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On Improving Budget System Laws for Fiscal Soundness

December 2013 | John M. Kim
Seung Hyun Hong

KOREA INSTITUTE OF PUBLIC FINANCE

The Korea Institute of Public Finance
28, Songpa-daero 28-gil, Songpa-gu, Seoul 138-774, Korea
Tel: 82-2-2186-2114 Fax: 82-2-2186-2179
URL: www.kipf.re.kr

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Introduction

The term, 'fiscal system,' largely consists of (1) budgetary formulation and management and (2) the management of the national treasury and accounting, but this study focuses on the former, in particular decision-making in the process of budget compilation (including deliberation and approval). While budget formulation connote the state's decision-making on administration and required funds, the budgetary system can be understood as a routinized form of the said decision-making process and procedures. The ultimate objective of this study is to identify a budget system or structure that is conducive to a rational and binding decision-making process.[1)]

This study was initiated based on the recognition of the notion that, in order to establish an effective fiscal system for the enhancement of fiscal health and furthermore establishment of a system of fiscal legislation, thorough reviews are required towards 'non-economic' factors. Aside from the economic and fiscal factors typically addressed in the discussion of public finance, this study considers the decision-making aspect to delineate the significant influence exerted on national finance by stages of economic and fiscal development encompassing laws, political systems and administrative levels. In particular, it is widely held that examining exemplary cases from abroad or exploring new measures for improvement based on domestic conditions requires an emphasis on acquiring

1) In preparation for this, national treasury and accounting systems can be understood as a scheme to measure, control and manage revenues, in order to enable the effective management of the budgeting system and greater efficiency in the decision–making on the utilization of revenues.

a full understanding of non-economic factors in order to determine whether a new system can work to fulfill its original purpose or materialize the desired effects.

Despite continuous efforts since the foundation of the Republic of Korea to establish an advanced system of fiscal infrastructure including the enactment of the National Finance Act, the discussion on matters for improvement in the fiscal system continues to the present day, largely within two contexts. In the legislative branch, as the possibility of constitutional reform was raised around 2010, discussions mainly revolved around introducing the principle of budgetary stipulation in legislation, with regards to a legislature-led policy of budget formulation in a form similar to that of the United States. Recently, under the current constitution, the National Assembly Special Committee on Fiscal Reform recommended reorganizing the Special Committee on Budget and Account from a permanent special committee to a standing committee. At the same time, discussion is underway on the role of the newly-established budget standing committee in the budget deliberation process and its relationship with other standing committees, which is also purported to have consulted the budgeting procedure in the U.S. Congress. From the legislative perspective, it can be said that the legislative branch’s pursuit of the U.S. budget system demonstrates its desire to strengthen the legislative influence in the budget process. This pursuit can be interpreted in context of democratization in Korean society and growing influence of legislatures worldwide in their respective budget processes.

With regard to the necessity of improving the fiscal systems, scholars and experts emphasize the periodic changes in social infrastructures and note the fact that in the face of democratization and population aging, society’s decision-making methods and needs for national finances have changed, while the fiscal role of the government has also transitioned from state-led growth during the development period to the current medium- and long-term fiscal management. Against this backdrop, the possibility is raised that certain aspects of the current fiscal system are unable to properly meet fiscal needs. For example, the current model of medium-term and top-down budget systems was adopted in the 1990s based on the Swedish model, and has since begun to reveal a number of limitations. In fact, there are only a few cases in which the said system has produced a substantial effect on the enhancement of fiscal soundness in countries other than those in Northern Europe, particularly Sweden, whereas there have been numerous effective cases of other types of medium-term fiscal planning in OECD countries. In particular, cases such as the United Kingdom and Canada showcased the effectiveness of biennial medium-term plans. Furthermore, the cases of OECD countries with relatively favorable fiscal soundness do not necessarily exhibit top-down models of budget formulation, while the Korean framework of fiscal operation is designed to be neutral with respect to the political cycle and therefore somewhat lacks political feasibility, which serves as a hindrance in securing medium- and long-term binding force. The performance-based budgeting system has also long posed the additional problem of effectiveness in OECD members. Although the topic of fiscal rules has recently begun to garner growing attention in Korea, the actual effectiveness of fiscal rules as legislative stipulations remains open to question.

As such, awareness is growing towards the necessity for further improvements in the Korean fiscal systems, and the relevant discussions are already underway. Through such varied discussions, Korea will explore measures to improve its fiscal systems and is expected to follow past examples in referring to cases of other countries or specific systems. Past efforts to examine relevant cases from other countries were largely limited to a detailed understanding of the system in question followed by partial adjustments in line with Korea's circumstances. As a result, systems newly introduced to Korea sometimes failed to produce expected outcomes, due to problems caused by failing to consider interactions with other systems or non-economic factors in Korean society, such as its laws, politics and administrative culture. However, our understanding and research capacity towards fiscal systems have since improved, and based on this accumulated knowledge, future efforts to review overseas systems or new domestic alternatives are expected to conduct a more thorough study of the actual workings of the system based on such non-economic factors. Under these circumstances, this study attempts to make a comparative analysis on the roles of legal, political and administrative factors for the effective reform of fiscal systems.

Ⅱ

Determinants of Fiscal Performance

An overview of institutional development in Korea shows numerous factors that have been transplanted from advanced systems in many countries, subsequently modified and developed according to circumstances in Korea. The process of implementing such imported systems within the institutional framework in Korea requires constant scrutiny regarding the social background in which those systems were created. These fundamental questions concern the relationship between historical, social, and cultural contexts and the management of the systems, but they have so far been treated as being outside of the scope of discussion due to the limitations in our knowledge and analytical capacity. However, considering our experience of implementing a variety of systems since the fiscal reforms of the mid-2000s and the analytical capacity accumulated thereafter, this may be an appropriate juncture to conduct systematic studies to identify the effects on performance of fiscal systems within the framework of various systemic environments.

Analyzing fiscal systems in Korea first requires the definition of a rather abstract and vague term, 'fiscal performance.' The government manages its public finance to achieve a wide range of objectives, and the systemic examination of effects on fiscal performances tends to focus on liabilities or fiscal deficits as the main indicators of fiscal soundness, as well as economic growth or economic volatility as the main indicators of macroeconomic stability. The former type is most typically cited in the discussion of fiscal performance, in particular in the academic context or discussion related to advanced countries and the OECD. The common sense perspective on 'performance' may define it as the degree of achievement in relation to original targets in consideration of the original intent, decisions made towards that end, and subsequent outcomes. If the original aim is to maintain or improve fiscal soundness with a focus on fiscal balance, the assessment of fiscal performance can be based on fiscal soundness. From the perspective of developing countries whose national priority is economic development, such as South Korea a few decades ago, it is evident that the predominantly important objective and the subsequent achievement of fiscal operation was economic growth, while maintaining fiscal balance or national liabilities at a proper level comprised a part of the said achievement but also served as a constraint rather than an objective in the pursuit of economic development.

In reflection of such issues, this paper examines the concept of fiscal performance through the two aspects of fiscal soundness and economic growth. Of the two indicators, fiscal soundness receives more attention as a criterion of fiscal performance. On the one hand, the factors and processes that determine economic growth are as varied and complicated as other economic aspects, which makes it difficult to evaluate fiscal performance through the simplistic term of the growth rate. On the other hand, the prioritization of economic growth could produce some accomplishment in the short and medium term through deficit financing, but it has been repeatedly validated in theory and many cases from around the world that such strategies are ultimately unsustainable and even the temporary accomplishments may be negated. In this regard, the concept of fiscal soundness as a measure of fiscal performance can be interpreted to tacitly include economic growth in the long term.

Returning to the topic of determinants of fiscal performance, studies on fiscal performance from the institutional aspect endeavor to examine the connection between the influence of the incentive system created by the institutional environment and its individual component systems on the behavior of fiscal decision-makers, followed by the allocation of fiscal resources as the result of their collective decision-making and the effect on fiscal performance thereof.

Therefore, the institutional environment, as non-economic elements directly affecting fiscal performance, can be largely classified into the legal system, political system and varying stages of socio-economic development. These three factors are not mutually exclusive, but rather interconnected with somewhat ambiguous boundaries. The legal system refers to an institutional environment comprised of multiple levels of legislation including the constitution. This environment includes fiscal (structural) laws which stipulate the process of fiscal decision-making and the procedures of controlling specific budget items, and in a broader context, it serves as a crucial determinant for various matters prescribed in the constitution, such as the separation of powers, behavior in the bureaucratic and administrative culture, as well as the authority and accountability of decision-making.

The second element is the political system, which involves the election process as generally determined by the constitution, and forms of government and political parties. This system is fundamentally related to the method of distributing the authority for fiscal decision-making and enforcing compliance thereof. In this sense, the political system is closely related to the legal environment, and therefore many aspects of the political system are reflected in administrative laws, as well as in the constitution and fiscal laws, whereby the political system is reflected in various laws and provisions.

The third and last element is related to fundamental systems including the stages of social and economic development. In detail, it is concerned with the extent to which the institutional environment created by principles embedded in legal and political systems can be established in reality, or the various elements required by the said institutional environment in accordance with factors external to the system. For instance, differences in the stage of economic development can influence the composition of fiscal expenditure, and the resulting need to manage such changes may also require the appropriate fiscal system. Moreover, the said necessity may also arise from the decision-making methods at each stage of social development, or the need for the curtailment of corruption. It is generally accepted that an underdeveloped economic or social environment may result in the failure of fiscal management to meet the original intent of relevant systems and instead become distorted, even when determined by laws or political systems.

The above discussion will be further elaborated along with a summary of previous approaches to the relationship between fiscal performance and key elements such as legal and political systems and economic and social development stages.

A. Legal Systems as a Determinant of Fiscal Performance

From the perspective of the legal system, this paper identifies two implications regarding the improvement of fiscal performance. The first is that the legal system exerts a relatively limited effect on fiscal performance. This can be explained from two aspects. First, this study used case studies from numerous countries to determine that the effective implementation of fiscal laws does not guarantee good fiscal performance, and whether they are governed either by civil law or common law does not determine fiscal outcomes. The former deals with specific laws on fiscal systems and provisions therein, while the latter involves the type of legal culture or social perception toward laws.

The first issue can be understood through three case studies. First, considering that the Commonwealth of Nations and Northern European countries have generally produced good fiscal performance without the concrete stipulation of fiscal laws, good fiscal performance may be achieved despite the absence of specific definitions regarding fiscal systems or well-established laws for the systematic arrangement of such provisions. In the second case, the comparison of past fiscal laws in Thailand and the Philippines with those of Korea during the respective periods of economic development demonstrates that the former two countries had already introduced a modern legal structure of fiscal systems in the 1960s or 1970s, as the equivalent to the National Finance Act enacted only during the 2000s in Korea. Nevertheless, Korea had produced far better fiscal performance despite lagging behind in instituting legal systems for public finance. The third case deals with the Philippines, where the administration Marcos and subsequent post-democratization governments recorded poor fiscal performance including deficit financing, despite its advanced laws of fiscal systems. The above-mentioned cases, particularly the case of the Philippines, elucidate that legally well-established fiscal systems do not by themselves guarantee good fiscal performance.[2)]

The second issue is a discussion of the relationship between legal culture and fiscal performance, which is mainly based on the observation that the

2) See the analysis into relevant cases in Chapter III for laws of fiscal systems of Thailand and the Philippines.

Commonwealth of Nations and Northern European countries have shown good performance on public finance and their fiscal systems are among the most advanced. It can be explained that the common law system generally adopted in the Commonwealth and the legal system prevailing in the Northern European countries, which places greater value on social cohesion as opposed to the legislation of specific details due to potential concerns of legal rigidity, tend to be at an advantage in improving fiscal performance than continental Europe's alternative system of civil laws with stronger legalistic characteristics. In the discussion of laws, society and culture, it is explained that civil law is an ex ante system that emphasizes the elaboration of perfect logic and strict observance of process and procedures, while common law is known to focus on the *ex post facto* rules based on common sense and rationality. As for critical decision-making in fiscal issues, however, it is impossible to predict and legislate for each and every possible contingency in advance, and furthermore, the approach to reinforce fiscal systems through detailed stipulations is likely to hinder decisions that require appropriate judgment, thereby jeopardizing the likelihood of achieving satisfactory fiscal performance. In particular, fiscal rules, as a recent topic of interest, emphasize the commitment to adhere to a system of rules consisting of a few and simple principles and the concept itself originates from the Commonwealth of Nations and countries in Northern Europe.

Nevertheless, this study found that whether a legal system is based on civil law or common law does not play a determining role in fiscal performance. Case studies examined in this paper, from Korea as well as Southeast Asian countries, the U.S. and the EU, show that any major revision or reform of fiscal systems emphasizes the legislation of relevant aspects. In addition, the current trend in fiscal rules indicates that, rather than simply emphasizing basic principles, such systems are being legislated in intricate detail as necessary. This may provide a point of reference for Korea in its consideration of legislating fiscal rules.

In this respect, this study aims to narrow its focus to fiscal rules and interpret the trend of gradual expansion and growing complexity in fiscal rules, as seen in the case of the EU. As mentioned above, for fiscal rules to be effective requires simplicity in the core principles as the integral component of the said regulations, and this approach is beginning to gain a consensus at the international level despite the current trend of growing complexity in fiscal rules. For the enforcement of the principles, however, it is difficult to continue to simply depend on the volition of decision-makers, and therefore, efforts to secure binding force for the rules require additional principles as recently recommended.[3] First, an emerging viewpoint states that the enforcement of compliance with major principles requires provisions that are more specific in detail and expansive in volume. Examining recent fiscal rules in the EU finds that the basic underlying principles do not differ widely from the provisions of the Maastricht Treaty, with a key difference being the presence of mechanisms to enforce compliance with fiscal rules. In this vein, another matter of importance is the operational convenience in the enforcement mechanism. For instance, the enforcement of clauses for sequestration or penalties must be automatic without additional volition or decision of decision-makers, whereby the requirement of additional recourse for suspending the said enforcement measures will enhance their reliability as forcible mechanisms.

The second implication presented in this paper with regard to the effect of the legal system on fiscal performance is the relative importance of the combination of political, administrative, and social infrastructures with regards to the legal system and decision-making in comparison to specific legislative frameworks or individual legal elements. In this context, as explained through the discussion in Chapter II, the effect of political systems on incentivizing fiscal decision-makers is of paramount importance. As asserted by Von Hagen (2005) and Lienert (2010), the content of fiscal legislation must be designed to effectively safeguard the focus of fiscal decision-making as opposed to hindering it.

B. Social and Political Background as a Determinant of Fiscal Performance

Noting that the process of decision-making is at the core of fiscal management, and budgeting in particular, it can be deduced that factors other

3) For the details on fiscal rules, in particular on the EU's new fiscal compact, refer to Chapter IV.

than legal systems, such as the incentives and volitions of decision-makers are relatively more important to fiscal performance.

Among different factors, this paper first examines the stages of economic development. Given the fact that Korea was able to overcome its past status as one of the most underdeveloped countries in the world and achieve significant economic development along with the establishment of advanced fiscal systems, it can be surmised that the degree of economic development does not have a direct correlation with fiscal performance. The more important factor is that the allocation of decision-making authority in societies with underdeveloped economies is likely to be distorted and biased in some way. This means that the crucial point is the extent of democratization, and more specifically, whether the principle of checks and balances is in place through the separation of powers. In past cases such as Korea and Singapore where democratization was not completely achieved and the fiscal authority was monopolized by the head of the executive branch such as the president or prime minister, decision-makers were successful in instituting the necessary policies to secure favorable fiscal performance based on their strong volition for economic development and enhanced fiscal performance. In such cases, democratization did not play a crucial role at least in terms of economic growth and fiscal performance. In the long term, however, fiscal performance is bound to face substantial challenges due to the limitations in the exercise of monopolized authority to make optimal decisions in a sustainable and reasonable manner amid the increasing development of the country’s economy and society.

Unlike the exemplary cases of Korea and Singapore, less developed countries generally require a controlling mechanism to effectively check decision-makers from making wrong decisions, which indicates the necessity of checks and balances in order to grant the legislative branch a certain degree of practical power in response to the executive branch.

From this perspective, dictatorship may be capable of some achievement in economic development and fiscal performance, but the core of the developmental stages of economy and society is the extent of democratization. Furthermore, if the core of democratization is understood as the principle of checks and balances, the division of similar functions between branches of government is unlikely to be effective, as opposed to ensuring the allocation of different authorities to enhance professionalism while maintaining a system of mutual checks. From a different perspective, it is unconvincing, at least in terms of fiscal performance, to claim that fiscal democracy can be achieved when the budgeting authority is partly split between the legislative and executive branches. The effective operation of checks and balances can be ensured by the clear demarcation of functions between the executive and legislative branches, with the former responsible for the authority of national planning and subsequent budget formulation, while the latter is responsible for reviewing and supervising governmental affairs.

Meanwhile, advanced countries are partially defined by the ability to maintain the democratic principle of checks and balances, whereby economic and social development to a certain level inhibits the concentration of decision-making authority in any one branch of government. At this point, unlike in underdeveloped countries, the head of the executive branch is unlikely to be able to make significant errors in decision-making on a unilateral basis. It is without doubt that the administrative authority over finances must be checked even in advanced countries, since some cases show fiscal performances being undermined by reckless fiscal decisions, such as Korea and the damage to national finance from imprudent economic policies after democratization, or the U.S. and the deterioration of the fiscal balance due to controversial policies enacted during the George W. Bush administration.

