a year, receiving bulk of their wage, while undergoing outplacement training and service from professional agencies. While government subsidies to the private sector are prohibited under the EU system, exceptions are granted in the event of human restructur-

ing. There is also a system in place, such as the European Globalization Adjustment Fund, to support the sectors in individual countries that go through restructuring (Kim & Oh, 2016).

This paper reviews how policies should be improved in Korea in light of such cases of other countries, to minimize restructuring's negative impact on individual workers and the society in general.

II. Policy Approach to Minimize Impact of Restructuring

1. Building governance for social dialogue, improving the system

Large companies in major European countries strive to minimize dismissals through in-depth labor-management discussion from the planning stage of restructuring. The Quality Framework for Anticipation of Change and Restructuring¹⁾, EU Commission's policy framework on restructuring, underscores the importance of preemptive discussion, guidance and planning by stakeholders such as the company, employee representative, union, industrial parties (e.g. supply chain partners), and local and central governments from the very early stage even before there is a plan for restructuring by anticipating changes in the business environment.

The appropriate modality of support for restructuring is also related to the government's industrial policy. There are policy tools that apply to all restructuring, such as unemployment benefits and employment retention support, while other, more specific use of the budget might be needed depending on the region or industry. For example, different responses are required for different circumstanc-

1) This program offers guideline on how to minimize restructuring's impact on workers and the society based on companies' real experience. The EU Commission has announced that follow-up actions and possible legislative proposals will be taken around 2016 after monitoring its application in the member states. For more details, see <http://ec.europa.eu/social/main.jsp?catId=782&langId=en&moreDocuments=yes>. The EU has built and updates a database of large-scale restructuring cases and related policy instruments in member states in Eurofound's European Restructuring Monitor, producing a report every year (<https://www.eurofound.europa.eu/observatories/european-monitoring-centre-on-change-emcc/european-restructuring-monitor>).

es: be it a temporary demand shrinkage, need for restructuring to upgrade the industry itself, or improbability of the sector being revived due to serious competition. The first case would be relatively easy to overcome by supporting work-sharing and social safety net for employees of firms that are suffering from demand shortage, and providing emergency investment in the regional infrastructure and debt restructuring for parts suppliers. The second scenario would require additional support for R&D, as well as vocational training or technology upgrade for parts suppliers to adjust to the sectoral development. The third case would necessitate human restructuring such as downsizing in the companies involved, which would need intense support for reemployment, and more fundamental actions to develop new industries in the region. For the third scenario, longer-term investment is needed to develop new sectors in cooperation between the region's experts and local authorities, and the fiscal resource should be used under this principle.

As to which of the three types a particular restructuring falls to can be determined accurately through an opinion-gathering process of experts and stakeholders based on transparency and openness of information. When restructuring occurs in major industries, government's policy intervention is unavoidable as it would affect not only the would-be displaced workers but also the regional economy and related industries, but the problem in Korea is that transparency is often missing in the decision-making process, as evidenced by the informal meetings held at the "West Annex Building" in the presidential compound. This points to the urgency of involving stakeholders in social dialogues and governance on restructuring. More comprehensive discussions are needed on securing alternative dialogue channels (e.g. sectoral tripartite council) and on working together with existing regional or industrial HR committees and financial restructuring units like creditor groups. Such process of social discussion must be fully incorporated to help stakeholders gain a better un-

derstanding of the need and direction of restructuring to make it more acceptable for those involved.

Such discussion is important not only outside the company but also inside, to bridge the gap between management and individual workers or their representatives, and to minimize human restructuring. The 2009 case of Ssangyong Motors is an example of the importance of dialogue among stakeholders. It showed how lack of such discussion and preventive actions, followed by human restructuring, caused enormous social costs and individual suffering. The 1998 legal provisions for downsizing require prior notice and sufficient discussion with employee representative to avoid dismissals, but substantive prior discussion has not become the norm yet. What is needed now is to streamline the related regulatory framework and for each party to make additional effort.

2. Minimizing human restructuring

It is also important to try to minimize human restructuring. Given that we are in a period of low growth (when job growth tends to be slower), it is of utmost importance to minimize human restructuring that would lead to loss of existing jobs. It is a well-known fact that Germany was able to move out of the global financial crisis relatively quickly by responding to the ensuing recession by reducing working hours, not jobs. Germany's main manufacturing sectors, which had experienced a number of crises in the past, already had "Working Time Account" where any work in addition to the formal weekly hours is saved, rather than being remunerated. If not in recession, the working hours saved in the account then could be used as vacation, but during a recession, the hours saved had been used to cut working hours without reducing pay. This was a good example of minimizing human restructuring through flexible use of working hours. This approach allowed companies to retain their skilled employees, which then enabled them to respond swiftly when the situation

turned around, and granted the additional benefit of maintaining firm-specific skills.²⁾

In the case of Korea, the Employment Maintenance Support program provides government subsidies for work-time reduction or temporary shutdowns that are undertaken in lieu of human restructuring. In fact, the subsidy payouts jumped from 375.1 billion Korean won in 2008 to 595.5 billion in 2009 when there was a serious job crunch in the wake of the global financial crisis. Aside from this, temporary pay cut is frequently used. Such instruments, rather than being a mainstay, are invoked only when events occur, and thus must be accompanied by “honorary retirement”, which is little different from downsizing, for restructuring to actually take place. Companies must be ready at ordinary times with financial resources and programs that take into account the possibility of restructuring. If the German-type working time reduction is to be used, it should be backed by legal amendments, which would require a forward-looking tripartite dialogue in preparation for low-growth era where restructuring could happen on an ongoing basis.

