

SAI's Independence

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Board of Audit and Inspection of Korea

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1. The Basic Information of BAI

- **Constitutional Agency**

- * **BAI's functions, status and organization stipulated in Articles 97**

- **Agency under the President**

- * **Established under the direct jurisdiction of the President**

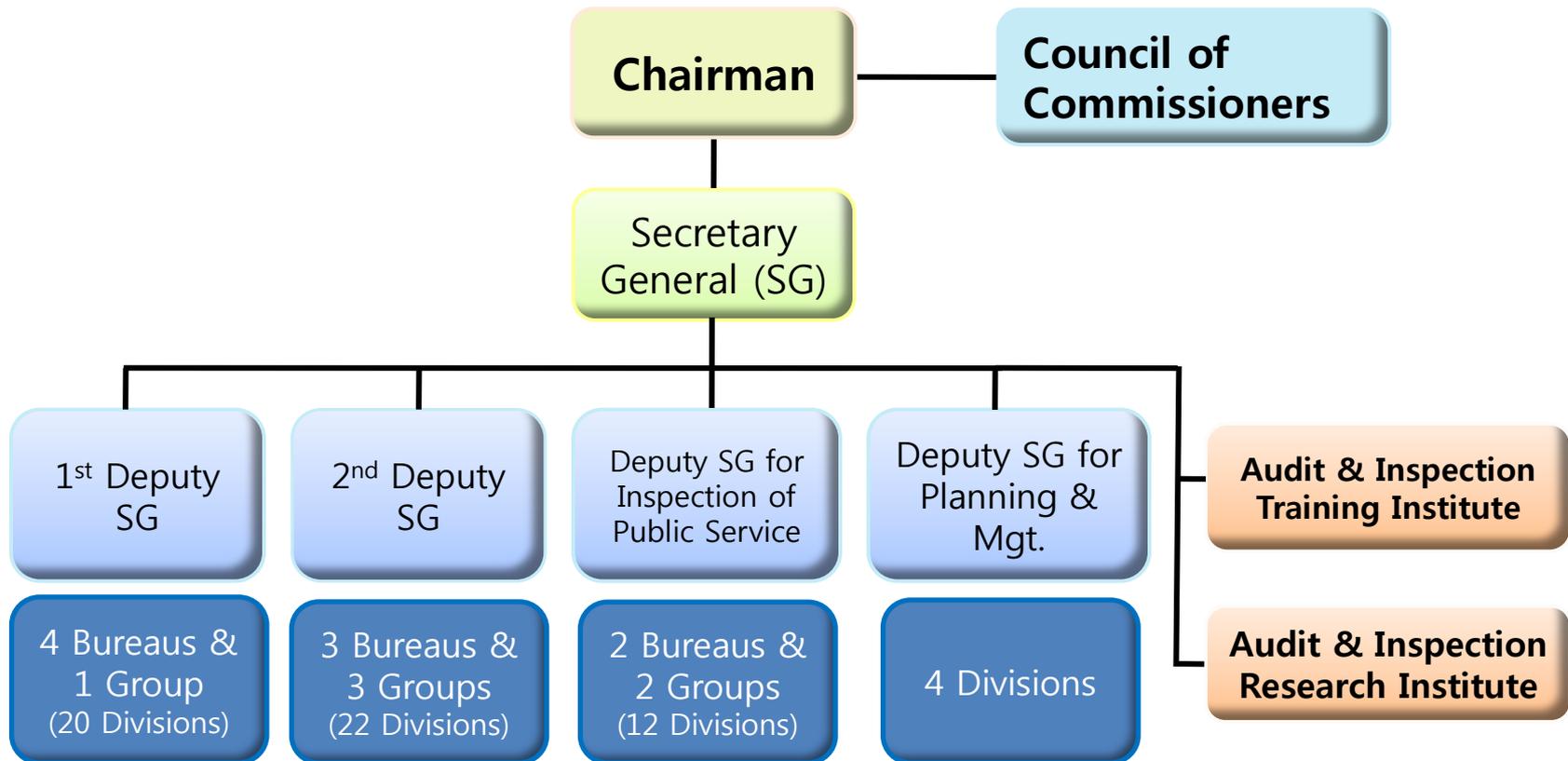
- **Independence in Performing Duties**

- * **Independence guaranteed with regard to its duties pursuant to BAI Act**

- **A Council (Collective) System for Decision-Making**

- * **Council of Commissioners makes final audit decisions: Quasi-judicial functions**