Even in advanced countries, fiscal leaks can occur due to incentives for members of the legislative branch, such as projects that pander to specific district constituencies. The separation of powers between the executive and legislative branches aims to minimize the tragedy of the commons and enhance the concentration of fiscal decision-making, which is an approach that stems from the interpretation that such incentives can potentially exert a negative influence on fiscal performance. In this regard, it is more important to effectively combine various elements such as political systems, the relationship between the legislative and executive branches, and decision-making methods within the national assembly. As for voting methods, for instance, the plurality voting system raises the possibility of single-party rule under a bipartisan system, and therefore it is appropriate to enhance fiscal concentration by delegating the fiscal authority to a minister of finance with strong executive power. Under the proportional representation system, on the other hand, small parties are likely to form a coalition government, and a contract approach is more suitable under this type of democratic representation.[4)]

However, it is noteworthy to point out that the issue of holding the legislative branch in check also arises in less developed countries and the resulting problems are sometimes more serious. It is also necessary to be mindful that, among the cases examined in this paper, the political situations in the Philippines and Indonesia incur problems in tax revenues due to corruption in the legislature committed by political families with hereditary monopoly overpower in each region, which ultimately undermines fiscal performance.[5)]

C. Implications for Korea

The first implication drawn earlier in this paper is that specific finance-related provisions or individual laws related to public finance cannot by themselves determine fiscal performance and therefore their effect is relatively limited. A superficial view of this statement allows the radical interpretation that fiscal laws are not an important factor in the discussion on fiscal performance, but this does not agree with the title or intent of this paper, which focuses on fiscal legislation. Instead, this implies that legal systems or fiscal laws alone are not entirely conclusive to determining fiscal performance and the more important factor is the proper combination of fiscal laws and overall institutional foundation including political and social circumstances. Therefore, it is possible to draw two implications: First, it is unreasonable to interpret the aforementioned statement as negating the importance of fiscal laws; and second, rather than introducing foreign systems to Korea with the anticipation of successful outcomes, there is a need for in-depth review over suitability in relation to circumstances in Korea, as well as the potential influence of background variables on the effective operation of such systems, in

4) For more detailed discussion, see Hong Seung Hyeon (2010).

5) See the analysis of the cases of the Philippines and Indonesia in Chapter III.

consideration of the underlying social backgrounds that contributed to the formulation of such systems. These suggestions precisely correspond with the objectives of this paper.

Furthermore, this paper offers detailed implications beyond the basic point of emphasizing the importance of institutional combinations, which will add value to this study and clarify its contributions. This section will present the results of detailed reviews on the directions for improvement in fiscal legislative systems suitable to the Korean environment. Although it is possible to attempt to verify the universal applicability of suggestions as summarized from above discussions by applying them to the case study of each target country, this study will limit its focus to the case of Korea due to the limitation of space and the difficulty of expanding the research scope.

As the first step for improving fiscal law systems in the desirable direction, considering the emphasis placed on the combination of fiscal laws and other institutional matters, it is necessary to pinpoint crucial factors in regard to the effect of all systems in Korea on fiscal soundness. This requires the identification of key characteristics from all conditions and systems in the nation's politics, society and economy. To this end, the application of theoretical frames used in previous academic studies shows that the legislative branch is comprised under plurality voting, which results in the dominance of two major political parties although a number of minor parties continue to participate. Academic views in previous studies argue that, as mentioned previously, such systems require caution against populist policies as opposed to those targeting specific regions or social strata. As for the size of electoral districts, since the National Assembly mostly comprises constituency members selected based on a single-member district system, this can increase the likelihood of demand for spending on local projects with relatively low validity. Furthermore, the type of political system in Korea implies that the legislative branch in Korea has the potential to negatively influence fiscal performance through incentives towards populist policies designed to win over the general public such as welfare services, and local policies benefiting specific regions or social class.

Previous studies suggest that greater public support should be incentivized through the delegation of decision-making authority, while those for local projects should be implemented on a contractual basis. It is difficult, however, to apply this theoretical prescription to Korea as it is. As mentioned above, the legislative branch in the Korean political system faces spending incentives both for populist demands and local projects, and therefore it is unclear whether the delegation or contract model is more appropriate. It is also difficult to present clear directions in regard to the allocation of functions and authority between the legislative and executive branches in the presidential system as opposed to the parliamentary system.

In fact, the conventional academic discussion faces limitations, more specifically in the discussion on political and economic issues. Studies on the principal-agent problem or the tragedy of the commons as topics related to the political systems discussed earlier in this chapter, as well as the delegation or contract methods, are exclusively drawn from cases of the EU countries—in other words, countries under a parliamentary system with advanced economic and social systems. This kind of discussion tends to focus on the concentration of fiscal decision-making, but it also exposes limitations in drawing more detailed policy implications.

In this context, the significance of this paper is in exploring four Southeast Asian countries that are somewhat unfamiliar to us, while its academic contributions stem from generalizing the theoretical frames applied in previous academic research from focusing on the effect of the political systems on incentives for legislative members in advanced countries, towards allowing the discussion on developing countries or the presidential system. Since previous studies emphasized incentives and the proper prescription thereof, this paper identified the importance of assessing the presence of systemic mechanisms to restrain wrongful fiscal decision-making, which is a key influence on fiscal performance. To reiterate, erroneous decision-making must be mitigated through systemic checks. Since effective checks require governmental authority to be free from concentration or monopoly upon a single agent, the feasibility of a system of checks and balances is the theoretical standard that determines the possibility of good decision-making and good fiscal performance. This approach has been generalized to carry greater universality in comparison to previous academic approaches that focused on election systems or incentives for the legislative branch. As seen earlier, it can be applied to less developed countries, as well as Korea, which has a presidential system and has joined the ranks of advanced countries.

In less developed countries, it is often likely that power is concentrated in the executive branch in the absence of the separation of powers. This paper intentionally omits the analysis of such cases from a fiscal performance perspective since the relevant discussion has already taken place in the preceding chapter, as was the issue that the legislative branch also has the potential to undermine fiscal performance in such cases. Turning our attention to Korea, the following will draw directions for improvement of fiscal legislative systems suitable to Korea from the perspective of checks and balances.

Korea has developed both in terms of its economy and society to stand among the most advanced countries in the world and, in contrast to the concentration of power to a specific sector of society in the past, the principle of checks and balances operates throughout the decision-making process regarding major issues today. Regarding the separation of powers in the legislative, judiciary and executive branches, the National Assembly has become capable of presenting a credible check against the government as necessary. In the budgeting process, the establishment of the National Assembly Budget Office has increasingly enhanced the authority of the legislative, which is in line with the trends in other OECD member states.

Following on, this paper will investigate directions for the improvement of fiscal legislative systems by applying the mechanism of checks and balances to the Korean government. Checks and balances can be applied in four cases, while the relationship between the legislative and executive branches will be examined as the most typical. Here, the issue that may arise and continues to be raised in reality is whether the legislative branch is able to partly share its budgeting authority and its authority to expand the budget size.

With regard to budgeting, Korea follows most countries in the world in allowing the executive branch to wield authority over budget formulation while the legislative branch is responsible for subsequent budget deliberation and resolution. The rare exception is the U.S. in which the Congress is in charge of formulating the federal budget, and some argue that Korea needs to follow the American system by allowing the National Assembly to hold the authority of budget formulation or partly share it with the executive branch.[6)] Based on the application of checks and balances, however, it is appropriate that the executive branch is responsible for budget formulation while the National Assembly maintains the functions of deliberation and resolution. If the National Assembly is given the authority of budget formulation, it would monopolize the entire fiscal decision-making process from formulation to deliberation and resolution, which may pose the risk of undermining fiscal soundness. When the right to formulate the budget is shared by the executive and legislative branches to any extent, this constitutes a breach in the principle of checks and balances. Aside from the fact that the final decision-making power is essentially held by a single agent, the sharing of budget authority also obfuscates the accountability for the decision-making process, which makes it impossible to anticipate a positive effect in terms of professionalism and internal compatibility of budgets.

The next issue to be examined is whether the National Assembly's power to increase the amount of budget ought to be recognized. As mentioned earlier in this section, there are incentives to induce the National Assembly into increased inefficient expenditure on aspects such as populist policies or local projects, which must be curbed through effective countermeasures. Such a countermeasure is unlikely to be effective if established as an internal mechanism of the National Assembly, whereas the constitutional stipulation prohibiting budget increase by the legislative without the approval of the executive branch is considered to be the most effective means to the same end. Indeed, similar provisions can be found in the constitutions of the countries examined in this paper and many others. Similarly, the presidential election in Korea is also likely to face an incentive similar to that of the National Assembly in the bipartisan majority system. This implies that the process of the presidential election is likely to encourage the presentation of populist policies in line with the preferences of the general public, which is later reflected in the budget formulated

6) Regarding this issue, previous arguments noted that the legislative branch must have the right to formulate budgets since budget drafts were also legislative bills, if Korea is to introduce the legislation-based budgeting system. However, this argument is made from a misunderstanding on legislative budget preparation, and the legislation and non-legislation systems make no substantial difference except for budgets being regarded as laws. See Kim John M. (2010b).

by the executive branch. The effective method to curb this tendency is to allow the National Assembly to continue its deliberation on budget drafts formulated by the executive branch. In particular, the power to reduce the budget size over the deliberation process is considered to be an effective mechanism of checking ineffective spending by the executive branch. As discussed previously, aspects such as the power of budget formulation, prohibition of budget increase by the National Assembly, and the National Assembly's right to budget cuts are matters related to the separation of powers between the legislative and executive branches and therefore must be stipulated in the constitution.[7] Furthermore, the current system is in a desirable direction with regards to improving the fiscal legislation system, and the majority of discussions towards modifying this system may actually damage fiscal soundness.

The second area to apply the principle of checks and balances in the fiscal decision-making process is the aspect of decisions within the executive branch, namely the function of budget formulation. In this case, the incentive for excessive expenditure originates in each spending line ministry, which must be checked through the role and authority of a strong fiscal authority.[8] Within the executive branch, it is difficult to institute balances as the counterpart to the function of checks, but it must be kept in mind that the enhancement of fiscal soundness is better served by the existence of measures to control imprudent decision-making rather than the concept of balance alone. This means that the absence of balance within the executive branch is not problematic in itself, since the president entrusts the fiscal authorities with the complete power of resource allocation and a substantial degree of leadership regarding state agenda based on the fiscal authorities' commitment to fiscal soundness.[9]

7) The budget occasionally does not pass resolution when the legislative and executive branches fail to reach agreement in fiscal decision-making. In preparation for such a case, it is desirable to stipulate the provisional budget system in the constitution. Since the provisional budget system outlined in Article 54 (3) of the Constitution of the Republic of Korea is unclear in interpretation, it is necessary to consider amending it to clarify the text to, for instance, 'repetition of the previous year's budgets' as seen in other countries. For detailed discussion on the provisional budget, see Kim John M. (2010a).

8) Under the Korean system, fiscal authorities refer to the Minister of Strategy and Finance or the head of the Budget Office deemed authorized to handle budgetary matters.

9) Under an ideal top-down budgeting system, the fiscal authorities set the limit of appropriations for each government agency in consideration of fiscal soundness, while each department agency strives to

Problems arising from decision-making by the president or the fiscal authorities are checked through deliberation by the National Assembly as opposed to an internal act by the executive branch, which was already discussed with regards to the relationship between the legislative and executive branches.

The third area to apply the principle of checks and balances is budget deliberation in the National Assembly. As proposals of reorganizing the Special Committee on Budget and Accounts as a standing committee were recently discussed in the National Assembly Special Committee on Fiscal Reform, the division of functions and roles between the Special Committee on Budget and Accounts and existing standing committees was also discussed. The prevailing assertion was that, as opposed to dividing the same or similar function of deliberation between standing committees, it is desirable to charge each standing committee with an entirely different function of deliberation. As pointed out in the discussion of the National Assembly Special Committee on Fiscal Reform, for example, it is thought to be in the right direction that when reorganized as a standing committee, the Special Committee on Budget and Account is made responsible for deliberating on the relevancy of total expenditures for each item, as well as fiscal balance and basic conditions, while existing standing committees remain in charge of deliberating on the relevancy of the details in each item's budget draft. This is an application of checks and balances in the 'horizontal' separation of powers and it would be desirable in the interest of fiscal soundness for any future revision of the Act on the National Assembly to allow internal checks and balances for the budgeting process within the National Assembly. Although the contrasting structure of 'vertical' checks and balances can be considered, it is deemed unfeasible in Korea due to its unicameral system in which certain committees within the National Assembly operate at a higher standing than others. The vertical separation of powers may be feasible in structures such as a bicameral system as adopted in many countries, whereby decisions made by lower-chamber representatives with smaller constituencies

maximize the efficiency of the budget within reason. This can be interpreted as a form of separation of powers whereby the fiscal authorities and spending line ministries hold the respective right to limit the budget scale and to decide the budget contents.

are tentatively checked by higher-chamber representatives with larger constituencies or proportional representations. Naturally, this presupposes a radical amendment of the constitution prior to the amendment of the Act on the National Assembly.

The last case in favor of establishing a system to hold decision-makers in check is when decision-makers have weak or no will to strengthen fiscal soundness. At this point, the ultimate victim of wrong fiscal decisions will be successive generations, and therefore, the next generation will want to hold the current generation's decision-making in check. Since the next generation currently does not exist, however, fiscal rules constitute the only mechanism to hold the decision-making of the current generation in check. In order to check the current actions of each decision-making agent in the interest of the next generation, it will be desirable for the fiscal rules to be included in the constitution, whereas fiscal rules stipulated through general legislation will take effect in a non-legislation-based budgeting system. Under the legislation-based budgeting system, the annual budget takes precedence because it is enacted more recently than the fiscal rules instituted through general laws, which raises a problem of failing to enforcing the observance of the fiscal rules. In this case, the fiscal rules must be incorporated into the constitution.

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Case Studies of Southeast Asian Countries

1 Overview

Examining the fiscal laws that define fiscal systems in Southeast Asian countries simply found it difficult to identify particular problems or underdeveloped aspects in terms of their structure and content. Rather, advanced systems such as performance-based systems were mentioned or introduced across Southeast Asia through fiscal laws far earlier than in Korea. This is a reminder of the fact that the economy and society in these countries had far outclassed those of Korea until the latter achieved rapid and remarkable economic development. It is also noticeable that these countries supplemented weak points in regard to fiscal soundness found in the U.S. fiscal system, from which the Korean system draws heavily as reference. For example, the fiscal provisions in the Constitution of the Republic of the Philippines bear similarities with those of the U.S. Constitution, but unlike the U.S., the Philippine constitution allows the presidential power of line-item veto[10] on a budget bill passed by the parliament.[11] Unlike the U.S. Constitution, it has similar features with the

10) The U.S. Constitution specifies four methods to treat bills passed in the Congress including the president's veto but does not recognize the line-item veto. Therefore, the veto on a line item of the budget is recognized only when line-item veto on a general bill or at least a budget bill is separately stipulated in the Constitution.

11) Unlike Korea in which budgets are not legislated, the Philippines adopted the principle of budget as legislation. Therefore, a budget bill is not a bill on a budget system, but equivalent to a budget in Korea.

Korean constitution in that the legislative branch is prohibited from increasing the budget size and is only allowed to reduce it. While the U.S Constitution does not specify reversionary budgets, fiscal laws in Southeast Asian countries specify the application of the preceding fiscal year's budget in the case budget bills[12] fail to be passed. To reiterate our summary of fiscal laws in Southeast Asian countries, it was difficult to identify any particular problems and it was generally confirmed that fiscal laws developed in a similar manner across Korea and Southeast Asia. Naturally, this does not render the conclusion that key provisions in maintaining fiscal soundness are not important. However, it is difficult to determine the effectiveness of fiscal performance including fiscal soundness and economic growth only based on the system of fiscal legislation. It also raises the implication that fiscal performance is more greatly influenced by the operation of the fiscal system or the will of fiscal decision-makers, rather than fiscal systems or fiscal laws reflecting such systems.

Then, it is reasonable to identify other determinants of fiscal operation as the culmination of the decision-makers will from the other factors examined by this paper, such as the legal or political systems and stages of economic and social development. As explained in Chapter II, it is also necessary to pay attention to the combination of several systems or social and cultural factors. First of all, the aspect of the legal system can be summarized in the following. As mentioned earlier, the countries selected for analysis included the Philippines, Thailand, and Singapore, which were thought to be influenced by the legalistic culture of the U.K. and the U.S., although the Philippines may have been somewhat shaped by European civil law due to the lengthy colonial rule under Spain. In addition, Indonesia is expected to have been affected by the legal culture of Northern Europe due to its time under Dutch colonial rule. However, the investigation of each country's constitution and the fiscal legislation found features of continental civil law with comparably detailed and specific legal provisions, which is not entirely divergent from the legal systems included in

12) Article 54 (3) of the Korean Constitution stipulates that "the Executive may, in conformity with the budget of the previous fiscal year, disburse funds" for the three purposes, which raises a question that this clause is vague in interpretation. In contrast, the text "the general appropriations law for the preceding fiscal year shall be deemed re–enacted" is more specific.

Korean civil law. From the said case studies, Indonesia alone demonstrated aspects of the Northern European legal culture in its tendency not to force systems into law. In the Philippines, both the period of dictatorship under President Marcos and the post-democratization era found the state administrative system operating solely under presidential decrees, which dealt with contents generally included in the constitution, fiscal legislation, laws on public officials, and other administrative laws. In particular, the fact that presidential decrees contained stipulations usually handled by the constitution, such as the functional definitions of the legislative, executive, and judiciary branches, indicates that both the legal system and the understanding towards separation of powers in the Philippines differed from those of Korea or indeed the general worldwide practice. Unlike the original assumption based on the author's superficial knowledge, it was an unexpected observation that the legal culture of Southeast Asian countries features the strong legalistic characteristics of civil law. As mentioned in Chapter II, this may have been influenced by the historical context of Southeast Asia with regards to the initial contact and colonization by European powers, beginning with Spain and Portugal, which practiced civil law. Contrary to the typical perception in Korea that Chinese culture holds dominance within Asia, countries in Southeast Asia found cultural roots in Hinduism, and later became similarly influenced by Islamic culture. It is also presumed that the diffusion between existing political systems and the introduction of Western legal cultures served as a crucial factor.

Following fiscal laws and legal systems, the focus of discussion is directed to investigate the stages of economic and social development as a factor that can influence fiscal performance among Southeast Asian countries. Given that Korea had once lagged behind the aforementioned countries over the early phase of economic development and subsequently rallied to overtake them, it is difficult to simply conclude the effect of different degrees of economic development on fiscal performance. Furthermore, it is also difficult to intuitively presuppose that fiscal performance is affected in a singular direction by the degree of social development, which is often translated into the public standard of living, educational levels, or social consciousness. Considering that fiscal decision-making is ultimately the most important factor, the gradual establishment of the so-called developed society is likely to result in decreasing the potential for decision-making power to become distorted and concentrated in one source and instituting the systemic and practical mechanisms to check undesirable decision-making. In other words, democratic progress is highly likely to contribute towards enhancing fiscal soundness. This viewpoint may be discussed as a social phenomenon, but since it is an intrinsically political issue, it will be addressed in the following.

