

# **REFORM IN DEFENSE SECTOR PROCUREMENT AND THE ROLE OF CIVIL SOCIETY; AN EXPERIENCE OF KOREAN CIVIL SOCIETY FOR DEFENSE SECTOR PROCUREMENT MONITORING**

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## **I. Introduction**

The objective of this article lies in introducing the Korean case of reform in defense procurement and sharing the experiences of Korean civil society for defense sector procurement monitoring. At the same time, it must be noted that the present paper is restrictively focused on the scope of its main topics, being viewed from the perspectives of civilian participation and transparency, not from the viewpoint of a professional in the national defense procurement.

To provide a brief overview of the present paper, to begin with, it keeps an eye on the initiative by the civil society as a key factor to enforce the incorporation of the Defense Acquisition Program Administration (hereinafter DAPA), the national agency for defense acquisition newly established in January 2006, and the ombudsman system, notwithstanding the cumulative problems disclosed in the acquisition system for the national defense in the past. In light of the official representations of the DAPA, the present contribution attempts to reexamine and reevaluate the contents carried from those points of view, in terms of the ombudsman system and the civil society. Furthermore, an attempt is also made to discern the limitations and tasks given to DAPA. Next this article deals with the DAPA Ombudsman including its characteristics, meanings, achievements, limitations, tasks and lessons.

In addition to the above, the latter part of this contribution argues that the experiences that can be gained from the DAPA and the ombudsman system should be vitally utilized as we move forward in terms of enhancing transparency in all segments of the national defense sector. To support the assertion, it introduces the international recognition of Korea's DAPA and its ombudsman system, while making comparisons to the global standards of integrity and transparency in the field of national defense. In closing,

the present contribution briefly describes the author's impression during his posting as the Representative Ombudsman during 4 years.

## II. Background

I would like to start by introducing the background to the establishment of DAPA, in the sense that DAPA's ombudsman system is not separable from DAPA itself. Briefly speaking, as the most outstanding problem in the conventional acquisition system for national defense stems from the lack of transparency, the introduction of the ombudsman system involves demand from the civil society, and strong anti-corruption initiatives.

### 1. Problems of defense acquisition program

The DAPA raises four subjects as problems with existing defense projects.<sup>1</sup> These are 1) lack of transparency in the process of decision making, and the lack of monitoring system, 2) complex structure for decision making, and inefficiency of defense acquisition by giving too much emphasis to a particular branch of the military (mainly the army) in the use of limited resources, 3) lack of professional specialization due to lack of training and application of systematic and expert manpower, 4) weakened competitiveness in the defense industry due to the management of domestic defense industry through protection and control oriented administration. In his contribution to 'The Activity Report of the Defense Acquisition Program Administration Ombudsman'<sup>2</sup> (hereinafter Report), titled '<Ground-breaking significance of the DAPA, and goals for "the second leap forward">', Kim, Jong Dae<sup>3</sup> suggested a 'phenomenon' of importing weapons at the end of a government administration, the concentration of power into a particular branch of the military (the Army) and a lack of systematization in the structure of decision-making as problems in the national defense acquisition prior to the initiation of the DAPA.

Considering the problems with the defense acquisition projects from the prospective eyes of the public rather than from the viewpoint of professional experts, 'corruption related to the purchase of weapons'

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<sup>1</sup> Please refer to "The White Paper on the Establishment of Defense Acquisition Program Administration" (2006, Seoul, Korea) and <http://www.dapa.go.kr/eng/index.jsp>.

<sup>2</sup> Available at <http://www.dapa.go.kr/internet/civil/ombudsman/references.jsp> and <http://ti.or.kr/xe/195588#0> in English.

<sup>3</sup> Mr. Kim, Jong Dae is the editor of the "D&D Focus", monthly magazine on diplomacy and defense.

might be remembered first most of all. The acceptance of huge bribes by the former President and the misdeeds of the Yulgok project did play a decisive role in forming a negative perception among the public. From this perspective, it might be inarguable that lack of transparency is the biggest issue with regard to national defense-related projects. It is apparently clear that DAPA is advocating 'enhancing transparency' as the reason for commencing DAPA. As for the biggest reason for the lack of transparency in the field of national defense, Han, Jeong Mu<sup>4</sup> points out that there is little transparency in the process of decision-making, and a lack of external supervision. Kim, JD defines this as 'national control over the system of defense acquisition.'

#### 2. Anti-corruption initiatives by civil society

Change and reformation will not be realized simply by recognizing the cause of problems. There must be the power to resolve the problems from the root. In terms of anti-corruption efforts, one can find Korea's unique 'initiatives driven by the civil society' behind the story.

One of the most important factors in the course of the anti-corruption movement in Korea is the 'anti-corruption initiatives propelled by the civil society'. The three most significant accomplishments of the anti-corruption movement from the public sector are the legislation of the anti-corruption law, the incorporation of institutions for the prevention of corruption, and the opening of DAPA. All of these outcomes have been achieved through initiatives that began in the civil society, led to social pressure on the basis of public support, and were finally manifested in laws, institutions and systems. The anti-corruption initiatives led by the civil society in Korea are considered a rare case in the international community.

