

QUESTIONNAIRE FOR INFORMATION EXCHANGE WITH REGARD TO OSCE PRINCIPLES ON THE CONTROL OF BROKERING IN SMALL ARMS AND LIGHT WEAPONS (in accordance with FSC Decision 17/10)

FSC.EMI/325/11/Exc.1

16 February 2012

1. Does your country have laws, regulations and/or administrative procedures governing brokering in SALW?

Yes.

ENGLISH only

2. List laws and/or administrative procedures regulating SALW brokering in your country.

Act on Export and Import of Military and Non-Military Lethal Goods (Official Gazette 86/2008) (hereinafter: the Act)

Regulation Specifying Goods Subject to Export and Import Licenses (OG 77/10). In Annex IV to this Regulation is a Military List, and in Annex V a List of Non-military Lethal goods.

Ordinance on the Format and Content of the Service Provision License for Military Goods (OG 1/09)

Ordinance on the Application Form for Service Provision License (OG 1/09)

Ordinance on the Content and Method of Keeping of the Register of Services Providers for Military Goods (OG 1/09)

3. Are those laws and procedures part of the national export control system?

Comments.

Yes. Export control system is fully harmonized with the EU *acquis*.

4. Does your country have a definition of brokering activities by person and entities?

Yes.

4. a) If yes, please provide.

Pursuant to Article 2 of the Act on Export and Import of Military and Non-military Lethal Goods, brokering services shall mean negotiating or contracting of purchasing, selling or supplying military goods mentioned in the Military List from one foreign country to any other foreign country; selling and purchasing of military goods mentioned in the Military List located in one foreign country for transfer in another foreign country. Ancillary services are not considered brokering services. Ancillary services are transportation, financial services, insurance and re-insurance and advertising or promotion.

Services shall mean benefits providing, transfer of rights and other business activities related to military goods, including brokering services and technical assistance.

5. Does your country require brokers to register before they can apply for brokering licenses? Comments.

Yes. Pursuant to Article 29 of the mentioned Act persons registered for production activity performing or mediation on domestic and foreign markets with goods mentioned in the Military List with the seat on the territory of the Republic of Croatia and registered in the Register of military goods service providers may provide these services. The Register is kept in the Ministry of the Economy, Labour and Entrepreneurship.

6. Does your country require a license to engage in brokering activities?

Comments.

Yes. Pursuant to Article 32 of the same Act, prior to providing services, the person registered in the Register of service providers for military goods is obliged to request from the Ministry of the Economy, Labour and Entrepreneurship a license for service providing.

7. Does your country make a background check on past involvement in illicit activities before registering a broker or issuing brokering licenses? Comments.

Yes. On the occasion of registration into the Register of exporters and importers of military and non-military lethal goods for commercial purposes and into the Register of military goods service providers a check by the Ministry of Justice is required whether the company submitting the application for registration into the Register and the responsible person in the company were previously sentenced for illegality in proceeding with military and non-military lethal goods. Pursuant to Article 30 of the Act, the company is obliged to attach during registration the certificate of the responsible body that the applicant (company/craft) of the responsible person in a legal or natural person - craft – has no previous convictions for a crime and is not under investigation.

Pursuant to Article 20 of the same Act, in case of the existence of reasonable doubt in credibility or legal validity of the attached documentation, upon the proposal of the Committee, the Ministry will forward the documentation to the competent bodies for further proceedings. Checks will be made by the Ministry of Foreign Affairs and European Integration that will check the parties through diplomatic channels, through the Ministry of the Interiors and security agencies.

8. Does your country keep a register of SALW brokers/traders? Comments.

Yes. Register of military goods service providers is kept in the Ministry of the Economy, Labour and Entrepreneurship.

9. Does your country require a license for SALW brokering activities on the territory of your country regardless of the nationality of the brokers? Comments.

Yes. Pursuant to Article 2 of the mentioned Act, a broker is a legal or natural person – craftsman with a seat on the territory of the Republic of Croatia performing brokering services. Pursuant to Article 29 of the same Act, providing services, including brokering, may be performed by persons registered for production activity, for mediation on the domestic and foreign markets in goods mentioned in the Military List with the seat on the territory of the Republic of Croatia and registered in the Register of Services Providers for Military Goods.

10. Does your country control brokering activities outside your territory carried out by brokers of your country's nationality?

Comments.

No.

11. Does your country control brokering activities outside your territory carried out by non-citizen residents who are established in your country's territory? Comments.

Yes. See the answer given for the ninth question of the Questionnaire.

12. What is the policy on deciding which State's jurisdiction is appropriate for each brokering transaction?

Pursuant to Article 6 of the Act, licenses for export and import and service providing for goods from the Military List are issued by the Ministry of the Economy, Labour and Entrepreneurship upon the approval of the Commission for approval of export and import of military and non-military lethal goods and military goods service providing. The Commission is composed of the representatives of the ministries responsible for defence, internal affairs, foreign affairs and the economy.

13. Does your country have requirements for end-use documentation that must be met before each brokering activity is authorized?

Yes.

13. a) If so, describe.

Pursuant to Article 3 of the Regulation on the application form for license issuing for service providing, the applicant is obliged to attach, besides the application for license issuing for service providing for goods from the Military List a certified copy of end-user certificate and import license certified copy.