The discussion below will focus on several political factors. First of all, with regard to political systems, it is difficult to link political factors with fiscal performance in relation to the simple division between the presidential system and parliamentary system. As explained in Sections 2 and 4 of Chapter II, it is more important to establish whether there is an appropriate combination between the political system and the fiscal decision-making system selected by a certain country. In the cases of the four Southeast Asian countries examined in this paper, it is thought that the key to fiscal performance is not whether the country follows a presidential or parliamentary system, but whether an effective mechanism is established, thereby allowing the legislative branch to place checks on potential wrong decisions by the head of the executive branch and securing a balance between branches of government as a factor contributing towards fiscal soundness.

This is in the same context as discussed above with regard to social development or democratic progress, and can be discussed in relation to the separation of powers in the aspect that the essence lies in the balances and checks of decision-making. For the sake of convenience, this discussion presupposes the stages of economic and social development as a simplified dichotomy between developing and advanced countries. In cases of the former, the separation of powers is distorted and fails to operate effectively, and powers tend to be excessively concentrated on the head of the executive branch. As such, fiscal performance is likely to suffer when a country fails to check maladministration as in the case of the Marcos administration in the Philippines, which is widely demonstrated by similar cases such as military regimes in Latin America. However, the undemocratic concentration of power does not necessarily lead to poor fiscal performance, and it should be noted that despite the sacrifice of other sectors or values in favor of the developmentalist focus, strong willpower from the top decision-maker may successfully produce favorable results at least in terms of fiscal performance. In the case of the Philippines, Presidents Gloria Arroyo and Benigno Aquino III responded to continuing political instability despite democratization and accomplished considerable results in the recovery of fiscal soundness. The other three countries also appear to maintain a certain level of fiscal soundness even in the absence of democratic decision-making.

In contrast, cases of societies with an advanced separation of powers tend to focus more on excessive budgetary allocation for local projects as a matter of incentive towards members of the legislative, although this is not to imply that there is no risk of decision-making by the head of the executive branch against the interest of fiscal performance. As explained earlier in Chapter II, such problems are related to the size of constituency, representation method in the legislature, and voting methods, whereas the perspective of agency or contract methods would suggest that the tragedy of the commons results in the concentration of fiscal decision-making and therefore damages fiscal performance.

The case of decision-making in the legislative branch undermining fiscal performance may occur amid the counterproductive operation of national finance by the non-democratic head of the executive branch; in the Philippines, the legislative branch monopolized by political families in each region is often cited as a harmful factor to fiscal performance before and after democratization. Summarizing the previous discussion of democratic decision-making in fiscal affairs under separation of powers, the authority of the executive branch must be effectively checked and balanced by the legislature, while decision-making by the legislature requires the establishment of a political structure to minimize incentives for excessive vested interest in regional projects. However, determining the method of realizing such principles under specific backgrounds such as socio-economic conditions and political infrastructures requires considerations towards the optimal combination of individual systems and elements.

As another factor possibly affecting the political aspect, this study shall briefly examine the historical or cultural background. Compared to Korea and other Northeast Asian countries, Southeast Asian countries are conspicuously comprised of a variety of cultural and ethnic elements. In the cultural aspect, native cultures rooted in the Malay sphere are mixed with Hindu and Islamic cultures, while the ethnic composition is just as varied. Geographically, Indonesia and the Philippines consist of thousands of archipelagos and therefore are not likely to facilitate political and social integration. Therefore, such factors are not required in the study of political factors.

In addition to the above background, centuries of cultural influence and colonial rule by European powers resulted in the introduction of legalistic and governmental systems with superficial similarities to Western models, but the greater factor of influence on fiscal operation and performance is thought to be the underdeveloped political culture left behind by a colonial past as opposed to such systemic aspects. Particularly in the cases of the Philippines and Indonesia, political families with monopolies over the legislative branch and the presidency were formed from the past experience in which the colonial governments granted core powers to community leaders in each region as their administrative proxy for the convenience of colonial rule. As a result, these monopolized powers of political families undermine the function of checks and balances, which makes it difficult to eliminate corruption and therefore negatively affect fiscal performance.

2 Philippines

1) Constitution

The Philippines was initially influenced by the lengthy Spanish colonial rule to establish a European-style system of civil law, which emphasized the intricacy of *ex ante* logic and precise definitions, and later became influenced by U.S. colonial rule to follow the American system of public law as an aspect of common law in its political and administrative systems. These characteristics are evident in the provisions related to fiscal systems in the Philippine Constitution.[13] Although the overall fiscal system in the Philippines was designed to be similar

13) The following analysis is made based on the 1987 Constitution of the Republic of the Philippines.

to that of the U.S., it added a number of detailed provisions and additional constraints.

As a point of reference to explain the fiscal system in the Philippines, Article I, Section 9 of the U.S. Constitution states that “No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”[14] According to the said provision, the U.S. budget system explicitly follows the principle of legislated budgets. Although detailed procedures or methods are not specified in the constitution, Supreme Court rulings offer guidance on notions such as that the president’s line-item veto power is not recognized; there is no system for provisional budgets; and failure to resolve a budget within a set period results in a government shutdown.[15] The fiscal provision in the U.S. Constitution shows typical characteristics of the common law in that the written constitution has simple provisions and the interpretation of such provisions and definition of the subsequent features of the U.S. fiscal systems depend upon judicial decisions.

The Philippine Constitution defines its fiscal system as similar to that of the U.S. but stipulates more detailed clauses and different restraints or conditions from the U.S. Aside Article VII, Section 22, which states that “the President shall submit to the Congress, within thirty days from the opening of every regular session as the basis of the general appropriation bill,” all provisions related to national finances are stipulated from Sections 24 through 29 in Article VI on the legislative branch. Above all, Section 29, Clause 1 proclaims the legislation-based budgeting principle with the virtually same words[16] as in the U.S. Constitution. However, the Philippine Constitution compensates the defects of the U.S. fiscal system through other provisions, and conclusively defines other features as well.

First of all, matters pointed out in relation to the U.S. cases are as follows. Section 27 of the Philippine Constitution covers the presidential veto towards bills passed by the legislature. Clause 1 of the same Section specifies the general

14) Article I, Section 9: “No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”

15) For details, see discussion on the U.S. fiscal systems in Chapter IV.

16) Article VI, Section 29, Clause 1: “No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.”

veto, while Clause 2 prescribes the line-item veto on revenue and expenditure of the budget by stating, "The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object."[17] This is in stark contrast to the case of the U.S. in which the Supreme Court ruled the president's line-item veto on the budget to be unconstitutional due to the absence of stipulations specifying forms of veto other than those in general laws, despite congressional approval.

A similar case is Section 25, Clause 7 of the Constitution, which deals with a provisional budget system by prescribing that if the general appropriations bill fails to pass the Congress by the end of any fiscal year, the general appropriations law for the preceding fiscal year shall be deemed re-enacted. Therefore, although the Philippines prohibits appropriations without the consent of the Congress through Section 29, Clause 1, which contains the same content of Article 1, Section 9 of the U.S. Constitution, it excludes any possibility of a government shutdown.

In addition, a number of provisions including Section 25, Clauses 2, 4, 6 and Section 26, Clause 1, stipulate that no provision or enactment shall be embraced in the general appropriation bill unless it relates specifically to particular appropriation therein, and that funds appropriated for particular purposes shall be disbursed only for those purposes. In the U.S., these matters are regulated by congressional points of order, not by the Constitution. Lastly, Section 25, Clause 1 of the Constitution, decisively different from the U.S. budget system, prescribes, "The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law." Specified in a plural form, the term 'appropriations' is interpreted as prohibiting not only the increase of the total amount by the Congress but the increase in each item of an appropriation bill. This provision

17) Article VI, Section 27, Clause 2: "The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object."

is quite different from the U.S. Constitution, which does not stipulate such restrictions, and instead can be seen as similar to the Korean Constitution, which prohibits the increase or addition of expense items.

Other particular provisions related to national finances are included in Section 9 from Article XII of the Philippine Constitution, entitled “National, Economy and Patrimony.” The same section prescribes that the Congress may establish an independent economic and planning agency, which is both unique in its constitutional stipulation and the fact that the same agency must be chaired by the president and report to the legislative with its activities and achievements.

The summarization of the fiscal system examined above through the Philippine Constitution demonstrates that the Philippines adopted a political system and a constitution similar to those of the U.S. Although the provisions prohibiting appropriations without congressional approval by legislation are the same as those of the U.S. Constitution, the Philippine Constitution defines its fiscal system closer to that of Korea by adding other clauses. This feature can be interpreted to imply that the Philippine Constitution begins from the frame of the common law, while adding characteristics of the civil law to depend on details stipulated by law rather than judicial verdicts, which in turn offers implications for the civil-law-based legal system in Korea. In particular, elements that cannot be found in the U.S. system such as the presidential line-item veto on a budget bill, the provisional budget system, and non-recognition of the legislature’s authority to increase the budget size clearly demonstrate that other related factors that can be found in the U.S. system are not inherent characteristics of the presidential system and instead can be modified or supplemented in other presidential countries through the constitution or other legislation.

2) Laws on Fiscal Systems

In addition to constitutional provisions, fiscal systems in most countries are defined through separate legislation. The Philippines and its constitution appear to follow the political system and the common law system of the U.S., whereas the fiscal legislation system is strongly characterized by the civil law with a focus on the definition of specifics, as an influence from Spanish colonization. Since the introduction of the Philippine Constitution in 1935 under the U.S.

colonial rule, regulations regarding fiscal authorities and fiscal institutions have been enacted or amended by Presidential Decree or Executive Order. This paper will examine the outline of the Presidential Decree No. 1177 issued in 1977 during the dictatorial rule of President Marcos and the Executive Order No. 292 enacted after democratization.

A) Fiscal law under the Marcos administration

Ferdinand Marcos was first elected as President of the Philippines in 1965 and began a lengthy regime upon declaring martial law in 1972, subsequently extending his rule by ignoring the constitutional two-term limit. Five years from the declaration of martial law, President Decree No. 1177 was issued in 1977 to organize the fiscal system, containing a total of 19 pages across approximately 92 sections. Regardless of its effectiveness, the content and format of the decree suffice to appear highly advanced on a superficial basis at least, and will be summarized below.

The Presidential Decree is composed of definition of terms, budget policy and approach, budget preparation, budget authorization, budget execution, budget accountability, expenditure of appropriated funds, and final provisions. It is noteworthy that the Presidential Decree already contained the content which is generally equivalent to Korea’s four fiscal reforms introduced approximately 30 years later as part of efforts to establish an advanced fiscal system. As shown in Section 2, the President Decree covers the definitions of budget, government, and department and agency, followed by division of current operating expenditures and capital outlays, expected results estimated in terms of performance measures or targets, programs and projects established in terms of the accomplishment of an identifiable output, authorization of appropriations, allotments of resources, expenditure obligations, and continuing appropriations.

“Budget Policy and Approach” is dealt with Sections 3 through 11 and important concepts are specified such as national objectives and priorities based on the national development plans, planning and budgeting linkage, aggregate magnitudes of the budget, all units of government, long-term budgeting, performance and financial review, and contingent liabilities. These provisions are rather declaratory and do not contain details for implementation, but the key concepts and principles are considered to be well-arranged.

Sections 12 through 25 cover budget preparation by defining terms such as fiscal year, period of budget submission, and form and content of the budget, while emphasizing the principle of maintaining expenditure within the limit of revenue in terms of budget size. It is also specified that agencies are required to clearly present the linkage between objectives and projects for national development plans and expected effects.

Announced by President Marcos in 1977, Presidential Decree No. 1177 deals with functions such as budget execution, budget accountability, and spending control. Although this paper does not discuss it in detail, the scope of content and proclaimed principles sufficiently match outstanding cases of fiscal operation. The current relevance of the said systems' concept, scope and principles is particularly noteworthy in comparison to the National Finance Act of Korea, enacted around three decades later. Regarding budget accountability, although accounting and IT systems at the time were much less sophisticated than today's standards, the importance of budget monitoring and database systems was already gaining attention in the late-1970s. The following will discuss sections on budget authorization in the Presidential Decree No. 1177.

Budget authorization is covered in Sections 26 through 36, which define or regulate virtually all legislative activities. It seems unique for a presidential decree to include provisions of controlling the legislature in spite of significant influence from U.S. legal systems. As seen in the following, this peculiarity is also evident in fiscal system legislation in the post-democratization Philippines, which allows the premise that the inclusion of provisions in the presidential decree to check the Congress stems from the differences in the understanding of the separation of powers in the Philippines compared to the U.S. or Korea, rather than a characteristic of autocratic rule. This also allows for the possibility that the Philippines may have been affected by the cultural background of lengthy colonial rule under the absolute monarchy of Spain followed by the artificial imposition of U.S. systems under American colonial rule.

The constraints on the legislature as declared by Presidential Decree No. 1177 can be summarized as follows. Section 26 limits the focus of Congress's deliberation to policies of macro-finance. According to this provision, the National Assembly's discussion of the budget must focus on directions in fiscal policy, budgetary levels, thrusts and strategy. The said provision also specifies that details of agency expenditures shall be considered as proper concerns of executive branch decision and action. Section 27 divides the budgetary deliberation period into three sessions of approximately within one month in length. The fact that such stipulations are conveyed by presidential decree is highly likely to be ruled unconstitutional in Korea and the U.S. Other notable features include the prohibition against increase of appropriations by Congress, prohibition against the enactment of additional special provisions or the increase of the amounts specified in special provisions by Congress without presidential consent.

Lastly, in keeping with the strong authority granted to the president, Sections 43 and 44 imbue the president with the authority to cut any expenditure as deemed necessary with the exception of personnel expenses, and stipulate that the president has the authority to transfer any funds already appropriated for different departments, agencies, and accounts in the executive branch with virtually no limitations.

B) Fiscal law of the democratization period

Fiscal legislation during the democratization period after the forced abdication of President Marcos is stipulated in the Executive Order No. 292 enacted in 1987. Analysis of fiscal law during this time first requires the identification of unique features in the said executive order. Titled the "Administrative Code of 1987," Executive Order No. 292 was proclaimed after the constitution was amended following democratization. The executive order equates to the Korean legislative systems of the Constitution, Governance Organization Act, and State Public Officials Act, as well as almost all laws concerning the authority, duties and functions of the government. The executive order is a vast material composed of six volumes with approximately 260 pages of fine print. Volumes I and II focus on sovereignty, national territory, and distribution of powers; Volume V deals with constitutional independent commissions as aspects stipulated in the constitution or congressional statutes; Volumes III, IV, VI and VII cover the office of the president, the executive branch, national government budgeting, and administrative procedures, respectively. Despite the title "administrative code," it is indeed difficult to deny the inappropriate nature of the stipulation of such contents through executive order. However, the introductory passage of the executive order clarifies that the tradition of defining the Philippine government through the Administrative Code dates back to 1917 under colonial rule, and that the 1978 amendment of the Administrative Code under President Marcos was also announced through Presidential Decree. Considering that the 1987 constitutional reform was followed by the complete transfer of legislative power to President Corazon Aquino on a temporary basis, it is difficult to deny that the Philippines has yet to completely consolidate principles such as the separation of powers or trias politica into its systemic core to the same extent as the U.S. or present-day Korea, despite adopting a presidential system in emulation of the U.S. system.

Volume VI of Executive Order No. 292 focuses on national government budgeting in 80 sections, and its overall structure and content is similar to that of Presidential Decree No. 1177, proclaimed in 1977 by President Marcos, and therefore specific explanations will be omitted here. In brief, different points in the executive decree can be summarized as follows.

The content of Executive Order No. 292 deleted from the Presidential Decree No. 1177 includes the prohibition of the National Assembly's deliberation on agency budget and restriction on the period for the deliberation of the National Assembly. The main content added in the executive order includes the prohibition of the increase of appropriation by the Congress, prohibition of enacting or increasing objective taxes, presidential right to reduce appropriations passed by the legislature, and the authority to transfer funds. This demonstrates that traditionally in the Philippines, the executive branch has a stronger authority over fiscal decision-making than the legislative branch.

3) Fiscal Performance

The economic and fiscal performance in the Philippines reveals clear distinction between the period during the political chaos until the 1990s and after the inauguration of President Gloria Arroyo in 2001. Before examining the recent performance during the latter period, the economic and fiscal status prior to the Arroyo administration will be summarized in the following. As mentioned earlier, the Philippine economy had already accumulated a substantial amount of wealth when ports and commerce were opened during the later years of the Spanish colonialism, and a range of literature verify that the Philippines enjoyed the second largest scale of wealth in Asia after Japan between its liberation from the U.S. colonial rule in 1946 and the early 1960s. Inaugurated in 1965, President Ferdinand Marcos imposed martial law in 1972 and was finally exiled in 1986 by a civil movement, and it is widely known that the political turmoil driven by corruption and maladministration during the long-standing dictatorship posed a significant setback for the country's economy. More specifically, the Philippine economy was left weakened and facing chronic fiscal deficits, from instable tax bases and insufficient administrative capacity in terms of tax revenue and from the government's stunt expenditure to gain votes in specific regions. In 1986, the last year of the Marcos regime, the nation's GDP plummeted by over ten percent.

On the fiscal side, the Philippines recorded a deficit every single year for almost two decades since the 1980s until the inauguration of President Arroyo in 2001, and the deficit in 2002 accounted for 5.3 percent of GDP. Based on the economic stabilization measures pursued by the Ramos administration in the early 1990s, the Philippines recorded a temporary yet exceptional fiscal surplus between 1994 and 1997, driven by privatization revenues, but the 1997 Asian foreign exchange crisis devastated the nation's economic and fiscal conditions once more. As revealed in the previous discussion on fiscal systems, the fact that the fiscal systems in the Philippines were already arranged in a relatively advanced form in the 1970s only confirms the importance of leadership of the ruling elite and the political stability across society in accomplishing outstanding economic and fiscal performance.

Presidents Gloria Arroyo and Benigno Aquino III, who took office in 2001 and 2010, respectively, parlayed their respective knowledge and experience as economists into placing fiscal stabilization and transparency as the top priority of their terms in office, consequently contributing to recovering the nation's economic and fiscal health. In particular, President Arroyo pursued fiscal retrenchment at the scale of two percent of GDP between 2002 and 2004 by freezing wages for public servants and lowering the ratio of educational, medical, and SOC investment to GDP. In addition, with the goal of returning to fiscal balance by 2010, the administration cut liquor and tobacco taxes, scaled down the reduction or exemption benefits for value-added tax, and increased the value-added tax by two percentage points to 12 percent and corporate income tax by three percentage points. As a result, all economic and fiscal indicators improved over the 2000s, and the nation's economy has since sustained relatively healthy performance, despite temporary drops in economic and fiscal indicators in 2009 and 2010 in the aftermath of the 2008 global financial crisis.

