

October 31, 1972

**Letter, C.V. Narasimhan to Ahmet H. Ozbudun,
containing "Main Points of the Draft Amendments to
the Constitution of the Republic of Korea" and "The
Special Declaration by President Park Chung Hee on
October 17, 1972"**

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NEWS FROM

cc. Mr. Kutakov
mMr. Hennig
Mrs. Mira

SEA

UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE
WASHINGTON, D.C. 20520

31 October 1972

Dear Ahmet,

The Permanent Observer of the Republic of Korea called on the Secretary-General yesterday and left with him two press releases, one containing the Special Declaration by President Park Chung Hee on 17 October and the other listing the main points of the Draft Amendments to the Constitution of the Republic of Korea. I am not sending these documents to you since I am sure you have these texts with you.

With kind regards,

Yours sincerely,

C.V. Narasimhan
Chef de Cabinet

Mr. Ahmet H. Ozbudun
Principal Secretary
UNCURK
Seoul, Korea



NEWS FROM KOREA

ISSUED BY THE OFFICE OF THE PERMANENT OBSERVER OF
THE REPUBLIC OF KOREA TO THE UNITED NATIONS
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October 27, 1972

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Main Points of the Draft Amendments
to the Constitution
of the Republic of Korea

Announced on October 27, 1972, Seoul, Korea

-- A Road to Stability, Prosperity and Unification --

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1. Basic Purposes of the Draft Amendments to the Constitution.

In the special declaration of October 17, 1972, President Park Chung Hee announced his determination to resolutely carry out a series of revitalizing reforms to build up a new structure which can best adapt itself to the needs of the newly developing situation.

Convinced that such a great reformation could not be accomplished through ordinary measures, the President promulgated a set of extraordinary measures, including the dissolution of the National Assembly and the suspension of certain provisions of the Constitution. Specifically, the Extraordinary State Council was requested to draft and announce a proposal for amendments to the Constitution by October 27, which would then be put to a national referendum within one month from the date of the announcement.

The draft amendments to the Constitution, just announced by the Extraordinary State Council, fully reflect the aspirations of the Korean people for peace, unification and prosperity as outlined in the presidential special declaration.

The basic purposes of the draft amendments are:

- To positively back up the south-north dialogue with a view to achieving the historic task of a peaceful unification of the fatherland:
- To effectively cope with the trials and challenges of the rapidly changing international situation, especially the changes in the existing order and balance of power in Asia as a whole and:
- To eliminate the causes for inefficiency and social disorder so that the resources of the nation may be united and channeled into maximum utilization for the national development and prosperity.

2. Major Points of the Draft Amendments to the Constitution.

The major features which characterize the draft amendments to the Constitution are as follows:

- (1) Peaceful unification -- A supreme national aspiration

The present Constitution does not refer in specific terms to the objective of national unification. After all, the present Constitution, various laws and ordinances and the present political structure itself were all fixed in the

cold-war era under the east-west bipolar power confrontation, when the south-north dialogue could not even be thought of in its realistic terms.

The draft amendments incorporate in the preamble the peaceful unification of the fatherland as one of the sublime national aspirations. Thus, a constitutional base is secured for supporting positively the south-north dialogue being presently conducted through two avenues at different levels, namely, the south-north Coordination Committee and the south-north Red Cross talks.

Moreover, a new constitutional organ called the "National Conference for Unification" is to be established to pursue the lofty mission of peaceful unification of the fatherland.

The President of the Republic is charged with the sincere responsibility for the peaceful unification and, upon assuming his office, is required to make an oath that he would faithfully execute the duties of his office for doing his utmost for the peaceful unification of the fatherland.

(2) Establishment of the National Conference for Unification
(hereinafter referred to as the "National Conference")

As mentioned above, in order to deliberate on important policies related to national unification, a supreme representative organ is to be established as the depository of the sovereignty of the people. The National Conference will become a representative body for national consensus on matters concerning national unification and will also be charged with other important functions.

The President of the Republic, under the draft amendments to the Constitution, is now to be elected by the National Conference for Unification representing the will of the people. In this manner, the President will also be acting as the most important national leader representing the will of the people aspiring for the peaceful unification of the fatherland.

The National Conference, which will comprise between 2,000 and 5,000 delegates elected by a direct ballot of the people, will also elect, upon the recommendation of the President, one third of the members of the National Assembly.

Finally, the National Conference will have power to discuss and confirm, by a majority vote of all the delegates to the National Conference duly elected and seated, any amendments to the Constitution proposed by members of the National Assembly.

