SHIN & KIM
법무법인(유) 세종

2022 South Korean Presidential Election: Highlights for Renewable Energy

March 23, 2022

On March 9, Seok-Yeol Yoon was elected the 20th President of the Republic of Korea. Shin & Kim LLC has analyzed the results of this presidential election. The following is an abridged version of a more detailed report that focusses on the key implications for renewable energy companies.

The more detailed report may be accessed at:
https://www.shinkim.com/newsletter/2022/Special_Report/202203/SHIN&KIM_Special_Report_202203_eng.pdf

We also cover some of the key developments that have occurred during the first week of this two-month transition period leading up to the inauguration on May 10.

We hope you will find our report helpful, as you refine your business strategies.

Contents

* Click on the title to link directly to specific sections

I. Introduction

Presidential Election Result

President-elect Yoon, the candidate of the conservative People Power Party (“PPP”), received 48.6% of the vote, winning the election against Lee Jae-Myung, the candidate of the Democratic Party (“DPK”). He won by the slim margin of 0.73%.

Snapshot of Expected Relevant Policy Directions

It is expected that Yoon will run the government significantly in different directions to those of President Moon Jae-in. For renewable energy companies, these include:

- **Bringing back nuclear energy & reshaping zero carbon policy:** Building Korea into the “Number 1 nuclear power country” is one of Yoon’s top 10 campaign pledges. Under the Yoon administration, nuclear power will account for more than 30% of the entire power generation. Accordingly, Korea’s “Net Zero by 2050” (carbon neutrality) strategy is expected to be revised, so that the energy mix will mainly comprise of nuclear and renewable energy.
- **Technology & innovation-based growth:** Yoon’s economic policy aims to reinforce Korea’s competitiveness through scientific and technological development.

Key events prior to Inauguration

Below are the key events that will take place, leading up to the May 10 presidential inauguration.

Winner declared (D-0) ▶ Presidential Transition Committee formed ▶ Government agencies to report/brief the TC ▶ Government reorganization announced ▶ Prime Minister nominee announced ▶ Prime Minister confirmed/ accocunted ▶ **Inauguration (May 10, 2022)**

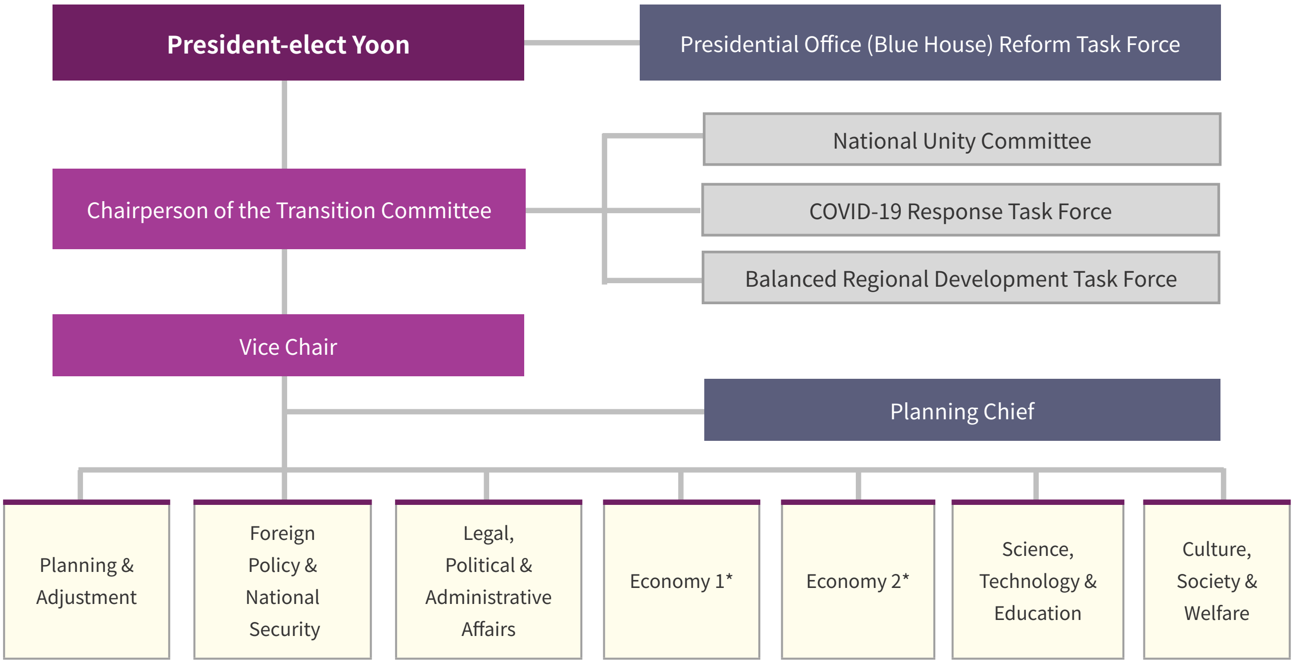
Launch of the Presidential Transition Committee

