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ENGLISH only

PERMANENT MISSION OF IRELAND TO THE OSCE

ROTENTURMSTRASSE 16-18
1010 VIENNA
AUSTRIA

NOTE VERBALE

The Permanent Mission of Ireland to the Organization for Security and Co-operation in Europe presents its compliments to the Permanent Missions of all OSCE States and to the Conflict Prevention Centre and has the honour to submit Ireland's return, as attached, pertaining to FSC.DEC.17/10 on the Information Exchange with regard to OSCE Principles on the Control of Brokering in Small Arms and Light Weapons.

The Permanent Mission of Ireland to the OSCE avails itself of this opportunity to renew to the Permanent Missions of all OSCE States and to the Conflict Prevention Centre the assurance of its highest consideration.

Vienna, 04 July 2011



To: The Permanent Missions of all OSCE States
Director, Conflict Prevention Centre, Vienna

*) Change of distribution status, text remains unchanged



**Permanent Mission of Ireland
to the OSCE**

<mailto:ireland-osce@aon.at>

Rotenturmstr. 16-18, A-1010 Vienna, Austria

Tel:+431-71576 9826 . Fax:+431-7155755

E-Mail: Ireland-OSCE@dfa.ie

<mailto:ireland-osce@aon.at>

**Information Exchange with regard to OSCE Principles on the Control of
Brokering in Small Arms and Light Weapons**

Questionnaire

Question	Sources	Question	YES	NO
1	PoA II.14	PoA II.14 Does your country have laws, regulations and/or administrative procedures governing brokering in SALW?	Y	
2		List laws and/or administrative procedures regulating SALW brokering in your country. Statutory Instrument No. 86 of 2011 – Control of Exports (Brokering Activities) Order 2011	Y	
3	GGE Report paragraph 63(i)	Are those laws and procedures part of the national export control system SI 86 of 2011 imposes an authorization requirement on goods and technology on the EU Common Military List. ML 1 covers Rifles, carbines, revolvers, pistols, machine pistols and machineguns, small- bore weapons, weapons using caseless ammunition, silencers, special gun-mountings, clips weapons, sights and flash suppressors for arms specified above.	Y	
4 4a	FSC.DEC/8/04	Does your country have a definition of brokering activities by persons and entities? For the purposes of the Order, brokering activities are broadly defined as activities of persons and entities negotiating or arranging transactions that may involve the transfer of items listed on the EU Common Military List that are in their ownership: - - from a non-EU country to a non-EU country: - from Ireland to a non-EU country: - from another EU Member State to a non-EU country	Y	
5		Does your country require brokers to register before they can apply for brokering licences?		N
6		Does your country require a licence to engage in brokering activities?	Y	

7		Does your country make a background check on past involvement in illicit activities before registering a broker or issuing brokering licences?	Y	
8	PoA 11.14	Does your country keep a register of SALW brokers/traders?		N
9 *		Does your country require a licence for SALW brokering activities on the territory of your country regardless of the nationality of the brokers?	Y	
10		Does your country control brokering activities outside your territory carried out by brokers of your country's nationality?	Y	
11 *		Does your country control brokering activities outside your territory carried out by non-citizen residents who are established in your country's territory?	Y	
12 *	BPG, Brokering, V(1)	<p>What is the policy on deciding which State's jurisdiction is appropriate for each brokering transaction?</p> <p>Insofar as dual use items are concerned the State applies Regulation (EC) No 428/2009. Article 10 of the Council Regulation provides that authorisations for brokering services shall be granted by the competent authorities of the Member State where the broker is resident or established.</p> <p>Insofar as other brokering activities are concerned section 3 of the Control of Exports Act 2008 provides that the Minister for Jobs, Enterprise and Innovation may by order prohibit or regulate the provision of brokering activities, subject to such exceptions (if any) as he thinks proper having regard to the purposes of the Act. An order made under section 3 of the Act of 2008 applies to any brokering activities undertaken in the State and will apply to brokering activities undertaken outside the State where such activities are undertaken by an Irish citizen or an Irish company. An order under section 3 does not apply to brokering activities undertaken wholly inside one or more other EU Member States or where the activities are undertaken outside the State pursuant to a licence or other similar document duly issued by another Member State.</p>		
13 13 a	BPG, Brokering, V (5(i))	Does your country have requirements for end-use documentation that must be met before each brokering activity is authorized?	Y	
14	14 PoA II.14	Does your country require a licence, permit or other authorization for each brokering transaction?	Y	
15	GGE Report	Are such applications for a licence, permit or other	Y	

	Paragraph44	authorization considered for approval on a case-by-case basis?		
16		Are there exceptions to the requirement to hold a licence or authorization for a brokering transaction?		N
17		What are the criteria for granting a licence, permit or other authorization? Applications for a brokering licence are considered against the common criteria set out in 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 <i>ex post facto</i> licensing possible?		N
19		Does your country have measures to validate the authenticity of documentation submitted by the broker?		
19(a)		If so, describe those measures.		
20	FSC.DEC/8/04	Does your country keep records of all licences or written authorizations issued?	Y	
20(a)		If yes, how long are the records kept for? Indefinitely		
21	BPG, Brokering, V(4(ii))	Does your country require brokers to report regularly on their activities? A licence is required for each transaction		N
22	PoA 11.3	Is it a criminal offence to engage in a SALW brokering transaction without a licence or authorization in your country? If the SALW comes within ML 1 of the Common Military List it is an offence to engage in a brokering transaction without a licence or authorization.	Y	
23		Does your country share with other States information on such matters as the disbarment of brokers and revocation of registration?	Y	
24		Does your country regulate activities that are closely associated with the brokering of SALW?	Y	
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		
25		Are these activities regulated by legislation on brokering or any other legislation?	Y	
26	PoA II.14	What penalties or sanctions does your country impose for illegal brokering activities? Breaches of the Brokering Activities Order are subject to penalties provided for in the Control of Exports Act 2008. It provides for penalties on summary conviction of a fine not exceeding €5,000 or imprisonment for a term of six months or to both, and on conviction on indictment for a fine of up to €10,000,000 or three times the value of the goods or technology concerned, or imprisonment for a term of up to five years, or to both such a fine and imprisonment.		
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 brokering in SALW?	N/A	
28		What kind of assistance do you require?	N/A	
29		Has your country developed a project proposal for assistance?	N/A	
30 30(a)	PoA II.6	During the reporting period, was action taken against groups or individuals engaged in illegal brokering (e.g., prosecution)? Give details	N/A	
31		Is your country content for these replies to be published on the OSCE website?	Y	