In addition, as was demonstrated during the recent restructuring in the shipbuilding sector, those who are the first in line for downsizing are (in-house) subcontracted employees or non-regular workers. Granted, shipbuilding represents an extreme case of using indirect hiring and fixed-term contracts, but still, Korean companies with over 300 employees tend to indirectly hire around 20% of their workers and another 20% as non-regular workers such as fixed-term workers. The employers of in-house subcontracted workers reportedly are often not capable of paying the allowance required during business suspension, and thus resort to downsizing or contract termination. The government’s business suspension subsidy is paid only when the employer pays business suspension

allowance, which means that they are deprived of one instrument of avoiding dismissal. One possible solution worth considering is for the principal company to take the initiative to create a fund for business suspension allowance in boom times, to be tapped into in times of crisis. In addition, given the relatively high percentage of non-regular workers in Korea, there should be policy efforts to retain them or help their reemployment in times of restructuring, which should also be considered during the social dialogue.

In addition to above actions, companies in Europe in the past few years have been increasing their options in dealing with restructuring that unavoidably accompanies human restructuring. Most notably, the restructuring company would provide displacement service, by either setting up an outplacement service firm or collaborating with outside professional firms. Although the specifics differ by company and country, it has developed to the extent where the employees would be moved to the displacement service firm (on a fixed-term contract) to gain work experience, vocational training or otherwise receive employment service in a related field or a field of the employee’s choice (for 1 or more years), while their wage is still being mostly covered by the restructuring company.³⁾ This is the kind of practice and funding that should be made available by companies to bear responsibility for their employees’ reemployment and career development in times of restructuring.

3. Strengthen state-level social safety net such as unemployment benefits

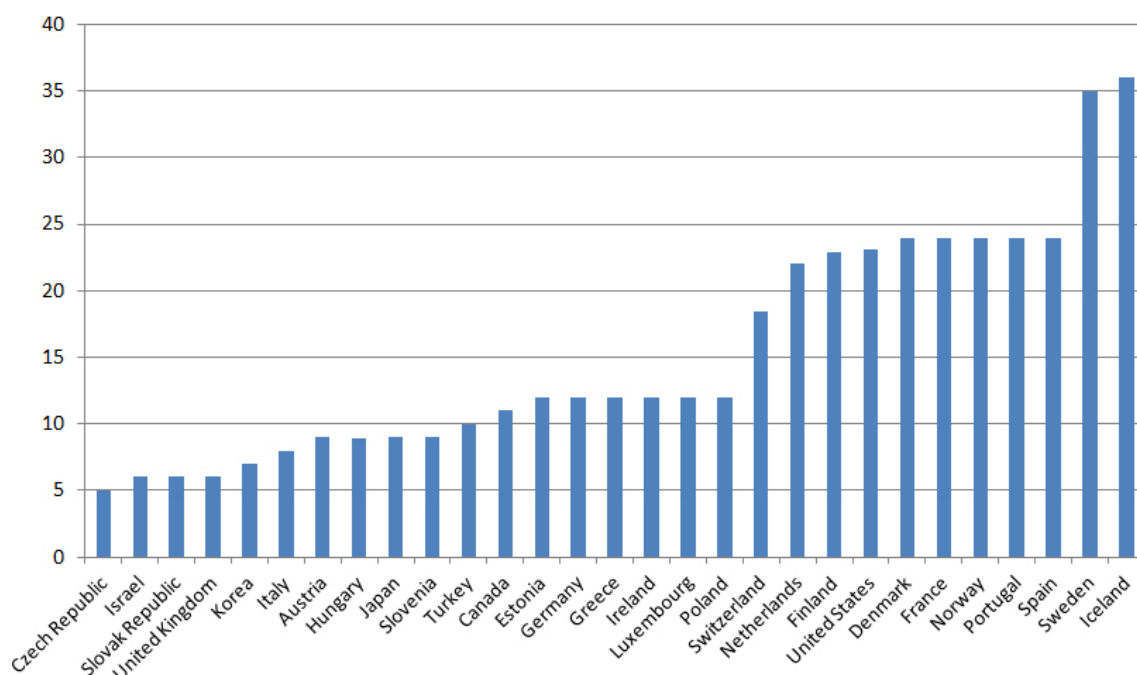
In the event that workforce restructuring is unavoidable, the adequacy of state-level support for individuals’ livelihood and job prospects should also be reviewed

2) On Germany’s Working Time Account (WTA), see Lee (2011); for an overview of corporate restructuring in Germany, see Knuth et al.(2014); on the mechanisms and benefits of addressing restructuring with working time, see Kümmerling et al.(2014).