〈Table III-1〉 **Major Economic Indicators**

(Unit: %)

Classification	2005	2006	2007	2008	2009	2010	2011	2012p	2013p
Real GDP growth rate	4.8	5.2	6.6	4.2	1.1	7.6	3.9	6.6	6.0
Average inflation rate	6.6	5.5	2.9	8.2	4.2	3.8	4.7	3.1	3.1
Fiscal balance/GDP	−1.7	0.0	−0.3	0.0	−2.6	−2.5	−0.6	−0.9	−0.8
Unemployment rate	11.4	8.0	7.3	7.4	7.5	7.3	7.0	7.0	7.0

Note: 1. Economic indicators from 2012 are estimates.
2. Fiscal balance/GDP was based on the IMF data (general government net lending/borrowing).
Source: IMF, World Economic Outlook Database, April 2013.

An analysis of more recent economic and fiscal conditions in the Philippines[18] shows an increase in the scale of fiscal deficit compared to GDP in 2012 as a result of increased government expenditure. In 2008, the nation's fiscal balance to GDP was in equilibrium driven by fiscal stabilization efforts through tightened governmental expenditure and privatization schemes, but the ratio turned to a deficit of negative 2.6 percent of GDP in 2009 due to the decrease in tax revenues caused by the global economic slowdown and reduction of tax rates, languid sales of privatized assets, and increased fiscal spending following the economic stimulus measures. The deficit observed in 2010 was likely a result of increased expenditure for the presidential and parliamentary elections during the first half-year; the decreased fiscal investment in

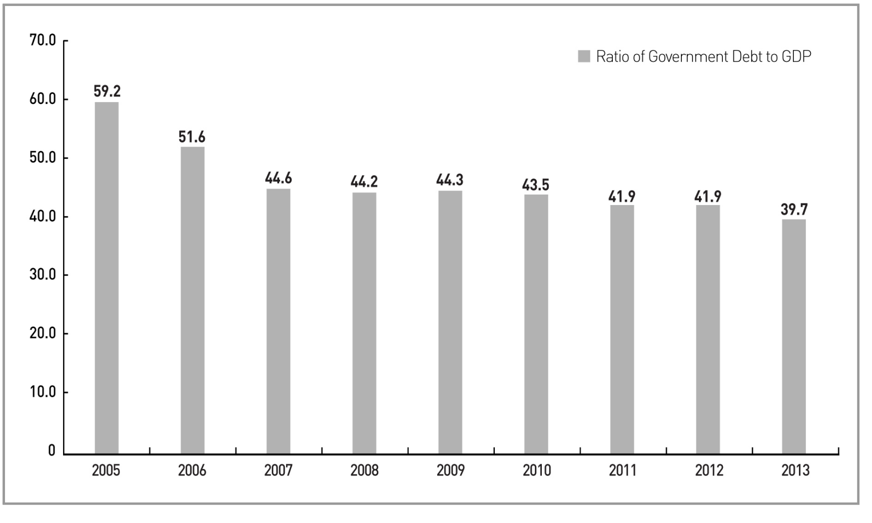
18) See Choi Yun-sik *et al.*, "Recent Economic Trends and Prospects in ASEAN Nations," Korea Automotive Research Institute, November 22, 2012, pp. 13–14; Export-Import Bank of Korea, "Assessment Report on Sovereign Credit Rating of the Philippines," January 2013, pp. 3–4.

infrastructure during the first half of 2011 narrowed the scale of fiscal deficit against GDP to negative 0.6 percent. The slight increase in fiscal deficits projected for the years from 2012 reflected President Aquino’s drive to boost the economy through infrastructure investments and plans to expand investment in a number of industries including tourism. Economic projection beyond 2012 also reflected increased consumption and government investment, decline in import prices, and plans to raise tobacco and liquor taxes.

Finally, constituting an important medium- to long-term indicator for fiscal performance, the trend of government debt shows that the ratio of government debt against GDP rapidly improved from approximately 60 percent in 2005 to 40 percent in 2013. Considering that other studies record the same ratio as reaching almost 80 percent during the administration of President Arroyo, such improvement is evidence of the strong political will exercised by President Aquino III towards fiscal stabilization.

[Figure III-1] Trends of General Government Gross Debt against GDP in the Philippines

(Unit: %)



Source: IMF, World Economic Outlook Database, April 2013.

4) Major Characteristics of the Fiscal System

This section further explains the major characteristics of the fiscal system in the Philippines in relation to fiscal soundness in order to facilitate a better understanding towards the fiscal conditions in the country. As discussed earlier, the fiscal challenges in the Philippines mainly originate from political instability and corruption. Such issues are naturally present in the expenditure aspect, but the weakness of tax revenues is a particularly greater factor in compromising fiscal soundness in the Philippines. Regardless of whether they operate in a sound manner, the expenditure side is supported by relatively advanced systems, whereas the tax revenue base remains weak due to corruption and incompetence in tax administration and is therefore recognized as the greatest threat to fiscal performance.

Tasked with overseeing tax revenues, the Bureau of the Treasury and the Bureau of Customs are pointed out as the most corrupt institutions in the Philippines, while the Department of Finance has been attempting as their supervisory agency to dedicate financial resources and introduce systems to eradicate corrupt practices to limited success. In addition, recent discussions have proposed an incentive grant scheme for tax revenues collected in excess of original targets, only to be hindered due to public objection. The vulnerability in tax revenues also poses a problem in the budgeting process. The Department of Finance collaborates with the Bureau of the Treasury and the Bureau of Customs to produce tax revenue estimates, but the problem of chronic overestimation creates ingrained threats to the budget formulation process and budget execution. The two bureaus present tax estimations based on their respective past performance, but the Department of Finance tends to adjust the estimates upwards in reflection of its desire to improve tax collection services by eradicating corruption in the two bureaus under its supervision. As a result, the said department continues to repeat the mistake of overestimating tax revenues each year, ultimately causing fiscal deficits due to tax expenditure exceeding the actual amount of collected tax revenue.

Another factor that undermines the government’s fiscal performance is the deficits among state-owned enterprises (SOEs) and the government’s guarantee for the liabilities incurred. The problems caused by SOEs entrusted to execute government affairs or policies are thought to be similar to those observed in Korea. The National Power Corporation and the National Food Authority are the most prominent among SOEs in the Philippines. As a result of policy price control over the supply of electricity and food, these two agencies each mark a deficit of one to two percent against GDP each year, which is compensated through state-guaranteed loans, thereby accumulating a large amount of contingent liabilities and threatening the nation's fiscal soundness.

With regard to medium- to long-term fiscal operation, the Philippines has a lengthy tradition of national development planning, going as far as to prescribe the National Economic and Development Authority (NEDA) as an independent agency stipulated in the constitution, although it is poorly connected to the budget process. In particular, three plans are currently underway as the product of national development plans, despite yielding meager results. First of all, the presidential development agenda briefly lists ten priorities set by the president, but it is no more than a declaration without specific goals or figures and often regarded as similar to the presidential election pledges. The medium-term development plans also provide a list of candidate tasks in an extensive range of 25 areas across government administration, but fail to clearly indicate priorities and omit statistics such as those regarding financial resources. Consequently, these plans seem an overarching menu that lists all administrative tasks that may be implemented, and lack practical effectiveness because they cannot be deemed to result from a detailed decision-making process. Medium-term public investment plans also list candidate projects that require capital expenditure and, as is the same with medium-term development plans, they do not clearly indicate priorities or financial resources, which thereby making it difficult to regard such plans as proper resolutions for actual implementation. All in all, national development plans and their affiliated medium- to long-term plans in the Philippines are believed to lack effectiveness and correspond poorly with the management of medium- to long-term fiscal soundness.

Finally, the earlier discussion on the Constitution of the Philippines will be elaborated here with regard to major constitutional characteristics focusing on fiscal soundness, such as the relationship between the legislative and executive branches or the organization of the legislative branch. First of all, under the legislation-based budgeting system, submitting budget bills as the culmination of budget formulation is a privilege held exclusively by the president, as is the case with legislative bills. In accordance with the Constitution, the parliament only reserves the power to scale back governmental budget bills or coordinate specific items. This relationship between the legislative and executive branches is less similar to the U.S. system than the constitutional restrictions found in Korea. However, the Philippine Constitution explicitly recognizes that the parliament may increase the amount of money allocated to a specific budget item in return for cutting another item to compensate.

Another important difference from the U.S. Constitution is that the Philippines allows the presidential line-item veto for budget bills, which must undergo careful review in case Korea considers the introduction of the legislation-based budgeting system in the future. This means that the president may cut allocated budget amounts even after approval from the legislature, and that the president may use funds saved from specific departments or accounts in order to increase the budget for other departments or projects. Since the president effectively has the unlimited discretionary capacity to use or redirect budgets regardless of the legislature's resolution, this system would require in-depth consideration if it were to be introduced in Korea. On the other hand, the line-item veto may be positively exercised in other cases: in frequent cases where the parliament cuts expenditure for interest payments in order to increase other spending items, the president is often made to exercise the line-item veto. In Korea, measures based on the division of mandatory and discretionary outlays are discussed as a potential option when responding to departmental budget requests within the administration or setting limits or assigning roles between the Special Committee on Budget and Accounts and standing committees within the National Assembly, despite raising the concern regarding attempts to increase the budget amount for discretionary spending by demanding increments or purposely underestimating mandatory spending. The cases in the Philippines provide practical reference as to the actual outcomes of adopting such systems.

Based on the provisional budget system, if the Philippine Congress fails to approve budget bills before the beginning of the relevant fiscal year, the budget of the previous year is automatically applied once more. This is thought to be an important system that supplements the drawbacks of the U.S. system where the absence of provisional budgets allows the administration to become paralyzed as a result of government shutdown, and this system must also be reviewed when considering the future introduction of legislation-based budgeting in Korea. As with recent cases in the U.S., the Philippine Congress failed to approve budget bills for some fiscal years, in which cases the previous year's budget was applied again in accordance with the constitution. In such cases, the budget is effectively frozen at the level of the previous year in terms of the total amount, but since there are no separate restrictions for the budget amount allocated for the projects already completed during the previous fiscal year, the president may utilize such amount for other projects at his/her discretion.

Lastly, it is necessary to examine the internal characteristics of the legislative body. Adopting the bicameral system as in the U.S., the Philippines embodies the issues related to decision-making incentives resulting from electoral districts and voting systems as discussed in Chapter II, as well as cases regarding the concentration of fiscal decision-making. The budget bills submitted by the government are considered at the plenary session of the House of Representatives as a simple formality, and then directly referred to the appropriations committee. The main deliberation is conducted across the 21 to 50 subcommittees responsible for the budget of each department or institution, and it is during this process that the nation's fiscal soundness is highly likely to be compromised as members of the legislature direct their focus onto projects beneficial to their constituencies. Meanwhile, the budget bills received from the House of Representatives are considered at the financial committee of the Senate, to which 17 out of 24 Senators belong. Since the Senators are elected from the national constituency, they tend to focus on the keynote of macroscopic finance and aggregated budget, while frequently reversing the alterations made to regional projects at the House of Representatives.

3 Thailand

1) Constitution

Although Thailand modeled its state structure after Britain during its modernization process, the country's legal systems are based on the civil law system as part of written laws. In addition, the Constitution of Thailand has a larger number of provisions and more content than that of South Korea, showing the typical legalistic nature of civil law.

The 2007 Constitution of Thailand includes a total of 309 sections across 15 chapters. Before examining the finance-related provisions, it is essential to briefly introduce the independent organizations under the constitution stipulated in Chapter XI. Among the four independent organizations designated herein, three organizations except for the Election Commission have functions related to eradicating corruption, which means Thailand has an ombudsman system as does the Philippines. However, in contrast to the Philippines, where the ombudsman system is designated as an independent organization under the constitution while also being included in the part concerning the executive branch, Thailand dedicates a separate chapter for all four independent organizations. In addition to the State Audit Commission, the Constitution of Thailand also stipulates the establishment of the National Counter Corruption Commission, which hints that, as mentioned in the case of the Philippines, corruption is perceived as a serious social problem.

Fiscal issues are contained in Sections 166 through 170 of Chapter VIII (Money, Finance and Budget). The 2007 Constitution has one singularly unique provision compared to other countries, which is the period set in Section 168 for budget consideration by the House of Representatives and the Senate. According to this provision, the House of Representatives must finish the consideration and analysis of the annual appropriations bill, a supplementary appropriations bill, and a transfer of appropriations bill within 105 days as from the date the bill is introduced to the House of Representatives. If the House of Representatives has not finished the consideration of the bill within the given period, the bill shall be automatically deemed as being approved by the House of Representatives and submitted to the Senate. The requirements for the Senate are more stringent, whereby the Senate must approve or disapprove the bill as it is without any amendment. The Senate must make a decision within 20 days as from the date the bill is introduced to the Senate; and upon the lapse of such period, the bill shall be deemed approved automatically, as in the case at the House of Representatives. The same section also prohibits members of the House of Representative from adding any item or amount to the bill. They may submit a motion reducing or abridging the expenditures, except for money for payment of the principal of a loan, interest on a loan, or money payable in accordance with the law. As in the case of the Philippines, such measures are interpreted as a constitutional effort to prevent the problem of distorting fiscal expenditures by reducing or abridging mandatory or statutory expenditures.

2) Laws on Fiscal Systems

The Budget Procedures Act of Thailand was enacted upon the establishment of the Bureau of Budget (BOB) in 1959. With only 34 clauses, this Act is relatively simpler than the Constitution with many of its clauses being deleted over the six amendments up to 2000 and does not have many elements of particular note.

Although it is not explicitly described in the Act itself, the status of the BOB in Thailand can be presumed based on the circumstances surrounding the enactment of the Act. Based on consultation with the U.S, Thailand introduced the BOB and the Budget Procedures Act in an effort to establish a powerful budget authority based on the model of the U.S. Office of Management and Budget (OMB). Since the Thai parliament does not prepare budget bills, unlike the U.S. Congress, and is not empowered to increase the budget size, consequently the Thai fiscal authorities are known to enjoy substantially powerful influence.

Thailand has traditionally operated line-item budgeting to exercise strong control over budget inputs, but it attempted to introduce the Planning, Programming, and Budgeting System (PPBS), which was prominent in the U.S at the time the country introduced the Budget Procedures Act and the BOB. By supplementing its line-item budgeting system with the PPBS, which is characterized by its detailed recording of alternatives for maximizing output from input, the Thai budget authorities succeeded decades ago in establishing a system of highly effective monitoring and control over inputs and execution. Despite the side effect of rigidity in budget operation, it is evaluated that Thailand has achieved a relatively favorable performance in terms of fiscal soundness. The development of proactive control may be regarded as a hindrance to outcomeor performance-based budget operation, which is a characteristic of advanced budget systems, but Thailand has also reinforced the BOB by establishing an internal group exclusively responsible for performance-based budgeting in the mid-1990s and successfully secured quality performance information.

3) Fiscal Performance[19)]

Thailand achieved comparably favorable economic and fiscal performance in the 2000s but suffered heavy damage from the 2008 global financial crisis and the devastating floods of 2011. The Thai economy is expected to maintain a high growth rate of 6.4 percent in 2012 and 5.8 percent in 2013, as a result of expanding financial investment for recovery from flood damage and the normalization of exports, manufacturing, incoming tourism from abroad, and agricultural income. However, such estimates might still be lowered due to internal and external risks, such as sluggish exports resulting from the expanding fiscal crisis in Europe and contraction of the world economy in 2012 and 2013, as well as delayed damage relief from floods and escalating conflict among political groups.

Meanwhile, the ratio of fiscal balance to GDP is projected to increase in deficit. Thailand almost achieved fiscal balance in 2007, but it made a 3.2 percent deficit in 2009 due to the global financial crisis. Despite the increased governmental expenditure, the fiscal deficit narrowed to negative 0.8 percent to GDP in 2010, driven by the expanding tax revenues resulting from the economic recovery. The scale of the deficit, however, widened again in 2011 as a result of the governmental expenditures for damage recovery from the 2011 floods, which is expected to continue throughout 2013. However, Thailand's economy and fiscal conditions generally remain in relatively favorable standing, if the effects of the recent financial crisis and floods are not factored in.

19) See Choi Yun-sik *et al.*, "Recent Economic Trends and Prospects in ASEAN Nations," Korea Automotive Research Institute, November 22, 2012, pp. 7-9; Export-Import Bank of Korea, "Assessment Report on Sovereign Credit Rating of Thailand," January 2013, pp. 1-3; IMF, World Economic Outlook Database, April 2013.

〈Table III-2〉 **Major Economic Indicators**

(Unit: %)

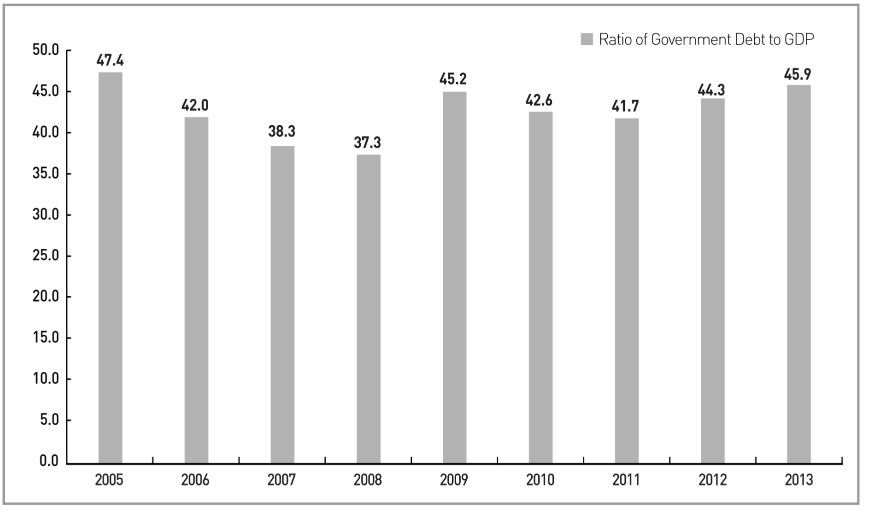
Classification	2005	2006	2007	2008	2009	2010	2011	2012p	2013p
Real GDP growth rate	4.6	5.0	5.0	2.4	−2.3	7.8	0.0	6.4	5.8
Average inflation rate	4.5	4.6	2.2	5.4	−0.8	3.2	3.8	3.0	3.0
Fiscal balance/GDP	1.5	2.2	0.2	0.1	−3.2	−0.8	−0.7	−1.7	−2.7
Unemployment rate	1.4	1.0	0.8	1.4	0.9	0.7	0.4	0.5	0.7

Note: 1. Economic indicators from 2012 are estimates.
2. Fiscal balance/GDP was based on the IMF data (general government structural balance).
Source: IMF, World Economic Outlook Database, April 2013.