Organizational Structure



Roles and Responsibilities

Audit

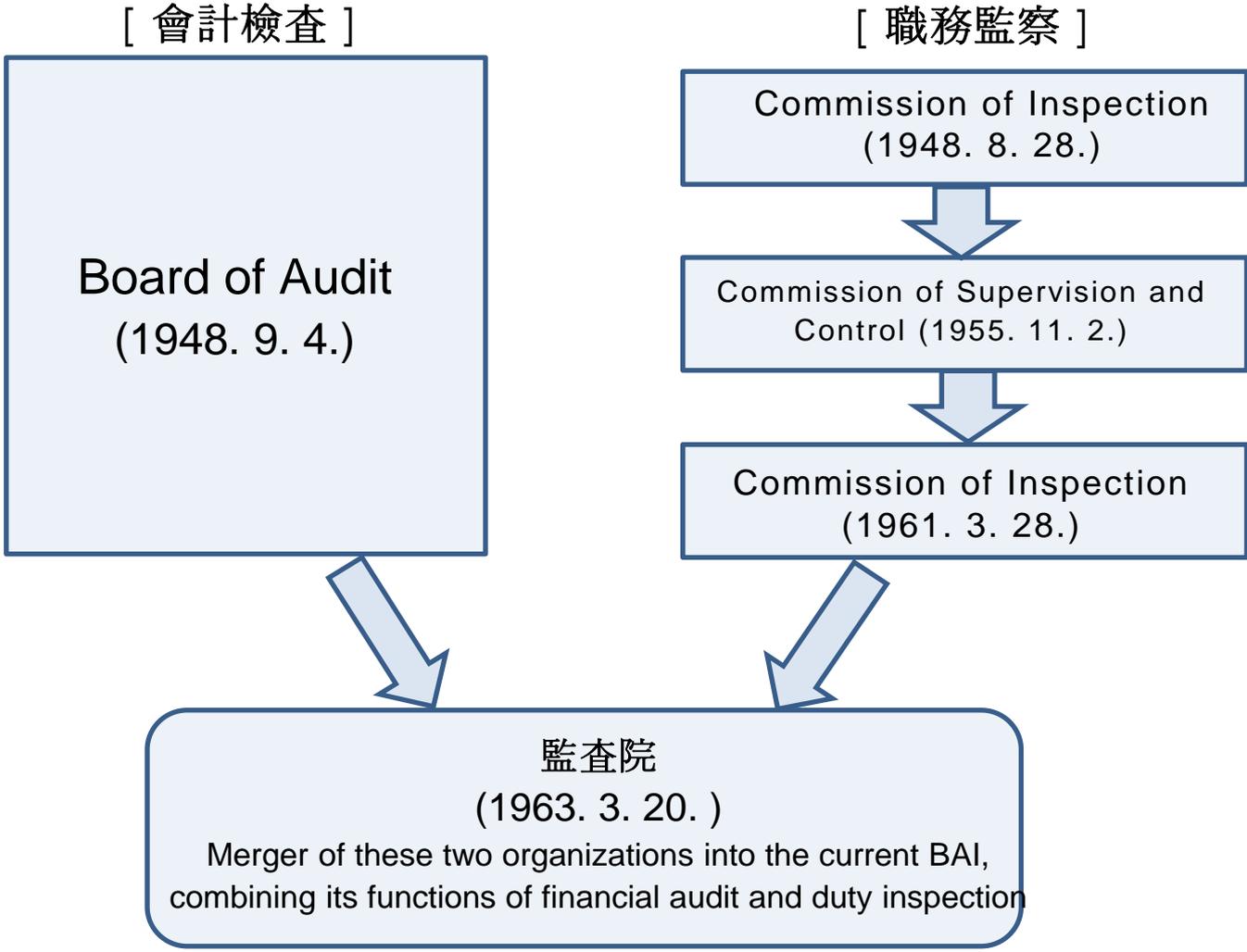
- **Verification of Final Accounts of State**
 - ➔ **Report its findings to the President and the National Assembly**
- **Audit of the accounts of the State, provincial governments and government-invested organizations**