Of course, in the field of defense projects, while the initiative of civil society was comparatively weak due to a lack of professional specialization, the civil society played an important role in relation to making bills to reforming defense projects at the stage of launching DAPA, and this represents anti-corruption initiatives by the civil society.

### III. DAPA

#### 1. Reform Process as for Defense Acquisition Program, and the Role of Civil Society

Encouraged by the demand for reforms in coalition with political consensus, the "Committee for Improving the National Defense

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<sup>4</sup> Mr. Han, Jeong Mu is the ombudsman of DAPA, and was former inspector of the Bureau of Audit and Inspection.

Acquisition System” was established under the direct control of the National Affairs Coordination Office of Prime Minister, as of March 5<sup>th</sup>, 2004. Its constituent members were: the Chief of the National Affairs Coordination Office, who took the directorship, 9 vice-ministers from the relevant governmental departments, including the Ministry of National Defense, the Planning & Budgeting Bureau, the Korea Independent Commission Against Corruption and so on, and 6 appointees from the academia, journalists and NGOs. Kim, Jong Dae described this ground-breaking composition as ‘the first nation-level arena capable of fundamentally discussing matters of acquisition’.

As such, the pan-governmental endeavors to seek full-scale reforms in the acquisition system for the national defense were finally concluded to bear the Defense Acquisition Program Administration (DAPA) for the purposes of improving integrity, efficiency and professionalism as of the date of January 1<sup>st</sup>, 2006. Legislative support subsequently followed; by amending the Governmental Organization Law, the DAPA is legally positioned as a sub-division of the Ministry of National Defense, and the Defense Acquisition Program Act was newly enacted to stipulate the detailed acquisition procedures and system.

With regard to this series of reforms, Kim, JD pointed out that, “though the righteousness of the direction of reforms had to be admitted,” there were new types of problems and limitations, because “enforceable reforms short of ‘voluntary affinity’ that were not accompanied by a deep-rooted restructuring from the bottom of the military would inevitably give rise to repulsion after the regime shift took place.”

Encircled by this historicity, the private individuals, including the civilian committee members who had participated in designing the reform draft, raised a wide spectrum of viewpoints in an attempt to systematically safeguard transparency and integrity; these included a written acknowledgement of the code of conduct, information disclosure, ombudsman system, a limit on displacement of the retired from the military, and so on.

## 2. Overview of the DAPA

Launched on January 1<sup>st</sup>, 2006, DAPA is the governmental organization in charge of improvement/upgrading projects for defense competence, procurement of military supplies, and cultivation of relevant military industries. It aims to “overcome the people’s distrust, realize customer-oriented administrative affairs handling procedures, and provide the fittest administrative services for firms concerned, while providing the best armament equipment that the military needs in a timely manner, by pursuing quality in military supplies and strengthening transparency in acquisition procedures.”

As of 2009, DAPA consists of 826 public officials and 840 in-service

military officers (336 from the Army, 277 from the Navy and 279 from the Air Force), totaling 1,666 employees. Its sponsoring institutions include ADD (with a size of 2,565 employees) and DTAQ (with a size of 560 employees). Based on 2009 budgeting allocated to the DAPA, which amounts to KRW10 trillion, 965 billion, the allotment to the Defense Power Improvement Programs reaches KRW8 trillion, 614.7 billion.

### 3. Transparency-related Systems as for the DAPA

The rationale in the foundation of the DAPA lies in 'transparency' as its core principle, and accordingly seeks the betterment of the relevant systems. The first showcase model is the 'plan for sustainable improvement oriented toward transparency,' set forth in 2009.

The key department playing a leading role in connection with transparency as the supreme task is 'the Defense Acquisition Program Execution Committee' under DAPA, which is deemed as the highest decision-making organization to cover major weaponry purchase projects. It is headed by the Minister of National Defense as chairman, under which the DAPA principal takes office as a vice chairman, in addition to 17 committee members composed of officials dispatched from the Ministry of National Defense and other military-related institutions, as well as civilian experts. It must be noted that its composition lays much weight on the functional supervision performed by the external experts, which is conceptualized as being clearly different from the conventional systems.

Disclosure of information indicates a system in which information created or obtained and managed by a public organization is disclosed to the public at the request of a citizen, or spontaneously in advance. The DAPA has disclosed total 36,000 items of information so far, and has disclosed information regarding important policies, which it produces during project decision-making processes before a citizen makes a request for disclosure, thus satisfying the right of citizens for knowledge, and making an effort to satisfy the curiosity of the public regarding the administration.