(3) Powers of the President

The Republic of Korea faces at present the dual challenges of coping with the stark realities of a rapidly changing inter-

national situation and of continuing the dialogue with the north Korean communists who live under entirely different ideology and social structure from ours.

If we are to overcome these challenges and to ensure national survival and progress, we are obliged to secure a political structure which can promptly and effectively adapt itself to any extraordinary or emergent situation that may arise in the future. It is also imperative to provide the constitutional base upon which the President can, in time of emergency, take not only ex post facto measures but also effective preventive measures.

Under the present constitution, the President was regarded more as the head of administrative branch than as the head of state or the national leader who may act, if necessary, as the arbiter among the administrative, legislative and judiciary branches of the Government.

The proposed amendments purport in certain respects to place the President in a position in which he can exercise the "national powers" inherent in the President's responsibility to protect the independence, territorial integrity and national continuity when he deems it necessary to do so to safeguard and defend the nation.

Thus, under certain conditions, the President is empowered by the draft amendments to take emergency measures with regard to all state affairs in time of national emergency or when the national security is seriously threatened or is likely to be so threatened.

An added factor of stability and economy under the proposed amendments is the extension of the term of office of the President (as well as the members of the National Assembly) from four to six years. This is also aiming at economizing unnecessary expenses, time and energy to be wasted in too frequent general elections. Such a divided and developing country as this Republic cannot afford to hold expensive general elections every four years.

(4) Changes in the operation of the National Assembly

The extreme applications and stretching of the theory of checks and balances of the Government adopted in the present Constitution did contribute in no small measure to political unrest and discord.

The National Assembly kept its door open almost all the year round and Government officials including the Prime Minister and the Cabinet Ministers were deprived of their valuable time to perform their official duties by being kept at the National Assembly to answer interpellations which were more or less the repetition of same questions or were those far fetched from the problem at issue.

The draft amendments attempt to eliminate such waste and inefficiency by providing that the regular session is to be held once every year for the maximum period of 90 days and that an extraordinary session not exceeding 30 days may be held twice every year. An exception to this rule is the extraordinary session convened at the request of the President, in which case the National Assembly would deliberate and act only on the agenda submitted by the President.

At the same time, the tenure of office has been extended from four to six years from the view-point of stability and economy. (The members of the National Assembly who are elected by the National Conference will have three year terms.)

(5) Checks and balances between the administrative and the legislative branches

Under the present Constitution, while the National Assembly has the right to recommend to the President the removal of the Prime Minister or any State Council member (Cabinet Ministers) and the President has to agree thereto unless there is a special reason to be otherwise, the President did not enjoy the corresponding constitutional powers of dissolving the National Assembly under ordinary circumstances.

To make the checks and balances really workable, the proposed amendments will newly give the National Assembly the right of concurrence to the appointment of the Prime Minister by the President and also the power to adopt a resolution on the removal of the Prime Minister or individual Cabinet Ministers, and the President the power to dissolve the National Assembly.

In the case that a resolution for the removal of the Prime Minister is adopted, then the Cabinet is required to resign en masse.

(6) Utilization of national referendum as a means for the exercise of the sovereignty by the people

There is no provision for national referendum in the present Constitution except in the case of constitutional amendments. The draft amendments contain a new article in which it is provided that the President, when he deems it necessary, can submit important national policies to a referendum so that, when approved, he can more positively and powerfully implement such policies on the basis of a firm mandate from the people. On the other hand, the people will have the opportunity to exercise their sovereignty in the formulation of major national policies. This provision also conforms more to the fundamental democratic principle that the sovereignty rests with the people.

(7) Establishment of Constitution Commission

Under the present Constitution, the authority to decide with finality the constitutionality of a law rests with the Supreme Court. While this provision was based on the theory of judiciary

supremacy on matters of law, it has been derogatory to the genuine practice of the principle of division of powers in this country.

Therefore, the draft amendments propose to set up a Constitution Commission which will be composed of nine members appointed by the President for a six year term (three of them upon selection by the National Assembly and three upon recommendation of the Chief Justice of the Supreme Court). The Commission will be charged with the functions of deliberating and deciding on the constitutionality of a law or laws at the request of the courts, on impeachment of public officials and on the dissolution of political parties.