Inspection

- **Examination of the works of government agencies and the duties of their employees**



Improving Public Services



2. Overview of BAI's Independence

Legal Independence of BAI

- **(Constitution) Through the 5th amendment of the Constitution(1963), the BAI , responsible for both examining accounts and inspecting duties, was established under the President.**
 - Article 97 of the Constitution stipulates the roles and responsibilities of the BAI to declare its independency
 - * Concerns have been continuously raised that the BAI is influenced by the President in performing its duties due to its position being under the President.
- **(BAI Act) BAI's independence in its legal status, budget, and members and officials**
- **(National Finance Act) BAI's autonomy in budgeting**

Independence in Members and Officials

- **Independency in the appointment of the Chairperson and the Commissioners of BAI**
 - (Constitution) Chairperson of the BAI is appointed through cooperation between the President and National Assembly. Term of the Chairperson shall be 4 years, and be reappointed only once.
 - (BAI Act) Procedures and regulations for ipso-facto retirement and ex-officio dismissal
 - * There are also concerns that the independence of the Chairperson is not fully guaranteed in practice since the current term of office of the Chairperson, which is four years, is shorter than the President's term of office of five years and that in some cases, the Chairperson does not complete the four years of their terms.

- **Independency in personnel matters**
 - (BAI Act) With respect to the appointment, dismissal and organization of public officials under the control of BAI, the compilation of its budget, the independence of BAI shall be respected to the maximum extent.
 - President appoints public officials of Grade V or higher, the Chairperson of the BAI appoints public official of Grade VI or lower.

Financial Independence

- **Independency in Budgeting**

- **(BAI Act) With respect to the appointment, dismissal and organization of public officials, and the compilation of its budget , the independence of the BAI shall be respected to the maximum extent.**
- **(National Financial Act) the Government shall, when it intends to reduce the expenditure budget demanded by the BAI, seek the opinion of the Chairperson of the BAI during a meeting of the State Council.**
- * **BAI Act's provisions have strong declaratory sense. The provisions pertaining to the National Finance Act are limited to the reduction of the expenditure amount requested by the BAI. It is hard to say that the BAI's financial independence through the current legal provisions is sufficiently guaranteed.**

- **A sufficiently Broad Mandate and Full Discretion for Audits**
 - **(Constitution) The roles of each entity with respect to national finance, the executive branch draws up the budget, the National Assembly reviews and finalizes the budget, and the BAI inspects the closing of revenues and expenditures each year.**

- **A Comprehensive Right of Access to Data**
 - **(BAI Act) Persons subject to audit inspection by the BAI shall submit account statements, evidentiary documents, protocols and other materials.**

- * **There are opinions that a provision should be established to apply the BAI Act first above other laws. Other opinions include adding mandatory clauses in regard to audited institutions' answering of requests for audit data submission.**

- **Follow-up Mechanism for Audit Recommendations**
 - **(BAI Act) The BAI can take diverse measures to dispose inspection results, such as adjudication of liability for compensation, request for disciplinary actions, request for correction, request for improvement, recommendation, accusation, and such.**
 - **The Head of the informed audited institution should implement such audit results and recommendations, and the results of such implementation shall be notified to the BAI.**
 - **BAI has a department dedicated to the management of implementation of audit results and monitors the implementation status on a regular basis to secure effectiveness of audit results' implementation.**

3. BAI's Independence in Its Relation with Others

Report to the President

- **(Constitution)** The BAI shall inspect the closing of accounts of revenues and expenditures each year, and report the results to the President and the National Assembly in the following year.
- **(BAI Act)** The BAI shall report to the President on the matters which are considered important as a result of inspection as often as the occasion requires.
 - Some express concern that there might be the possibility of the President's influence over audit results and possible attempts to adjust audit results in consultation with the President before the BAI's announcement.
 - BAI's Innovation Development Committee, against this backdrop, made a suggestion to the BAI to make it mandatory to disclose the content of presidential report to the National Assembly and establish regulations governing the disclosure and procedure of the presidential reporting in April 2018.