The Transition Committee will be comprised of seven subcommittees that address matters of national affairs: (1) Planning & Coordination; (2) Foreign Policy & National Security; (3) Politics, Judiciary & Administration; (4) “Economy 1” (Economic Policy, Macro-Economy, and Banking & Finance); (5)

"Economy 2" (Industry & Jobs); (6) Science, Technology & Education; and (7) Society, Welfare & Culture.

The Transition Committee will define the national vision and policy objectives that the Yoon administration will pursue for the next five years.

The following is an organizational chart of the Transition Committee as of March 14, 2022:



*1 Economic policy, macroeconomy & finance
*2 Industry & jobs

Challenges for President-elect Yoon

The President-elect will face a challenging political environment. Although the PPP secured four seats in the by-elections held alongside the Presidential election, resulting in 110 seats in the National Assembly, the DPK still holds 172 of the 300 seats. As the next general National Assembly elections are scheduled for April 10, 2024, the DPK will continue to hold a majority in the National Assembly until at least May 2024. This means it is somewhat uncertain whether the new Yoon government can successfully deliver on the policy transformations that Yoon pledged during the presidential campaign.

Another major challenge facing the incoming administration is how to navigate complex foreign policy issues. Amid the intensifying competition between the United States and China, Yoon declared that a deeper alliance with the United States should be the main thrust of the South Korean foreign policy. He said he would consider deploying the U.S.-manufactured Terminal High Altitude Area Defense ("THAAD") system in Korea and engaging in the working groups of the Quadrilateral Security Dialogue ("Quad") that might lead to Korea's accession to it. China is wary of Yoon's expressed policy stance leaning toward the U.S., hinting that Korea's strengthened partnership with the U.S. will impair Korea's economic interests. Mending the long-strained Korean-Japan relations will be a great challenge for the Yoon administration.

II. Energy

The Yoon administration is expected to pursue the following energy policies:

- **Energy policy:** President-elect Yoon committed to achieving the goal of carbon neutrality (carbon net zero by 2050; 40% reduction by 2030) pursuant to the Nationally Determined Contribution ("NDC") submitted by the Moon administration. Yoon stated, however, that he will change the strategies employed by the Moon administration and adopt "realistic" strategies to achieve such goal. The most important strategic change involves the nuclear power policy. Yoon vowed that he will repeal the Moon administration's nuclear phase-out policy and achieve carbon neutrality with a new energy mix including nuclear power and new & renewable energy (e.g., solar, wind, fuel cell). The Yoon administration is expected to increase the portion of paid-for carbon allowances and provide tax support for investments in energy-saving facilities.

III. ESG

- **Environmental policy:** The Yoon administration is likely to carry on other environmental policies pursued by the Moon administration. For example, the contemplated legislation on the reduction of waste or use of plastic packaging is expected to pass, which will have implications on the materials that are used in the manufacturing of goods as well as waste disposal methods and the location of waste disposal facilities.

- **Reinforcing ESG management support for SMEs & venture companies:** The new government is likely set up support system for SMEs and venture companies, considering their limited capabilities and resources for ESG management. To create an environment where companies realize tangible benefits from their ESG investments, the Yoon administration is likely to provide financial and tax support as well as legal advisory support for companies.

IV. Labor and Safety

In contrast to the Moon administration's labor policy, the Yoon administration is expected to ease labor regulations by expanding the flexible working hour system, reforming the wage system, diversifying types of employment, and by promoting labor-management autonomy.

- **Expansion of flexible working hours:** As part of the labor reform, Yoon is emphasizing the need for flexibility in the current 52-hour workweek system. Among others, specific measures that Yoon has set out in his pledge include: (i) allowing the right to freely convert between full-time and part-time work while maintaining regular employee status; (ii) a new type of full-time employment category that allows independent selection of working hours; and (iii) exempting professionals and high-salaried workers from working hours regulations. If the Yoon administration adopts such a system, companies will be able to operate the working hour system with more flexibility and discretion.

