



FSC.EMI/236/11/Corr.1\*)

16 February 2012

ENGLISH only

*Permanent Mission of the Czech Republic  
to the United Nations, OSCE and other  
International Organizations  
in Vienna*

No: 1336/2011

NOTE VERBALE

The Permanent Mission of the Czech Republic to the United Nations, OSCE and other International Organisations in Vienna presents its compliments to all Missions and Delegations to the OSCE in Vienna and to the Conflict Prevention Centre and with reference to the Decision of the Forum for Security Co-operation No 17/10, has honour to submit the information of the Czech Republic on present regulation concerning brokering activities with regard to SALW.

The Permanent Mission of the Czech Republic to the United Nations, OSCE, and other International Organisations in Vienna avails itself of this opportunity to renew to all Missions and Delegations to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, June 22, 2011



To: all OSCE Delegations and Missions  
the Conflict Prevention Centre

V i e n n a

\*) Change of distribution status, text remains unchanged

**ANSWERS TO THE QUESTIONNAIRE ON AN INFORMATION EXCHANGE  
WITH REGARD TO OSCE PRINCIPLES ON THE CONTROL OF BROKERING IN  
SMALL ARMS AND LIGHT WEAPONS**

*(RELATED TO THE DOCUMENT FSC.DEC/17/10 OF 24<sup>TH</sup> NOVEMBER 2010)*

**AD 1)** Yes

**AD 2)** - Act No. 38/1994 Coll., on foreign Trade with Military Material and on Amending Act No. 455/1991 Coll., on Trade-Licensed Business (Trade Licensing Act), as amended, and Act No. 140/1961 Coll., the Criminal Code, as amended, as amended and  
- Decree No. 332/2009 Coll. implementing certain provisions of Act No. 38/1994 Coll. on foreign trade with military materials.

**AD 3)** Yes

**AD 4)** Yes

**AD 4a)** The definition of brokering activities is a part of the definition of trade in military material and it is mentioned in section 2, paragraph 2 of the Act No. 38/1994 Coll., as amended, as follows:

“Sec. 2

(1) For the purpose of this Act, trade in military material shall mean:

- a) The export of military material from the Czech Republic to another country, including export to another European Union Member State;
- b) The import of military material to the Czech Republic from another country, including import from another European Union Member State;
- c) The purchase of military material from a foreign entity, the sale of military material to a foreign entity 1), as well as the performance of other obligations with respect to a foreign entity and the acceptance of other deliverables from a foreign entity, provided that their subject is military material.

(2) Trade in military material shall also mean:

- a) The intermediation of the activities referred to in paragraph 1;
- b) The purchase of military material abroad and its resale to a country other than a European Union Member State.

(3) For the purpose of this Act, a written expression of will directed at the conclusion of agreements regulating the relations referred to in paragraphs (1) and (2) shall also be deemed to constitute trade in military material.”

**AD 5)** In the Czech Republic there is 2 level of an authorisation proceeding, which apply also to brokers:

1. A legal entity has to apply for a permit for trade in military material (an activity),
2. A legal entity for which a permit was issued is entitled to carry out a particular trade in military material only on the basis of a licence and to the extent and subject to the conditions set in the licence. A legal entity has to apply for the granting of a licence for every agreement the subject of which is trade in military



material.

**AD 6)** Yes, see answer to the question No. 5.

**AD 7)** Yes, in the course of the permission proceeding as well as licensing proceeding Ministry of Industry and Trade require also decisions of other state institutions in the framework of cooperation, such as Ministry of Foreign Affairs, Ministry of Interior and Ministry of Defence if important military material is concerned.

**AD 8)** Yes

**AD 9)** Yes

**AD 10)** Yes, this is also subject of permission as well as licence. See answer to the question No. 4a.

**AD 11)** A foreign legal entity is not allowed to carry out trade with military material unless it is established according to the Czech legal regulations. Such foreign legal entity can only be the one, which is from EU Member States. According to the Act No. 38/1994 Coll., a permit for trade in military material may be issued provided that:

a) No more than 49% of the share capital of the legal entity is comprised of contributions made by foreign persons, except for contributions by foreign persons whose registered seat or address is in a European Union Member State;

b) The members of the statutory body of the legal entity and its representatives by registered proxy, if it has been granted, and members of the supervisory board, if it has been set up:

1. Have attained the age of 21 years;

2. Are citizens of a European Union Member State;

3. Have their permanent residence in a European Union Member State;

4. Have capacity to effect legal acts;

5. Meet the requirements for holding certain positions in state authorities and organisations under a special legal regulation;

6. Meet the requirements for carrying out sensitive activities under a special act;

c) The trade in military material will be carried out by the legal entity in its own name and on its own account;

d) The financial backing for trading in military material by the legal entity is sufficient, given its planned extent.