Report to the National Assembly and Citizens

- **(National Assembly) BAI shall inspect the closing of accounts of revenues and expenditures each year, and report the results to the President and the National Assembly in the following year.**
- **(Citizens) Providing information through the Internet, writing annual reports, and acceptance of request for information disclosure**
 - **When it comes to matters relating to confidential information, such as audit on national defense, the BAI does not disclose the content publicly.**
 - **Information pertaining to audit, which, if disclosed, has considerable grounds for remarkably obstructing the fair performance of duties, may not be disclosed after the review by the Information Disclosure Council.**

Audit Request from the National Assembly

- **(National Assembly Act) National Assembly may, by resolution, request the BAI to conduct the audit.**
 - The BAI shall file a report on the results of its audit with the National Assembly **within three months** from the date of receiving the request for an audit and can request for an extension of its audit period within the limit of two months.
 - * Some countries **are obliged to conduct audits upon the request** of the Parliament including Korea, Denmark, Portugal and Poland. But, **most countries have the discretion** to decide whether to conduct the audits requested by the Parliament.
 - * It is hard to say the BAI's independence is severely undermined since for the National Assembly to make audit requests, it needs a review of the matter at the plenary session. However, there are some **rooms for improvement**, such as having to **report the audit results within the short period of time** and **BAI's audit planning being challenged by audit requests by the National Assembly.**

Year	2017	2016	2015	2014	2013
No of Cases	6	14	17	11	12

Civil Audit Requests

▪ Citizen Audit Requests

- Audit Request by presenting a petition signed by at least 300 citizens aged 19 or over
- Pursuant to “Act on the Prevention of Corruption and the Establishment and Management of the Anti-corruption and Civil Rights Commission
- The National Audit and Inspection Request Deliberation Commission shall determine whether to audit. The audits shall be completed within 60days

▪ Audit Request for Public Interests

- 300 and more citizens of 19 years and older, civil groups and local councils may request.
- Pursuant to BAI’s internal regulations of “Regulations on the BAI’s Audit Requests Handling for Public Interest.”
- Whether to conduct the audit and inspection shall be determined by the approval of the Secretary General upon receiving advice from the National Audit and Inspection Request Deliberation Commission. When decided to conduct the audit, it should be completed within 6 months.

- **Audit Requests for Public Interest**
 - **The BAI has the power to make the final decision on whether to conduct the audit and is not obligated to mandatorily answer citizen audit requests. Therefore, the Citizen Audit Requests cannot be viewed as a system that greatly undermines the independence of the BAI's audit functions.**

 - **There were some cases where audit requests were abused for specific purposes. Since there has not been institutional mechanism to prevent such abuse, it poses concerns of undermining the independence of audit functions.**

 - **Some point out a systemic contradiction in that the procedure of citizen audit request is prescribed not under the BAI Act, but under Act on Anti-corruption. Therefore, the BAI is making efforts to make necessary amendments on the BAI Act.**

4. Conclusion : Way Forward for Strengthening Independence

Methods to Strengthen BAI's Independence

- during recent discussion on constitutional amendments

▪ **Recent Discussion on Constitutional Amendments**

- * **Since the presidential impeachment, opinions rose to distribute power concentrated on the President.**
- * **The core of the discussion pertaining to the BAI was on how to secure its independence in its performance and political neutrality from political forces.**

▪ **Make BAI an Independent Body**

- * **Although audit activities may not have an exclusive function such as the power to legislate or exercise judicial authority, if we were to make the BAI an independent body, it could help strengthen the BAI's independence, ultimately leading to securing objectiveness and fairness of audit.**
- * **According to a survey conducted by the National Assembly in August 2017, 72 % of respondents supported making BAI an independent body .**

Methods to Strengthen BAI's Independence

- during recent discussion on constitutional amendments

- **The Opinion of the National Assembly and the President's Bill**
 - * The bill states making BAI an independent organization and strengthening its independence
 - * The bill to allow the participation of the National Assembly and the Judiciary on the appointment of the BAI's Chairperson and the Commissioners to strengthen check and balance.
 - * The bill includes the guarantee of their status.
 - * BAI's right to enact its regulations will lead to expanding the autonomy of the BAI's affairs in organization, personnel management, and budgeting.

Thank You !
