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Remaining Challenges for Institutionalization of Inter-Korean Relations in Panmunjom Declaration

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The Panmunjom Declaration and follow-up agreements should be implemented and inter-Korean dialogues be held on a regular and permanent basis for the institutional development of inter-Korean relations. In fact, the level of inter-Korean relations should be elevated by installing a joint liaison office in the Kaesong Industrial Complex and a liaison office and permanent mission both in Seoul and Pyongyang. Whether the Panmunjom Declaration requires a ratification of the National Assembly should be decided through the authoritative interpretation by the Ministry of Government Legislation because of the conflicting view over the interpretation. Therefore, it is necessary to specify in the related laws that the agreements reached between the two leaders and inter-Korean agreements on a peace regime should be subject to the ratification of the National Assembly.

Implementation of Inter-Korean Agreement and Establishment of Regular Dialogue

For a couple of decades, a number of agreements have been signed between Seoul and Pyongyang. Those agreements, however, have often been neglected and abandoned as the political climate on the Korean Peninsula has changed over time. Given the track record, signing of a new agreement alone will not guarantee the development and institutionalization of the inter-Korean relations. Instead, the existing agreements should be abided by. Each of the 13 paragraphs of the Panmunjom Declaration calls for follow-up agreements between the two Koreas. There is a need to enhance the practical effectiveness and normative force of inter-Korean agreements in general by complying with and implementing the Panmunjom Declaration and its follow-up measures.

In the Panmunjom Declaration, South Korean President Moon and North Korean Chairman Kim agreed on holding regular meetings and President Moon's visit to Pyongyang this fall. Before the Panmunjom summit, the two Koreas have had two summit meetings, both of which remained as one-time event and agreements. To foster inter-Korean relations, a summit or prime ministerial meeting needs to be held on a regular or permanent basis, alternating venues such as Seoul, Pyongyang, Jeju Island and Panmunjom. To implement inter-Korean agreements, ministerial or working-level meetings should also take place in the fields of economy, healthcare, environment, defense and security, art and culture, etc. If a series of inter-Korean dialogues are able to deliver fruitful results, joint committees could be established and operated in each field.

Establishment of Permanent Mission

Political entities that have yet to establish official diplomatic ties usually build external relations through interest section, liaison office, or permanent mission. At the moment, there are no established international norms on how to install and operate those channels. Yet, in practice, a permanent mission seems to be the most

advanced form of its kind in terms of building external relations, followed by liaison office and interest section.

In the Panmunjom Declaration, the two leaders agreed to set up a joint liaison office in Kaesong, North Korea. This decision is a positive move in multiple aspects: a preparation for inter-Korean economic cooperation that may resume in the future; and also a demonstration of the two sides' willingness to develop inter-Korean relations by jointly addressing the issues that may arise once South-North cooperation restarts. To advance inter-Korean ties and bring the peninsula one step closer to peaceful unification, the two sides need to focus on one goal — the normalization of inter-Korean relations. In this regard, the agreement to set up a joint liaison office in Kaesong appears to be a tentative measure. Seoul and Pyongyang will need to elevate the level of their diplomatic relations through regular meetings and shuttle diplomacy. It is worth considering the establishment of a permanent mission in Seoul and Pyongyang as a step forward from the Kaesong liaison office. Also, if the two sides succeed in signing a basic agreement built on achievements of past meetings, the agreement should include establishing a permanent mission and appointing an ambassador-level official as its permanent representative.

Amendment of Provisions that Require Legislative Consent

In South Korea, a controversy exists over whether the Panmunjom Declaration must seek approval from the National Assembly. The Development of Inter-Korean Relations Act of South Korea (hereinafter referred to as “the Act”) stipulates that the National Assembly shall have a right to consent to the President's conclusion and ratification of inter-Korean agreement, which either places heavy financial burdens on the government or nationals, or is related to legislative matters, such as enactment and revision. In fact, the Panmunjom Declaration illustrates that South and North Korea agreed to actively implement the projects previously agreed in the 2007 October 4 Declaration. As a first step, the two sides agreed to adopt

practical steps toward the connection and modernization of the railways and roads on the eastern transportation corridor as well as between Seoul and Sinuiju for their utilization. Some argue that this clause constitutes “agreements with heavy financial burdens” that shall be approved by the National Assembly as stipulated in the Act. Others, however, believe that the Panmunjom Declaration contains only vague and unspecific language on the provision of financial burdens, and fails to specify who is subject to the burden so that it does not require legislative consent. Therefore, related measures should be implemented after going through the authoritative interpretation by the Ministry of Government Legislation. A similar kind of controversy could repeatedly emerge if inter-Korean summits continue to take place. To avoid such controversy in the future, it is recommended that the Act be amended to clarify that summit-level agreements between the two Korea are required to obtain legislative approval. ©KINU 2018

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