The debt level of the Thai government allows a direct view of its fiscal deficit. The ratio of Thailand's general government gross debt against its GDP rose to 45.2 percent in 2009 due to the 2008 global financial crisis. Despite a slight decrease in the following years, the ratio is projected to have increased again to 44.3 percent in 2012 and is likely to reach 45.9 percent in 2013.

[Figure III-2] **Trends of General Government Gross Debt against GDP in Thailand**

(Unit: %)



Source: IMF, World Economic Outlook Database, April 2013.

4) Major Characteristics of the Fiscal System

As with the case study of the Philippines, this section will discuss major fiscal characteristics that are likely to affect the fiscal soundness of Thailand. The most conspicuous feature of the Thai national finance is the powerful fiscal authority held by the executive branch. Traditionally, the National Assembly of Thailand has had limited authority with regard to budgeting and in fact had no authority of oversight at all during the long period of military dictatorship. Moreover, even after the democratic government was established, disputes among political parties and prevalent regionalism rather hindered the National Assembly from recovering or maintaining its fiscal authority. Against this backdrop of disunity, the ruling party has successfully sustained its internal discipline over an extended period, resulting in the National Assembly holding limited fiscal authority in Thailand, despite its parliamentary government.

In particular, the 1997 amendment of the Constitution expressly introduced restrictions concerning the budgetary authority of the National Assembly, and some of the provisions exemplify the stronger authority held by the executive branch and the fiscal authorities in comparison to the National Assembly, despite being rejected in the 2007 Constitution. Deleted in the 2007 Constitution, one such provision stipulated in the 1997 Constitution that any vote to amend budget bills at the House of Representatives requires the endorsement of the Prime Minister. In addition, a member of the House of Representatives may introduce a bill only if the political party of which he or she is a member has passed a resolution approving the introduction thereof, and the Prime Minister has the right to veto any amended bill passed by the National Assembly, which were also deleted in the 2007 Constitution. However, the 2007 Constitution maintained some provisions that constrain the authority of the National Assembly as follows. The House of Representatives may submit a motion reducing or abridging the expenditures,[20] but shall not submit a motion adding any item or amount to the bill. Meanwhile, the Senate does not have the right to amend any budget bill, and instead only has the right to cast a vote to approve or disapprove the

20) Since any motion to reduce expenditure constitutes an amendment bill, it becomes subject to additional restrictions such as a veto by the prime minister.

entire budget bill, which requires the Senate to faithfully perform its role as monitor. The period during which the Senate must approve or disapprove the bill without any amendment was extended from two days in the 1997 Constitution to twenty days in the 2007 Constitution, but the Senate is still subject to strong restrictions. Furthermore, if the House of Representatives or the Senate fails to complete its consideration of a budget bill within the prescribed period of time, the bill is automatically deemed approved, which leaves the authority of the National Assembly extremely restricted with regards to budgeting.

This system was designed to exclude the pursuit of regional interest as much as possible in fiscal decision-making processes and reinforce decision-making at a national level. As members of the executive branch must not be from small or medium-sized local constituencies to allow fiscal decisions from a broader perspective, cabinet ministers shall be appointed among party-list MPs only.[21) This is because constituency MPs face significant incentive to exploit ministerial positions to distribute financial resource in a manner favorable to their respective constituency. In addition, the Constitution also demands that, in order to prevent the influx of regionally based minor political parties, any political party must receive votes equating to at least five percent of the total number of votes nationwide in order to have such votes be reckoned in the determination of the proportional number of the members of the House of Representatives. Parliamentary members are also legally prohibited from switching membership to another political party.

In the budgeting process, projections are made for the economy and tax revenues between January and February, the early phase of the budget cycle in Thailand. Since such projections are highly conservative in general, the actual value of tax revenues tends to be substantially higher than the estimate, which also helps ensure fiscal soundness. Based on sound tax revenues, Thailand has by and large maintained a high growth rate and steadily secured available resources that can be invested in new ventures.

21) Although it is not legally prohibited, if any constituency MP is appointed as minister, a new MP to replace such MP must be elected. On the other hand, if a party-list MP is appointed to the cabinet, the next person on the list becomes the substitute MP.

In Thailand, the National Assembly holds three readings for the consideration of a budget bill, whereby the actual deliberation takes place over the second reading. Subsequently, the budget bill is further examined through the establishment of a scrutiny committee, around quarter of whose membership is comprised of officials from the executive branch nominated by the government. As the committee is chaired by the Minister of Finance, the authority of the National Assembly is restricted yet again. Lastly, albeit a mere formality, the budget bill passed by the House of Representatives and the Senate must be approved by the King. Assuming a highly symbolic significance in Thailand, the King ostensibly serves as a check-and-balance on behalf of the people of Thailand.

Based on the powerful authority held by the BOB, Thailand has achieved a fairly sound standing in the operational aspect with regards to the execution and management of its budget. All government organizations are required to submit their annual budget execution plans to the BOB, which then approves expenditures for the pertinent year. Such plans comprise detailed plans for program budgeting, instead of simple cash flows and redistribution plans. The approved expenditures are sent to the Treasury Department of the Ministry of Finance, which is responsible for managing the accounts of all government organizations. The Treasury Department also prepares monthly reports on the Thai government’s income and expenditure, and prepares a settlement report within three months from the end of a fiscal year and submits it to the State Audit Commission. The executive branch has considerable discretion for a transfer of appropriations bill, but it must obtain the pertinent approval from the BOB. Although the BOB is relatively flexible in permitting the transfer of an appropriations bill, the following four principles are strictly enforced. No transfer is permitted (1) for new employment; (2) to change targeted results or main goals of budgeting; (3) in relation to future budgeting; and (4) for unscheduled overseas business trips. In terms of budget execution, the discretion of the executive branch to be approved by the BOB is legally stipulated in the Budget Procedures Act.

In the meantime, operating the Central Fund assists the discretion in budget execution in Thailand. Organized in accordance with the Budget Procedures Act of 1959, the Central Fund is a large fund that amounts to 20 percent of total government outlays. This is mostly used as an in-year discretionary fund for specific purposes or for emergency projects, but not used to supplement appropriations for government entities.

4 Indonesia

1) Constitution and Fiscal Laws

Due to the influence from Northern European legal culture as introduced under the lengthy Dutch colonial rule, social systems in Indonesia have been managed mostly on a customary basis rather than in the form of legislative stipulations, and the country's budget system also retains the practices adopted under the said colonial rule. The original Constitution enacted in 1945 only briefly mentions the president's role of submitting budget bills and the parliamentary functions for legislation, budgeting, and supervision, even up to the point of the fourth amendment of the Constitution in 2002. In addition, the Indonesian Constitution is similar to other Southeast Asian nations in mentioning the automatic repetition of the previous year's budget if a budget bill is not passed.

Following the 1998 Asian financial crisis and democratization, however, Indonesia embarked on a reform to legislate its fiscal systems for the first time since its foundation. The series of legislation efforts can be summarized as follows. The State Finance Law 17/2003 finally stipulated the designation of the budget cycle, establishment of fiscal principles with corresponding authorities and obligations, and establishment of the fiscal relationship between the central government and other institutions. The State Treasury Law 1/2004 prescribed the obligations held by the treasury authorities and mandated government agencies and institutions to employ accounting officials, and it also outlined the principles regarding the management of and obligations for public funds. The State Planning Law 1/2004 stipulated the processes and procedures for national development planning and the establishment of the BAPPENAS as the responsible agency. In addition, the Local Autonomy Law 32/2004 included the provisions and obligations on the public services to be provided by local governments, while the Fiscal Balance Law 33/2004 stipulated the obligations of local governments in regard to local finances, basis of local tax revenues, and grants from the central government. Lastly, the State Audit Law 15/2004 prescribed the affairs to be handled by the Audit Board of Indonesia (BPK) and its obligation to report to the National Assembly.

These newly established legislations for fiscal systems share the following characteristics. Above all, the laws mentioned above were unanimously adopted by the legislature. This reflects the great focus on social integration within Indonesian culture, but some fear that unanimous adoption was possible because some of the laws were written with intended ambiguity. Such concern stems from the tendency in the Indonesian legal culture to refrain from elaborating upon details, which reflects the characteristics of the legal systems of the Netherlands.

Nevertheless, it is notable that the newly enacted legal systems have substantially detailed provisions in the parts related to fiscal soundness. This may be a result of the country's efforts to ensure sound finances through means such as fiscal rules, with the aim of recovering national finances from the heavy damage incurred by the 1998 foreign exchange crisis and the subsequent natural disasters. In particular, the provisions on detailed input control represent the country's willingness to solve the prevalent problem of corruption. Moreover, the laws on budgeting and national development planning are evaluated to exhibit a high degree of mutual coordination and connection, although the two laws were separately enacted without considering potential collaboration.

Together with the legislation of fiscal systems, Indonesia also pursued reforms in two different areas in order to ensure greater inclusiveness in finances, following the consolidation of general and capital account expenditures into a single account in 2005. As a result, the country first clearly distinguished the respective business areas assumed by the Ministry of Finance (MOF) and the State Ministry of National Development Planning (BAPPENAS). Secondly, the country incorporated into its fiscal scope financial resources such as the funds for operating government agencies and their for-profit businesses.

In addition to the central government reform of fiscal systems, Indonesia began to introduce broad measures for decentralization and local autonomy in 2001. After a single year of preparation, a total of 2.5 million public officials in the central government were transferred to local governments. Despite the rapid implementation, the transfer was smoothly completed without compromising administrative services, largely because the placement of central public officials responsible for local governance and division of working tasks had already been systematized prior to the reform in order to facilitate local administrative affairs.

However, the system of central government support needed to be strengthened due to the poor condition of tax revenues for local governments. Government grants are based on the revenues from property tax, individual income tax, and natural resources imports, aggregated to approximately a quarter of all fiscal transfer from the central government. The value of general subsidies accounts for nearly 26 percent of the entire tax revenue of the central government excluding grants, and approximately two-thirds of the entire fiscal transfer from the central government. General subsidies are generally used to fund personnel expenses for local public officials than for balanced national development, while special subsidies are used for recovery from natural disasters and other contingent purposes. Each local government must secure a financial resources equivalent to ten percent of the subsidies through matching.

For fiscal soundness among local governments, all budget bills of local governments must be approved by the central government. However, serious corruption remains a known problem for local finances, and as explained earlier, the root of the problem is the political families with concentrated power in each region.

2) Economic Conditions and Fiscal Performance[22)]

Despite political issues arising from the history of long-standing dictatorship and the subsequent transition period, the economy of Indonesia has maintained a relatively favorable trend of growth to date, which is projected to continue through the near future due to the recent increase in private consumption. In 2010, the economic growth rate increased to 6.2 percent compared to the previous year based on the expanded private consumption driven by the improved labor

22) See Choi Yun-sik *et al.*, "Recent Economic Trends and Prospects in ASEAN Nations," Korea Automotive Research Institute, November 22, 2012, pp. 7-9; Export-Import Bank of Korea, "Assessment Report on Sovereign Credit Rating of Indonesia," January 2013, pp. 2-4; IMF, World Economic Outlook Database, April 2013.

market, increased facilities and equipment investment, and higher foreign investment. The Indonesian economy further grew by 6.5 percent in 2011 based on the expanded private consumption caused by a fall in the unemployment rate (7.1 percent to 6.6 percent), increased real wages, increased foreign direct investment, and greater exports to major trade partner countries. In 2012 in particular, despite lagging exports due to the unfavorable external conditions driven by the fiscal crisis in Europe, Indonesia maintained a solid growth rate of 6.2 percent based on the continued increase in private consumption and foreign and domestic investment.

〈Table III-3〉 **Major Economic Indicators**

(Unit: %)

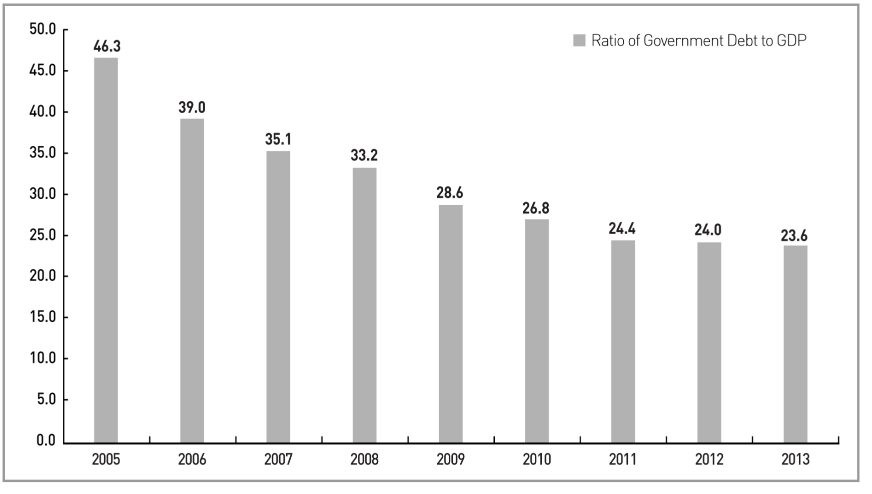
Classification	2005	2006	2007	2008	2009	2010	2011	2012p	2013p
Real GDP growth rate	5.7	5.5	6.3	6.0	4.6	6.2	6.5	6.2	6.3
Average inflation rate	10.5	13.1	6.7	9.8	4.8	5.1	5.4	4.3	5.6
Fiscal balance/GDP	0.6	0.2	−1.0	0.0	−1.8	−1.2	−0.6	−1.3	−2.8
Unemployment rate	11.2	10.3	9.1	8.4	7.9	7.1	6.6	6.2	6.1

Note: 1. Economic indicators from 2012 are estimates.
2. Fiscal balance/GDP was based on the IMF data (general government structural balance).
Source: IMF, World Economic Outlook Database, April 2013.

Reflecting its relatively favorable economic conditions, Indonesia has achieved comparably stable fiscal performance in the medium-to-long term. Recently, it is also suggested that the country's fiscal balance/GDP ratio might widen its deficit due to the increased oil subsidies. Although Indonesia succeeded in achieving fiscal balance in 2008, its fiscal balance/GDP ratio marked a deficit of 1.8 percent in 2009 in the wake of the global financial crisis. The deficit nonetheless remained below the target rate in 2010 at 1.2 percent, assisted by the increased tax revenues and delayed budget execution, and it continued its downward trend to reach 0.6 percent in 2011. However, the deficit is expected to reach 1.3 percent in 2012 due to the government's budget expansion and increased disbursement of oil subsidies. Overall, despite minor fiscal deficits in recent years, the Indonesian authorities have shown dedicated efforts to maintain fiscal soundness.

[Figure III-3] **Trends of General Government Gross Debt against GDP in Indonesia**

(Unit: %)



Source: IMF, World Economic Outlook Database, April 2013.

Consequently, the ratio of government debt to GDP in Indonesia has shown a significantly favorable trend by continuing downward from 46.3 percent in 2005 to 23.6 percent in 2013. The sound fiscal performance is also explained by the year-on-year reduction of the ratio by 4.6 percent in 2009, even in the aftermath of the 2008 global financial crisis.

3) Major Characteristics of the Fiscal System

The central finance and fiscal systems of Indonesia have established a comparably outstanding quality after undergoing reforms and a series of fiscal laws enacted in the early 2000s. In contrast, the negative influences from political families and the resulting corruption tend to severely compromise the decision-making of the executive branch and local finances.

A notable characteristic of central finance is that, in the aspect of fiscal rules, Indonesia adopted a 3-percent ceiling for its fiscal balance/GDP deficit and 60-percent ceiling for its debt-to-GDP ratio, which were stipulated in the 2003 State Finance Law as a point of similarity to the Maastricht Treaty of the European Union. Another notable fact is that Indonesia maintains BAPPENAS as a highly potent and effective agency separated from budgetary authorities. As a result, the management of capital expenditures and ordinary expenditures is respectively assumed by BAPPENAS and the budget authorities through effective coordination, in stark contrast to other countries where the functions of planning and budgeting usually overlap and produce conflicts.

Despite such positive traits, central finances face negative influences as well. First, the problem of unusable budget results in more than ten percent of appropriated funds being treated as unusable, while approximately 50 percent of the total expenditures are executed in the last quarter of each fiscal year. The reasons include inefficiency in procurement and settlement procedures, but no accurate diagnosis and countermeasures have been proposed. Another problem identified as a factor behind fiscal vulnerability is the price of commodities including oil. Since Indonesia is an oil-producing country without oil refineries, sales proceeds from crude oil and other fuels occupy a significant share of tax revenues and annual expenditures at 15 percent and 20 percent, respectively.[23)] Consequently, the country's fiscal operations are sensitive to oil prices, and the efforts to curb the government subsidies on oil consumption have been largely limited. Lastly, the rigidity of fiscal operation poses another problem, the major issues of which include the amount of grants that approaches 20 percent of the entire annual expenditure, fiscal support for each area stipulated in the Constitution, and personnel expenses for public officials.

In contrast to the relatively efficient organization of fiscal system and operation by the executive branch, some elements in the budgeting process held at the parliament undermine the fiscal performance of Indonesia. Since democratization in 1998, the Indonesian parliament has actively participated in the budgeting process, and the following characteristics observed in the process in comparison to the general fiscal system in OECD countries may suggest the potential for improvement.

23) Although Indonesia is an oil-producing country, its membership of the Organization of Petroleum Exporting Countries (OPEC) was suspended in 2009 due to insufficient production. Since the volume of production does not suffice for domestic consumption, Indonesia is currently an oil-importing country.