The Integrity Pact System is a procedure in which a public worker gives his or her pledge to execute work duties in a fair and transparent way in accordance with the procedures defined by the relevant law, to avoid requiring or receiving extra money or other benefits, and to maintain the secrecy of particular information related to defense programs, and through this, the public worker assumes a strict responsibility for improper behaviors. At the time of the enforcement of Defense Acquisition Program Act, punishments for corrupt corporations and government officials were strengthened, and a national consensus on the need to eliminate corruption was established due to situations such as the OECD Anti-bribery

Convention Progress Report; and accordingly, civil servants belonging to the Defense Acquisition Program Administration, members of the Defense Acquisition Program Execution Committee, executives and employees of subsidiary organizations, and contractors and institutes participating or bidding in defense program were required to submit pledges.

#### 4. Meanings of the DAPA Foundation and Its Achievements

According to Kim, JD, the most outstanding meaning in the course of founding the DAPA was the organization of 'the Committee for Improving Defense Acquisition Systems' in an attempt to get into detail regarding the overall problems in the national dimension. "The acquisition system entered into a new stage, sparked by its organization, of getting rid of the remnant practices that excessively adhered to the regime, as the slave to power," he said. By doing so, the acquisition system became converged to the scope of ordinary national administration, differentiating it from the conventional approach that permitted the existence of a 'sacred boundary of inviolability'.

Under a similar context, he used symbolic words for the national interest and the military interest in his description to determine the meaning of DAPA's foundation. Another elemental importance is that the foundation replaced the traditional dependence on a handful of selected military elites with a regulation-based structure in accordance with the newly enacted Defense Acquisition Program Act. The achievements argued by the DAPA itself focused on 'transparency, professionalism and efficiency, as well as improvement of competitiveness,' among which 'realization of accountability for the defense programs by way of improving transparency' was ranked in the first position. It is also meaningful that the foundation of DAPA was a turning point to rapidly reduce corrupt occurrences; according to the press release, the incidents that occurred during 2006-2008 were recorded as 'zero' cases, compared with 26 cases in 2004 and 16 cases in 2005. At the point, Choe, Kang Wook<sup>5</sup> addressed that "not even one case was raised in the course of investigating civil petitions with regards to bribery and/or malfeasance, which must be counted as a highly meaningful achievement."

The accomplishment also raised the international credibility and trustworthiness of Korea's defense sector, even being adopted as an exemplary model case by OECD. The positive perception was accelerated by an incrementally bigger volume of export of military armaments due to increased expertise and advanced technology,

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<sup>5</sup> Mr. Choe, Kang Wook is the ombudsman of DAPA and lawyer of the law firm 'CheongMaek'.

according to Lee, Sun Hi<sup>6</sup>.

The following, though somewhat lengthy, is cited from Kim, JD, and is a good reference to account for the functional achievement by the DAPA;

Unlike the past, the influence-peddling corruption is in a state of decay, with cases of scandal involving high-ranking officials being very rare. In fact, it is not too much to say that the field of military supply in Korea is already leading the world in terms of transparency. The image of Korea as 'free from military corruption' surely upgrades the country's branding externally, and maintains the people's trust in the military internally. This must be marked as the most remarkable achievement in the 4 years since the foundation of DAPA. Now, it is no longer necessary to indulge in non-official lobbying using persons with connections to high-ranking military officials, or to raise slush funds for political lobby. How far is this from the scene in which the ex-minister of national defense and military figures were jailed, one by one, in the past? The enhanced transparency forbids illicit attempts by international weapon lobbyists, called 'merchants of death,' confining them to making trial or hit-n-run deals. Thanks to our strict acquisition system, the influence of players such as Adnan Khashoggi, the legendary weapons trader from Turkey, has weakened, and the power of those who dominated the acquisition business through close relationships with the core of the past regime has faded. The "six families" who completely controlled the weapons market in Korea in the past are a fading legend.

##### 5. Limitations and Tasks

Lee, SH in his contribution to the Report, demonstrated that the most notable task is the responsive reaction against the speed of obsolescence in the weapons system caused by rapidly-upgraded technology development, and the internal challenges include financial burdens in budgeting, and the unstable characteristic of the local acquisition environment and its system. In this situation, the detailed action plans can be defined as scientific planning for needs, construction of a new-concept acquisition system with the highest competitiveness in the world, reorganization of the acquisition system to be compatible with global standards, and developing more competent experts and specialists.

Meanwhile, Kim, JD takes a slightly different standpoint than Lee, SH with regard to the future-oriented assignments given to the DAPA.

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<sup>6</sup> Mr. Lee, Sun Hi is the ex-Commissioner of the DAPA and currently an invited professor of KAIST.

In particular, in his argument on 'setting coordinates toward smart reforms,' he emphasized that Korea's export of weapons system must align itself with internationally acceptable viewpoints and standards. Secondly, the DAPA must be required to construct 'participatory and coordinative leadership' that includes the diversified interests of its partner institutions and stakeholders. Finally, the DAPA must correspond to the demands of the time, which can be summed up as 'total efficiency in all segments of estimation-acquisition-operation-maintenance,' and not been just restricted to the advancement of the acquisition system itself. For this, he recommended that 'convergence of strategic minds be required in a way that doubles up the capability of creativity and innovation.'

