



437th Plenary Meeting

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DECISION No. 8/04
OSCE PRINCIPLES ON THE CONTROL OF BROKERING IN
SMALL ARMS AND LIGHT WEAPONS

PREAMBLE

The participating States of the Organization for Security and Co-operation in Europe,

1. Building upon the OSCE Document on Small Arms and Light Weapons (SALW) (24 November 2000) in general and recognizing the need to strengthen in particular section III, part D thereof,
2. Recalling the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (December 2001), which commits States to develop adequate national legislation or administrative procedures to regulate small arms and light weapons brokering activities, and to undertake further steps to enhance international co-operation in preventing, combating and eradicating illicit brokering in small arms and light weapons,
3. Willing to build upon the relevant provisions of the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (May 2001), the Chair's Report of the Oslo conference on international co-operation in preventing, combating and eradicating illicit brokering in SALW (April 2003), the EU Common Position on the Control of Arms Brokering (June 2003), the recommendations of the OSCE Best Practice Guide on National Control of Brokering Activities (December 2003), and the Wassenaar Arrangement Elements for Effective Legislation on Arms Brokering (December 2003),
4. Acknowledging that the regulations for the control of brokering should be consistent with and complemented by other control mechanisms of SALW, in particular those related to export controls, as means of effective and comprehensive arms control,
5. Having continued and deepened their discussions on arms trafficking and brokering activities and having reached agreement on a set of provisions fostering the control of such activities through national legislation, as set out below,

6. Considering that at present some participating States already have in place or are in the process of revising or introducing national legislation on the subject,
7. Have decided to adopt and implement the principles set out in the following sections:

SECTION I: OBJECTIVES

1. The objectives of these principles are to control arms brokering in order to avoid circumvention of sanctions adopted by the Security Council of the United Nations, decisions taken by the OSCE, including the criteria set forth in section III A of the OSCE Document on Small Arms and Light Weapons (24 November 2000); other agreements on small arms and light weapons, or other arms control and disarmament agreements, to minimize the risk of diversion of SALW into illegal markets, *inter alia*, into the hands of terrorists and other criminal groups, and to reinforce the export control of SALW.
2. In order to achieve these objectives, the participating States will endeavour to ensure that their existing or future national legislation on arms brokering is in conformity with the provisions set out below.

SECTION II: GENERAL PRINCIPLES

1. The participating States will take all the necessary measures to control brokering activities taking place within their territory.
2. The participating States are encouraged to consider controlling the brokering activities outside of their territory carried out by brokers of their nationality resident or brokers who are established in their territory.
3. The participating States will establish a clear legal framework for lawful brokering activities.
4. For the purposes of paragraph 1, brokering activities are activities of persons and entities:
 - Negotiating or arranging transactions that may involve the transfer of items referred to in the OSCE Document on Small Arms and Light Weapons, and in particular its preamble, paragraph 3, from any other country to another country;or
 - Who buy, sell or arrange the transfer of such items that are in their ownership from any other country to another country.

This paragraph shall not preclude a participating State from regulating brokering activities to the maximum extent of their national law or defining brokering activities in its national legislation to include cases where SALW are exported from its own territory or from

exempting from its own licensing obligations brokering activities related to the transfer of such items to or from another participating State.

SECTION III: LICENSING/RECORD-KEEPING

1. For brokering activities, a licence or written authorization shall be obtained from the competent authorities of the participating State where these activities take place, and, where required by national legislation, where the broker is resident or established. The participating States will assess applications for a licence or written authorization for specific brokering transactions according to the provisions of section III of the OSCE Document on Small Arms and Light Weapons (2000).
2. The participating States should keep records for a minimum of 10 years of all licences or written authorizations issued under the terms of section III, paragraph 1.

SECTION IV: REGISTRATION AND AUTHORIZATION

1. The participating States may also require brokers to obtain a written authorization to act as brokers, as well as establish a register of arms brokers. Registration or authorization to act as a broker would not replace the requirement to obtain the necessary licence or written authorization for each transaction.
2. When assessing any applications for written authorizations to act as brokers, or for registration, the participating States could take account, *inter alia*, of any records of past involvement in illicit activities by the applicant.

SECTION V: EXCHANGE OF INFORMATION

1. The participating States will consider establishing, in accordance with national legislation, a system for exchange of information on brokering activities among themselves, as appropriate.
2. Information that may be considered could include, *inter alia*, the following areas:
 - Legislation;
 - Registered brokers and records of brokers (if applicable);
 - Denials of registering applications and licensing applications (as appropriate).

SECTION VI: ENFORCEMENT

Each participating State will endeavour to establish adequate sanctions, including criminal sanctions, in order to ensure that controls on arms brokering are effectively enforced.

SECTION VII: FINAL PROVISION

1. The participating States agree that these principles will be included, as appropriate, in a review of the implementation of the OSCE Document on Small Arms and Light Weapons, as provided for in its section VI, paragraphs 2 and 3.
2. These principles shall take effect on the date of their adoption by the Forum for Security Co-operation.