



United Kingdom
Delegation to the
OSCE

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Jaurégasse 12
Vienna
A-1030

Tel: +44 1 716 13 3304
Fax: +44 1 716 13 3900
www.fco.gov.uk

NOTE NO 23/11

The United Kingdom Delegation to the Organisation for Security and Cooperation in Europe (OSCE) in Vienna presents its compliments to all the Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre, and with reference to FSC.DEC 17/10 has the honour to submit the United Kingdom's information exchange on the control of brokering of Small Arms and Light Weapons (SALW).

The Permanent Delegation of the United Kingdom to the Organisation for Security and Cooperation in Europe avails itself of this opportunity to renew to all other Delegations to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

UNITED KINGDOM DELEGATION

VIENNA

14 July 2011

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



*) Change of distribution status, text remains unchanged

QUESTIONNAIRE

Question	Sources	Question	YES	NO
1	PoA II.14	Does your country have laws, regulations and/or administrative procedures governing brokering in SALW?	Yes	
2		List laws and/or administrative procedures regulating SALW brokering in your country. The Export Control Act 2002 The Export Control Order 2008		
3	GGE Report, paragraph 63(i)	Are those laws and procedures part of the national export control system?	Yes	
		Comments [type text]		
4	FSC.DEC/8/04	Does your country have a definition of brokering activities by persons and entities?		No*
4a		If yes, please provide. * Not as such. The Export Control Act 2002 contains – “Trade Controls” in relation to any goods, means the prohibition or regulation of (a) their acquisition and disposal; (b) their movement; or (c) activities which facilitate or are otherwise connected with their acquisition, disposal or movement.		
5		Does your country require brokers to register before they can apply for brokering licences?		No
		Comments [type text]		
6		Does your country require a licence to engage in brokering activities?	Yes	
		Comments [type text]		
7		Does your country make a background check on past involvement in illicit activities before registering a broker or issuing brokering licences?	Yes	
		Comments Note - only in respect of the assessment of export licence applications.		
8	PoA II.14	Does your country keep a register of SALW brokers/traders?		No
		Comments [type text]		
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?	Yes	
		Comments * Applies to a sub-set of defined SALW.		
10		Does your country control brokering activities outside your territory carried out by brokers of your country's nationality?	Yes	
		Comments * See above		
11		Does your country control brokering activities outside your territory carried out by non-citizen residents who are established in your country's territory?		No
		Comments [type text]		
12	BPG, Brokering, V (1)	What is the policy on deciding which State's jurisdiction is appropriate for each brokering transaction? UK responsibility - brokering controls are national licensing measures. This does not remove the requirement of the exporter to obtain the permission of other authorities of appropriate countries to remove or receive goods from or to that territory.		
13	BPG, Brokering, V	Does your country have requirements for end-use documentation that must be met before each brokering activity is authorized?	Yes	

QUESTIONNAIRE (continued)

Question	Sources	Question	YES	NO
13(a)	(5(i))	If so, describe. * This is only a requirement when applying for Standard Individual Licences (SITCL) for brokering activities. For global licences (OITCL), the requirement is that a broker must have the supporting documents <u>before</u> the licensable activity takes place – this will be audited subsequently. For general licences (OGTCL), it is only necessary for appropriate records to be kept for subsequent audit.		
14	PoA II.14	Does your country require a licence, permit or other authorization for each brokering transaction? *No – multiple brokering activities can be carried out under one licence (e.g. under the OITCL and OGTCL where agreed licence coverage exists) – see previous answer.		No*
15	GGE Report paragraph 44	Are such applications for a licence, permit or other authorization considered for approval on a case-by-case basis?	Yes*	
		Comments *Yes – in respect of licences that require an application (not general licences – OGTCL)		
16		Are there exceptions to the requirement to hold a licence or authorization for a brokering transaction?	Yes*	
16a		Details (e.g. if the transaction is on behalf of the police or armed forces or other government officials) HMG brokering activities would not be a licensable activity.		
17		What are the criteria for granting a licence, permit or other authorization? See answer to Q8.5. The Consolidated EU and National Arms Export Licensing Criteria of 26/10/2000.		
18	BPG,	Is <i>ex post facto</i> licensing possible?		No
18(a)	Brokering, V (3)	If yes, under which conditions? [type text]		
19		Does your country have measures to validate the authenticity of documentation submitted by the broker?	Yes	
19(a)		If so, describe those measures. A range of risk assessment based measures are in place.		
20	FSC.DEC/8/04	Does your country keep records of all licences or written authorizations issued?	Yes	
20(a)		If yes, how long are the records kept for? *Yes – there is a review after 10 years. Where international commitments require records to be retained for longer periods, the records will be maintained.		
		(a) 10 years	Yes*	
		(b) Indefinitely		
		(c) Other		
21	BPG,	Does your country require brokers to report regularly on their activities?		No*
21(a)	Brokering, V (4(ii))	If so, describe. * No – however, those brokers using OITCL and OGTCL licences (see question 11.10.1) will be audited on a regular basis.		
22	PoA II.3	Is it a criminal offence to engage in a SALW brokering transaction without a licence or authorization in your country?	Yes	
		Comments [type text]		
23		Does your country share with other States information on such matters as the disbarment of brokers and revocation of registration?		No*
		Comments *UK does not operate a registration system for brokers. EU arrangements allow for the sharing of denial notifications for brokering licences that have been refused.		