As a conspicuous characteristic, the Indonesian parliament engages in highly specific matters over the entire budgeting process, whereas in order to enhance aspects of fiscal performance including fiscal soundness, it is more advisable for the parliament to focus more on macro-finance and strategic policymaking. In addition, the parliament's excessive interest in specific projects tends to highly focus on regional projects and thereby undermines fiscal performance under the system of medium- or small-sized electoral districts, which is in the same context as the study of political factors in Chapter II. In particular, the legislative branch fails to clearly divide the roles of the budget committee and the standing committees responsible for each field, which inevitably mires the budget committee in details under the jurisdiction of standing committees rather than being able to focus on macroscopic finance and decision-making. As well as excessive focus on details, the unclear budgeting process within the parliament serves to further complicate the situation. More specifically, budget deliberation and coordination at standing committees for each field do not undergo any specific official procedures or channels, and instead unofficial or private channels are often used for consultation with the fiscal authorities or relevant government agencies.

One of the most interesting and peculiar phenomena demonstrated by the budgeting process in Indonesia is that forecasts for the national economy and tax revenues are a matter of discussion between the executive and legislative branches. While most countries including OECD members aim to project economic outlook and tax revenues in a technical and professional manner and exclude any political influence in the process, in Indonesia decisions on such macroscopic variables are made during the process of political discussion between the legislature and the government. This is generally expected to negatively affect the country's fiscal soundness.

5 Singapore

1) Constitution and Fiscal System

On the surface level, the political system of Singapore emulates the British system, whereas the actual operation of the Singaporean system differs significantly from the British model. Similarly, Singapore has not only adopted a written constitution, unlike the partly written and wholly uncodified constitution of the United Kingdom, but the Constitution of the Republic of Singapore also differs from the common law roots of the British model in that it covers specific matters over an extensive range. Even compared to the legal systems based on the continental civil law of Europe, the Singaporean constitution has substantially specific content in regard to its fiscal system. Out of the 14 parts encompassing more than 160 articles with detailed provisions, the Singaporean constitution dedicates about nine pages of Part XI to fiscal issues. Fiscal systems are generally not covered in a constitution even in legal systems based on civil law, with Singapore being an exception for their inclusion in the constitution. With regards to fiscal systems, the Constitution of Singapore stipulates related procedures, requirements, types and content of documents, and clauses that may be interpreted as fiscal rules, which is seen more as part of a law on fiscal systems than as constitutional provisions.

Among such elements, the aspect that may be applied in relation to the constitution of Korea or other countries is that of fiscal rules. The Constitution of Singapore specifies fiscal balance within each administration as one of the most important fiscal rules in order to ensure fiscal accountability and sustainability. More specifically, the constitution prohibits the calculation of the fiscal balance of any administration by including the financial funds accrued from previous administrations. In this regard, the Constitution of Singapore sets strict standards in prohibiting prolonged deficits in an accumulated balance over the five-year term of any administration, and it requires a practical balance or surplus finance rather than the structural budget balance as adopted in some countries.

Another provision included in the Singaporean constitution states that the government budget must only include profits accruing from investment income of reserves such as various funds, and exclude the documentary profits accruing from, for example, asset revaluation. The government is authorized to use only up to 50 percent of such investment income for its budget, and such use for budgetary purposes was completely banned until 2000. As an exception to such restrictions, presidential approval is required for deficit financing or the use of the reserves accumulated from previous governments. Often called ‘two-key safety mechanism,' this measure is a tool to require approval from both the parliament and the president for any exceptional operation.

2) Economic Conditions and Fiscal Performance[24)]

Since Singapore is widely acknowledged for outstanding fiscal and economic performance, this chapter will only provide brief data to support such performance. As shown in the table below, the Singaporean economy has maintained a comparably high growth rate and better performance than other economies in the wake of the global financial crisis.

〈Table III-4〉 **Major Economic Indicators**

(Unit: %)

Classification	2005	2006	2007	2008	2009	2010	2011	2012^p	2013^p
Real GDP growth rate	7.4	8.6	9.0	1.7	–0.8	14.8	5.2	1.3	2.0
Average inflation rate	0.5	1.0	2.1	6.6	0.6	2.8	5.2	4.6	4.0
Fiscal balance/GDP	7.9	7.1	12.0	6.5	–0.7	7.2	7.4	5.6	5.0
Unemployment rate	3.1	2.7	2.1	2.2	3.0	2.2	2.0	2.0	2.0

Note: 1. Economic indicators from 2012 are estimates.
2. Fiscal balance/GDP was based on the IMF data (general government structural balance).
Source: IMF, World Economic Outlook Database, April 2013.

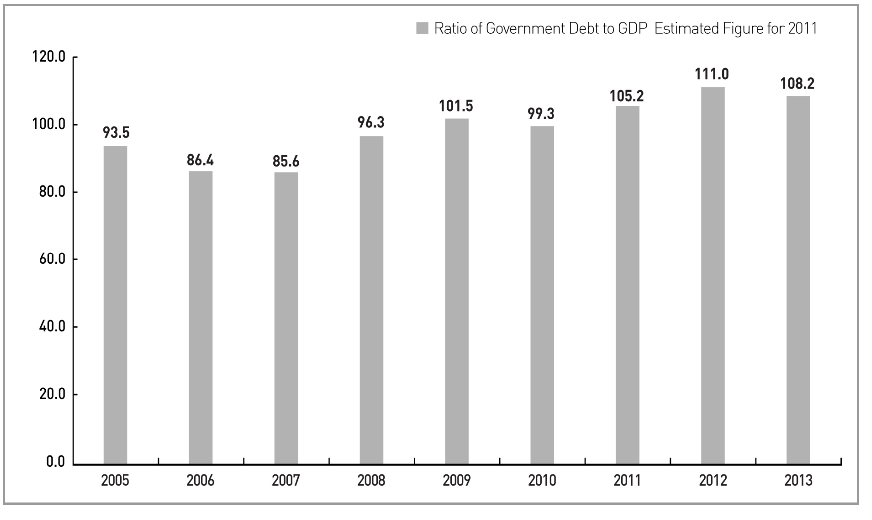
In the aspect of fiscal management, the Singaporean government is maintaining a fiscal surplus based on the principle of conservative and stable fiscal operation. As mentioned earlier, the Constitution of Singapore prohibits the executive branch including the prime minister and ministers from disbursing in excess of the given budget during their term of office. Consequently, the nation's fiscal balance has continued to record a surplus, except for 2009 when a deficit was exceptionally permitted in response to the global financial crisis.

24) Based on the following resources:
- KOTRA, "Economic Trends and Outlooks," June 2013.
- Son Yeong-taek, "Singapore Witnesses Expanding Growth in Second Quarter and Curbed Inflation, Together with Growth in Manufacturing, Construction and Services," July 26, 2013, KOTRA-Korea Business Center in Singapore.

In the meantime, while the ratio of general government gross debt against GDP is mostly around 50 percent across Southeast Asia (e.g. Indonesia's ratio was 23.6 percent in 2013), Singapore has a standing of 110 percent, more than twice the level in other countries.[25] However, like Japan, Singapore has no foreign debt and most of its bonds can be sold domestically, which lowers the likelihood of defaults on the principal or interest and the subsequent burden of foreign exchange crisis or declining national credit rating. On the other hand, unlike Japan, Singapore uses its government debt not as a means to cover its deficits, but entirely as a source of investment resources for the government,[26] which makes Singapore a net creditor nation with highly sound fiscal conditions.

[Figure III-4] Trends of General Government Gross Debt against GDP in Singapore

(Unit: %)



Source: IMF, World Economic Outlook Database, April 2013.

25) Jo Tae-jun *et al., Administrative Environment and Governmental Characteristics of Major Countries: Singapore,* Korea Institute of Public Administration, 2010, pp. 264-265.

26) In particular, a substantial part of debt is explained by the Special Singapore Government Securities (SSGS) issued by the Singaporean government for the investment of the Central Provident Fund (CPF). As mentioned earlier, the Singaporean constitution stipulates that government borrowings can only be used for investment.

3) Major Characteristics of the Fiscal System

Singapore has a number of distinctive characteristics as a city state and with regards to its political system and economic operation. This also holds true with the country's fiscal system, which is divided into four separate areas.

The four pillars of the Singaporean finance are the budget sector, Central Provident Fund (CPF), government investment agencies, and other special funds. The budget sector is mostly similar to that of other countries, with some unique elements. In Singapore, capital expenditure takes a relatively high ratio (approximately one-third) out of the entire expenditure, but with a negligible share of transfer payments or interest payments. The minimal share of transfer payments is because the CPF processes social welfare expenditures, which comprise the majority of transfer payments, while interest payments are small in scale since they are categorized as deductions from investment income and therefore disappear following the removal of internal transactions between various funds.

The CPF serves to provide a range of social services and is mostly financed by contributions forcibly collected from wages, such as taxes. Although the current contribution rate is 33 percent (13 percent from employers),[27] the contribution rate is adjusted according to economic conditions and is often used as a means to respond to changing economic situations. The CPF provides individual accounts through which contributions of citizens are accumulated and the accrued interest is paid out. One individual account is divided into three segments (housing, retirement, medical services), and despite the difference among age groups, the highest ratio of contributions is generally allotted to housing. Housing and medical services are part of social services provided through the national budget in most countries, but Singapore caters to such needs through individual contributions using the CPF. The CPF records a significant surplus each year with revenues from contributions, which is reinvested into government bonds, etc.

As the third pillar of the Singaporean national finance, government

27) The rate decreased from the 50-percent level in the 1980s and is subject to change based on economic situations.

investment agencies are substantial in size and are responsible for investing budget surpluses. The Government of Singapore Investment Corporation (GIC) and Temasek Holdings Private Limited Company comprise the two such agencies, both under the jurisdiction of the Singaporean Ministry of Finance. Information on the activities of the GIC is generally unavailable to the public, which is in the same context with the previous discussions about the low fiscal transparency in Singapore. In order to prevent speculative movements in the market, the GIC in particular does not disclose information on its total asset scale, asset composition, or rates of return, whereas only an estimation of its investment scale is known. In contrast, Temasek publishes its asset composition, rates of return, and other related information in its annual reports. As discussed earlier, the fiscal rules stipulated in the Constitution of Singapore places a 50-percent limit on the appropriation of investment income by government investment agencies to be used for government expenditure.

Lastly, other special funds operate outside of budgets and comprise fiscal resources not reported to the parliament, instead being managed by specific legislation established for each fund. In most cases, the government establishes a fund using a large surplus as the underlying asset, and the operation of such funds compensates for the expenses incurred by various social services.

In addition to the distinctive four-pillar structure of national finance, Singapore has adopted a number of unique advanced systems in the process of budget formulation, execution, and settlement. Examples include the fiscal regulations stipulated in the constitution, the block budget system to appropriate a certain ratio of GDP as ministry budgets, securing a productivity dividend through sequestration based on the assumption of increased productivity, and budget operation and settlement based on accrual-basis accounting and net budgeting. This study will not introduce such systems in detail in consideration of their incongruity with this paper’s focus on fiscal laws and fiscal soundness, and instead some of the notable characteristics in the parliamentary budgeting process will be discussed in the following.

From the perspective of decision-making, the fiscal system of Singapore is characterized by the limited and formalistic process of budget deliberation within the parliament and the requirement for presidential approval. Based on the Westminster system of Britain, the budget consideration process in the

Singaporean parliament tends to be highly formalistic, and the parliamentary power of budgeting is restricted due to constitutional limitations and the political environment. In principle, the parliament is granted around two months as the timeframe of budget deliberation, but in practice, the parliamentary procedures are generally completed within two weeks. More specifically, budget consideration is initiated in the first reading but not conducted by each committee, because the legislature lacks an internal independent organization with the analytical capacity to conduct adequate assessments. The second reading proceeds for seven to ten days, during which the budget size is reduced at a plenary session by a small amount for each ministry, albeit for the sake of formality. Each ministry budget bill is finalized based on a vote, but Members of Parliament are not allowed to suggest any increment or redistribution of the budget. Immediately following the vote taken in the second reading, another vote is taken in the third reading for the entire budget bill, although this is nothing more than a formality.

As discussed above, the parliamentary function of budget deliberation is limited albeit as a formality, whereas the president is given constitutional authorities such as the right to veto budget bills as a formality, although its effectiveness is also somewhat questionable. The president is mandated to supervise the observance of the constitutional fiscal rules and required by the Constitution to consult the Council of Presidential Advisors (CPA) before making important decisions. In particular, the president must consult the CPA when making a decision on whether to veto a budget bill, and if the president vetoes a budget bill against the opinion of the CPA, the parliament may ultimately re-approve the vetoed bill by a resolution by two-thirds of MPs.

IV

Analysis of Fiscal Laws in the United States and European Union

This chapter will narrow its focus to fiscal laws and rules aimed at ensuring fiscal soundness, and analyze the cases of the U.S. and European Union. Since the U.S. and most of the EU members are socially and economically developed countries, they are generally free from strong institutional restrictions driven by social and economic factors, which may facilitate the convenient study towards the relationship between fiscal performance and a narrow scope of systemic elements such as those related to fiscal laws. In this regard, this chapter will not discuss the historical and cultural background or developmental stages of social institutions, unlike the previous analysis of Southeast Asian countries. Instead, it will focus on whether specific finance-related laws or rules were effective in achieving fiscal performance targets and elements that can be cited as key factors.

1 Analysis of Three Major Laws on Fiscal Soundness in the U.S.

As growing fiscal deficits began to gain greater attention across society in the 1980s, the U.S. embarked on creating fiscal soundness measures to control the scale of deficits. Subsequent measures introduced to mitigate soaring fiscal deficits included: the Gramm-Rudman-Hollings Balanced Budget Act (1984, 1987), which stipulated the five-year target for fiscal balance; the Budget Enforcement Act (1990), which set a flexible target for fiscal balance and reinforced spending management; and the Balanced Budget Act (1997), which simultaneously permitted spending curtailment and tax cuts. Particularly between 1990 and 2002, the U.S. introduced a cap on discretionary spending, as well as fiscal rules that applied the PAYGO principle to statutory expenditures and tax revenues. Recently, American society has once more become increasingly concerned over fiscal soundness in the aftermath of large-scale stimulus packages introduced to boost the sluggish economy following the global financial crisis, which led to institutional efforts to improve national finance.[28] The following section will introduce the details of the three major laws enacted to ensure fiscal soundness in the U.S.

1) Gramm-Rudman-Hollings Balanced Budget Act

Originally titled the Balanced Budget and Emergency Deficit Control Act of 1985, the Gramm-Rudman-Hollings Balanced Budget Act is referred to as the GRH Act after the names of the three Senate sponsors for the law. Enacted in 1985, this Act set a target deficit level for each fiscal year every five years from FY1986 with the original aim of achieving fiscal balance by FY1991 as the final year of its effect. As a means to enforce this aim, the Act introduced the sequestration system, which stipulates that a projected deficit exceeding the target set by the GRH Act must be counteracted by the reduction of all expenditure across the board to automatically cancel budget funds. The only exemptions from sequestration are politically sensitive spending on low-income families (Medicaid, food stamps, and subsidies for children from low-income households) and veterans' welfare (compensations and pensions for veterans). The monetary value and ratio of budget cuts are determined by the Comptroller General as the head of the Government Accountability Office (GAO), based on the joint reports of the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) that include projections on the pertinent fiscal year. This system, however, is widely seen as a failure, not only because of its structural limitations of using anticipated deficits as the benchmark as

28) Such efforts include the enactment of the Statutory Pay-As-You-Go Act in February 2010 and the Budget Control act in August 2011.

opposed to real deficits,[29] but also because of escape clauses corresponding to almost two-thirds of the entire federal budget, excessive fiscal deficit targets, lack of resilience in deficit targets, and unrealistically optimistic projections.

In 1986, the U.S. Supreme Court ruled that it was unconstitutional for the president to order sequestration as an administrative act whilst using the reports submitted by the GAO, which belongs to the legislative branch. As a result, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, referred to as GRH II, was enacted in 1987 to supplement the original GRH Act. This new legislation aimed to mandate the OMB to determine the budget amount subject to sequestration and to modify inappropriate deficit targets, thereby delaying the target year for achieving a balanced budget to FY1993.

The means adopted by the GRH and GRH II to reinforce the nation’s fiscal soundness include explicit deficit targets and sequestration as an enforcement measure. As witnessed in the debate over sequestration measures in early 2013, the actual application of forcible sequestration entails a great deal of political burden, and also creates substantial practical difficulties in sequestration planning. Recently discussed among international fiscal experts, a main principle for designing effective fiscal rules is to allow forcible measures to automatically operate when a certain threshold is exceeded and to require interested parties to purposely intervene in order to delay or defer such forcible measures. In this regard, sequestration is somewhat inadequate as a forcible measure.

2) Budget Control Act of 2011

Enacted in August 2011, the Budget Control Act (BCA) raised the debt ceiling and set statutory caps for discretionary spending from FY2012 to FY2021, as an effort to reduce the debt level. In particular, for the period FY2012-FY2013, the BCA required the classification of discretionary spending into security expenditures and non-security expenditures with respective caps. Under the Act, the Joint Select Committee on Deficit Reduction (JSC, colloquially referred to

29) Since the sequestration system operates based on anticipated deficits (estimates) instead of actual deficits, this system provides an incentive for the manipulation of budget estimates and accounting tricks, thereby compromising its own effectiveness.

as the Supercommittee) was operated with the mission to reduce deficits, but the deficit reduction plans proposed by the Supercommittee failed to pass through Congress and became the catalyst for the recent controversies over fiscal conditions in the U.S. As a result of the failure of the JSC's roles stipulated in the BCA, the sequestration of discretionary and mandatory spending was set to take effect on January 2, 2013, if the administration and Congress were unable to reach an agreement on measures to cut the deficit to the value of USD 1.2 trillion over the next ten fiscal years. Amidst this situation, the stimulus packages introduced on a temporary basis during the global financial crisis were scheduled to terminate on December 31, 2012, creating a so-called "fiscal cliff" controversy over the looming spending reductions. On January 1, 2013, just one day before the scheduled enforcement of sequestration, the Democratic Party and Republican Party finally reached an agreement to defer sequestration for two months and reflected the decision in the American Taxpayer Relief Act of 2012. Ultimately, the failure to reach bipartisan agreement over deficit reduction measures by March 1 resulted in the implementation of automatic spending cuts as originally planned. As indicated by the recent shutdown of the U.S. federal government, the system reveals certain limits depending on various factors including political situations, despite a number of institutional devices in decision-making process and measures for coordinating opinions.