To narrow it down in discussing limits and tasks with regard to the aspect of transparency, it must be pointed out that, while admitting that there are many transparency-related systems under the operation of the DAPA, an integrated upper system must be prepared in order to inter-modulate, inter-rectify and inter-improve the existing sub-systems scattered throughout the whole. In addition, the Written Acknowledgement on the Code of Conduct/Ethics must also be put into actual practice.

Finally, it is still meaningful to look through the contents that have been presented on the international stage, including international meetings, as follows:

1) Need to increase share in perception of the achievements

With the valuable achievements of DAPA and its ombudsman system, it is a pity that DAPA has not sufficiently shared in the perception of the achievements arising from them, both domestically and abroad. Now is the time to draw out a strategic plan to make the span of sharing wider.

2) Systematic summary of achievements

In connection with the topic of 'expansion of perceptive share of the achievements,' the first task starts with 'qualitative/quantitative estimation of the records achieved.' Regardless of the political determinants encircling the DAPA, it is urgently necessary to make service contracts with external statistical specialists in order to formalize the achievements based on objectivity, fair estimation and solid theory. If this is done, those materials with data reliability can be utilized to draw attention from the relevant researchers, as well as the public.

3) Strengthening of international ties

In light of the potent possibility that the successful example of Korea's reform in the military sector can be beneficial to other countries, it might be a useful tool to promote international ties more strongly. In other words, it could be an initiative for us to actively create an international coalition framework, during which the brand value of the DAPA can be upgraded. Furthermore, such a

strengthened gesture to the global village may lead to economic ties, primarily from the defense industry as an initiator for growth.

#### **IV. DAPA Ombudsman**

##### **1. Introduction**

The DAPA Ombudsman is a systematic setting that was incorporated for the DAPA to enhance the level of transparency, and is the first legalized ombudsman system in the history of Korea; the legal basis for which is found in Sec. 4 of Article 6, the Defense Acquisition Program Act, which stipulates that “the Commissioner of the DAPA is entrusted to establish and operate the ombudsman system, in a way that enhances transparency and fairness, for the purpose of surveying civil petitions/appeals and thereafter taking proper steps such as due diligence, inspection and other appropriate rectification in the course of its intrinsic commitment to the defense acquisition programs.” More specifically, its objectivity and role are to investigate the petitions raised on behalf of the people, and request the DAPA principal to take remedial actions, with the aim of enhancing the transparency of defense-related projects/programs.

For more information regarding its organizational composition, the qualification of its members, terms of office, duties and rights, handling procedure, etc., please refer to Part 2 of the White Paper.

##### **2. Characteristics and meanings**

As explicitly stated by many scholars the system defines its ultimate goal as to protect the people’s rights through surveillance and supervision of the administrative power. However, the definition of ‘the people’s rights’ therein is highly comprehensive, being inclusive of multiple fields such as human rights, environmental protection, the prevention of corruption, education, safety and welfare. Therefore, the specific definition of the Ombudsman System set by the DAPA, being set apart from the ordinary conception, has the characteristic as ‘the ombudsman for monitoring by civil participation’ by putting the top priority on ‘transparency’. Of course, this kind of objective can be attributed to the reason for being in the DAPA, i.e. the enhancement of transparency.

Another key differentiating factor of the DAPA ombudsman system is that all of its constituents are composed of persons from the civil society; for example, considering the present members constituting the system, they have come from Transparency International-Korea, the Audit & Inspection Association (a gathering of retired inspectors from the Board of Audit & Inspection of Korea) and People’s Solidarity for Participatory Democracy, respectively. Their occupations are activist for civilian organization, retired inspector, and lawyer.

In this sense, their legal status is civilian with no receipt of

remuneration, but their activity is regulated in a manner equivalent to that of the public officer. According to Article 60 of the Defense Acquisition Program Act, the legal status of the ombudsman is quasi-equivalent to that of a public officer in terms of the Criminal Law and other subordinate ordinances, the dualized application of which forms another characteristic in DAPA's ombudsmen. Though Choe, KW proposes the adoption of full-time—not absentee—posts in order to enlarge the scope of ombudsman activity, the remuneration from the Government must follow if this is so, which means that there arise concerns about alienation from civil society, along with deteriorating the present independence repelling external intervention. Since the configuration of the ombudsman system, DAPA's ombudsmen have worked to keep the following principles set forth by their self-regulation in their activities;

- . Independence from influence by designator(s) and other job-related people
- . Continuity oriented for long-term, consistent activity
- . Participation in a manner that activates active attention and monitoring by the people
- . Transparency for information disclosure at the maximum level, to the extent that it does not breach confidentiality requirements
- . Neutrality of not standing for or standing against petitioners or relevant administrative institutions

The system of ombudsman as subordinate to the DAPA has significance, as the first such system established by the central government based on a legal grounding. In addition, it has much more significance as it enables civil society to be channeled to the process of military acquisition. As a result, the example of its successful implementation, particularly as it reflects the heartfelt devotion of the ombudsmen, is sufficiently worthy of pride.

