

Changes to North Korean Laws around the Time of Kim Jong Il's Death and What They Signify

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Around the time of Kim Jong Il's death on December 17th 2011, we noticed a reorganization of North Korean law which proceeded in two broad areas: education-related laws and economy-related laws. The changes to the education laws are aimed at fostering the manpower necessary to construct a *kang-seong-dae-guk* ("strong and prosperous great nation"), a slogan that has been consistently promoted by North Korea, or the slightly down-graded *kang-seong-guk-ga* ("strong and prosperous nation") mentioned this year's New Year's Editorial. The changes to economic laws demonstrate that the Kim Jong Eun regime's administrative plan is to build the country into an economic power through acquisition of foreign currency and economic revitalization.

〈Figure〉 North Korean Laws Enacted or Revised in November–December 2011

Law	Date Revised or Enacted	Notes
Higher Education Law	Enacted 12-14-2011	
Rason Economic Trade Zone Law	Revised 12-3-2011	Previous law enacted 1-27-2010

Hwanggeumbyeong and Wihwa Island Economic Zone Law	Enacted 12-3-2011	
Foreign Enterprise Law	Revised 11-29-2011	Previous law enacted 9-26-2007
Foreign Investment Enterprise Labor Law	Revised 12-21-2011	Previous law enacted 1-21-2009
Foreign Investment Enterprise Finance Management Law	Revised 12-21-2011	Previous law enacted 10-2-2008
Foreign Investment Enterprise Bankruptcy Law	Revised 12-21-2011	Previous law enacted 4-19-2000
Foreign Investment Law	Revised 11-29-2011	Previous law enacted 8-19-2008
Tax Law for Foreign Investment Enterprises and Foreigners	Revised 12-21-2011	Previous law enacted 8-19-2008
Foreign Investment Enterprise Registration Law	Revised 12-21-2011	Previous law enacted 8-4-2009
Foreign Investment Enterprise Accounting Law	Revised 12-21-2011	Previous law enacted 4-29-2008
Foreign Investment Enterprise Banking Law	Revised 12-21-2011	Previous law enacted 11-7-2002
Land Lease Law	Revised 11-29-2011	Previous law enacted 8-19-2008
Joint Venture Law	Revised 11-29-2011	Previous law enacted 8-19-2008
Joint Enterprise Law	Revised 11-29-2011	Previous law enacted 8-19-2008

In the following paper we look at the key characteristics of the laws revised or adopted in November and December 2011, around the time of Kim Jong Il's death.

First, in terms of the legislative process, the Higher Education Law which followed the enactment of the Elementary Education Law (1-19-2011) can be understood as part of a continuing trend of specialization in North Korean law. There is already the precedent of the Socialist Labor Law, which was divided into the Labor Quota Law (12-10-2009) and the Labor Protection Law (7-8-2010). This is the case also in laws providing protection for the weakest classes; for instance in addition to the Protection of Disabled Persons Law and Protection of the Aged Law, the North has adopted the Law Guaranteeing Women's Rights (enacted 12-22-2010) and the Law Guaranteeing the Rights of the Child (enacted 12-22-2010). In addition, the revisions to the Economic Management Law reveal that the controlling power and scope of laws are slowly but surely being expanded in North Korea's own way.

The Higher Education Law, comprised of seven chapters and sixty-eight articles, was enacted by the Supreme People's Committee on December 14th 2011. We cannot

yet confirm the specific contents of this law since its articles have not yet been made public. But based on the contents of the Elementary Education Law which was enacted in January of last year, we can deduce that it is probably aimed at fostering the manpower necessary to build the North's proverbial "strong and prosperous nation." Compared to the existing Education Law, the Elementary Education Law puts greater emphasis on cultivating human resources, particularly in terms of base science and technology education as well as foreign language training. In this year's New Year's Editorial North Korea emphasized its achievements in base technologies such as CNC (Computer Numerical Control), IT, nanotechnology, and biotechnology, while setting the goal of raising educational standards in line with the demand for a "knowledge economy era." By enacting the Elementary Education Law and the Higher Education Law the North has set out to cultivate the manpower needed to achieve this task.

Laws related to the economy can be divided into those pertaining to special economic zones and those pertaining to foreign investment. Particularly intriguing are the seven laws related to foreign investment, including the Foreign Investment Enterprise Labor Law, which were newly revised immediately after Kim Jong Il's death. By revising the Rason Economic Trade Zone Law and enacting the new Hwanggeumyeong and Wihwa Island Economic Zone Law, North Korea sought to make its economic zones more appealing to foreign investors, and the revisions to the foreign investment laws were aimed at providing the necessary systemic backbone to support this.

