

## **Workshop reports**

### **Workshop 1: Regulating Brokering: the scope of controls on arms brokering and links with other legislation**

#### **Presentation 1: Graham Zebedee**

This presentation provided a description of the UK's draft brokering legislation. The legislation is designed to ensure that the criteria for judging brokering licenses conforms with the criteria used on arms export licenses. This would prevent the possibility of arms transfers being brokered in the UK to destinations that would not otherwise receive an arms export license. The draft legislation covers 'core' brokering activities, such as: the purchase, sale or arranging of transport; and contract negotiation (or promotion of contract negotiation). It does not cover related activities such as financing arms transfers or merely transporting arms. The draft legislation is geographically restricted to those activities that take place within the UK (except in the case of brokering long range missiles, torture equipment, or material which violates arms embargoes where the draft legislation applies to actions outside the UK). The draft legislation covers all items on the UK Military List. Last, it was mentioned that the EU is currently discussing an agreement that all members should regulate brokering activities that occur within their borders.

#### **Presentation 2: Herbert Wulf**

The second presentation highlighted many of the problems associated with illicit brokering. Concerning the scope of controls it stated that:

- a) There is a distinction (highlighted in the UN Feasibility Study) between core and related activities. The core activity involves bringing together (for financial gain) the actors involved in an arms transfer. This activity has been distinguished from other services, such as providing transportation.
- b) There are three types of brokering regulation: registering brokers; licensing the activity of brokering; and monitoring via disclosure of information in an export (or import) license application. A combination of all three can contribute to effective regulation.
- c) Brokering legislation, if it is to be comprehensive, should cover not just the trade in finished products, but also the transfer of know how, components, and production licenses.

#### **Discussion**

During the first workshop participants discussed a number of issues relating to the necessity and nature of controls, both at the national and international level, on brokering activities and agents. Participants stressed that brokers have a very important role in the illicit spread of SALW, and their activities should therefore be subject to national regulation if states want to eradicate this illegal trade. It was underlined that creating brokering regulations allows government authorities to distinguish legal from illicit activities and creates the necessary legal grounds for the prosecution of the latter. It was recognised that, at present, the lack of laws criminalizing illicit brokering is a severe obstacle to effective prosecution.

One issue that raised extensive discussion was the challenge that brokering regulations may not be necessary in some countries. Should brokering activities be addressed through specific regulations, or could they be controlled within the scope of broader regulatory systems? In this regard, a few participants expressed the opinion that strong export control systems could be a sufficient means of allowing government oversight on brokering. Regulations specifically targeted to brokers and brokering might run the risk of unnecessarily duplicating administrative procedures, relating to registration, licensing, or end-user certificates, which are already established by national legislation on arms transfers. It could also be difficult to identify those who would be required to apply for a brokering license.

Many arguments were brought forward to counter this view. It was stressed, first of all, that even if, in principle, strong export controls would be sufficient to cover brokering activities, in practice there are many differences between countries' arms trade regimes, as a consequence, legal gaps often remain. Also, many national regulations on arms transfers are ill equipped to control brokering. For example, they do not cover cases in which brokers facilitate deals without taking possession of the weapons, or without having the weapons enter the territory of the state from which they are operating.

Another issue of great concern is which activities should be included within the term "brokering". While there seemed to be agreement on the definition of the core activity of brokering, some differences centred on whether related activities such as transportation and financing should be included within the scope of brokering regulations. Some participants expressed the fear that using too broad a definition might make the number of agents too high to be controlled and the number of activities too broad for effective control. Other participants, however, argued that this is not the case, and that in countries where transport and financial agents are also controlled the numbers are not unmanageable. Also, it was stressed that distinctions that appear clear in theory might raise problems in their practical application.

It was generally acknowledged that a distinction should be kept between legal and illicit brokering. It was in fact stressed that many brokering activities are legal, and that these should be safeguarded. However, it was also recalled that the links between the legal and the illicit sphere can be very close, given that in many instances weapons illegally acquired have a legal origin.

