

ROK Law Regarding the Expansion of Inter-Korean Relations

On December 8, 2005, the South Korean legislature passed the “Law Regarding the Expansion of Inter-Korean Relations.” This follows the July 6 passing in North Korea of the “Law on North-South Economic Cooperation.” The ROK edict, however, is more comprehensive in scope. Following the inter-Korean summit meeting in 2000, meetings between officials have increased and cooperation and exchange in many sectors has grown considerably.(1) This recent enactment by the South Korean government demonstrates the institutional support being given to the transforming ROK-DPRK relationship. Among other things, it sets forth a clear legal basis for the appointment of an inter-Korean conference delegate, the agreement on and promulgation of an inter-Korean agreement, and the dispatch of South Korean officials to North Korea. According to foreign relations law and regulations, it is necessary to appoint a special envoy for North Korea. It is also necessary to establish clear legal guidelines regarding the rights and responsibilities of the people and the related conclusion and ratification of the agreement, parliamentary consent and promulgation, and so forth. Likewise, policy toward North Korea must be developed based on majority support of the public and via nonpartisan cooperation.

What it Means

This new law can be seen as a general law on inter-Korean cooperation and exchange that balances this exchange with the ROK’s National Security Law. The new law stipulates the responsibility of the government regarding the basic relationship between North and South Korea as well as the expansion of said relations, the appointment of a representative, and the conclusion and ratification of an inter-Korean agreement. It can fundamentally support article 4 of the South Korean constitution (which deals with peaceful reunification) and reflects the progression of the inter-Korean relationship since the 2000 inter-Korean summit. It also legally recognizes the government’s duty to advance peace on the peninsula and an inter-Korean economic community, and legally realizes the essence of the 1991 Basic Agreement (signed by North and South Korea) and the two Koreas’ “special relationship.”

Legal Grounds for Transparent North Korea Policy

By setting up a legal framework for appointing a representative and special envoy and for concluding and ratifying an inter-Korean agreement, these actions and responsibilities can now

clearly be seen as subject to the law. No longer are these to be done solely at the discretion of the executive branch, as they now fall under the realm of the rule of law. Furthermore, it is expected that this will be accompanied by the reporting of the legislative branch's agreement on plans for both expansion of inter-Korean relations and yearly operations, bringing about increased transparency in North Korea policy.

Groundwork for Non-partisan Cooperation and Citizen Approval of North Korea Policy

Essentially, this law prohibits the manipulation of inter-Korean relations for the purpose of achieving political or party goals. In fact, in order to ensure that ROK policy toward North Korea is founded on majority support of the public, the government intends to work cooperatively with civilian experts appointed by the National Assembly Speaker to the Committee on the Expansion of Inter-Korean Relations.

Contributing to a Consistent Mid- to Long-Term North Korea Policy

The law calls on the government to pursue mid- to long-term policy through the establishment of five-year plans based on prescribed fundamental rules. By clearly outlining the basic direction of North Korea policy, the law prevents the fickleness of domestic politics from affecting the policy, which will allow for a consistent approach to be taken toward North Korea.

Central Elements of the Bill

In total, the new law consists of twenty-three articles, which can be broken down as follows:

- Chapter 1: Articles 1 to 3. These address the purpose of the law, the fundamental rules for the expansion of inter-Korean relations, and the stipulations concerning the “special relationship and domestic transactions.”
- Chapter 2: Articles 6 to 14. The first six outline the government's duties regarding expansion of inter-Korean relations, while article 13 deals with the basic plan for the expansion and article 14 outlines the Committee for the Expansion of Inter-Korean Relations.
- Chapter 3: Articles 15 to 20. Noteworthy among them are article 15, which addresses the appointment of an inter-Korean talks representative and a special envoy to North Korea, article 16, which deals with the dispatch of South Korean officials to Kaesong and other areas in North Korea, and article 18, which establishes the status and power of the

minister of unification.

- Chapter 4: Articles 21 to 23. Article 21 deals with the conclusion and ratification of an inter-Korean agreement, while article 23 defines the range and limits of such an agreement.

In addition, the law contains an ordinance that calls for resolution of unforeseen complications related to it to be worked out within six months of its promulgation.

NOTES:

(1) a) Number of people (legally) traveling to and from North and South Korea (excluding Mount Kumgang):

Year: Number

- 1998: 3,317

- 2000: 7,986

- 2003: 16,3031

- 2004: 26,534

- 2005 (Nov.): 79,947

b) Inter-Korean exchange:

Year: Amount

- 1998: \$220 million

- 2000: \$420 million

- 2003: \$720 million

- 2004: \$700 million

- 2005(Nov.): \$980 million;

c) Inter-Korean meetings:

Year (government): Number of meetings

- 1993-1997 (Kim Young Sam): 28

- 1998-2002 (Kim Dae Jung): 87

- 2003-Nov. 2005 (Roh Moo Hyun): 88