
ATT-BAP REPORTING GUIDANCE NOTES

MODULE 5 – BROKERING

The Arms Trade Treaty-Baseline Assessment project has developed a series of nine ATT-BAP Guidance Notes to assist States in the completion of their national ATT-BAP Survey and in the preparation of their initial report on measures to implement the Arms Trade Treaty, as required under Article 13 (1). Each of the ATT-BAP Guidance Notes focuses upon a particular topic and ATT commitment. Each Note:

- Identifies the relevant Treaty articles for each topic
- Introduces the ATT-BAP Survey questions and a sample of responses provided by States
- Provides information on potential sources of information for addressing the ATT-BAP Survey questions, highlighting similar questions or relevant responses contained in national reports on transfer control systems for other international instruments

BROKERING: RELEVANT ATT ARTICLES

Article 5.5

Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms covered under Article 2 (1) and of items covered under Article 3 and Article 4.

Article 10

Each State party shall take measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction for conventional arms covered under Article 2 (1). Such measures may include requiring brokers to register or obtain written authorization before engaging in brokering.

ATT-BAP SURVEY QUESTIONS

The ATT-BAP Survey contains several questions for States to explain how they fulfill their ATT commitments with regards to the establishment and maintenance of a system for regulating arms brokering. The questions seek information on arms brokering legislation, relevant agencies and measures to regulate brokering, and relate to Articles 5 and 10.

Examples of answers provided by States that completed ATT-BAP Surveys during 2013-2015 are included below to show the types of information that States have included in their Surveys and are indicative of the type of information governments are willing to share publicly on measures taken to implement the ATT. Completed Surveys are available for review via the 'Country Profiles' and 'Database' pages on the Arms Trade Treaty – Baseline Assessment Project Portal at: <http://www.armstrade.info/>

5. ARMS BROKERING

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Bosnia and Herzegovina			
A) Is the regulation of arms brokering established in national legislation? [Article 10]	✓		
i) If yes, please provide the definition of brokering used in your national legislation?			Brokering services mean negotiating or contracting business deals for the purchase, sale or procurement of goods of strategic importance for the security of BiH from a third country to another third country; sale and purchase of goods of strategic importance for the security of BiH for their transfer from a third country to another third country. Ancillary services are not considered as brokering services. The ancillary services are transport, financial services, insurance or re-insurance, and advertising or marketing promotion.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by South Africa			
B) Which Ministry/ies or government agency/ies is /are responsible for implementing controls on arms brokering? [Article 5.5]			There is a unit within the Department of Defence (DoD) and Military Veterans called the Directorate of Conventional Arms Control (DCAC). The DCAC serves as a Secretariat and implements controls on arms brokering. It should be noted that all the elements of effective control are addressed in an integrated way. i.e various Departments and entities involved, consulted and participate, i.e in determining policy, promulgation of legislation, listing items that are controlled, compliance, law enforcement and border control.
i) Which Ministry or agency leads this process? [Article 5.5]			The Directorate of Conventional Arms Control (DCAC), DoD.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Switzerland			
C) Does your State take measures to regulate brokering taking place under your jurisdiction? [Article 10]	✓		
i) If yes, what measures does your State take to regulate brokering taking place under your jurisdiction? [Article 10]			Anyone who on Swiss territory wishes to broker war material on a professional basis for recipients abroad, irrespective of the location of the war material requires an initial license (Art. 9 para. 1 WMA). Anyone who on Swiss territory wishes to broker war material for a recipient abroad, without operating his own production plant for the manufacture of war material in Switzerland, requires, in addition to an initial license in terms of Article 9, a specific license for each individual case. The Federal Council may provide exceptions for certain countries. Anyone who acts as a professional broker for a recipient abroad in respect of firearms under the legislation on weapons, their components or accessories, or their munitions or munitions components shall receive a specific license only if he proves that he holds a corresponding license to trade arms under the legislation on weapons (Art. 15 WMA).

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Hungary			
D) Please provide any other information on brokering practices you would like to share.			It is obligatory to attach to the application the End-User Certificate

SOURCES FOR INFORMATION

The information required to answer the questions and sub-questions contained in Section 5 Brokering will be contained in primary and/or secondary legislation or a Presidential decree, as well as policy guidelines. States may be able to find and use relevant information contained within their reports on implementation of the UN Programme of Action (PoA) or their UNSCR 1540 implementation reports, specifically with regard to questions on legislation, policy guidelines and procedures.

RELEVANT QUESTION(S) FROM UN POA REPORTING TEMPLATE AND UNSCR 1540 IMPLEMENTATION REPORT MATRIX:

ATT-BAP SURVEY QUESTION	UN POA REPORTING TEMPLATE QUESTION	UNSCR 1540 IMPLEMENTATION REPORT MATRIX QUESTIONS
<p>Question 5.A. - Is the regulation of arms brokering established in national legislation?</p>	<p>Question 6. - Does your country have laws, regulations and/or administrative procedures governing brokering of SALW? List laws and/or administrative procedures regulating brokering in your country. Are those laws and procedures part of the national export control.</p>	<p>OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?: (3) Control of brokering, trading in, negotiating, otherwise assisting in sale of goods and technology (23) Control of providing funds (24) Control of providing transport services</p> <p>OP2. NW, CW and BW - Does national legislation exist which prohibits persons or entities to engage in one of the following activities? Can violators be penalized? : (7) transfer</p>
<p>Question 5.B. - Which Ministry/ies or government agency/ies is /are responsible for implementing controls on arms brokering?</p>		<p>OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?: (4) Enforcement agencies/ authorities (11) National Licensing Authority</p>

ATT-BAP SURVEY QUESTION	UN POA REPORTING TEMPLATE QUESTION	UNSCR 1540 IMPLEMENTATION REPORT MATRIX QUESTIONS
<p>Question 5.C. - Does your State take measures to regulate brokering taking place under your jurisdiction?</p> <p>Question 5.C.i. - If yes, what measures does your State take to regulate brokering taking place under your jurisdiction?</p>	<p>Question 8.2. - Does your country require registration of SALW brokers?</p> <p>Question 8.3. - Does your country require a license, permit or other authorization for each brokering transaction? Are such applications for a license, permit or other authorization considered for approval on a case-by-case basis? Are there exceptions to the requirement to hold a license or authorization for a brokering transaction? (e.g. of the transaction is on behalf of the police or armed forces or other government officials)</p> <p>Question 8.3.3. - What are the criteria for granting a license, permit or other authorization?</p>	<p>OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?:</p> <p>(6) Licensing provisions (7) Individual licensing (8) General licensing (9) Exceptions from licensing (12) Interagency review for licences</p>
<p>Question 5.D. - Please provide any other information on brokering practices you would like to share.</p>	<p>Question 8.4. - Does your country have measures to validate the authenticity of documentation submitted by the broker?</p> <p>Question 8.7. - Does your country regulate activities that are closely associated with the brokering of SALW? If so, which of the following activities are regulated when undertaken in connection with the brokering of SALW? Acting as dealers or agents, providing technical assistance, training, transport, freight forwarding, storage, finance, insurance, maintenance, security, other services.</p>	