Some participants underlined the importance of not only establishing national regulations, but also of implementing them. In this regard, it was stressed that international cooperation is crucial to increasing scrutiny over brokering activities. The exchange of information was mentioned as one possible avenue of cooperation among states, but the nature of the information to be exchanged was left to a later workshop.

## **Workshop 2: Licensing (including relevant documentation and disclosure)**

### **Presentation 1: Brian Wood**

Provided information on the problem caused by illicit arms brokers, and provided a definition of their activities. He then provided suggestions for governments interested in introducing regulations. These included the provisions that: arms brokering should require a permit; license approvals should be consistent with international law (including international humanitarian law); be based upon legitimate processes (such as documentation or financial flows); should provide comprehensive information on the transaction; and that this information should be cross-referenced with that collected by other parts of the export licensing system.

### **Presentation 2 Paul van der Ijssel**

Gave an account of the Netherlands' system of arms brokering regulation. He emphasised that: brokers were regarded as the entity that gained financially from bringing two or more parties together to facilitate an arms transaction; brokering was not deemed to include activities such as shipping or insurance; each transaction required an individual license, which were considered on a case by case basis; the EU Code of Conduct criteria were used to inform licensing decisions; there was little material difference between the licensing procedures for arms brokering and export; and that brokering legislation covered all military equipment.

### **Discussion**

Participants engaged in a wide ranging discussion on licensing requirements for arms brokering regulation. Cardinal points from the discussion are presented below.

#### **Effectiveness**

Some participants considering implementing arms brokering regulation requested information on the effectiveness of brokering legislation; particularly in the context of explicit brokering legislation replacing the implicit regulation of brokering activities present in other pre-existing legislation.

Participants from states with regulation in place suggested that brokering regulation was effective in providing governments with a legal tool that could be used should a case of illegal brokering come to light (a preferable situation to no such mechanisms being available); furthermore it was widely held that the existence of brokering legislation acted as a deterrent to wrongdoing. However, it was recognised that enforcing brokering legislation provided many challenges to law enforcement agencies. It was suggested that international cooperation would be the best means of addressing these challenges.

#### **Costs**

The costs of introducing licensing regimes were also discussed. Some participants expressed concern that brokering legislation would impose excessive administrative costs upon governments, and the firms and individuals undertaking legitimate business activities that became subject to new legislation. It was suggested by

participants with experience of regulating brokering that the number of entities subject to brokering regulations were likely to be relatively few in number; and therefore administering brokering license applications could be handled by existing arms export licensing mechanisms. Furthermore, some participants stated that the human costs, and the opportunity costs concerning lost development and trade, of allowing unrestricted illicit brokering outweighed the financial costs of implementing such legislation.

It was also suggested that the effectiveness of brokering regulations would increase as more states introduced them.

### **Scope**

A number of participants suggested that brokering licenses should be required for transactions involving all types of military equipment (as opposed to limiting regulation to a specific category of weapons). This assertion was not disputed.

### **Case by case licensing or “Open” licenses**

Several participants stated that brokering transaction licenses should be issued on a case-by-case basis, rather than providing brokers with “Open” licenses. Furthermore concern was expressed that brokering in SALW should not be subject to “Open” licenses, and should always be considered on a case-by-case basis.

### **Criteria**

A number of participants stated that they believed that the criteria for issuing brokering licenses should be based upon a government’s existing criteria governing the physical export of arms. It was also expressed that the specific circumstances involving brokering may require some administrative innovation in the light of experience. However, such innovation could be managed within states’ general criteria concerning arms trade licensing.

A number of participants expressed a view that brokering licensing criteria should, where applicable, accord with documents on arms transactions produced by organisations such as the EU, OSCE, or OAS. This view was not opposed.

