

Elements for Controlling Transportation of Conventional Arms Between Third Countries

(Agreed at the 2011 Plenary)

Participating States of the Wassenaar Arrangement,

Having regard to the Initial Elements of the Wassenaar Arrangement and in particular the objectives of:

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

Affirming that they apply strict and comprehensive national controls on the transfer of conventional weapons systems in order to contribute to regional and international security and stability;

Determined to explore available tools to achieve these objectives;

Bearing in mind the “Elements for Objective Analysis and Advice Concerning Potentially Destabilizing Accumulations of Conventional Weapons”, adopted by the 1998 WA Plenary and amended in 2004, “Statement of Understanding on Arms Brokerage” and the “Best Practice Guidelines for Exports of Small Arms and Light Weapons”, adopted in 2002, the “Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)” and the “Elements for Effective Legislation on Arms Brokering”, adopted in 2003;

Noting that arms brokering activities may include i.a. arms transportation but that this is often not the case, leaving controls on transportation of arms to separate regulation;

Recalling relevant UN Security Council Resolutions imposing an embargo on the export and delivery of arms to particular destinations and similar bans on importing arms from particular destinations;

Recalling the commitments of all Wassenaar Participating States to implement the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects;

Mindful of the importance of avoiding duplication of controls;

Recognizing the right to legitimate transportation of arms;

Determined to prevent destabilizing accumulations of arms resulting from transfers that violate UN arms embargoes or relevant national arms export and import controls;

Agree to the following elements:

1. The scope of these elements is limited to the transportation of arms between third countries. As such they do not apply to export, transit, trans-shipment or brokering activities unless such activities are defined to include transportation related to the arms transfer in question.

2. Participating States may apply these Elements within the limits of their national policies and legal practices including any restraints on their ability to exercise extraterritorial controls.

3. Participating States are encouraged to consider the need for measures, including legislative measures if appropriate, to prevent their nationals and entities registered in their territory from transporting arms in violation of UN Security Council embargoes.

4. Participating States are similarly encouraged to consider the need for measures, including legislative measures if appropriate, to prevent their nationals and entities registered in their territory from transporting arms in violation of licensing requirements for arms exports and imports in the exporting and importing countries.

5. When considering possible regulatory measures with reference to these Elements it is assumed that the responsibility of transporters will be limited to transportation of arms with genuine manifests and/or valid export/import licenses unless the transporter is aware or should have been aware that the manifest and/or the export or import licence is falsified.

6. Participating States may consider at their own discretion operating a licensing system for the transportation of arms between third states similar to the licensing of exports and brokering activities.

7. Participating States may similarly at their own discretion consider limiting transportation of arms to be carried out solely by licensed individuals or entities, analogous to the registration of brokers or exporters in some States.

8. In order to avoid duplication of controls Participating States may choose not to control transportation of arms between third states in cases where they consider such transfers to be adequately controlled by those third States, for example through export or brokering controls.