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Carbon Neutrality Commission Unveils Draft 2050 Carbon Neutrality Scenario

On August 5, 2021, the 2050 Carbon Neutrality Commission published the Draft 2050 Carbon Neutrality Scenario (the “Draft Scenario”). This Draft Scenario, which is a follow-up to the 2050 Carbon Neutral Declaration announced in October 2020, is a detailed plan prepared by the government to achieve carbon neutrality by 2050, consisting of the following three options: (i) Option 1 considers technological development and conversion of raw materials and fuels, while making the most of the existing system and structure; (ii) Option 2 reduces fossil fuels based on Option 1 and further reduces greenhouse gas emissions (“GHG”) through lifestyle changes; and (iii) Option 3 dramatically reduces fossil fuels and converts the entire hydrogen supply to green hydrogen.

Each option takes different key approaches to achieve GHG reduction, based on whether to use coal, ratio of electric hydrogen vehicles (transportation), energy management of buildings, CCUS, and the amount of sinks secured. According to the Draft Scenario, the projections for each Option’s net GHG emissions in 2050 are as follows: (i) Option 1, 25.4 million tons; (ii) Option 2, 18.7 million tons; (iii) and Option 3, 0 (net-zero). The details of the scenario by sector are as follows.

[Table: Estimated Net Emissions under Each Option]

(Unit: million tons CO₂eq)

Sector	Net Emissions	Conversion (Power Generation)	Industry	Transport	Building	Agriculture, Livestock and Fisheries	Waste	Sinks	CC US	Hydrogen	Omission
Option 1	25.4	46.2	53.1	11.2 (-9.4)	7.1	17.1	4.4	-24.1	-95	13.6	1.2
Option 2	18.7	31.2	53.1	11.2 (-9.4)	7.1	15.4	4.4	-24.1	-85	13.6	1.2
Option 3	0	0	53.1	2.8	6.2	15.4	4.4	-24.7	-57.9	0	0.7

- Depending on how much coal or LNG power generation will be operated, the **conversion sector** will be divided into Option 1 (**maintaining a minimum of coal power generation**), Option 2 (**suspending coal power generation**), and Option 3 (**suspending coal /LNG power generation**). This sector’s primary approach to reduce emissions is to reduce coal and LNG power generation and expand the use of renewable energy.

- For the **industry** sector, the following assumptions are made: (i) as a major reduction measure, the **steel industry** would introduce the technology to manufacture hydrogen-reduced steel by 100%, replace bituminous coal for coke production with hydrogen, and convert all existing blast furnaces to electric ones; (ii) the **cement industry** would convert waste synthetic resins (waste plastics, etc.) and hydrogen heat sources into fuel; (iii) the **petrochemical and oil refining industries** would introduce electric heating furnaces; and (iv) heavy electricity consumers, such as the **semiconductor, display, and electric/electronic industries**, would promote energy efficiency and achieve transition to eco-friendly fuels and raw materials.
- As for **transportation**, the expansion of electric/hydrogen vehicles was suggested as a major reduction measure and the detailed assumptions are as follows: in the case of Options 1 and 2, the penetration rate of electric and hydrogen vehicles combined would be at least 76%, and in the case of Option 3, the penetration rate of electric and hydrogen vehicles would be at least 80% and 17%, respectively. In the case of **shipping**, 30% of its total energy consumption would be secured by expanding biofuels and LNG fuels, while 40% would be secured by distributing electric/hydrogen ships, and ship energy and operation efficiency would be improved. In the case of **aviation**, 30% of its total jet fuel consumption would be secured by expanding bio jet fuel and 20% by introducing electric/hydrogen aircrafts.
- Regarding the **building** sector, unlike Options 1 and 2, Option 3 is based on the premise that using renewable energy (hydrothermal energy) as a heat source and district heating would further drop the consumption of city gas, etc.
- In the **waste** sector, the following reduction measures are assumed: (i) waste would be reduced by restricting the use of disposable items and be recycled; (ii) 47% of plastics used in households and workplaces would be replaced with bioplastics through material development and system improvement; and (iii) 0.4 million tons of methane gas would be collected from landfills and biological treatment facilities and be used as energy.