(8) Rights and duties of the citizens

The fundamental rights of the citizens such as no discrimination, due process of law, freedom of residence and of choice of occupation, privacy of correspondence, freedom of religion and of conscience, freedom of speech and press and of assembly and association, etc. continue to be guaranteed under the proposed amendments to the Constitution. The only difference is that while the present Constitution stipulates in general that the liberties and rights of the citizens may be restricted by law only in cases deemed necessary for the maintenance of order and public welfare, the draft amendments provide for such restriction, if any, by law in individual cases of specific liberties or rights.

(9) Constitutional amendments

A motion to amend the Constitution may be introduced under the present Constitution either by one-third or more of the members of the National Assembly, or by the concurrence of five hundred thousand or more of the voters eligible for the election of the members of the National Assembly. Such a motion is then to be decided upon by a vote of two-thirds majority in the National Assembly and, if approved, to be confirmed by a national referendum.

The draft amendments also provide for two channels of introduction: either by the President or by more than half of the members of the National Assembly. The motion for amendments introduced by the President is to be put to and confirmed by a national referendum. On the other hand, the motion by the members of the National Assembly is to be approved by a vote of two-thirds majority in the National Assembly and then to be confirmed by the decision of the National Conference.

(10) Other provisions

Besides those proposed amendments mentioned above, there are no substantial departures from or amendments to the present Constitution, in the executive, in the judiciary, in the multiple political party system, or in other fields of national activities such as national economy, except for improvements or revisions in the interest of maximum efficiency and full mobilization of national resources.

3. A free democratic system adapted to our own needs and reality

Throughout each article of the proposed amendments to the Constitution run deep the streams of the spirit and principles of a free democratic institution.

The establishment of the National Conference representing the will of the people for peaceful unification of the fatherland and the adoption of the national referendum system to give the people opportunities to exercise their sovereign rights in the formulation of major national policies -- these are illustrative examples of our determination to adhere as closely as possible to the democratic principle that the sovereignty rests with the people. The intent and efforts are found everywhere to inject new vigor and vitality into our present political structure so that a viable free democratic system, adapted to the realities of the present and the ideals of the future, can take a firm root on the soil of our Republic.

Utmost care has been taken to identify the causes for disorder, confusion, waste and inefficiency and to replace them with provisions oriented toward stability, efficiency and progress.

Thus, the draft amendments to the Constitution, if approved by the national referendum, will provide us with a Constitution best suited to our own needs and our own national aspirations. It will lead us to the path to peaceful unification of the fatherland, the fostering and development of a free democratic system best adapted to our soil and the establishment of an equitable and just economic order for us and our posterity.

- The End -

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NEWS FROM KOREA

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THE REPUBLIC OF KOREA TO THE UNITED NATIONS
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No. 12/72

October 17, 1972

The Special Declaration

by

President Park Chung Hee

on October 17, 1972

[Faint, mostly illegible text of the declaration follows, appearing as bleed-through from the reverse side of the page.]

The Special Declaration by the President of the Republic of Korea
Dated 17 October 1972, Seoul, Korea

(Translation)

Dear Fellow Countrymen:

Today, I wish to announce to my fellow countrymen an important decision of mine to make an honourable way in the course of national history. I am making this announcement in response to the ardent aspirations of the Korean people for the peace, unification and prosperity of our fatherland.

The international situation surrounding us has undergone profound changes.

I have made it clear for long that, to secure peace and prosperity for mankind, we should take a positive attitude toward the general trend of the relaxation of international tension. It seems to me, however, that in its careful analysis the easing of tension is merely another pattern of approach to the solution of pending problems by big powers and that unfortunately the relaxation of tension has not yet laid a firm footing in this part of the world.

Under these circumstances, we must guard ourselves against the possibility that the interests of the third or smaller countries might be sacrificed for the relaxation of tension between big powers.

There is now taking place a significant change in the balance of power among the big powers around the Korean peninsula.

I think that this change may, directly or indirectly, bring forth a dangerous effect on the security of our country, because it might result in transforming the existing order in Asia as a whole and also threaten to affect adversely the security systems which have so far served as the effective backbone for maintaining the peace in this region. No one can guarantee that there will never be a resumption of war in the area.

The latest changes in the international situation taught us a stern lesson that at no time in our past history were we more required to try to shape our future destiny with our own hands than we are today. It is under such circumstances that we took the initiative in opening the dialogue between the southern and northern parts of Korea as a homogeneous nation by breaking through the barrier of long distrust and separation for the last twenty-seven years with a view to forestalling the recurrence of a disastrous war and to exploring the ways and means for national unification.

