

Elements for Effective Legislation on Arms Brokering

The Participating States of the Wassenaar Arrangement.

with reference to the Initial Elements and Participating States' fulfilment of the objectives and intentions of the Wassenaar Arrangement, in particular the objectives of:

- greater responsibility in transfers of conventional arms;
- the prevention of destabilising accumulations of conventional arms;
- the need to prevent the acquisition of conventional arms by terrorist groups and organisations, as well as by individual terrorists;

Bearing in mind the “Statement of Understanding on Arms Brokerage”, the “Best Practice Guidelines for Exports of Small Arms and Light Weapons” as adopted by the 2002 Wassenaar Plenary Meeting and the “Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)” as adopted by the 2003 Wassenaar Plenary Meeting;

Recognising international commitments such as the 2001 “UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in SALW in All its Aspects”, and the relevant provisions of the 2000 OSCE Document and other regional initiatives that Participating States are party to, **and**

the statement of the President of the UN Security Council of 31 October, 2002 (on behalf of the Council) stressing the importance of further steps to enhance co-operation on the regulation of brokering activities;

Affirming that the purpose of these efforts is to avoid circumvention of the objectives of the Wassenaar Arrangement and UNSC arms embargoes by creating a clear framework for lawful brokering activities, and to enhance co-operation and transparency between Participating States;

Affirming also that they apply strict and comprehensive national controls on the transfer of conventional arms in order to contribute to regional and international security and stability,

agree to

strictly control the activities of those who engage in the brokering of conventional arms by introducing and implementing adequate laws and regulations. Applications for licences or authorisations should be carefully assessed in accordance with the principles and objectives of the Wassenaar Arrangement Initial Elements, the Wassenaar document “Elements for Objective Analysis and Advice concerning Potentially Destabilising Accumulations of Conventional Weapons” and any subsequent amendments thereto and, where applicable, the “Best Practice Guidelines for Exports of Small Arms and Light Weapons” and the “Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)”. In order to ensure a common WA policy on arms brokering, each Participating State should include, consistent with its national legislation and practices, the following measures in its national legislation on arms brokering:

1. For activities of negotiating or arranging contracts, selling, trading or arranging the transfer of arms and related military equipment controlled by Wassenaar Participating States from one third country to another third country, a licence or written approval should be obtained from the competent authorities of the Participating State where these activities take place whether the broker is a citizen, resident or otherwise subject to the jurisdiction of the Participating State.

Similarly, a licence may also be required regardless of where the brokering activities take place.

Participating States may also define brokering activities to include cases where the arms and military equipment are exported from their own territory.

Participating States may also seek to limit the number of brokers.

2. Records should be kept of individuals and companies which have obtained a licence in accordance with paragraph 1. Participating States may in addition establish a register of brokers.
3. Adequate penalty provisions and administrative measures, i.e. involving criminal sanctions, should be established in order to ensure that controls of arms brokering are effectively enforced.
4. In addition, Participating States will enhance co-operation and transparency through:
 - (a) exchanging relevant information on arms brokering activities within the framework of the General Information exchange;

- (b) assisting other Participating States on request in the establishment of effective national mechanisms for controlling arms brokering activities.

- 5. Where brokering provisions do not currently exist, Participating States will work without delay to introduce appropriate provisions to control arms brokering activities.

- 6. Participating States will report to the Plenary Meetings (first time in 2004) on the progress made in meeting the objectives of the Elements