The Carbon Neutrality Commission would collect opinions on the Draft Scenario by September 2021 and announce the final version at the end of October 2021.

Meanwhile, apart from the above 2050 Carbon Neutrality Scenario, the government is additionally preparing a draft 2030 Nationally Determined Contribution (“NDC”) with aim to finalize it by the end of October. The NDC, which refers to a GHG reduction goal that must be achieved by 2030 in order to move toward carbon neutrality, is legally binding under Article 25 of the Framework Act on Low Carbon, Green Growth.

Regulation on Microplastics Relating to Household Chemicals, Etc.

As you may be aware, a number of amendments to the *Act on Safe Control of Common Household Chemical Products and Biocides* (“K-BPR”) are being proposed with the aim of protecting people's health and environment from hazardous risks of household chemicals. In line with this, a bill to partially amend the K-BPR relating to regulation on microplastics was recently proposed (“Proposed Amendment”). The Proposed Amendment was referred to the Environment and Labor Committee (“Competent Committee”) on July 14, 2021, went through a public comment period ending on July 28, 2021, and will be reviewed by the Competent Committee

To date, the use of microplastics as raw materials or additives in cosmetics and quasi-drugs was restricted pursuant to the *Regulation on Safety Standards of Cosmetics* and the *Regulation on Product Approval/Report/Review of Quasi-Drugs*. In contrast, no particular regulation was placed on microplastics contained in household chemicals or biocidal products, giving rise to the criticism that such products are essentially put into a blind spot of the law. To address this shortcoming, the Proposed Amendment focuses on regulating the use of microplastics in household chemicals and biocidal products as well. The key amendments are as follows.

1. Regulation of Microplastics in Household Chemicals Subject to Safety Confirmation

- The Minister of Environment may set and issue notifications on safety standards for each type of household chemicals subject to safety confirmation (Article 9(1) of K-BPR), details of which can be found in the *Standards on the Designation, Safety and Labeling for Household Chemicals Subject to Safety Confirmation* (notification issued by the Ministry of Environment; “MOE Notification”). The MOE Notification sets forth a total of 39 items including detergent, fabric softener, disinfectants, etc. in Table 1 as types of household chemicals subject to safety confirmation.
- Anyone who intends to manufacture or import household chemicals subject to safety confirmation for which safety standards are notified (31 out of the total of 39 items; excludes items such as disinfecting/sterilizing agent for humidifiers) must obtain **confirmation** on whether the product meets safety standards from a designated testing or inspecting institution (Article 10(1) of K-BPR) and **report** certain details designated by the legislation (such as product information, ingredients and composition) to the Minister of Environment (Article 10(4) of K-BPR).
- The Proposed Amendment defines microplastic as “solid plastic with the diameter of 5mm or less” and provides that the safety standards pursuant to Article 9 of K-BPR must include the “Standards on the Content of Microplastics.” As such, pursuant to the Proposed Amendment, anyone who intends to manufacture or import household chemicals subject to safety confirmation for which safety standards are notified after the enforcement of the law must obtain confirmation and report as described above in compliance with microplastic content standards which will be prescribed at a later date.

- Anyone who intends to manufacture or import household chemicals subject to safety confirmation for which the safety standards are not notified (a total of 8 items that have been transferred from the Ministry of Food and Drug Safety (“MFDS”) to MOE; includes disinfecting/sterilizing agent for humidifiers, disinfecting/sterilizing agent for prevention of contagious disease, sterilizing agent for quarantine purposes, pesticides for health relief, prevention and inducement, repellent for health, pesticides for prevention of contagious disease, household chemicals for humidifiers, etc.) must obtain approval from the Minister of Environment by submitting information relating to the use, hazardousness, exposure risks, etc. of the chemical substances contained in the relevant product – as prescribed by Presidential Decree (Article 10(6) of K-BPR).
- The Proposed Amendment adds “microplastic content” as part of the information required to be submitted pursuant to Article 10(6) of K-BPR mentioned above. As such, anyone who intends to manufacture or import household chemicals subject to safety confirmation for which the safety standards are not notified after the enforcement of K-BPR of the law must submit information relating to the microplastic content and obtain approval.

