The Republic of Korea’s national legislation on transfer of arms, military equipment and dual-use goods and technology (A/RES/62/26)

1. The Republic of Korea has effectively maintained its domestic system on transfer of arms, military equipment and dual-use goods and technology. There are two major laws in the framework of regulating arms transfer; (1) “Foreign Trade Act,” and (2) “Defense Acquisition Program Act.” Foreign Trade Act, enacted in 1986, is a general law providing a basic structure and principles in regulating the transfer of both civil and military items. On the other hand, Defense Acquisition Program Act, enacted in 2006, is a special law exclusively designed for the transfer control of arms and related items and has precedence over Foreign Trade Act in the above area.

2. The Republic of Korea amended Foreign Trade Act in 2009, and, as a result, the scope of activities to be licensed under the law was expanded to include export, import, brokering, transshipment and transit. Pursuant to Defense Acquisition Program Act, it is the “Defense Acquisition Program Administration” (DAPA) of the Ministry of National Defense that has a primary licensing authority for the transfer of arms, military equipment. The DAPA also has the authority to regulate the transfer of “dual-use goods and technology” in case of their military use, notwithstanding that these items are, in general, are controlled by the Ministry of Knowledge-based Economy (MKE). However, certain items even for a military use that are non-offensive and non-high-tech military equipment such as military vehicles, DAPA are also being controlled by the MKE unless these items are designated as being important in terms of military strategy and operational tactics.

3. Those who wish to engage in export and brokering of arms, military equipment and dual-use goods and technology shall be officially registered by reporting required documents to the DAPA. They have to receive a prior investigation by the Defense Security Command for the determination of qualification. Once registered, they are allowed to engage in military transactions under the control of the DAPA on a case-by-case basis. They are required to obtain certain authorizations from the DAPA in major phases of transactions; for example, the DAPA’s consents when they participate in international fairs for the defense industry and biddings or preliminary and final licensing when they export military items.
4. The DAPA, when examining transfer of arms, military equipment and dual-use goods and technology, relies on the following internal criteria in cooperation with relevant authorities such as the Ministry of Foreign Affairs and Trade (MOFAT): 1) international peace and security (determining an importing state’s violations or suspected violations of obligations under international law) (2) national security of the Republic of Korea (determining possibilities of diversion or misuse of the military items which are likely to be used against the security interests of the Republic of Korea) (3) diplomatic problems, and (4) other obligations under the bilateral or multilateral agreements to which the Republic of Korea is a party. /End/