

BEST PRACTICES
FOR EFFECTIVE LEGISLATION ON ARMS BROKERING
(Agreed at the 2003 Plenary and amended at the 2016 Plenary)

Taking into account the objectives of the Wassenaar Arrangement as contained in the Initial Elements, Participating States recognize the value of regulating the activities of arms brokers.

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 destabilizing 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 “Best Practice Guidelines for Exports of Small Arms and Light Weapons” as adopted by the 2002 Plenary Meeting and the “Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)” as adopted by the 2003 Plenary Meeting and amended by the 2007 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**

international efforts to prevent and combat illicit arms brokering, in particular in small arms and light weapons, and the entry into force in 2005 of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime; **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; **and**

the purpose of the UN Register of Conventional Arms established in 1991 primarily to build confidence and security among States as well as, *inter alia*, to facilitate the timely identification of trends in international arms transfers and prevent diversion and the illicit trade in arms; **and**

UNGA Resolution 63/67 of 2 December 2008 which, *inter alia*, recognizes the need for UN Member States to prevent and combat illicit arms brokering activities;

Recalling also relevant resolutions adopted in previous years, including UNGA resolutions 62/40 and 62/47 of 5 December 2007, which include calls for the control of arms brokering activities; **and**

Taking note, that, according to the UN Arms Trade Treaty, ATT State Parties shall take measures, pursuant to their national laws, to regulate brokering activities taking place under their jurisdiction for conventional arms;

Affirming that the purpose of these efforts is to avoid circumvention of the objectives of the Wassenaar Arrangement 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 to the transfer of conventional arms relevant to the Wassenaar Arrangement in order to contribute to regional and international security and stability;

agree to

1. Strictly control the activities of those who engage in the brokering of conventional arms by introducing and implementing adequate laws and regulations. In order to ensure a common Wassenaar Arrangement policy on arms brokering, each Participating State should include, consistent with its national legislation and practices, the following measures in its national legislation:

- (a) Definition of brokering activities, taking into account activities of negotiating or arranging contracts, selling, trading or arranging the transfer of arms and related military equipment controlled by Wassenaar Arrangement Participating States from one third country to another third country. Participating States may also define activities and circumstances that constitute a broker.

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

Participating States may also implement a licence requirement for brokering of dual-use goods and technologies, as controlled by the Wassenaar Arrangement dual-use list, for military end-uses in accordance with the Initial Elements Chapter I.

- (b) Establishment of a licensing system or other control mechanism by 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.

Grant or refuse licences in accordance with the principles and objectives of the Wassenaar Arrangement Guidelines and Procedures including the Initial Elements, the Wassenaar Arrangement 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)".

Restricting the number of brokers may be a way to effectively control arms brokering activities.

- (c) Record keeping: Records should be kept of individuals and companies which have obtained a licence in accordance with paragraph 1.(b) Participating States may in addition establish a register of brokers.
- (d) 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.

2. Enhance co-operation and transparency through:

- (a) Exchanging relevant information on arms brokering activities within the framework of the General Information Exchange;
- (b) Exchanging information on a timely basis on arms brokering considered to be of particular relevance; and
- (c) Assisting other Participating States on request in the implementation of effective national mechanisms for controlling arms brokering activities.³

3. Continue the elaboration and refining of criteria for effective arms brokering legislation and discuss enforcement matters.

4. Review periodically progress made in meeting the objectives of these best practices. Licensing and enforcement experts are encouraged to exchange implementation experiences on a regular basis.