In the aspect of history, the system has made remarkably big strides toward 'democratic intervention by the private sector into the military field'.

### 3. Main Achievements

#### 1) Actually working ombudsman system

A total of 66 cases have been recorded as petitions/appeals filed to the desk of ombudsmen —7 in 2006, 27 in 2007, 27 in 2008 and 15 up to December, 2009. Among these, 50 cases been settled officially, while the remaining 16 are now under investigation. Out of the 50 petitions completed, 15 were classified for recommendation of rectification/amendment to the DAPA Principal, 1 to a request for actual inspection, and 13 to improvements made by the pertinent departments under the DAPA. In the meantime, 8 cases were rejected for the invalid reason of constitutional qualification, 7 cases were paused midway due to ombudsman-related regulations resulting from

lawsuits, and 6 cases were transferred to other departments for final settlement.<sup>7</sup>

In light of the fact that the agenda given to the ombudsmen requires the highest professionalism and responsibility due to its close relationship with defense items procurement and armament purchase, the above-mentioned statistics provide decisive evidence that DAPA's ombudsman system has become rooted as an in-field application, not left as a superficial system. Whenever I am asked "Does it actually work?" at international conferences, I feel self-confident and proud to say, "Yes, of course!" The ombudsman members of this DAPA system have gotten together once per week for 3 and a half years so far, for 166 meetings in total, to resolve 50 petitions.

2) Ombudsman system proven to induce realistic change

On this topic, Choe, KW stated, "Basically, as the support by related public officers has been progressive day by day, it has come to be deemed quite natural for ombudsmen to conduct investigations and verification with regard to the petitions raised. In particular, there has been no phenomenon at all, since the incorporation of the ombudsman system, of an accumulation of distrust and resentment due to a vicious cycle of the same petitions being filed to receive the same responses, over and over. The system is even welcome among public officials, as it functions as an objective setting to diffuse their stress and difficulties. Furthermore, the DAPA has posed positive gestures for the recommendations made by the ombudsmen based on their investigation results. Such a bilateral coup has also offered opportunities to grasp the source of petitioners' distrust and seek alternative troubleshooting."

Cha, Tae Hwan<sup>8</sup> who works for the DAPA commented on it in this way, "Frankly speaking, my first impression on the establishment of DAPA's ombudsman system was annoyance, but this prejudice changed to an image of a counselor or a mentor, not only to prevent the tint of wrongdoing from growing into bigger problem, but also to enhance the level of transparency, as if it were like a supporter in a sports game. Now I'm very confident, as a section chief, in being responsible for backing up the ombudsman office."

Of petitions for which formal investigations had been completed, there were 15 cases in which the DAPA Principal was asked to take proper steps for rectification, 1 case categorized into request for due inspection, and 13 cases terminated through readjustment by the relevant departments of the DAPA for their own. There only 3 cases

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<sup>7</sup> For more details relating to civil appeals, refer to part 3 and part 4 "Jeong Moo Han's writings" of this White Book.

<sup>8</sup> Mr. Cha, Tae Hwan is the Audit and Inspection Planning Officer at the DAPA

found that did not follow recommendations/requests wired by the ombudsman office within the organizational hierarchy of the DAPA. Though not perfect, the new wave sparked by the ombudsman system fostered spiritual reform among the DAPA employees, resulting in the finding that 13 cases were solved by voluntary reactions toward correction. While not fully satisfactory, it is greatly encouraging that there are signs of important and realistic change.

### 3) Improvement of international awareness of Korea's defense industry

The author of this paper has been invited multiple times to make presentations on Korea's exemplary introduction of the DAPA ombudsman system, including its achievements in contributing to the enhancement of transparency in Korea's military. Such opportunities pave the way for enhancing the national awareness by sharing views and promoting exchanges among participants, which is deemed to be beneficial for publicizing our reforms in the field of Korea's national defense.

Those proactive activities have borne much fruit, a typical example of which is when the ombudsman system in Korea's DAPA was adopted as an Excellent Example in the workshop on transparency improvement as for OECD's public procurement, which was held in France in 2006, and which was later carried in the 2007 OECD Report (Integrity in Public Procurement on Defense Procurement), and further includes: its introduction at the 13<sup>th</sup> International Anti-Corruption Conference held at Athens, Greece in 2008, and at the International Conference in Commemoration of the 60<sup>th</sup> Anniversary since the Foundation of NATO held in the USA in 2009.

The case of Korea gained the highest attention at the above gatherings, during which many participants extended their support. The system was put in the spotlight for the following reasons: first, the sector of national defense is deemed to be an area in which ordinary people have no access. Secondly, with curiosity on how matters of national defense procurement can be monitored by the private sector, they eagerly wanted to know more about what a group of people take a leading role in monitoring, what kinds of difficulties have been encountered while putting the system into practice, what sorts of effects have resulted, and the like. Thirdly, they would like to take full advantage of our case for application to their own countries.