### **Information provision by license applicants**

In a similar fashion to the discussion on criteria outlined above, it was expressed that the same information requirements for arms brokering licenses should apply as those in states’ existing regulations concerning arms export licensing.

Participants went on to discuss the provision of additional information with licenses. It was suggested that arms export license applications should include information on all the parties involved in conducting the transaction – particularly brokers, transport companies, and those responsible for financing. There was a debate concerning the practicality of such measures. Some participants suggested that exporting companies did not usually arrange transport until after an export license was granted (and just prior to their export). Others suggested that governments could overcome this problem by either requiring exporters to arrange transportation in advance, or to be granted an export license on the condition that they would provide such information when it became available.

### **Workshop 3: Registration requirements for arms brokers (including relevant documentation and disclosure)**

#### **Presentation 1: Patricia Slygh**

The session started with an introduction on United States registration practices for brokers. The US system of registration of brokers and brokering activities is part of a wider control apparatus. All parties that manufacture or export defence articles, furnish defence services or engage in brokering activities, have to be registered. The US definition of “broker” is any person who acts as an agent for others in negotiating contracts, purchases, sales, or transport of defence articles or defence services in return for a fee, commission, or other consideration. Brokering activities are defined as acting as a broker, and include financing, transportation, freight-forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defence article or defence service irrespective of its origin.

#### **Presentation 2: Ian Anthony**

The second presentation followed with an introduction on Registration Requirements. The main elements were a definition of brokering activities and a definition of registration as both a form of data collection and as an element of the control system. Examples of different types of control systems were given. A distinction was made between registering brokers and monitoring brokering activities. These two elements could of course be, and are in some countries, combined in a national control system. Although different countries have specific legal and administrative provision in their control systems for brokering, the need to collect and update information is a common requirement. It was pointed out that not only inter-governmental cooperation but also the engagement of industry was essential to achieve effective controls. The registration procedures chosen therefore had to contain incentives for good participation by industry.

#### **Discussion**

The debate concentrated on two subjects. a) Questions about US practices and b) Points of views on registration procedures:

##### **a) Questions on US practices**

A number of questions about US practices were raised. On a question regarding congressional scrutiny, Ms Slygh pointed out that Congress mainly wanted to evaluate the brokering registration system as such in order to spot loopholes and room for improvement. A report on the implementation of the brokering legislation will be presented to Congress in June 2003. A number of questions were also raised on the bureaucratic burdens of having a system that focuses both on registering brokers and brokering activity. Ms Slygh said that the brokering section was staffed with 5-6 people, which were integrated with the general department of export controls with some 50-60 persons. Records were originally created as a manual filing cabinet, but the registration system was currently in a process of converting to electronic means, which would simplify procedures significantly.

On the legal aspects, many participants were interested in how brokers were made responsible for their actions. Ms Slygh mentioned that certain knowledge about current legislation, such as the arms export act, was required upon signing an application for a brokering license and upon signing the individual license application. It was also mentioned that various trade organizations provided brokers with information on current legal status. The State Department also arranges seminars on specific topics from time to time.

Defence articles subject to brokering legislation, were referred to as items included in the US munitions list. The US munitions list covers SALW.

Some remarks on information sharing were also made. The US state department does not practice information sharing on brokering activities, other than required in the framework of international regimes like the Wassenaar Arrangement. However, there have been incidents where brokering license denials based on convictions had been published on the website of the US State Department. Finally, Ms Slygh pointed out that brokering license requests had to contain information on possible shipping routes, even if not specifically known by the broker. Financing activities were however excluded from the definition of brokering activities.

#### **b) Points of views on registration procedures**

The other questions and comments focused on what a licensable activity is, and what are essential information requirements for the registration of brokers and controlling brokering activities, and what purpose the registration could serve. A consensual understanding was established that some form of legislation was needed in a country in order to be able to identify and thereby prosecute illicit activity and to control legal activity. It was repeatedly mentioned that governments with no legislation at hand could run the risk of facing illicit arms trafficking without any legal tools to deal with it. Furthermore, it was pointed out that it seemed necessary to establish some criterion on what a brokering activity consists of, in order to define the legality, or not, of a particular action. In addition, many said that it seemed unnecessary to distinguish SALW from other weapons in respect to brokering activities.