The Rason Economic Trade Zone Law was broadly revised. Compared to the previous version which had 45 articles, the revised law has expanded to 83 articles. The revision particularly added a new provision (Article 4) enabling foreign corporations, individuals, and economic organizations to invest in Rason. The revisions greatly strengthen systemic guarantees in order to attract foreign investment. First, provisions were added forbidding investors' property from being nationalized or guaranteeing compensation in the event that property is nationalized, as well as provisions guaranteeing personal safety (Articles 7 and 9). Second, greater emphasis has been placed on international standards. Provisions were added referring to "international conventions" as a managing principle of special economic and trade zones (Article 23) and decreeing that management practices at production sites must observe those conventions (Article 35). In regard to solving disputes through arbitration, a new provision stipulates that disputes must be handled according to the rules for arbitration set by the International Arbitration Committee (Article 82). Third, to preserve the independence of the

Rason Economic Trade Zone an independent management council was established and several new provisions were added regarding its operation (Articles 24–28). Fourth, to guarantee stable business operations by foreign investors, land lease terms have been set at 50 years (Article 16). The previous law did not specify a time period. Also, unlike the old law that only allowed foreign investors to rent real estate, the new law now allows them to purchase ownership rights on buildings (Article 17). Fifth, the provisions on conflict resolution were broadly refined. In contrast to the previous law, which had only one such provision, the revised law has four articles regulating the processes of petition, conciliation, arbitration, and trial (Articles 80–83).

While the Rason Economic Trade Zone regulates a broader scope of international trade, investment, and finance (Rason Economic Trade Zone Law Article 1), the fundamentals of the Hwanggeumyeong and Wihwa Island Economic Zone Law focus on the communications industry, light industry, agriculture, commerce, and tourism. The Wihwa Island Economic Zone is to be developed according to the Wihwa Island Development Plan (Hwanggeumyeong and Wihwa Island Economic Zone Law Article 1). There are a number of provisions which show how the development methods differ according to the character of each project (Article 13) and the concrete regulations also differ slightly. But the overall objective and gist of all of these laws is the same: to revitalize the economy by acquiring foreign investment.

The revised Foreign Enterprise Law includes a new clause stipulating that, as part of the plan for attracting investment from foreign industries, “some recommended foreign enterprises may be exempted from corporate income taxation for a certain period of time” (Article 24). Furthermore the provision which formerly stipulated that relevant institutions may “examine” (*keomyeol*) the investment and taxation conditions for foreign investment enterprises had its wording watered down a notch, using a somewhat weaker term (*ryohae*) which means to assess a condition or state of affairs (Article 26). On the other hand they appear to be exercising some discretion about the establishment of new foreign enterprises. Where the previous law stated that plans for foreign enterprise creation must be approved or rejected within 15 days, the new law has expanded this to 30 days (Article 8).

The revision of the Foreign Investment Enterprise Bankruptcy Law expanded the existing law to apply to foreign investment banks (Article 7). Also, while the previous law specified that the settlement committee “can submit” a bankruptcy filing to the relevant judicial court, the revised law said that the filing “must be

submitted” (Article 11). This seems to reflect an effort to prevent influence by other foreign investors by bankrupting foreign investment businesses with problematic property holdings.

With regard to the limits on registered capital possessed by foreign investment banks, the old Foreign Investment Banking Law explicitly stated that foreign investment banks must have “the equivalent of 2.25 billion or more in North Korean won in convertible foreign currency,” whereas the revised law simply stipulates “a certain amount of registered capital” without specifying the precise amount (Article 18). This was probably done in order to act with greater flexibility in order to attract more foreign investment banks. Meanwhile, whereas the old law stipulated four conditions that were grounds for special consideration regarding foreign investment banks, in the revised law this appears to have been reduced to three (Article 28).

As for the other law revisions, it is not known for certain what was revised since the provisions of the original laws were never made public within the country. However, we can postulate that they too were probably revised in part with the goal of attracting foreign investment.

North Korea’s reorganization of its economic laws alone will not be enough to provide the necessary conditions for foreign investment and economic revitalization. They will need to work to improve the various factors considered obstacles to private investment in North Korea, such as the unique character of the North Korean system, the dearth of information, the lagging investment infrastructure, the lack of highly trained personnel, inadequate communication systems, limitations to business management, etc. They also need to improve their relations with other countries. In this regard the North had talks with the US in Beijing last month on Feb. 22–23 at which both sides agreed on a 6–point deal on preliminary measures for denuclearization and food aid for the North. It will be interesting to see if North Korea takes this opportunity to assume a more forward–looking stance on denuclearization in order to achieve its goals in foreign investment and economic revitalization.