

15 February 2012

ENGLISH only



**Permanent Mission of the Republic of Bulgaria
to the United Nations, the OSCE and other International Organisations**

Re. № Pv-20/11.1-278

NOTE VERBALE

The Permanent Mission of the Republic of Bulgaria to the UN, the OSCE and other International Organizations in Vienna presents its compliments to all Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Center, and in accordance with the FSC Decision No 17/10 has the honor to submit the Bulgarian response to the Questionnaire on OSCE principles on the control of brokering in SALW.

The Permanent Mission of the Republic of Bulgaria avails itself of this opportunity to renew to all the Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Center the assurances of its highest consideration.



Vienna, 21 June 2011

**To all Permanent Delegations and Missions to the OSCE
and the Conflict Prevention Centre**

Vienna

*) Change of distribution status, text remains unchanged

FSC.EMI?231/11/Corr.1*)
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QUESTIONNAIRE FOR

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

By 30 June 2011

(in accordance with FSC Decision 17/10)

r	Sources	Question	YES	NO
Laws, regulations and administrative procedures				
1	PoA II.14	Does your country have laws, regulations and/or administrative procedures governing brokering of SALW?	X	<input type="checkbox"/>
2		<p>List laws and/or administrative procedures regulating SALW brokering in your country.</p> <p>National legislation:</p> <ul style="list-style-type: none"> - Arms and Dual-Use Items and Technologies Export Control Law - Regulation on implementation of the law on export control of arms and dual-use items and technologies <p>Common Position 2003/468/CFSP on the Control of arms brokering is implemented through the national legislation.</p>		
3	GGE Report para 63(i)	Are those laws and procedures part of the national export control system?	X	<input type="checkbox"/>
		<p>Comments</p> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		
4	FSC.DEC/8/04	Does your country have a definition of brokering activities of persons and entities?	X	<input type="checkbox"/>
4a		<p>If yes, please provide</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>"Brokerage" means activity encompassing the negotiating or arranging of a commercial transaction with arms as well as the sale and transfer of arms from the territory of one third country to another third country.</p> </div>		
5		Does your country require brokers to register before they can apply for brokering licenses?	X	<input type="checkbox"/>
		<p>Comments</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Only natural and legal persons registered under the Commerce Act and registered for brokerage by the Interdepartmental Council on the Issues of the Military Industrial Complex and the Mobilisation Readiness of the Country (Interdepartmental Council) under the procedure determined in Arms and Dual-Use Items and Technologies Export Control Law can engage in brokerage with arms.</p> </div>		
6		Does your country require a license to engage in brokering activities?	X	<input type="checkbox"/>
		<p>Comments</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Each brokerage transaction with arms requires individual permit issued by the Interdepartmental Commission for</p> </div>		

		Export Control and Non-proliferation of Weapons of Mass Destruction with the Minister of Economy, Energy and Tourism (Interdepartmental Commission) to natural and legal persons registered for brokerage by the Interdepartmental Council.		
7		Does your country make a background check on past involvement in illicit activities before registering a broker or issuing brokering licenses?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Comments		
		Respective checks are done by the competent authorities and responsible national intelligent services.		
8	PoA II.14	Does your country keep a register of SALW brokers/traders?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Comments		
		The Interdepartmental Council maintains a public register of the persons who have been registered for arms brokerage, which can be found on http://www.micmrc.government.bg/index.php?ch=publichen_registar		
9	FSC.DEC/8/04	Does your country require a licence for SALW brokering activities on the territory of your country regardless of the nationality of the brokers?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Comments		
		"Broker" is a company established on the territory of the Republic of Bulgaria, represented by Bulgarian citizen or citizen of any other country and registered by the Interdepartmental Council that carries out the negotiation or arrangement of transactions for the purchase, sale or supply of arms from one third country to another country.		
10		Does your country control brokering activities outside your territory carried out by brokers of your country's nationality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Comments		
		It does not fall under the control of the national legislation in case the Bulgarian resident is not registered as broker on the territory of the Republic of Bulgaria. Such control is envisaged in the national legislation coming into force on 30 June 2012.		
11		Does your country control brokering activities outside your territory carried out by non-citizen residents who are established in your country's territory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Comments		
		According to the national legislation each broker who has established a company on the territory of the Republic of Bulgaria, regardless of his nationality, has to be duly registered and has to apply for an individual permit issued on a case by case basis.		