## 4. Limits and Progressive Direction

### 1) Limits

Choe, KW analyzed that, given that ombudsmen have no option but to rely on non-authoritarian forms of recommendatory (advisory) methodology (request) in order to settle petitions that are raised, there is actually no means to compel the counterpart to comply, which provokes a fundamental limitation. Therefore, it must be clearly recognized that the present ombudsman system has an intrinsic

limitation, in that the ombudsman can only exercise a conditional recommendation right, which means that there is no other option for mandatorily enforcing its recommendatory decision, if there is no verification of logical inconsistency and lawless evidences on the petition engaged by the ombudsmen.

With regard to delayed recurrences as per the matters of petitions, Han, JM is concerned about the possibility that the ombudsman system may become little more than a name as petitions decrease under the situation that most cases take more than 3 months until finalization for the following reasons; absentee postship of ombudsmen, only three persons in manpower, and no supportive personnel from other DAPA departments. In this regard, he raised the suggestion of increasing auxiliary personnel to share the duty of investigation.

Viewed from the perspective of transparency, which is a core assignment given to ombudsmen, the most significant limitation legally confines ombudsmen to making access to the matter of transparency only through petitions that have been filed during the execution of defense-related projects. I would not like to deny the viewpoint of Han, JM who puts more emphasis on the current ombudsman functionality by saying, “no matter what petitions seem simple and even trifling, the step-by-step approach by the ombudsman system toward the betterment of customary practices consequently leads to the enhancement of transparency and fairness, by contributing to the accountability of DAPA to the people.”

Nevertheless, I strongly argue that, by way of a far-reaching interpretation of the legal clauses related to the ombudsman system, its functional scope be extended to the extent that it touches the overall segments related to national defense, in terms of improving transparency. The essential basis to define the legal status of the current ombudsman system comes from Sec. 4 of Article 6, of the Defense Acquisition Program Act, which stipulates that “the Principal of the DAPA is entrusted to establish and operate the ombudsman system, in a way that enhances transparency and fairness, for the purpose of surveying civil petitions/appeals and thereafter taking proper steps such as due diligence, inspection and other appropriate rectification in the course of its intrinsic commitment for the defense acquisition programs.” In other words, the rationale of its existence is to “increase transparency and fairness in military-concerned project implementation.” The right to investigate civil petitions raised describes a fragmental means or function, and does not account for the whole reason for existence.

In particular, as mentioned in the “Limitation and Tasks given to the DAPA” above, the expanded horizon of the ombudsman system in functionality would be a greatly useful alternative in the absence of

an integrated system commanding the scattered sub-systems oriented for transparency.

The first step toward this goal may put the subsystem of Integrity Pact into action in reality. The informative release that not even one of over 51,000 cases of Integrity Pact has violated the preset rules does not present the purest evidence for integrity, but is a mere scrap of paper. The Integrity Pact system is worthy of being appreciated by being compatible with those two objectives; however, what is more important is that it requires monitoring/supervision by civil society as a prerequisite. So many internationally disclosed examples prove that the Integrity Pact without third-party independent monitoring is of no use at all.

If the Integrity Pact is formulated as a partial constituent of the ombudsman system's objectivity, and at the same time it becomes operable under well-established monitoring, I am sure that DAPA will open a second chapter as an upgraded global showcase model for enhancing transparency.

## 2) Progressive direction

DAPA's ombudsman system is on the brink of its 4<sup>th</sup> anniversary. In July of 2010, the tenure of all of the present committee members will expire, and the system will face many positive and/or negative changes. What is of most importance is that throughout its transformational facets, the stabilization is engraved into the reality, which means that continuity and independence play decisive factors. In this regard, it is needless to say that in the selection of the next ombudsmen, members will ensure their own participation, and that the healthy civil organizations be a cornerstone to safeguard the continuity and independence of the system.

For the next point of view, I would very much like to point out the simultaneous 'expansion of power and burdening with heavier responsibility' in terms of the ombudsman system. On this point, Cha, TH launched many proposals; for example, the designation of a representative ombudsman to take office of membership for the Defense Acquisition Program Execution Committee, legal clarification on the ground of budgeting and financial support for ombudsmen, cooperation with supportive supplementary manpower, the endowment of authority to exercise the direct power for investigation at its sole discretion against unfair administrative practices beyond the present handling of petitions, the enactment of a penalty clause exercisable in a case of non-obedience on investigation by ombudsmen, direct receipt/transmittal of messages inter-communicable with petitioners, and so on.