However, this dialogue was never intended to reverse our basic policy. It is rather a reaffirmation of our determination to further solidify the foundations for the peaceful unification and prosperity which we have constantly pursued.

Two years ago, in my commemorative address on the occasion of the 25th anniversary of the national liberation on August 15, 1970, I put forward a proposal to the north Korean authorities with regard to the laying of groundwork for peaceful unification

of the fatherland. Through my proposal, I urged them to renounce the use of force and violence and, instead, to engage themselves in a bona fide competition with us for the sake of peace and prosperity. For more than two years since then, new developments have been witnessed in the relations between the south and the north.

After Director Lee Hu Rak of the Central Intelligence Agency made a visit to Pyongyang on May 2 this year according to my wish and exchanged views with the highest authorities there on various pending problems between the south and the north, including the method of approach to peaceful unification, the historic south-north joint statement was issued in Seoul and Pyongyang simultaneously on July 4, 1972. On the other hand, at the initiative of the national Red Cross Society of the Republic of Korea, the south and north Red Cross Societies held their first preliminary meeting at Panmunjom on September 20 last year and wound up the preliminary talks successfully on August 11 this year.

The formal talks were then held respectively in Pyongyang and Seoul, and the third formal talks are scheduled to be held in Pyongyang on the 24th of October and the fourth, in Seoul on the 22nd of November. Thus, the two avenues of dialogue have been arranged between the south and the north at different levels: the south-north coordinating committee and the south-north Red Cross talks. However, even such a dialogue has invited political or legal arguments on whether or not it be constitutional or legal.

Dear Fellow Citizens:

The dialogue between the south and the north amounts to that of 10 million brethren to find the whereabouts of the dispersed members of their families; it is also the dialogue of the 50 million Korean people for forestalling the scourge of another war and seeking the peaceful unification of the fatherland.

We must never allow another tragic fratricide to be committed on our beloved land. We must spare no efforts to have the 10 million dispersed families reunited at an earliest possible date, and the divided fatherland should peacefully be reunited by all means. These are the supreme tasks for our nation, upon the achievement of which we are staking the pride and honour of our entire people.

It is my firm conviction that, in order to accomplish these tasks, we should continue the dialogue with the north Korean communists even though they live under an entirely different ideology and social system from ours. Peace on the Korean peninsula, reunion of dispersed families and peaceful reunification of the fatherland - these are the groundwork for a great national resurrection and the grand design for an historic national development. These objectives can be achieved only through the sincere dialogue between the south and the north in which we are now engaged in compliance with the aspirations of the Korean people.

Fellow Citizens:

Disorder and inefficiency are still rampant around us. The

political circles in our country are obsessed with factional strife and discord. Moreover, even the supreme national tasks as above are apt to be utilized as targets of political attacks.

The irresponsible political parties already lost the sense of national mission and the representative institution was made the scapegoat of their political struggle. What could we really expect from these political parties and from the representative institution? Could they be entrusted with the national task of peaceful unification? Would they back up the south-north dialogue sincerely and positively?

We are now faced with a crucial time when we should move forward with the south-north dialogue more positively and courageously while overcoming the harsh challenges of rapidly changing international situations. What are most urgently required of us at this moment are constant wisdom, unflinching courage and inseparable unity. We must urgently make a readjustment of our political institutions in order that the difficult but invaluable south-north dialogue can most effectively be backed up by these elements of vigor and vitality and that we can positively adapt ourselves to the fast-changing international situation.

The present constitution, various laws and ordinances and the present political structure itself were all fixed in the cold-war era under the east-west bipolar confrontation. In those days, the south-north dialogue could not even be thought of in its realistic terms.

In the face of the current situation, however, it is more than natural that a series of revitalizing reforms should be carried out to build up a new structure which can best adapt itself to the needs of the newly-developing situation.

Dear Fellow Citizens:

Bearing in mind the necessity and inevitability of such a great reformation and facing squarely the political realities in this country, I have arrived at the conclusion that this sort of reformation cannot be materialized by ordinary means. I am convinced that if such reforms were to be attempted through ordinary means, it would only induce further confusion and, thus, would be detrimental to the efforts to fully support the south-north dialogue and to positively cope with the rapidly changing international situation around us.

As the President of this Republic representing the national conscience, I have made up my mind to faithfully accomplish the historical mission entrusted to me and to implement a structural reform by taking extraordinary measures - the structural reform which would conform to our realities and would best be suited for backing up the active pursuit of the south-north dialogue and for coping successfully with the rapidly changing situation surrounding us.