There was a general understanding that brokers should be legally required to maintain full documentary records of their activities and to make them available to national authorities upon requests. There seemed to be a difference of opinion on the issue of end-user and end-user control systems as a key element of national controls of arms brokering activities. The debate on how to proceed in developing national legislation rather focused on issues of what to register and how to share information with others. Some government participants presented their system of registering of brokers and monitoring of brokering activities as integrated parts of their export control systems. An innovative example was given by a government participant whereby a system is established of requiring money deposits for a time period after a broker activity-taking place. This in order to guarantee that deals are carried out in the fashion described in the brokering application, before the money is returned.

Two basic questions were repeatedly brought up in the discussions. First, should individuals and companies be registered as brokers prior to any brokering activity, or should the legislative focus be placed upon the individual brokering activity. It seemed meaningless to register brokers without licensing brokering activity, but there

were different views on whether brokers should be registered as such or if governments should focus strictly on controlling brokering activities. The other basic question referred to information sharing. Emphasis has to be put on governmental cooperation in order for other governments to benefit from national experiences with single brokers and brokering activities and to prevent inappropriate brokers from legally operating in one country after having been denied a brokering license in another.

## **Workshop 4: Extra-territorial jurisdiction**

### **Presentation 1: Loretta Bondi**

The first presentation focused on the extraterritorial reach of the U.S. law on arms brokering, international legal cooperation in the area of extradition and a proposal for an international treaty on arms brokering. While the extraterritorial scope of the US law is wide, cooperation of other countries is necessary to enforce the law. Mechanism for legal cooperation in terms of investigations and extradition are key to achieve this, and some recent developments could make this easier such as the Bilateral Plus agreement, which is about to be signed between the United States and the EU countries. The EU Arrest Warrant being developed among the EU countries is another important development in the area of cooperation. Still, an international treaty that would harmonize regulations between countries and improve law enforcement effectiveness is a necessary complement to national and regional rules in order to tackle a global phenomenon like arms brokering.

### **Presentation 2: Jacek Silwoski**

In the second presentation, a representative from the Polish government presented the Polish law regulating arms transfers and brokering activities. Poland adopted a new law on international trade in goods, technologies and services of strategic relevance for state security in 2001; mainly in order to harmonize regulations with EU and NATO countries before accession to these organizations. With regard to extraterritoriality, while the old law only regulated brokering activities when the arms transited Polish territory, the new law covers all activities undertaken by Polish citizens or companies, including outside Polish territory.

### **Discussion**

The discussion focused mainly on the different degrees of extraterritorial jurisdiction that States have adopted in their national regulations on brokering and the advantages, disadvantages and challenges of applying and enforcing different types of extraterritorial controls. The issue of whether there may be different interpretations of the applicability of extra-territorial jurisdiction emerged from one of the comments made, and it was reiterated by others that a state is considered to exercise extraterritorial jurisdiction when none of the components of the offence is located on its territory. Participants generally acknowledged that some degree of extraterritoriality was necessary or should be considered when developing national regulations on brokering. The majority of the existing national laws controlling brokering activities seem to include provisions for some degree of extraterritorial jurisdiction. However, the scope of the extraterritorial jurisdiction varies. A few examples were highlighted of national laws that allow for almost full extra-territorial jurisdiction, meaning extraterritorial jurisdiction over brokering activities by national citizens wherever they occur. One case was also mentioned where a State included what one might call “inverted extraterritoriality” by granting national courts jurisdiction to prosecute foreign persons or companies for activities that would be considered offences even where this is not considered an offence in the country where

the offence was committed and/or where there is no request from other countries to prosecute the offence.