**AD 12)** See answer to the question No. 11.

**AD 13)** Yes. Before each brokering activity it is necessary to apply for a licence. An application for a licence has to be documented also by original of end-use certificate of responsible state authority.

**AD 14)** Yes, licence is required.

**AD 15)** Yes, application for permit as well as licence is considered for approval on a case-by-case basis.

**AD 16)** No, in general, police or armed forces or other government officials are not allowed to carry out brokering activities without permit and licence.

Permit and Licence are not required only in case of:

- a) The export or handling of military material outside of the territory of the Czech Republic during the operation of the armed forces of the Czech Republic, security corps 1a), or basic units of the integrated rescue system of the Czech Republic 1b), in accordance with the announced international treaties by which the Czech Republic is bound, including their re-import;
- b) The import or handling of military material in the Czech Republic in connection with the operations of the armed or rescue forces of other countries, the United Nations, and other international organisations in the Czech Republic, in accordance with announced international treaties by which the Czech Republic is bound, including their re-export;
- c) The export or handling of military material outside of the territory of the Czech Republic for the purpose of providing humanitarian aid or involvement in international humanitarian rescue operations, including their re-import, should the Government so decide, and subject to the conditions set by the Government;
- d) The import or handling of military material in the Czech Republic for the purpose of the acceptance of humanitarian aid, including their re-export, should the Government so decide, and subject to the conditions set by the Government.

**AD 17)** According to the Act No. 38/1994 Coll., a permit for trade in military material may be issued provided that:

- a) No more than 49% of the share capital of the legal entity is comprised of contributions made by foreign persons, except for contributions by foreign persons whose registered seat or address is in a European Union Member State;
- b) The members of the statutory body of the legal entity and its representatives by registered proxy, if it has been granted, and members of the supervisory board, if it has been set up:
  1. Have attained the age of 21 years;
  2. Are citizens of a European Union Member State;
  3. Have their permanent residence in a European Union Member State;
  4. Have capacity to effect legal acts;
  5. Meet the requirements for holding certain positions in state authorities and organisations under a special legal regulation;
  6. Meet the requirements for carrying out sensitive activities under a special act;
- c) The trade in military material will be carried out by the legal entity in its own name and on its own account;
- d) The financial backing for trading in military material by the legal entity is sufficient, given its planned extent.

According to the Act No. 38/1994 Coll., a licence for carrying out certain trade with military material can be provided on condition that:

- a) a legal entity that has received a permit to engage in trade in military material,
  - a) submits a proposal for the conclusion of an agreement or an already concluded agreement, these documents must contain a precise specification of the military material, including its amount,
  - b) submits a document concerning the end use,



c) submits document of acquisition of military material.

**AD 18)** No.

**AD 19)** Verification of the authenticity of documentation submitted by the broker can be done by means of Czech embassies in individual countries.

**AD 20)** Yes, 10 years.

**AD 21)** Yes. The legal entity to which the licence has been granted shall inform the Ministry of Industry and Trade about the use of the licence by the tenth day of the month following the completion of the first and second calendar half years.

**AD 22)** Yes, trading in military material without a permit or without a licence (including brokering) can be subject to administrative offence as well as criminal offence, depending on fulfilling the facts of the case.

**AD 23)** No.

**AD 24)** Yes. The following activities are regulated by Ministry of Industry and Trade: acting as dealers or agents in SALW, providing for technical assistance, training, transport and freight forwarding.

**AD 25)** Some of these activities are regulated by the Act No. 38/1994 Coll. on foreign trade with military materials, as amended, and some of these activities are regulated by the Act No. 48/2009 Coll., arms act, as amended.

**AD 26)** For trading in military material without a permit or without a licence (including brokering), which is subject to administrative offence, fine up to CZK 50,000,000 can be imposed.

**AD 27)** No.

**AD 28)** No.

**AD 29)** No.

**AD 30)** No.

**AD 31)** Yes.