Meanwhile, what is proposed by Choe, KW includes; strengthened legislation in connection with the legal status of ombudsmen and independence for their job proceedings, organizational reinforcement by establishing a minimum of one position of senior ombudsman and

clerks in charge of office work, the necessity of external supervision in connection with the designation of ombudsmen, guarantee of information disclosure needed for petition investigation, exercisability of recommendation right even prior to the termination of petitions, new regulation of obligatory duty for support by relevant public officers, automatic reporting of petition handling results to the Board of Audit & Inspection of Korea and the National Parliament, the right to observe meetings of the Defense Acquisition Program Execution Committee, and so on.

#### 5. Tasks and Lessons

When it comes to the tasks and lessons, no further argument will be introduced herein, except for the summary that I have made in presentations on those topics at the international symposium in commemoration of NATO's 60<sup>th</sup> anniversary, to wit;

- 1) The participation of the private sector is workable and important at each stage of defense reform. By participating, the private sector helps set up goals for reform together with the relevant laws and systems, and expectedly plays a partial role in international ties. When entering into the stage of actual implementation, it is necessary to have room for monitoring and interfacial feedback by civilians.
- 2) It is of outstanding importance to ensure independent, continuous and participatory monitoring by civil society.
- 3) It is important to allow participation by expert groups as a means of providing more trustworthiness in the investigation result by ombudsmen.
- 4) A fair-mannered and cooperative attitude by the ombudsmen is an essential element to enable the possible induction of voluntary changes by organizational constituents.
- 5) To maintain what has been fruitfully made during the course of reforms is difficult, but highly important.
- 6) In all cases, the participation and monitoring by the civil communities are important factors that will enable the system to accomplish sustainable progress.

As per the above-mentioned Subsections 3) and 4), it is useful to consider the remark by Han, JM, who has accumulated a great deal of experience in the investigation of civil petitions. Though lengthy, his comment, with no addition or deletion, is introduced hereunder;

“The DAPA is organized by high-ranking military officials dispatched from the army, navy and air force and positioned as working-level team leaders, who by nature severely dislike being interfered with in their unique scope of jobs. In particular, since a considerable amount of their duties are related to military secrets, it is not easy to secure their voluntary cooperation. Therefore, to secure the performance of the ombudsman system requires their positive attitude toward the system. To cope with this issue effectively, the

ombudsmen did their best to persuade the officials to the positive direction under the affirmative backup of the highest executives, including the DAPA Principal and other inspectors, efforts that bore some fruit. Namely, the counterpart contact points have gradually changed their attitude toward the activity of the ombudsmen, which in turn had a positive effect on the success ratio of settling petitions. When it was reported that even a few working-level personnel advised their bidders or bidding participants to file a petition to the ombudsman with regard to matters of conflict that went beyond general practices, I felt that our efforts had paid off and the ombudsman activity had borne fruit.”

## **V. Experiences of the DAPA and Transparency in Field of National Defense**

### **1. Global standards predominantly applicable for the field of defense acquisition**

In the international conference on transparency in the field of defense acquisition, which was held at Monterey, California, (USA), in February, 2009, in commemoration of NATO’s 60<sup>th</sup> anniversary, there circulated a brochure titled, <Building Integrity and Reducing Risk of Corruption in Defense Establishments - Integrity Self-Assessment Process; A Diagnostic Tool for National Defense Establishments; 2009 Version.> <sup>9</sup>The small book carried a self-diagnosing tool designed to evaluate the level of transparency.

The inventory introduced by the book consisted of a questionnaire to estimate the magnitude of practicability for transparency, being categorized into 8 sub-topics, to wit; 1) democratic control and intervention, 2) anti-corruption laws and policies, 3) anti-corruption policies in the field of defense acquisition, 4) behavioral conducts, principles, training and punishment for employees, 5) planning and budgeting, 6) operation, 7) procurement, and 8) questions about defense industries. Among these, the category of 1) provides implicit clues to extract global standards regarding transparency, as follows;

A. Please describe the supervisory role of the Parliament to monitor defense-related organizations, as well as the functions of the National Defense Committee, including the watchdog function to monitor intelligence agencies, and the nomination procedure for main positions within the Ministry of National Defense.

B. Please describe the circumferential defense-dedicated organizations other than official defense bodies, such as the security military corps, the office of presidential security, intelligence agencies and border guards. Are those institutions/organizations controllable by Parliament? How do they work functionally? Who is

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<sup>9</sup> Original title in English

in command of each of them? What relationship exists between these organizations and the Ministry of National Defense?

C. Please describe policies relating to the national defense, including the roles of the Parliament and security-related commissions/committees. If there are publications or documents in relation with defense policies or security-related strategies, please briefly make comments about them. How are defense-related policies announced, and how do the people access them?

D. Please describe the relationship between the civil society, including the press, media and NGOs, and the Ministry of National Defense. How and how frequently are social views reflected in the processes related to defense matters?

Due to a lack of space, I will not deal with all topics here, but the most vivid one that I shared through participation in the conference was the concept that there is an international wave moving toward “the construction of a healthy relationship between private and military sectors through systematic integrity/transparency and code of ethics.”