14. Does your country require a licence, permit or other authorization for each brokering transaction?

Yes. Pursuant to 32 of the Act, the license is issued by the Ministry of the Economy, Labour and Entrepreneurship for each individual activity with validity for a period not longer than twelve months and may not be prolonged. Licenses are not for single use.

15. Are such applications for a license, permit or other authorization considered for approval on a case-by-case basis? Comments.

Yes. Pursuant to Article 32 of the Act, the license is issued by the Ministry of the Economy, Labour and Entrepreneurship for each individual activity.

16. Are there exceptions to the requirement to hold a licence or authorization for a brokering transaction?

Yes.

16. a) Details (e.g. if the transaction is on behalf of the police or armed forces or other government officials).

Provisions of the said Act do not concern service providers that act in the framework of military or humanitarian mission upon the decision of the Ministry of Defence or some other government body.

17. What are the criteria for granting a license, permit or other authorization?

The Ministry will approve the application for license issuing for service providing for goods from the Military List if the Commission determines that the issuing of the requested license is not contrary to foreign policy or economic interests of the Republic of Croatia and contrary to the principles of the EU Common position for weapons export, and that the fulfillment of the international commitments of the Republic of Croatia will not be threatened by license issuing, that security or defence interests of the Republic of Croatia will not be threatened by license issuing, that license issuing is not contrary to national security strategy of the Republic of Croatia, that the license issuing will not enable the outbreak or continuation of armed conflicts in the state of end-use of goods, that the license issuing will not enable the encouraging of riots in the state of end-use of goods, that the license issuing will not enable undesirable persons to come into possession of exported goods contrary to the will of exporters, but also that the goods for which the license is required are not the subject of police investigation or court litigations.

18. Is *ex post facto* licensing possible?

No.

18. a) If yes, under which conditions?

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19. Does your country have measures to validate the authenticity of documentation submitted by the broker?

Yes.

19. a) If so, describe those measures.

Pursuant to Article 20 of the same Act, in case of existence of reasonable doubt in credibility or legal validity of the attached documentation, the Ministry, upon the proposal of the Commission, shall forward the documentation to the competent bodies for further proceeding. Checks will be carried out through the Ministry of Foreign Affairs and European Integration, the Ministry of Internal Affairs and security agencies.

20. Does your country keep records of all licenses of written authorizations issued?

Yes.

20. a) If yes, how long are the records kept for?

a) 10 years

b) Indefinitely

c) Other

21. Does your country require brokers to report regularly on their activities?

Yes.

21. a) If so, describe.

Pursuant to Article 38 of the Act, a person performing service providing activities for goods from the Military List is obliged to notify in a written form the Ministry of the Economy, Labour and Entrepreneurship about the undertaken activities derived from the license within 15 days from the date of performed service providing or upon the expiry of license validity.

22. Is it a criminal offence to engage in a SALW brokering transaction without a license or authorization in your country? Comments.

Yes. Pursuant to Article 44 of the Act, to include into SAWL's brokering transaction without the license of the Ministry of the Economy, Labour and Entrepreneurship is an act of crime for which is envisaged the punishment of one to five years of imprisonment. If the criminal offence has caused death of more persons, or caused large-scale property damage, the offender will be punished by at least five years' imprisonment. The same punishment will be inflicted upon a natural person – an individual performing activities prescribed by the same Act without the license of the Ministry of the Economy, Labour and Entrepreneurship, unless allowed by some other act.

23. Does your country share with other States information on such matters as the disbarment of brokers and revocation of registration? Comments.

Yes.

24. Does your country regulate activities that are closely associated with the brokering of SALW?

Yes.

24. a) If so, which of the following activities are regulated (check relevant boxes)?

a) Acting as dealers or agents in SALW

b) Providing for technical assistance

c) Training

d) Transport

e) Freight forwarding

f) Storage

g) Finance

h) Insurance

- i) Maintenance
- j) Security
- k) Other services

Comments.

Other services shall mean benefits providing, rights transfer or any other activity related to the Military List.

25. Are these activities regulated by legislation on brokering or any other legislation?

Yes. They are regulated by the Act on Export and Import of Military and Non-military Lethal Goods.

26. What penalties or sanctions does your country impose for illegal brokering activities?

The Republic of Croatia has introduced penalties and punishment measures for illegal brokering activities.

Pursuant to Article 44 of the mentioned Act, penalty provisions shall be from one to five years of imprisonment and if death to more persons or large-scale property damages have been caused the offender will be punished by imprisonment of at least five years.

Pursuant to Articles 46, 47, 48 and 49 of the same Act, penalty provisions amount from HRK 1,000.00 to 100,000.00.

27. 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 brokering in SALW?

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28. What kind of assistance do you require?

Experiences exchange in legislation application related to brokering.

29. Has your country developed a project proposal for assistance?

No.

29. a) Does your country require training on controlling brokering activities in SALW?

Yes.

30. During the reporting period, was action taken against groups or individuals engaged in illegal brokering (e.g., prosecution)?

No.

30. a) Please give details.

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31. Is your country content for these replies to be published on the OSCE website?

Yes.