- **Merit-based wage system & fair job market:** The Yoon administration is expected to replace the current seniority-based wage system to a work value-and performance-based wage system. Yoon has also pledged to promote fairness in the labor market through disclosure of wage information for each job category, and to enact the "Fair Hiring Act" to guarantee fairness in all aspects of the hiring process. The President-elect also plans to amend the current law on fixed-term workers through the "Act on the Protection of Fixed-term and Part-time Workers."

- **Minimum wage reform:** Yoon has promised to slow down the increase in the minimum wage, as well as reform to the decision-making method concerning minimum wage, and different application of minimum wage by region and by industry.

- **Serious Accident Punishment Act ("SAPA") reform:** While President-elect Yoon did not make any specific commitments concerning the SAPA during the campaign, he is likely to maintain the position of "preventing serious accidents through relevant enforcement ordinances and criminal enforcement, while improving any unreasonable aspects, such as ambiguity of the person representing the enterprise, that have been identified since the law went into effect earlier this year.

- **Labor-management relations:** To prevent long, tedious labor-management conflicts and to enhance the Labor Relations Commissions' ability to mediate labor disputes, committees dedicated to prolonged labor-management disputes will likely be formed. Labor-management relations experts may be appointed as standing members to increase the committees' ability to mediate labor-management disputes. In addition, to promote participatory and fair labor-management relations, a direct voting system is expected to be implemented to elect members of the labor management councils.

V. Fair Trade

It is expected that the Yoon administration will emphasize self-regulation to promote innovative growth and private sector-led growth. During his campaign, Yoon stressed the importance of the competition authority's strict regulation of unfair trade practices and other activities that could stifle competition. Yoon's campaign pledges also focused on resolving competition-related disputes through alternative dispute resolutions.

- **Addressing power imbalance through damage relief & unit price interlocking system:** Yoon vowed to support SMEs to enable them to gain more bargaining power in their transactions with conglomerates. Along the line, the new administration is likely to push for the introduction of the unit price interlocking system, which would require contractors to raise unit supply prices if raw material prices increase. Also, to protect subcontractors from raw material price fluctuation, the Yoon administration is also likely to require contractors to have mandatory consultation with subcontractors on supply price adjustment.

- **Alternative Dispute Resolution ("ADR") systems:** The new administration is likely to promote the use of ADR systems with the enactment of the "Fair Trade Dispute Mediation Integration Act." The aim is to have competition-related disputes resolved more efficiently and to relieve the Korea Fair Trade Commission's (KFTC) of some of the burden of enforcing remedial measures.

- **KFTC's exclusive criminal referral right:** The Yoon administration is likely to preserve the KFTC's exclusive right to submit criminal referrals (allowing prosecution and criminal punishment only when the KFTC has submitted criminal referral to the Prosecutor's Office).

VI. Tax

The Yoon administration's tax policy aims to invigorate the stagnant economy hit by COVID-19, foster SMEs and start-up companies, support low income workers and senior citizens, and "normalize" real estate tax that has distorted the real estate market. Yoon's tax pledges are focused on the following issues:

- **Market revitalization:** The new government is expected to introduce tax measures to support the digital economy and carbon neutrality. In order to assist start-ups and SMEs to attract talent, up to KRW 200 million worth of stock options provided to employees will be tax free, which is four times the current KRW 50 million tax exemption limit. Further, to revitalize the stock market, Yoon proposed reversing the Moon administration's capital gains tax on investors. This includes a revision to the amended tax law set to take effect in 2023 that will allow taxes of up to 25 percent on annual capital gains exceeding KRW 50 million. However, President-elect Yoon did not commit to reductions or exemptions of corporate income tax, other than corporate income tax deductions for companies investing in semiconductor R&D centers, clouding computing R&D, and for businesses that invest in the creation of new facilities in Korea due to closure or reduction of their overseas operations.

- **Real estate-related tax:** The Moon administration aggressively introduced policies with the goal of cooling down the property market prices by tightening mortgages, increasing taxes, and setting limits to rent increases. However, the property ownership taxes and capital gains taxes from property transactions largely increased, which played a role in causing housing prices to rise at an unprecedented pace. To address these issues, Yoon pledged to set up a task force to stabilize the real estate market to lower the transfer tax and real estate holding tax for single-home owners, temporarily reduce transfer tax for multi-home owners, and to ease regulations for real estate loans.

23F, D-Tower (D2), 17 Jongno 3-gil, Jongno-gu, Seoul 03155, Korea T. +82-2-316-4114 www.shinkim.com