Amidst the rapidly-changing international security environment and the incremental threats of terrorism, the central government in each country is urged to seek more effective countermeasures. At this juncture, the task of ensuring the transparency of defense-related organizations gains much more importance. In particular, the USA-originated sub-prime crisis also poses a big threat to the defense industry. The topic of transparency has now become more important, as hinted at by the fact that ‘strengthening transparency and accountability’ was ranked #1 among the 5 principles adopted at the G-20 Summit Talk on November 15<sup>th</sup>, 2008.

## 2. Lessons and tasks from the exemplary case of DAPA

The aforementioned NATO conference, while terminating its three-day gathering, publicized the general conclusion and announced recommendations, among which the following paragraph was found; “In an attempt to implant these tasks successfully by country, the encouragement of the participation of the civil community and reception of its viewpoints in an affirmative manner are of outstanding importance, as has been proven by many cases typically inclusive of Korea’s DAPA ombudsman system.”

As such, the exemplary model of Korea is very accurately in accord with the international wave. For the author personally, having been officially invited as a representative ombudsman of DAPA, and as the sole representative ombudsman of the Asian region, the occasion was so meaningful because I had happened to let them know the achievements of Korea’s defense system reforms by leading one session.

On the one hand, while the gathering enabled me to confirm that DAPA’s ombudsman system is strictly matched with the international

wave in terms of coping with diversified security environments, on the other hand, it awakened the need of a further continuum for us to move to constructing the code of ethics (integrity), setting aside the mere pursuit of transparency. Frankly speaking, we have to confess that the road ahead of us is still a long one, in terms of building the desirable relationship between the private and public sectors in its truest sense. For this, realistic attention must now be urgently paid. The examples of DAPA and its ombudsman system must be stepping-stones for us to move toward the 'realization of transparent defense acquisition.' The lessons and tasks that can be gained from the international community demonstrate that transparency and integrity should be starting points for approaching the goal of the construction of a strong military. In this context, reforms in the field of national defense must not stop with the establishment of DAPA, but rather, DAPA must act as a cornerstone upon which the overlaid stones are built, step by step, to lead us to the eventual destination of 'transparent defense programs.' In this regard, a refreshed mindset governmentally shall be prepared in a way that encourages the active participation of all stakeholders, including civil society.

## **VI. Conclusion**

For this closing part, I would like to cite from my contribution that was made around the end of 2007 in commemoration of the 2<sup>nd</sup> anniversary of DAPA, because the tasks argued in that paper are likely to still be effective here:

The launching of DAPA surely marked a ground-breaking event ... by doing so, the sub-divided organizations and departments related to military acquisition, which had been scattered across the Ministry of National Defense, the Joint Chiefs of Staff, each military section and the Procurement Headquarters, became integrated, encompassing R&D, competence-enhancing programs and all other defense-related projects. Such volumetric and functional integration may be accounted for by the rationale of accelerating expertise and efficiency, but this falls short of fully representing its historic meaning. This is because 'transparency' is the core value by which to calibrate its success.

The fact that one of the key objectives of DAPA is the pursuit of 'transparency' means that the scope of military acquisition is no longer within a 'sacred boundary,' and has become a target to which we should apply universal norms. Briefly, the word 'specialty' derives from 'comparative specialty' caused by different governmental

segments, not from an 'absolutely forbidden area.' In this regard, the truest sense of the historic meaning of DAPA must be sought from the horizontal expansion of universal value, which is surely expressed as 'a sign of incremental democracy.'

The last two years were a period in which we attempted to realize ideals through action and reaction. It was not so easy...all of the attempts to make breakthroughs were the first of their kind, such as organizational stabilization by harmonizing employees with big gaps in careers and positions, horizontally and vertically, establishing a concrete foundation for the changed military acquisition procedure, introducing an integrated form of business management for improving efficiency, developing a series of policy applications for enhancing transparency, and so many other efforts. Being devoted to the progressive historicity, I would not be reluctant to show off the achievements we have made thus far, with pride.

But I know the distance we have to go is still quite far. The truest meaning of the word 'transparency' is not simply disclosure of information on specific matters. This is just considered as a necessary condition. The truest meaning covers the principle of free access to the facts themselves as well as the in-between procedures and mechanisms. Simply put, as the entry of certain values achieves the same results all the time, the target will simply make a formula in a way that everyone can predict the result, with no exception. Public servants have their natural duties to conduct predictably, let there be no misunderstanding of this.

I felt from time to time something was missing...to see that many public servants had a lack of thought about "which is more transparent, what we should do to achieve the same results every time, and which is more appropriate in terms of common sense. The answer to those questions can be found easily when we change our thoughts and attitudes.

If the context in this paper is dizzying, I look forward to the reader's kind understanding by touching the more thoughtful fragments. In closing, I sincerely hope that DAPA will grow to earn the people's trust by successfully fulfilling the spirit of the times, and keeping the practical devotion of its constituents.