12	BPG, Brokering, V (1)	What is the policy on deciding which State's jurisdiction is appropriate for each brokering transaction?		
		<p>There is no specific policy established with regard to decisions assessing which State's jurisdiction is appropriate for each brokering transaction.</p> <p>The control by the competent Bulgarian authorities is applied to each brokerage transaction carried out by a person who is duly registered under the Bulgarian legislation, regardless of nationality. In case, the applicant is a citizen from another country the transaction may fall also under the control of the relevant legislation of that country.</p>		
13	BPG, Brokering, V (5(i))	Does your country have requirements for end-use documentation before authorizing each brokering activity?	X	<input type="checkbox"/>
13a		If so, describe		
		<p>To obtain an individual permit for brokerage transaction with arms, the applicant have to submit the following end-use documentation to the Interdepartmental Commission:</p> <ul style="list-style-type: none"> - an original end-user certificate and/or international import certificate or copies thereof, certified respectively by a competent authority of the country of the end-user or in the country of the forwarder. 		
14	PoA II.14	Does your country require a licence, permit or other authorization for each brokering transaction?	X	<input type="checkbox"/>
		Comments		
		Brokers are obliged to hold a valid activity authorization/license.		
15	GGE Report para 44	Are such applications for a licence, permit or other authorization considered for approval on a case-by-case basis?	X	<input type="checkbox"/>
		Comments		
16		Are there exceptions to the requirement to hold a licence or authorization for a brokering transaction?	<input type="checkbox"/>	X
16a		Details (e.g. if the transaction is on behalf of the police or armed forces or other government officials)		
		The national legislation does not provide exceptions for government institutions.		
17		What are the criteria for granting a licence, permit or other authorization?		
		<p>During the decision making process the following is taken into account:</p> <ul style="list-style-type: none"> - Documents, certifying the eligibility of the participants in the transaction to carry out the respective activities and the foreign trade relations between the participants in the deal; - A copy of the Export Authorization, if required by the national legislation of the country of the exporter; 		

		<ul style="list-style-type: none"> - An original end-user certificate and/or international import certificate, and a document proving the stated end use of the items; - The List of the States and Organizations towards which the Republic of Bulgaria imposes a prohibition or restrictions on the sale and deliveries of arms and their related equipment, in compliance with UN Security Council resolutions and the relevant regulations and decisions of the EU and the Organization for Security and Co-operation in Europe; - The criteria set out in the Council Common Position 2008/944/CFSP of 8 December 2008, defining common rules governing control of exports of military technology and equipment. 		
18	BPG, Brokering, V (3)	Is ex post facto licensing possible?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18a		If yes, under which conditions?		
19		Does your country have measures to validate the authenticity of documentation submitted by the broker?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19a		Describe those measures	<p>The Interdepartmental Commission may require additional checks of the documents presented, including checks through diplomatic channels, and additional information relevant to the transaction.</p>	
20	FSC.DEC/8/ 04	Does your country keep records of all issued licences or written authorizations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20a		If yes, how long are the records kept for?		
		a) 10 years	<input type="checkbox"/>	
		b) Indefinitely		<input checked="" type="checkbox"/>
		c) Other	<input type="checkbox"/>	
21	BPG, Brokering, V (4(ii))	Does your country require brokers to report regularly on their activities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21a		If so, describe	<p>Brokers report on their activities on an annual basis.</p>	