3) For German cases of displacement support, see Knuth et al.(2008).

Figure 1. Maximum Unemployment Benefit Period for 40-year-old Workers

(Unit: Months)



Note : Includes only the members where data is available; maximum payout period for 40-year-old workers who had had an uninterrupted career.
 Source : OECD, Benefits & Wages: Policies, <http://www.oecd.org/els/benefits-and-wages-policies.htm>, as of 2010.

when planning to minimize individual and social costs. Inadequate social safety net could cause strong resistance against restructuring, undermine the livelihood of affected workers and even affect the regional economy.

The first line of defense for downsized workers is unemployment benefits, and Korea offers only a brief coverage. Among OECD's major industrialized members, only a few offer unemployment benefits for a maximum of less than one year regardless of age or insured period: the U.S. (6 months), UK (6 months), Korea (240 days), Canada (45 weeks) and Japan (330 days). And only a few offer them for a minimum of less than 6 months, and again, Korea is one of them: Korea (90 days), Japan (90 days), Canada (14 weeks) and Austria (20 weeks).

The short payout period means short protection period, which in turn means insufficient support. According to a case study on Ssangyong Motors, of the workers who were involuntarily displaced by restructuring, only 27.3% were reemployed 1 year later, and only 37.2% after 2 years (Lee, et al., 2013). In addition, according to Lee, et al. (2016),

older workers who were involuntarily displaced were still suffering a monthly average of -14.5% wage loss even after 4 years, with the loss being larger in groups with longer tenure. Such outcome implies that strengthening unemployment benefits to make up for the income loss during reemployment-seeking period should be given the highest priority.

There are two ways of accomplishing this. One is to generally extend the payout period. However, it cannot be done overnight as it would require enormous fiscal spending. For the time being, "special extended benefits" can be a viable option. There is already an improvement in this respect: the regions or sectors suffering severe job losses can benefit from the extended period by being designated as "employment crisis region" or "special sector." Further improvement can be made by easing requirements for this provision and the period can be further extended from the current 60 days.

Another option to be considered is to define different payout period for the downsized workers who have regis-

tered themselves at the regional labor office, as they are already required to do. It is already in place in Japan, where downsized workers are entitled to unemployment benefits for 90 days up to 330 days, compared to the 90-150 days for the ordinary unemployed. Given that Japan also has brief coverage in international terms, carbon-copying its program might not be sufficient in fulfilling the goal of providing livelihood security for the unemployed, but the idea itself, of allowing a more realistic period of benefits for downsized workers, is more than worth considering.

Other options to be considered include strengthening state-level displacement support. Some of the downsized workers easily find a new start in a related field, but more have to change their field or start their own business. For the former, a simple displacement service would suffice, but for the latter, decent job training and livelihood support for the job-seeking period would be additionally needed. Presently, the shipbuilding sector is entitled to job training and employment service support since participating in the Employment Success Package. If the existing industries and technologies must be completely overhauled, it should be accompanied by extended vocational training or education (to be administered by universities, etc.). There should also be livelihood support during this time. The current Extended Training Benefit (maximum 2 years) under the Unemployment Benefit should be improved so that the downsized workers who wish to move to a different sector can receive the support through the gateway of high-density displacement support service.

III. Conclusion

This has been a brief discussion on how to improve policies to facilitate restructuring while minimizing the negative impact. A report of ILO recommends what it calls Socially Sensitive Enterprise Restructuring, where human restructuring is minimized through social dialogue. The EU Commission recommends something similar, un-

der the name of Quality Framework for Anticipation of Change and Restructuring, as it collects case studies into a database and tries to disseminate them.

Restructuring cannot be avoided at will. Korea already took the first step toward establishing a model of restructuring that is accompanied by a stronger social safety net and commitment to minimize dismissals during the 1997 Asian Financial Crisis when large-scale downsizing swept through the nation. The programs established then have been in improvement ever since. The spike in Employment Stabilization Program funding during the 2008-'09 global financial crisis demonstrated that there has been some improvement in the last decade. There were also hints of restructuring based on job-sharing built upon the established programs. Another improvement was witnessed in the more recent cases of Ssangyong Motors and the shipbuilding sector in the city of Tongyoung. Designations as Employment Crisis Region or Special Sector were attempts to ease the restructuring challenges faced by a specific region or sector. As Korea goes through more experience, restructuring support programs are also diversifying (e.g. Employment Success Package), while the Employment Maintenance Support funding has been extended and the amount increased. Still, there is a long way to go in terms of social dialogue that can help the stakeholders accept the need for restructuring itself. Nor is there a strong enough governance and operational experience that can help alter the course of restructuring and minimize the impact. The near lack of such institutions or inadequate operation, have incurred significant social costs. There is also a long way to go, compared to other developed countries, in the quality of social safety net, degree of responsibility borne by the restructuring company and the attempt to avoid human restructuring. What is urgently needed is social dialogue and policymaking to lead changes in the institutions and practices on a steady and long-term basis.

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