QUESTIONNAIRE (continued)

Question	Sources	Question	YES	NO
24		Does your country regulate activities that are closely associated with the brokering of SALW? *Yes – the relevant part of the regulation concerning SALW is written in terms of “any act calculated to promote the <u>supply and delivery</u>” (of a sub-set of SALW). There are exclusions for financing or financial services, insurance or reinsurance services and general advertising or promotion services for a person whose only involvement is to provide or agree to provide such services. *Transportation services can also be excluded in certain circumstances depending on involvement/activities. The test is to establish the link between an activity (an act calculated to promote that could be wide ranging) and supply and delivery. If, not specifically linked to supply and delivery, then not regulated.	Yes*	
24(a)		If so, which of the following activities are regulated (check relevant boxes)?		
		(a) Acting as dealers or agents in SALW	Yes	
		(b) Providing for technical assistance		No
		(c) Training	Yes	
		(d) Transport - *See answer above at 24	Yes*	
		(e) Freight forwarding	Yes	
		(f) Storage	Yes	
		(g) Finance		No
		(h) Insurance		No
		(i) Maintenance	Yes	
		(j) Security	Yes	
		(k) Other services (General advertising / promotion services)		No
		Comments [type text]		
25		Are these activities regulated by legislation on brokering or any other legislation?	Yes	
26	PoA II.14	What penalties or sanctions does your country impose for illegal brokering activities? A range of penalties exist depending on the nature of the offence.		
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?		No
28		What kind of assistance do you require?		N/A
29		Has your country developed a project proposal for assistance?		N/A
29(a)		Does your country require training on controlling brokering activities in SALW?		No
30	PoA II.6	During the reporting period, was action taken against groups or individuals engaged in illegal brokering (e.g., prosecution)?	Yes	

QUESTIONNAIRE (continued)

Question	Sources	Question	YES	NO
30(a)		<p>Please give details. Between 01 Jan and 31 Dec the UK (HMRC investigating and Crown Prosecution Service prosecuting) successfully prosecuted three criminal cases against individuals guilty of trafficking and brokering offences. They were:</p> <p>Gideon Sarig Howard Freckleton were both found guilty at Southwark Crown court on 8th February 2010 of trading in controlled goods with the intent to evade export controls. Both Sarig and Freckleton were found guilty of providing one thousand, 500lb high-explosive bombs to the Sri-Lankan air force in 2005. The bombs were equipped with proximity fuses, specially designed to detonate just above the ground for maximum devastation. The pair also provided the Sri-Lankans with 3900 rounds of 30mm armour-piercing incendiary ammunition, designed to tear through armour before bursting into flames. Freckleton was also found guilty for a further supply of 17,000 rounds of high explosive, tracer and armour piercing ammunition in 2007, again to the Sri-Lankan Air-force. Sarig was found guilty on 12 counts and was jailed for nine years while Freckleton was found guilty of three counts, and received seven years.</p> <p>Mr Jason Teal and Mr Glynn Jones were found guilty of deliberately evading UK export controls for the export and supply of military goods between April 2003 and December 2005. The value of unlicensed shipments was assessed to be approximately \$6,000,000. In June 2010, at separate court hearings, Mr Teal pleaded guilty to eight charges and Mr Jones to five charges. Both men were subsequently sentenced on 20 July 2010. Mr Jones was sentenced to 50 weeks imprisonment (suspended for 2 years) and ordered to undertake 200 unpaid hours work in the community and pay £9000 towards prosecution costs. At the same time, Mr Teal was sentenced to 2 years in prison, ordered to pay £30,000 towards prosecution costs and subject to a confiscation order of £9000.</p> <p>Ms Caroline Egley-Turner, a businesswoman originally from New Zealand, arranged for electric stun guns to be supplied from the United States to the New Zealand police force. Ms Caroline Egley-Turner pleaded guilty to a single offence under Section 9 (1) of the Trade in Goods (Control) Order 2003 on 21 September 2010. Ms Egley-Turner was subsequently sentenced to six months imprisonment, suspended for twelve months. A confiscation order in the amount of £24,802.51 was made against Ms Egley-Turner and she was ordered to pay a further amount of £36,197.49 towards the prosecution and investigation costs.</p> <p>Further details on all three can be found at: http://www.bis.gov.uk/policies/export-control-organisation/eco-press-prosecutions</p>		
31		Is your country content for these replies to be published on the OSCE website?	Yes	