Today, I wish to candidly inform my fellow countrymen of my decision and to seek their deep understanding of the true inten-

tions underlying my decision.

I am quite confident that the extraordinary measures are inevitable and also linked directly with the future destiny of the nation. Irrespective of the position of any administration of our Republic, these measures are only aiming at safeguarding our national sovereignty itself, at preventing the recurrence of another war by way of a sincere and earnest dialogue which transcends political thoughts and ideology and also at achieving an honourable unification and resurrection of the 50 million Korean people.

Calling for greater unity among our people having faith in nationalism to achieve our aspiration for peaceful unification, I now proclaim to our fellow countrymen some extraordinary measures which suspend the effects of certain articles of the present constitution for approximately two months. This would provide a significant turning point for our history, leading to the formation of a great national united front that can strongly support the historic tasks ahead of us.

The extraordinary measures are as follows:

(1) As of 1900 hours on October 17, 1972, the effects of certain articles of the constitution shall be suspended; the National Assembly shall be dissolved, and the activities of all political parties and other political activities shall be suspended;

(2) The functions provided for in the suspended articles of

the present constitution shall be performed by the Extraordinary State Council. The functions of the Extraordinary State Council shall be carried out by the State Council under the present constitution;

(3) The Extraordinary State Council shall announce by October 27, 1972, the draft amendments to the present constitution with the view of peaceful unification of the nation. The draft amendments to the constitution shall be put to a national referendum and be affirmed within one month from the date of their announcement; and

(4) In the case that the draft amendments to the constitution be affirmed, the constitutional order shall be normalized by the end of this year at the latest in accordance with the procedure set forth in the constitution as amended.

Dear Fellow Citizens:

In proclaiming to our fellow countrymen the extraordinary measures enumerated above, I wish to express my profound conviction that the free democratic institution in this country should be fostered and developed more soundly, substantially and efficiently. We can hardly find any other political system better than the free democratic one. Yet, the free democratic system, being superb, may be more vulnerable than any other political system if it is not armed with its ability to uphold itself.

I am now putting into effect these reforms to pave the way for peaceful unification and prosperity by making the democratic institution a truly viable system capable of safeguarding itself

and of further growth and development. I am also doing so to back the south-north dialogue on the basis of a strong and viable democratic institution.

I am convinced that, out of their aspiration for national unification and prosperity, all of our countrymen will support wholeheartedly the extraordinary measures I have just proclaimed. Therefore, I believe that these reforms will be smoothly carried out within the prescribed period of time.

However, in the case that the proposed amendments to the constitution are not approved in the national referendum, I will take it as an expression of the will of our people against the south-north dialogue and, therefore, will seek another new approach to the task of national unification.

It is made quite clear that the extraordinary measures as above are fundamentally designed to reform the political structure. Accordingly, there will be neither hindrances nor changes in the daily lives and activities of the people.

I now call upon all of the government officials to renew their sense of mission as public servants to the people. I urge them to discharge their duties with further diligence and sincerity.

The Government will pay a special attention to the establishment and maintenance of the social and public order of the nation in order to ensure a peaceful and happy life for the people. The freedom of economic activities will also be firmly guaranteed.

The new village movement (Saemaul Undong) will be given the top priority in the course of implementing our national policies

and, through this movement, a fresh social atmosphere will be fostered so that all the irrationalities in our society may be rectified voluntarily by the people. Welfare policies will also be actively put into practice.

All existing foreign commitments will continue to be honoured and, especially, foreign investments will further be encouraged and guaranteed.

I also wish to point out that it is the position of the Government to continuously push forward the south-north dialogue to ensure peace on the Korean peninsula and to achieve the supreme national task, namely, the peaceful unification of the fatherland, even during the period when the reforms are being carried out pursuant to the above-mentioned extraordinary measures.

Dear Fellow Citizens:

Reiterating the necessity and inevitability of the extraordinary measures, I wish to express my sincere hope that, looking toward the everlasting future of our nation, my fellow countrymen will make objective appraisal and judgment of the measures tomorrow rather than make rash criticism and slanders against them today.

For my part, I have long been prepared to offer up my own self to the altar of national unification and resurrection. In making this special declaration, I only pray for the healthy and sound development of our democratic institution and for the glorious day of national unification. I hope and trust that this prayer of mine is also that of my fellow countrymen.

Let us march together united as one until the very day when our prayer comes true. Let us keep forever our democracy and prosperity in full bloom in the glory of national unification of the fatherland.