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Brokering Controls

International Arms Brokers operate out of many different countries, in every part of the world. In too many countries, there is no legal prohibition against brokers arranging and carrying out arms sales to foreign buyers, even those proscribed by domestic law or policy, as long as the weapons do not originate in or transit national territory and/or are not from domestic stockpiles. These same types of brokering activities are used to abet proliferate WMD/Missile programs.

Establishing controls over brokering activity represents a major step towards blocking unauthorized and illicit arms transfers that have fueled so many conflicts around the world.

Requiring brokers, at a minimum to obtain governmental approval for all arms transfers, provides national authorities with effective means to ensure that its territory as well as its citizens and other persons subject to its jurisdiction, do not exploit legal loopholes and contribute to international insecurity and weapons proliferation. Also requiring arms brokers to register with the government is an additional important measure.

It also provides greater transparency in international arms sales.

Under U.S. Law, brokering includes the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service. (This concept is further refined in the implementing regulations, which define a broker as "any person who acts as an agent for others in negotiation or arranging contracts, purchases, sales, or transfers of defense article or defense services in return for a fee, commission, or other consideration.")

In our laws, arms brokering includes but is not limited to, activities by U.S. persons located inside or outside the United States or Foreign persons subject to U.S. jurisdiction involving defense articles or defense services of U.S. or foreign origin located inside or outside of the United States.

The term "defense article or defense service" includes any hardware, technical data, or services covered by the U.S. munitions list, regardless of whether it is of U.S. origin or contains U.S. components in the U.S., every person who engages in the business of arms brokering activities, other than employees of U.S. or foreign governments acting in an official capacity, must register with the U.S. State Department's Office of Defense Trade Controls.

Any person required to register as an arms broker must provide an annual report to the Office of Defense Trade Controls enumerating and describing those approved activities and any exemptions used for other covered activities.

In addition to the registration requirement, no person may engage in specified arms brokering activities without a license or other authorization, with certain limited exceptions.

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