3) PAYGO

In the U.S., the PAYGO system exists in two different forms: the statutory PAYGO as established by the Budget Enforcement Act (BEA) and the PAYGO system as respective congressional rules as introduced within the Senate and the House of Representatives. The Obama administration permanently revived the PAYGO system that was applied temporarily in the past[30)] into the current Statutory Pay-As-You-Go Act of 2010 effective from February 12, 2010.[31)] This

30) The system was operated temporarily (1990–2002) in the past under the BEA.

31) The Act passed the House of Representatives as an independent bill in July 2009, but was combined later at the Senate with the bill to raise the debt ceiling. After passing the Senate, the combined bill passed the House of Representatives again on February 4, 2010.

Act requires all new laws or amended laws that change tax revenues and direct expenditures after February 12, 2010, to be budget neutral[32] on the whole. To determine budget neutrality, the fiscal effects of the laws subject to the PAYGO principle (hereinafter referred to as "PAYGO bills"), among bills formulated until the termination of a congressional session, are recorded in scorecards[33]. When congressional recess begins, the OMB combines all scorecards and prepares PAYGO reports after integrating all fiscal effects of PAYGO bills formulated during the pertinent session. If PAYGO bills are found to increase the fiscal deficit, the president sequesters mandatory spending in order to offset the increment. As explained earlier, sequestration applies based on the spending classifications defined in the Balanced Budget and Emergency Deficit Control Act of 1985. For direct expenditure programs in the unified budget except for the exceptions prescribed in the aforementioned Act, the rates determined by the OMB[34] apply as a means to offset the increment of deficits in the PAYGO reports.

The PAYGO system as congressional rules can be regarded as part of the regulations on budgeting procedures within the Congress, instituted through the Congressional Budget Act of 1974 and other congressional rules and legal regulations (e.g. PAYGO and CUTGO[35]). Operable both at the Senate and the House of Representatives, such regulations are mostly executed through a point of order during the deliberation of individual bills, as opposed to being forcible measures. The Senate PAYGO system has undergone constant revisions since its introduction in 1993 to supplement the statutory PAYGO system, and the current version operates based on the amendments in the

32) This refers to being budget neutral compared to the baseline. The fiscal effects of policies that are already in force or finalized are included in the baseline projections, while the fiscal effects of laws that influence such baseline projections must be identified. The PAYGO system uses the baseline projections of the CBO or OMB (Hong Seung Hyun, 2011).

33) These scorecards record the budgetary effects of PAYGO bills, separately for effects over five and ten years.

34) Medicare may not be sequestered by more than four percent. If the rate determined by the OMB exceeds four percent, Medicare will be sequestered by precisely four percent, and a higher sequestration rate will apply to other expenditures.

35) Abbreviating "Cut-As-You-Go," the CUTGO principle prohibits the passage of a bill that increments mandatory spending.

FY2008 budget resolution. For the purposes of the rules in Section 201 of S.Con.Res.21, the pay-as-you-go ledger records the anticipated effects of bills that become subject to the rules at the start of each year and are not included in the baseline projections, and such data are utilized to comprehensively identify the effects of individual bills. The application of the PAYGO rules can be actively put into effect through a point of order, which can be withdrawn through a motion approved by at least 60 Senators (at least three-fifths of all Senators).[36)]

First adopted by the 110th Congress on January 5, 2007, the House PAYGO system has been maintained as part of congressional rules each year and does not have a specific expiration date. The anticipated effects of bills are evaluated based on the estimation by the House Budget Committee or by the CBO as well as on the baseline projections provided by the CBO. Unlike in the case of the Senate PAYGO rules, the PAYGO system of the House of Representatives prohibits not only bills that may increase the deficit, but also those with the potential to decrease a surplus, and does not allow a vote to withdraw a point of order.[37)]

Conflicting opinions exist for the effects of the PAYGO system, with most of the opposition originating from the Republican Party. As a matter of fact, the number of items exempted from the PAYGO system is still increasing rapidly, which is criticized for not achieving a reduction of spending and instead causing a tax increase to offset the increment of spending. The subject of criticism also includes the issues explained earlier, such as the complexity of price calculation procedures, increasing special laws that are exempted from

36) Motions to withdraw a point of order are not passed in most cases (Heniff, 2010). In fact, most motions to neutralize a point of order for the PAYGO rules were dismissed due to the lack of a quorum of three–fifths of Senators present. From the introduction of the rules in 1993 through to 2009, a point of order was raised on 44 occasions in total, but only eight occasions reached a quorum (Heniff, 2010. Table 2).

37) However, such bills may be passed if the Rules Committee at the House of Representatives reports a special order to prescribe exceptions in the relevant bills before deliberation and Congress approves them with a majority vote. In other cases, the relevant bills may be included in the suspension calendar for further discussion on whether to exempt them from the application of the PAYGO system, which requires approval of two–thirds of members present.

the PAYGO system, and political legislations that include a number of escape clauses.[38)]

[Note] Sequestration

○ The budget sequestration refers to the automatic spending cuts across most expenditure items, which permanently revokes fiscal resources in order to achieve certain goals.

○ First introduced by the Balanced Budget and Emergency Deficit Control Act of 1985, sequestration currently remains as a forcible clause in the Budget Control Act of 2011 and the Statutory PAYGO Act of 2010.

- Since its introduction in 1985, sequestration was implemented in its early years on five occasions (three occasions due to deficit caps[39)] and two occasions due to discretionary spending caps), but has not been invoked since the last occasion in FY1991 (as of March 2013).

○ Sequestration triggers

1. Budget Control Act

(a) Title I defines the caps for discretionary spending for FY2012–2021 and respective caps for security and non-security expenditures for FY2012–2013. Sequestration is invoked when any spending exceeds such caps.

(b) Title IV stipulates that sequestration is implemented if the Joint Select Committee on Deficit Reduction fails to achieve a deficit reduction of at least USD 1.2 trillion. Sequestration applies to mandatory spending of FY2013–2021 and to discretionary spending of FY2013, and caps will be further reduced from FY2013 to FY2021.
Sequestration applies the same rate to both security expenditures and non-security expenditures.

2. Statutory PAYGO Act

- The scorecard system records the five-year and ten-year fiscal effects of bills. When the congressional session ends, the OMB applies sequestration upon deciding if the comprehensive effects of the relevant bills contribute to furthering the fiscal deficit.

38) The Congress and the President have enacted clauses in the positive laws that evade the normal operation of the PAYGO rules on six occasions, including the Omnibus Budget Reconciliation Act (1993), Omnibus Consolidated Appropriations Act for FY1997 (1996), Balanced Budget Act (1997), Consolidated Appropriations Act for FY2000 (1999), Consolidated Appropriations Act for FY2001 (2000), and Defense Appropriations Act for FY2002 (2002).

39) The BBEDCA, known better as the GRH Act, was originally designed to control fiscal deficits and thereby ensure fiscal rules and was mandated to launch sequestration based on deficit caps. The Budget Enforcement Act of 1990 changed the subject of control to spending levels, and as a result sequestration was changed to be centered on spending caps and PAYGO rules.

- Some items (e.g. designated emergency spending, debt service costs) are exempt from the Statutory PAYGO Act.

○ Items exempt from sequestration
- Some programs are exempted from sequestration or governed by special rules.
  - The eligible programs are prescribed in Section 255 (Exempt programs and activities) and Section 266 (Special rules) of the BBEDCA of 1985.
  - This applies to sequestration invoked in accordance with both the BCA and PAYGO Act.
  - Programs actually exempted and specific application of special rules rely on the interpretation by the OMB.
- The exempt programs listed in Section 255 are mostly mandatory spending items and include some discretionary spending items under the jurisdiction of the Department of Veterans Affairs.

2 Case of the New Fiscal Compact of the European Union

EU treaties require each member of the European Union to transfer part of its constitutional sovereignty to the union on the assumption that each member nation constitutes a single unified entity.[40] Therefore, while ordinary bilateral treaties gain legal force upon parliamentary ratification, EU treaties are supranational in nature and, in terms of legal status, and the constitution of each member nation must not violate European Union treaties or the Treaty on the Functioning of the European Union (TFEU)[41]. Due to such a legal system, fiscal rules at the level of the European Union are rooted in supranational treaties and enforced through various forms of legislation.

Legislative means at the EU are categorized into five types of regulations, directives, decisions, recommendations, and opinions, while fiscal rules are

40) Choi Seung-pil, “Legal Review on European Fiscal rules,” presentation material at the meeting for fiscal law networks held by the Korea Institute of Public Finance (October 25, 2013), 2013.

41) This refers to the Treaty of Lisbon of 2007, which also amended the Treaty of Rome as the Treaty on the Functioning of the European Union (TFEU).

enforced among member nations through the obligation to legislate EU agendas at the national level and to comply with orders from the European Commission.[42] Firstly, EU regulations exercise direct binding force on member nations and generally apply to the entire European Union. Regulations comprise fiscal rules aimed at achieving the fundamental goals of the EU's continuing existence and the endeavor to perfect an economic community. Secondly, directives are norms to regulate the goals of each EU member country. In general, such norms are generally determined to suit the requirement by the EU for each member nation, and directives use this framework to bind individual member countries to legislate national laws according to their respective domestic circumstances. Thirdly, decisions have a direct binding force against a specific nation or person. Measures taken by the part of the EU against any violation of fiscal rules or conventions are mostly issued in the form of decisions; if any member nation fails to comply with any decision, the EU may take an additional, binding measure to force the its observance. Fourthly, recommendations do not have a binding force or legally continuing relationships. Recommendations are frequently used as a means for EU agencies to preemptively present directions for future policies. Since recommendations are often factored in the legislation process that follows, they serve as a preliminary step in legislation. In terms of forcibleness of fiscal rules, the recommendations issued by the European Commission or the ECOFIN Council[43] are significant in that they may entail forcible measures in the future through the Stability and Growth Pact. Lastly, opinions are issued when various European agencies provide their perspective regarding specific legislation and have no regulatory power. Still, they retain significance as a tool to allow EU agencies to freely present their opinions regarding policies in the form of EU legislation. Based on the TFEU, all EU member states are obligated to reflect matters determined by regulations or directives with regards fiscal rules into their own domestic legislation, and to comply with sanctions or improvement measures based on the European Commission's decisions. However, since

42) Choi Seung-pil, 2013.

43) The Economic and Financial Affairs Council (ECOFIN).

regulations are designed to enforce the same rules across all EU countries, they do not require domestic ratification within each member nation.

The European Union has continued to strengthen its fiscal oversight system for member states. The Stability and Growth Pact (SGP) was introduced in 1997 with the aim of containing the problem of lax fiscal operation following the currency unification, and the SGP was eventually amended in 2005 to relax some of its rules due to the gradual slowdown of economic growth in the Eurozone and increasing costs borne by member nations for the reform of social welfare systems. However, in the wake of the global financial crisis coupled with fiscal crises in certain parts of Europe, the SGP was amended in December 2011 to tighten the rules again. Colloquially referred to as the “Sixpack,” the strengthened rules of the SGP apply to 27 member nations, and some specific measures are extended to include those in the Eurozone, such as medium-term budgetary objectives (MTO) and strengthened fiscal rules in terms of sanctions. In particular, by introducing the reverse qualified majority voting (RQMV)[44], the amended SGP requires the automatic application of fiscal rules, and proactive efforts must be made in order to opt out of the application. Other amendments include the system to strengthen oversight in non-fiscal areas, particularly in macroscopic areas. This system was introduced to respond to the criticism that the European fiscal crisis originated from the structural contradiction of the EU system under which countries with different levels of economic development were incorporated into the unified currency system. To address the issue, the system adopted ten macroscopic indicators to monitor the macroeconomic conditions of member states[45] and to formulate appropriate measures based on the results.

44) The reverse qualified majority voting is a type of qualified majority voting, but contributes to the automatic application of fiscal rules as it is used only to rule out the application, not to determine the application.

45) Member states prepare their own scorecard based on ten macroscopic indicators representing various areas including income, investment, trade, labor, debt, and financial industry, and publish their own Alert Mechanism Report (AMR) after analyzing economic contexts and other parameters based on the results. As is the same with the fiscal area, the oversight system is comprised of the Excessive Imbalance Procedure (EIP) and Corrective Action Plans prepared by each member nation.

〈Table IV-1〉 **Major Details of the Sixpack**

Areas		Details
Finance	Fiscal rules	1. Introducing expenditure benchmarks to prevent overall policy errors 2. Strengthening debt criteria 3. Regulations requiring member states to establish minimum levels of fiscal systems
	Forcible means for fiscal oversight	4. New sanction measures
Macroscopic imbalance	Macroscopic monitoring	5. New rules to prevent and rectify macroscopic imbalance
	Forcible means for macroscopic oversight	6. New sanction measures

The Sixpack was in many cases directly related to the sovereignty of each member country in relation to fiscal rules and therefore raised the need for a more effective form of legal rules. As a result, the Treaty on Stability, Coordination and Governance (TSCG), also called Euro Plus Pact or New Fiscal Compact, was introduced in January 2013 as a measure to apply EU-wide rules to different circumstances of each member state. Since the TSCG takes the form of a treaty, it is implemented following a referendum in each of the EU member nations. The TSCG demands the prescription of fiscal rules within domestic laws and enhanced oversight for the implementation of fiscal rules as with the Sixpack. In particular, the Treaty stipulates that any member country that violates the fiscal rules may become subject to automatic sanctions depending on the verdict of the Court of Justice of the European Union, as part of the measures to reinforce the obligatory nature of the regulations. Regarding the Eurozone, the TSCG is intensifying its efforts to strengthen fiscal oversight and enhance collaboration in policymaking within the European Semester through the Draft Budgetary Plans of each member state, as a supplementary action to the existing Sixpack.

A. Oversight System[46)]

Undergoing the European fiscal crisis in the immediate wake of the global financial crisis, critical voices began to be raised over the necessity to alleviate the serious economic imbalances within the European Union as well as to strengthen the function of fiscal oversight. Against this backdrop, the EU began

〈Table IV-2〉 **Overall Structure of the European Economic Governance System after Reform Measures of December 13, 2011**

European Economic Governance System (after reform measures of December 13, 2011)			
Fiscal oversight		Macroeconomic imbalances oversight	
Monitoring of fiscal policy		Monitoring of macroeconomic imbalances	
• Member state evaluation conducted by the European Commission based on the structural fiscal balance • Preliminary review of Draft Budget Plans of each member nations, and suggestion of opinions		• Alert Mechanism Report: Evaluating member states through a scorecard using ten macroscopic indicators (unemployment rate, debt ratio, competitiveness, productivity, etc.) • In-depth analysis of individual member countries	
Risks of fiscal imbalances	Excessive deficit procedure (EDP)	Risks of macroeconomic imbalances	Excessive macroeconomic imbalances
Preventive actions	Corrective actions	Preventive actions	Corrective actions
• Step I: Recommendation to member nations • Step II: Deposit of 0.2% of the GDP (with interest)	• Step I: Management in close proximity with EDP recommendations • Step II: Deposit of 0.2% of the GDP without interest • Step III: Payment of the deposit as a fine • Step IV: Additional payment of a fine	• Recommendation to member nations	• Step I: Each member nation's own plan and the European Council's recommendations • Step II: Deposit of 0.1% of the GDP with interest when plans are insufficient • Step III: Payment of the deposit as a fine

Source: Hong Seung Hyun, 2012a.

46) European Union, 2013.

simultaneously developing a system for the oversight of macroeconomic imbalances and formulating measures to strengthen fiscal oversight. The Stability and Growth Pact (SGP) was amended in December 2011 to reinforce management and oversight in the fiscal procedures such as the medium-term budgetary objectives and excessive deficit procedures (EDP).[47] The amended provisions strengthened preventive actions and fiscal coordination, as well as corrective actions based on the reinforced SGP. The preventive actions refer to the evaluation of medium-term budgetary objectives based on structural fiscal balances, and if they are not coordinated, the interest-bearing deposit of 0.2 percent of the GDP must be paid as an administrative fine. Under the corrective actions, the EDP must be activated if the government debt exceeds 3 percent of the GDP or if the sovereign debt exceeds 60 percent of the GDP; and if the said measure is violated, 0.2 percent of the GDP is imposed as a deposit or administrative fine. Recently, the 'Two-pack'[48] was introduced to the Eurozone to complete the cycle of oversight based on the European Semester.

The Two-pack officially came into effect on May 30, 2013, with strengthened budgetary oversight systems for the Eurozone. The newly introduced regulations are aimed at reinforcing budgetary cooperation between member nations and improving the transparency in the budgeting process, and its first cycle is underway as of the second half of 2013. The Two-pack is the first legislative measure to implement the Treaty on Stability Coordination and Governance in the EMU (TSCG)[49] and particularly emphasizes the incorporation into national legislation of the medium-term budgetary objectives of the TSCG as preventive actions of the SGP. The rules of the Two-pack focus on establishing a system of EU-wide oversight, strengthening the authority of independent organizations, and enhancing transparency through information sharing, with the aim to enhance

47) Hong Seung Hyun, 2012b.

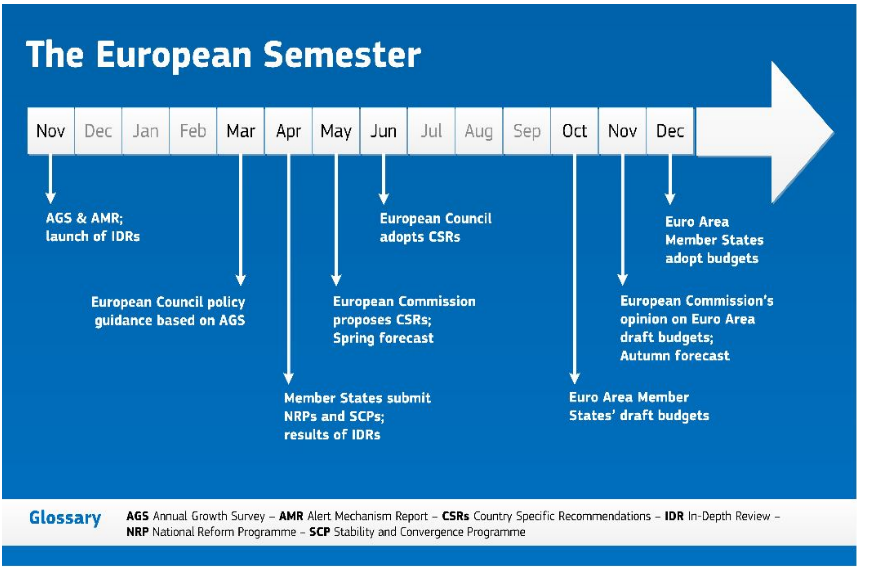
48) One is the strengthened preliminary measures through the DBP and the other is the strengthened *ex post facto* controls through the EDP.