2. Regulation of Microplastics in Biocidal Products

- Any manufacturer and importer who intends to sell or distribute biocidal products (i.e., products that are mainly aimed at removing harmful organisms such as disinfectants, sterilizing agents, preservatives, etc.) to sell or distribute the products domestically must obtain an approval from the Minister of Environment (Article 20(1) of K-BPR). Article 20(2) of K-BPR sets forth the standards implemented for determining whether to grant product approval, and the relevant details are determined based on the *Standards on the Approval of Biocidal Substances and Biocidal Products*, which is a notification published by the National Institute of Environmental Research (“NIER”).
- The Proposed Amendment newly adds that “the content of microplastics contained in a biocidal product shall be lower than the standards prescribed by the Ordinance of MOE” as one of the standards for approval. The specific figures are expected to be provided through the NIER notification and the Enforcement Rules that will be amended in the future.
- As such, anyone who intends to manufacture or import biocidal products after the enforcement of the law will be required to meet the microplastic content standards in order to obtain approval from the Minister of Environment and lawfully sell and distribute products in Korea.

The Proposed Amendment will apply on household chemicals subject to safety confirmation and biocidal products that are manufactured or imported after the effective date of K-BPR.

Successful Cancellation of the MOE's Refusal to Allocate GHG Emission Permits in Administrative Appeal

On behalf of Hyundai Oilbank Co. Ltd. ("Client"), Kim & Chang's EHS team successfully secured a cancellation of the Ministry of Environment's ("MOE") refusal to allocate GHG emission permits from its appeal with the Central Administrative Appeals Commission. Despite a limited number of precedents where plaintiff obtained a favorable decision in administrative appeals in connection with GHG emission permits, we were able to promptly resolve this dispute, thereby securing additional allocation of emission permits for our client.

In applying for allocation of emission permits for the 3rd Planning Period (2021~2025) of the GHG Emission Trading System, the Client requested allocation of additional emission permits to accommodate emissions from "expansion of follow-up processes". However, the MOE notified that additional emission permits may not be allocated as it cannot acknowledge the expansion of the relevant processes. Re-confirming that the expansion of follow-up processes was indeed completed, the Client submitted to the MOE a request to reconsider its notice of allocation. Although the Client explained the expansion of the relevant processes in great detail and faithfully submitted supporting materials as requested by the MOE, the MOE ultimately dismissed the Client's request (*i.e.*, refused to allocate the requested emission permits), finding that the Client should have explained this at the time of application for allocation.

Shortly thereafter, the Client filed an administrative appeal with the Central Administrative Appeals Commission, seeking cancellation of the MOE's refusal to allocate the requested emission permits. In this appeal, the MOE argued that the Client's application for allocation was based on "expansion of follow-up processes" not "expansion of the relevant process itself", and the Client did not submit any supporting materials related to the expansion. For those reasons, the MOE contended that its notice of allocation was valid under the-then applicable standards. Moreover, the MOE noted that the Client's submission of materials related to the "expansion of relevant processes" after it submitted the request for reconsideration must be considered a new application for allocation, not a part of the initial application for allocation.

In response, Kim & Chang highlighted that (i) although the Client might have described the expansion rather unclearly and failed to submitted relevant materials, given the legislative intent and relevant precedents, whether the MOE's notice of allocation was valid must have been determined by taking into account the-then applicable factual circumstances, including materials submitted after the request for reconsideration was submitted. Further, (ii) as the Client submitted the initial application for allocation under the assumption that its emission is expected to increase due to the expansion, and clarified the basis for the requested additional emission permits (*i.e.*, the expansion of the relevant processes") at a later time along with supporting materials, this must not be considered a new application for allocation.