SHIN & KIM

Defense Industry & National Defense

The Defense Industry & National Defense Team at Shin & Kim is composed of about 20 experts. They are former military members from the Ministry of National Defense and the Defense Acquisition Program Administration who had contributed to making major decisions and provided legal advice concerning defense acquisition and the defense industry as well as legal experts in international transactions and arbitration. Our team provides clients with tailored legal advice relating to the Ministry of Defense and the Defense Acquisition Program Administration and its focus area is the Defense Acquisition Program Act, the Act on the Management of Military Supplies, the Act on National Defense and Military Installations Projects, the Special Act on the Relocation of and Support for Military Airports, the Protection of Military Bases and Installations Act, the Military Secret Protection Act, the Military Criminal Act, the Military Personnel Management Act and the Military Pension Act. In particular, our team provides leading defense companies, domestic and overseas, who engage in business with the Defense Acquisition Program Administration, with effective solutions based on a wide range of experience in proposal evaluations on the acquisition of weapon systems, weapon selection, contract negotiations, liquidated damages for delay, review of cost accounting, screening out companies with a reputation for unfair trade practices, and civil and criminal lawsuits and international arbitration. In addition, our team provides clients with effective advice and representation with respect to investigations for allegations on corrupt activities in defense acquisitions and military secrets leaks. Based on our track record, our team is well-recognized as a leading legal service provider in defense acquisitions and the defense industry.

Key Services

The Defense Industry & National Defense Team at Shin & Kim offers the following services:

Advisory

- Research and development and purchase of weapons systems, foreign military sales and arms exports.
- Assessment of proposals and tests, selection of companies and weapons, negotiation of contract terms and conditions and review of draft contracts.
- Offset program negotiations, product warranties, technology transfers and the protection of industrial property rights.
- Cost management including cost accounting and unjust profit accounting.
- Designation of supplies and supplier companies in defense projects.

- Technology transfers and import and export controls on defense technology.
- Improvement on defense industry promotion policies and systems.
- Mergers and acquisitions of defense companies, establishment of joint ventures, international transactions and obtaining approvals and permits.
- Government procurement contracts.
- Defense and military facilities projects, military bases and state-owned properties.
- Construction contracts and Build-Transfer-Lease negotiations.
- Military base relocation issues including expropriation of privately owned land and compensation.
- Occupancy permits, repurchase and private contracts with respect to state-owned properties.
- Obtaining relief from not fit for military service rulings, unwanted discharge from military service and disciplinary action.
- Registration of military pensions and national merit programs.
- Enactment, amendment and interpretation of laws and regulations concerning the Ministry of Defense, including the Defense Acquisition Program Administration.
- Legal issues related to parliamentary and administrative inspections and media coverage and other general issues in the defense industry.

Litigation and Arbitration

- Prohibitions on bidding participation, liquidated damages for delay, penalty points and fines.
- Bidding, bid awards and contract execution and performance.
- Forces support system and the procurement of general supplies.
- Restrictions on protected military bases and facilities and the unpermitted use of privately owned land by the military.
- Investigations and trials in corruption cases including bribery and breach of the Military Secret Protection Act.

Experience

Advisory

- Advice to AgustaWestland on its maritime operations helicopter business.
- Advice to Airbus with respect to THX.
- Advice to Company H (a domestic defense company) with respect to KDX-1 performance improvements.
- Advice to Company D and Company L (domestic defense companies) with respect to research and development of core technologies.
- Advice to Company H (a domestic defense company) with respect to T-50 Aircraft.
- Advice to Merex with respect to supplying aircraft components to the Defense Acquisition Program Administration.
- Advice to Company S (a domestic defense company) in obtaining a defense company designation.

- Advice to Company A (an overseas defense company) with respect to a Board of Audit and inspection audit.
- Advice to Company M (a domestic defense company) with respect to the breach of the Punishment of Tax Offenses Act.
- Advice to Company L (a domestic construction company) with respect to the Yongsan US Army base relocation project.
- Advice to Company S and Company H (domestic defense companies) with respect to lifting prohibition sanctions on bidding participation.
- Advice to Company S and Company F (domestic defense companies) with respect to liquidated damages for delay.
- Advice to Company S and Company H (domestic defense companies) with respect to price fixing and breach of the Fair Transactions in Subcontracting Act.
- Advice to a client on the effect of a memorandum of understanding concerning the swap of state-owned land and privately owned land.
- Advice to arms dealer and an employee of the Defense Acquisition Program Administration with respect to a breach of the Military Secret Protection Act.
- Advice to combat boot supplier in choosing an optimal method of contracting with the Army.
- Advice to Company B with respect to unfair trade practices sanctions imposed against it because of the performance of its combat boots.
- Advice to clients in investigations and trials concerning fraud in the introduction of electronic warfare training equipment to the Air Force.
- Advice to clients in investigations and trials concerning false repair of Identification Friend or Foe equipment for the Air Force.
- Advice to Mirae Asset Investment and IMM Investment with respect to the sale of their shares of Doosan DST.
- Advice to Dassault in its acquisition of a Korean subsidiary of Computer Simulation Technology.
- Advice to DIP Holdings in its sale (block deal) of its shares of Korea Aerospace Industries, Ltd.

Litigation and Arbitration

- Representation of AgustaWestland in arbitration with respect to its maritime operations helicopter business.
- Representation of Daewoo Shipbuilding & Marine Engineering in a lawsuit seeking liquidated damages for delay regarding the ATS 31.
- Representation of Company P and Company H (domestic defense companies) in a case in which injunctions were imposed due to proposal assessment results.
- Representation of Company S in a lawsuit regarding payment for goods in the development of the Navy's tactical C41 system.
- Representation of Company L in a lawsuit regarding the third stage of construction of the Army's ground tactical C41 system.
- Representation of clients in a lawsuit with respect to the Korea Defense Industry Association's surety obligations in the construction of Navy ships.
- Representation of Company P and Company H (domestic defense companies) in a lawsuit to lift prohibition

sanctions on bidding participation under international law.

Investigations on Alleged Corruption in the Defense Industry

- Representation of Company I and Company S (domestic defense consulting companies) during investigations and related trials against them.
- Representation of Company W (a foreign defense consulting company).
- Representation of Spinning Company D (fabric supplier for the military) regarding a breach of the Design Protection Act.
- Representation of Company H in an alleged price inflation investigation regarding fabric supplies.
- Representation of a client during investigations and at trial concerning a private contract suspected to have been executed by taking advantage of an association of the disabled.
- Representation of an agency for Defense Development executives during alleged bribery investigations regarding research and development projects.
- Representation of clients during investigations and trials against them concerning breaches of the Military Secret Protection Act.

Key Contacts

Young-Hoon Kim
Partner

+82-2-316-2862
yhoonkim@shinkim.com

Dong-Uk Shin
Partner

+82-2-316-1760
dushin@shinkim.com

Jung-Soo Kim
Senior Advisor

+82-2-316-7240
juskim@shinkim.com

Jung-Hee Kang
Senior Advisor

+82-2-316-7202
jhekang@shinkim.com

Donghyun Kim

In-Hyoung Cho
Partner

+82-2-316-1615
ihcho@shinkim.com

Seongjin Kim
Partner

+82-2-316-1843
sjinkim@shinkim.com

Jae-Ik Lee
Senior Advisor

+82-2-316-4008
jiklee@shinkim.com

Min chul Shin
Advisor

+82-2-316-2866
mcshin@shinkim.com

Advisor

+82-2-316-2864
dhkim@shinkim.com

Copyright SHIN & KIM LLC. All rights reserved.