49) An intergovernmental treaty based on consent among signatories, the TSCG stipulates the establishment of national fiscal rules, integration of economic policies, and strengthening of fiscal oversight within the Eurozone. In particular, Chapter III of the TSCG is known as the Fiscal Compact. For more details regarding the Fiscal Compact, see Hong Seung Hyun (2012b).

the policymaking capacity of each member through vertical information feedback between the EU and member states. Additionally, the Two-pack grants superior authority to independent organizations to heighten the accountability of national fiscal policy and is striving to expand the volume of governmental information available to the EU and the general public, thereby establishing a decision-making process with firm basis on the principles of transparency and information sharing in order to prevent the expansion of the fiscal crisis within the EU.

The continued evaluation of fiscal policy in individual nations and efforts to strengthen the monitoring systems are moving toward a new stage by completing the entire cycle of the existing European Semester through the Two-pack.

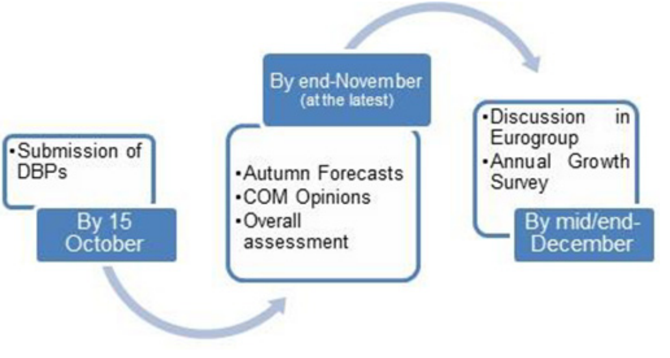
[Figure Ⅳ-1] **European Semester under the Two-pack**



Source: EU homepage.

The existing European Semester made only country-specific recommendations, but the Two-pack further established a permanent oversight system by introducing the evaluation of Draft Budgetary Plans (DBP) among Eurozone members and reinforcing the EDP monitoring. As the DBP is inserted within the evaluation cycles of medium-term budgetary objectives,[50] the policy and budgetary coordination for Eurozone members on the level of the EU is being strengthened. The DBP evaluation consists of the presentation of opinions by national commissions followed by comprehensive evaluation. National evaluation is conducted by national commissions that evaluate each DBP based on the criteria required by the SGP and subsequently announce their opinions. Meanwhile, the comprehensive evaluation is conducted for the entire Eurozone. To this end, the European Commission provides an inclusive overview of the following year's fiscal outlooks, and the results of the comprehensive evaluation are reflected in the following year's Annual Growth Survey.

[Figure IV-2] **Autumn Evaluation Schedule**



Source: EU, 2013.

50) The evaluation of medium–term budgetary objectives under the existing SGP was conducted on an annual basis (around April each year), and therefore the continued monitoring by the EU for the following year's budgeting remained insufficient.

〈Table IV-3〉 **Comparison of DBP Information and SCP Content**

	Rule no.473/2013 art. 6(3) [DBP]	Rule no.1455/97 art. 3(2) [SCP]
Fiscal balance targets	· General government's fiscal balance targets against GDP (including sub-section targets of the general government)	· General government's medium-term fiscal balance targets against GDP and action plans
Immutable policy projections	· Projections of tax revenues and expenditures against GDP on the assumption of immutable policy, in general government and major sectors within general government (including total fixed capital)	· Government's tax revenue plans on the assumption of immutable policy
Tax revenue and spending targets	· Tax revenues and spending targets against GDP in general government and major sectors within general government	· Governmental spending plans (including allocation corresponding to total fixed capital)
Detailed spending plans	· Spending for each function of general government · Distribution effects of major tax revenues and spending policies	
Specific policy	· Explanation and quantification of tax revenue and spending policies of the following year's budget bills for each sub-sector · Indicating potential ripple effect of major fiscal-policy reforms	· Quantification of discretionary tax revenue policy plans · Quantified assessment of budget and other economy policies (cost-benefit analysis)
Debt and implicit liabilities	· Debt development for the following year	· General government's debt-ratio forecasts · Implicit liabilities such as contingent liabilities
Compatibility with economic policy	· Reforms and policy measures to achieve the EU's growth and employment targets and implement recommendations	· Consistency information between economy policies and national reform or stabilization programs
Forecasts	· Major assumptions for macroeconomic forecasts; major economic variables related to achieving budgetary objectives · Attached documents including methodology related to impact assessment of budgetary forecasts and economic growth, as well as economic models and assumptions	· Major assumptions about economic variables related to stabilization programs, such as real growth rate and inflation · Analysis of changes in effect of major economic assumptions on budget and debt
Structural reforms		· Analysis of major structural reforms with long-term budgetary effects

Source: Eu, 2013.

The DBP must provide both the general governmental budget status of each member state and detailed information regarding policy to be included in budget bills, the main purposes of which include examining whether policies and aggregate fiscal targets included in budget bills comply with the SGP rules and the recommendations issued by the European Council, and analyzing their significance for the fiscal indicators in the Eurozone. Since the DBP provides information that helps determine if the policies to be introduced in the following year's budget bills fulfill budgetary objectives, it inevitably differs slightly from the information under the Stability and Convergence Programmes (SCP) submitted for the purposes of the preventive function of the SGP.

The Two-pack emphasizes strategies to narrow the information gap as a means to enhance the efficiency of the EDP-driven oversight system. As a result, the EU member countries subject to the EDP are required to regularly provide information on the implementation of corrective actions, and the European Commission is granted greater authority for auditing public accounting or requesting additional information. As the first step of the new information-sharing system, an in-depth assessment of budget execution during the year is introduced for the purposes of enhancing the accurate understanding of initial conditions of corrective strategies and requiring the provision of information to the general government and sub-sectors within the general government in consideration of fiscal risks related to contingent liabilities. Based on this in-depth assessment, primary evaluation is conducted regarding corrective actions taken by relevant member nations in line with the recommendations from the European Commission, in order to increase the incentives for information sharing. In addition, the countries subject to the EDP must regularly submit a report on the renewal of fiscal strategies on a biannual basis, and the European Commission reserves the power to request an audit of relevant member countries and to directly issue recommendations. Based on the results, the Commission may request an independent audit of public accounting across all sub-sectors within the general government within the period applicable to the EDP and the reporting on the results and, not only may it directly issue recommendations to member countries, such recommendations may also require them to introduce additional policies.

In addition, the submission of Economic Partnership Programmes (EPP) was made mandatory in order to supplement budget oversight in the aspect of structural reforms. Under the EPP, the EU member nations define policy priorities from the perspective of enhancement of competitiveness, pursuit of long-term and sustainable growth, and improvement of structural vulnerabilities. The policy authorities of each nation are required to submit the EPP, generally within six months from the onset of the EDP, and following the review at the European Commission, the European Council presents opinions based on the recommendations issued by the European Commission.

For the effective operation of fiscal rules including the Two-pack and the system to manage macroeconomic imbalances, the concepts of accountability and transparency are being highlighted in the policymaking process of each member nation. To this end, independent macroeconomic forecasts are now included in budget-related documents within any member country, and the oversight function is becoming expanded through independent fiscal organizations.[51] In particular, by reinforcing the authority of independent fiscal organizations to monitor and supervise the attainment of budgetary targets within each member country, the Two-pack requires those organizations to monitor compliance with structural fiscal balance rules agreed under the TSCG and corrective mechanisms activated in cases of ‘significant deviations’ from such rules. To achieve these goals, the Two-pack specifically details the requirements for expanding independence of independent fiscal organizations. These organizations must first be guaranteed legal status based on national laws, rules, or related administrative regulations; possess the power to disclose information; maintain procedures for nominating their members based on experience and capability; and secure access to resources and information necessary to play their roles. In addition, the EU member nations have a duty to notify the European Commission and the Eurogroup of any plans to issue government bonds prior to actual issuance, whereby plans to issue central government bonds must be reported by no later than one week before the commencement date of the relevant year or quarter.

51) Judgment on independence of fiscal organizations is governed by the provisions of Chapter III of the directive of the Sixpack on the fiscal systems of the EU member countries.

The Two-pack requires the core stages of national budgeting process spanning a year to follow the common schedule applicable to all EU members, so as to allow constant budget oversight by the EU and independent oversight in each member to operate in the optimal condition based on strengthened information transparency, and combines the common schedule with the budget oversight system to reinforce prior budget coordination within the Eurozone. Accordingly, multi-year fiscal plans that satisfy the prerequisites[52)] of the Medium-term Budgetary Framework are pronounced by April 30 each year, and national budget bills are announced by October 15 each year based on the DBP. As the common schedule applies to decisions on annual budget laws, the policy coordination at the level of the Eurozone has become enhanced.

B. Fiscal Rules

The fiscal rules of the European Union were specified through the transnational Stability and Growth Pact (SGP).[53)] A framework based on the rules for fiscal-policy cooperation from the EU members, the SGP's legal foundation[54)] originates from Articles 121 and 126 of the TFEU. The preventive and corrective measures necessary to enforce the SGP take the various forms of legislation elaborated earlier. The preventive arm requires the sustainable conduct of fiscal policy, and is based on the structural medium-term budgetary objectives (MTO) determined[55)] for each member state. In contrast, the mechanism of the corrective arm operates through the excessive deficit procedures (EDP), which activates when the 3-percent or 60-percent rule set

52) Includes outlooks for at least three years, effect of policies for tax revenue and spending, and forecasts for major aggregate budget targets.

53) The details of the actual fiscal rules are provided in the Code of Conduct, detailed guidelines for the implementation of the SGP, and the principles in the TFEU are supplemented by a range of Regulations and Directives of the European Commission.

54) Articles 121 and 126 of the TFEU are legal grounds for preventive and corrective measures, respectively. In addition, Article 136 prescribes additional measures against Eurozone countries.

55) In accordance with Council Regulation 1466/97, the criteria for determination require: provision of safety margins related to the fiscal deficit of up to 3 percent against GDP; guarantee of sustainability or swift progress of sustainability; and, based on the aforementioned, securing of sufficient budget in consideration of necessities for public investment, etc.

by the TFEU is violated.

Article 126 of the TFEU prescribes the details regarding the recognition of excessive deficits of any member nation and the subsequent decisions on relevant measures, in the order of successive stages.[56)]

(Paragraph 4) If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.

(Paragraph 5) The Council shall, on a proposal from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.

(Paragraph 6) Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendation addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to the provisions of paragraph 8, these recommendations shall not be made public.

(Paragraph 7) The Member State concerned may present its opinions on the recommendations of the Council, which in turn shall review the opinions submitted by the Member State and, after comprehensive consideration thereof, finally decides if an excessive deficit exists.

(Paragraph 8) Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

(Paragraph 9) If a Member State persists in failing to put into practice the

56) Choi Seung-pil, 2013.

recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.

If a member nation fails to comply with any decision under paragraph 9 of Article 126 of the TFEU, specific sanctions come into effect subject to decision by the European Council. Such measures include: disclosure of additional information demanded by the Council before issuing national bonds; restrictions on the European Investment Bank's loans to the relevant member state; deposit of a certain amount of money without interest; and imposition of fines (administrative fines).

The principles of the EU fiscal rules remain in force, but their practical operation is being transformed through a number of related measures designed to enhance their effectiveness. With the understandable trend of strengthening the EU-wide fiscal rules in the wake of the recent European fiscal crisis, rules including the MTO were incorporated into domestic legislation and the oversight function was intensified from the perspective of preventive measures in order to strengthen effectiveness defined as forcibleness against individual member countries. In addition, in the context of corrective measures, the method for determining the EDP was converted to the reverse qualified majority voting (RQMV), a reform aimed at facilitating the execution of corrective measures and strengthening the monitoring of compliance with such measures.

V

Conclusion

From the standpoint of legal systems, the first implication that can be suggested in this paper in relation to the enhancement of fiscal performance is that the legal systems per se have relatively limited impact on fiscal performance. This can be reiterated through different aspects. Well-established fiscal systems or laws do not necessarily guarantee fiscal performance, and whether a given legal system originates from civil law or common law is not a decisive factor for fiscal performance.

The first point was largely supported by the case studies of Southeast Asian countries in Chapter III, and a more detailed analysis was provided in the last section of Chapter II, which also served as a general introduction. Discussion on the second issue towards the relationship between legal culture and fiscal performance is based on the observation that Commonwealth countries and Scandinavian nations show favorable fiscal performance and have the most advanced models of fiscal systems. As discussed in Chapter II, however, this study concludes that whether a given legal system originates from civil law or common law does not have a decisive correlation with fiscal performance. In general, not only Korea, but other countries analyzed in this paper such as Southeast Asian countries, the U.S., and the EU member countries, all place greater emphasis on the legislation of any amendment or reform of fiscal systems.

With regard to fiscal rules, Chapters II and IV verified the tendency of pursuing more elaborate legislation when necessary rather than continuing to emphasize basic principles. The fact remains that the basic principles or essence of fiscal rules must be simple to ensure effectiveness, but recent discussions maintain that, if necessary, the provisions forcing the compliance with those major principles can become more specific with longer text and must be designed to facilitate the operation of the enforcement mechanism.

The second implication of this paper in regard to the influence of legal systems on fiscal performance is that specific legal systems or legal elements are less important than the combination of other political, administrative, or social systems related to such legal systems and decision-making processes.[57] As explained in Chapter II, political systems have a particularly important effect on the incentives for fiscal decision-makers, and therefore it is necessary to devise effective content for fiscal laws so as to maintain the focus of fiscal decision-making.

Aside from legal systems, this study observed the influence of socio-political factors as determinants of fiscal performance and concluded that another factor of note is the will and incentives of decision-makers. As mentioned earlier in Chapter II, considering that Korea successfully overcame its past status as one of the most underdeveloped countries in the world and achieved remarkable economic development and advanced fiscal systems, it cannot be concluded that the economic level itself is directly related to fiscal performance. Rather, it is more important to note that a society with a less developed economy is likely to face the problem of unbalanced authority in terms of decision-making due to the distortion of authority distribution.

Therefore, democratization emerges as another important factor, and Chapter II specified the importance of whether the principle of checks and balances operates based on the separation of powers. Considering that the model growth cases of Korea and Singapore were exceptional, less developed countries generally require a braking system to effectively check solitary decision-makers to prevent wrong decisions. This means that the separation of powers must strike a balance so that the legislative branch is guaranteed a certain degree of practical power to counter the executive branch.

57) As explained in the last section of Chapter II, this does not mean that fiscal laws are not important, but that specific legal texts or fiscal laws themselves are insufficient to ensure fiscal soundness, and that it is important to design legal texts and legal systems in accordance with various conditions other than those of legal systems.

Seen from this perspective, an authoritative regime is able to achieve economic development and fiscal performance, but the most critical step of economic and social development process remains democratization. If the principle of checks and balances can be cited as the key to democracy, it is essential for different powers to be distributed separately and made to operate under a system of mutual checks. The principle of checks and balances can work smoothly based on the clear functional separation of the executive and legislative branches, by requiring the former to take charge of planning governmental administration and subsequently organizing financial resources, and the latter to conduct effective deliberation and supervision over such governmental activities. From this perspective, the argument that fiscal democracy entails the partial sharing of the legislative branch's budgeting authority with the executive branch lacks persuasive power, at least in terms of fiscal performance.

On the other hand, the principle of checks and balances, or that of democracy, operates in advanced countries, in that the social decision-making power can generally become difficult to be concentrated in a specific sector after economic and social development surpasses a given level. In such cases, the head of the executive branch—the president or prime minister—is less likely to make gravely wrong decisions, unlike in less developed countries, and the problem is more likely to rise from incentives for members of the legislative branch, such as projects pandering to specific district constituencies. Therefore, separating the power of the legislative and executive powers is an approach designed to raise the concentration of fiscal decision-making by minimizing the tragedy of the commons, based on the perception that such elements may exert a negative effect to fiscal performance. In this vein, the more important factor is an effective combination of various elements, such as political systems, the relationship between the legislative and executive branches, and the decision-making method within the legislature.

The issue of holding the legislative branch in check also arises in less developed countries. As shown in the cases provided in Chapter III, it is necessary to recognize that the politics of the Philippines and Indonesia, with particular emphasis on the legislative branch, might cause problems in tax revenues due to the corruption stemming from the hereditary monopoly of power by political families, which ultimately compromises fiscal performance.

Lastly, focusing on the incentives for the legislative power, this paper demonstrated that the existing academic discussion of using the principal-agent problem or the tragedy of the commons in explaining the delegation or contract methods can become more generalized and analyzed based on the separation of powers or the principle of checks and balances. Based on such observation, unlike the existing academic discussion that can be applied only to the EU countries — that is, developed countries with a parliamentary system — this study suggested the theoretical basis upon which appropriate fiscal law systems can be identified in developing countries or countries with a presidential system, in consideration of various systemic conditions in each country. This is expected to be a contribution of this paper, through the academic achievement of expanding the political and economic approach to discuss the fiscal legislation systems for fiscal soundness.

This paper further applied such perspective of checks and balances to Korea's fiscal legislation systems and presented directions for appropriate systems based on the implications under the current discussion of fiscal law-related issues. The discussion in the last section of Chapter II can be summarized as the following: the current constitution is appropriate as is with regard to the government's power for budget preparation, prohibition of the budget increase by the legislature without executive consent, and the parliamentary power to reduce budget; and some of the recent discussions to amend such content are likely to mar fiscal soundness. In addition, the necessity for legislated fiscal rules was suggested as an institutional means of control over the current generation's fiscal decision-making, in order to guarantee the future generation's rights and interests. This study also discussed the delegation of fiscal authorities to reserve the power to curb budget demand from disbursing governmental agencies as a means of control within the administration, and that the National Assembly Act requires an amendment to allow the operation of the principle of checks and balances based on the internal separation of powers even when the budget process within the National Assembly is improved in the future.

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