22	PoA II.3	Is it a criminal offence to engage in a SALW brokering transaction without a licence or authorization in your country?	X	<input type="checkbox"/>
		Comments Sanctions may be both administrative and penal. Administrative sanctions are laid out in Arms and Dual-Use Items and Technologies Export Control Law. Persons who engage in brokerage of arms without the respective license or registration are sanctioned according to the Criminal code of the Republic of Bulgaria, more specifically: Art. 233 and Art. 337 of the Penal Code.		
23		Does your country share with other States such information as the disbarment of brokers and revocation of registration?	X	<input type="checkbox"/>
		Comments The Inter-Ministerial Council maintains a public register with all licenses – valid, revoked, withdrawn, changed, suspended and extended ones. Government institutions may exchange such information if it is requested by another State.		
24		Does your country regulate activities that are closely associated with the brokering of SALW?	X	<input type="checkbox"/>
24a		If so which of the following activities are regulated (check relevant boxes)?		
		a) acting as dealers or agents in SALW		X
		b) Providing for technical assistance		X
		c) Training		X
		d) Transport	X	<input type="checkbox"/>
		e) Freight forwarding	X	<input type="checkbox"/>
		f) Storage		<input type="checkbox"/>
		g) Finance	X	<input type="checkbox"/>
		h) Insurance	X	<input type="checkbox"/>
		i) Maintenance		X
		j) Security		<input type="checkbox"/>
k) Other services		<input type="checkbox"/>		
		Comments		
25		Are these activities regulated by legislation on brokering or any other legislation?	X	<input type="checkbox"/>
26	PoA II.14	What penalties or sanctions does your country impose for illegal brokering activities?		

According to Art. 76 of the Arms and Dual-Use Items and Technologies Export Control Law, persons who engage in brokerage of arms without the registration or individual permit are sanctioned with:

- a fine from BGN 5,000 to BGN 50,000 - for natural persons as well as for officials of commercial companies in case the committed act does not constitute a crime;
- a property sanction amounting from BGN 25,000 to BGN 250, 000 - for legal persons and sole proprietors.

According to Art. 233 of the Criminal code of the Republic of Bulgaria a person who, without a relevant, license, registration or permit, exports, imports, transfers, transits, acts as intermediary in transactions with weaponry or goods or technologies with dual application, as well as where such activities are carried out in breach of prohibitions, restrictions or sanctions, imposed by the Security Council of the United Nations Organization, by the Organization for Security and Cooperation in Europe or by the European Union, specified in an instrument of the Council of Ministers or stemming from an international agreement to which the Republic of Bulgaria is a party, are punished by deprivation of liberty for up to six years and by a fine of up to 200 000 BGN. For particularly grave cases the punishment is deprivation of liberty for three to eight years and a fine of up to 500 000 BGN.

According to Art. 337 of the Criminal code of the Republic of Bulgaria a person who manufactures, processes, repairs, develops, stores, trades in, transports, imports or exports explosives, firearms, chemical, biological or nuclear weapons or ammunition, without having the right to do so by law, or without license from the respective government body, or does so not in compliance with the licence given to him, is punished by deprivation of liberty for one to six years.

International Assistance

27	PoA II.14	If the answer to Question 1 is 'no', does your country wish to request assistance in developing laws, regulations and/or administrative procedures to regulate SALW brokering?	<input type="checkbox"/>	<input type="checkbox"/>
28		What kind of assistance do you require?		
29		Has your country developed a project proposal for assistance?	<input type="checkbox"/>	<input type="checkbox"/>
29a		Does your country require training on controlling brokering activities in SALW?	<input type="checkbox"/>	<input type="checkbox"/>
Actions taken during the reporting period				
30	PoA II.6	During the reporting period, was action taken against groups or individuals engaged in illegal brokering (e.g. prosecution)?	<input type="checkbox"/>	X
30a		Details.		
31		Is your country content for these replies to be published on the OSCE website?	X	<input type="checkbox"/>