

- REPUBLIC OF KOREA -

CONSTITUTION

The Constitution of the Republic of Korea was amended 1987 to enter into force on 25 February 1988 with certain exceptions. The following explanatory notes of a general nature have been provided by the Government:

Background and Significance

The Constitution of the Republic of Korea, which led to the founding of the Republic of Korea Government on August 15, 1948 has been revised nine times in the approximately four decades since its promulgation on July 17, 1948. The need for the ninth revision began to be debated during the general elections in early 1985 to establish the 12th National Assembly. The subsequent controversy over the constitutional amendment issue resulted for a time in severe partisan strife and confrontation, entailing considerable social confusion.

The situation, however, changed dramatically following a declaration on June 29, 1987, by Roh Tae Woo, president of the ruling Democratic Justice Party, of the acceptance of sweeping political reforms. National reconciliation and a popular consensus on direct elections of the President were thus swiftly achieved. Subsequently, the major points of the constitutional revision were worked out by agreement between the governing and opposition parties for the first time in Korean history. In a rare exercise of dialogue and compromise, differences between the two rival political camps were resolved through mutual concession and accommodation.

Principles agreed to through the negotiations between political parties were referred to an ad hoc committee for constitutional reform set up at the National Assembly. The committee, representing all negotiating groups in the Assembly, worked out a constitutional amendment bill article by article. The completed bill was introduced to the National Assembly under the joint sponsorship of practically all members of the legislature. After the bill was put on public notice for some time, it was passed by the National Assembly and then referred to a national referendum for finalization, as provided by the Constitution. The whole process of constitutional reform thus proceeded without a major hitch.

The freshly amended Constitution reflects the diverse political views of all segments of the population who want and deserve a greater voice in political affairs in keeping with the sophistication they have demonstrated in other areas of national life. Its basic goal is to preserve, consolidate and further develop a free democratic system conducive to spontaneous and voluntary participation of all citizens in the political process and national development.

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Furthermore, the amended Constitution more forcefully expresses the resolve of the nation to achieve peaceful unification and also to advance into the forefront of international development in the coming decades.

With the revised constitution, there no longer remains any substantial obstacle to democratic development in Korea. The reins of government will soon be transferred peacefully to the president to be elected under it, making it possible for the nation to continue to pursue uninterrupted national development and economic growth.

Of particular significance to international lawyers are the general provisions contained in Chapter 1 which are set out below:

Article 1

- (1) The Republic of Korea shall be a democratic republic.
- (2) The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

Article 2

- (1) Nationality in the Republic of Korea shall be prescribed by law.
- (2) It shall be the duty of the State to protect citizens residing abroad as prescribed by law.

Article 3

The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

Article 4

The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the principles of freedom and democracy.

Article 5

- (1) The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.
- (2) The Armed Forces shall be charged with the sacred mission of national security and the defense of the land and their political neutrality shall be maintained.

REPUBLIC OF KOREACONSTITUTION EXTRACTArticle 6

- (1) Treaties duly concluded and promulgated in accordance with the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.
- (2) The status of aliens shall be guaranteed as prescribed by international law and treaties.

Article 7

- (1) All public officials shall be servants of the entire people and shall be responsible to the people.
- (2) The status and political impartiality of public officials shall be guaranteed as prescribed by law.

Article 8

- (1) The establishment of political parties shall be free, and the plural party system shall be guaranteed.
- (2) Political parties shall be democratic in their objectives, organization and activities, and shall have the necessary organizational arrangements for the people to participate in the formation of the political will.
- (3) Political parties shall enjoy the protection of the State and may be provided with operational funds by the State as prescribed by law.
- (4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring action against it in the Constitution Court for its dissolution, and, the political party shall be dissolved in accordance with the decision of the Constitution Court.

Article 9

The State shall strive to sustain and develop the cultural heritage and to enhance national culture.