At present, a common option among those States that have national laws seems to be a middle ground, where the State would assert extraterritorial jurisdiction over all brokering activities by persons that are normally resident in its territory, and by companies that are permanently based and managed from premises on its territories. Although there were minor variations in national practice, this degree of extraterritoriality seemed acceptable to most participants.

A third model identified is to restrict extraterritorial jurisdiction to only certain categories of offences, mainly those related to violations of arms embargoes. While it was recognized that this category would at a minimum include UN Security Council arms embargoes, one case was highlighted where a national law currently under development is intended to cover arms embargoes generally. One participant pointed out that this was a rather innovative solution, which could provide more flexibility, as both regional and national embargoes would be included. Another distinction that became apparent from the discussion is whether or not the brokering legislation takes into account the origin of the weapons brokered. Most national laws seem to regulate brokering activities in the same way irrespective of the origin of the weapons. Still, one example was highlighted where a national legislation invokes extraterritorial jurisdiction over all brokering activities that involve SALW originating in the relevant State.

Arguments for limiting or excluding extraterritoriality from brokering regulations were put forth. What are some of the reasons why States choose not to assert jurisdiction over brokering activities where they occur outside the territory? The main arguments given for this was the difficulty of enforcing such provisions both because evidence of the offence may be hard to obtain and because the offence may not be extraditable if not considered an offence in the country where the person or company is operating. Since violations of arms embargoes would generally be recognized as an offence also by other states, enforcement of extraterritoriality and extradition is generally easier in these cases and may be an argument for choosing "the third model". Other participants did not agree with the conclusion that extra-territoriality should be limited based on these concerns, as extraterritorial jurisdiction is intended as a tool in circumstances where evidence is available. Without provisions for extraterritoriality in such cases, a State is left without any recourse to take action against the offender. An additional argument put forward to support this was that the number of cases is likely to be quite small, and would therefore not constitute a major administrative burden on national authorities.

Another interesting point raised is how States may wish to avoid explicitly invoking the principle of extraterritoriality in their brokering law and instead use other creative measures to establish a substantive connection with their jurisdiction. An example was provided of a State which achieves this through a reporting requirement, according to which companies have to report to the national register on all activities, even those conducted outside the national territory. Failure to comply with this requirement can result in administrative and/or penal sanctions. It was suggested that a more flexible approach that focuses on the intended outcome of national procedures rather than strict legal terminology may be warranted. This could be done by

discussing "extraterritoriality", while acknowledging that there may be several creative ways to achieve the same desired outcome, namely to establish a link to the relevant jurisdiction.

Overall, there seemed to be broad agreement that given the transnational nature of brokering activities, which makes it difficult for States to prosecute brokers who regularly exploit differences in legislation between countries, serious consideration must be given to include extraterritorial jurisdiction in laws and regulations. No participant presented serious objection to this notion. However, the scope of extraterritorial jurisdiction and the way in which it is provided for in national regulations can vary. The scope may range from full extraterritoriality to extraterritoriality being restricted to certain categories of activities or circumstances. Although it was not broadly discussed during the workshop, the observation was made that the development of common international regulations could be useful and that such standards could also make it easier to implement national laws.

## **Workshop 5: Criminalisation, Sanctions and Promoting enforceability**

### **Presentation 1: Peggy Mason**

This presentation brought up three key issues:

- a) There must exist clear *obligations* and *procedures* concerning arms brokering, including *penalties* for non-compliance. It must be clear who has to register as a broker, how a licence for brokering activities is obtained, and what administrative entities will be dealing with this. The system must be designed with enforceability in mind.
- b) *Criminalization* of breaches of the arms brokering laws must be carefully considered. It is necessary to distinguish between minor and major offences; and in the case of minor offences administrative penalties can be considered in addition to criminal proceedings. To help overcome the problem of proving the intent necessary for a crime, a reverse onus of proof might be considered. The legislation should provide that the accused can never use the defence of ignorance of the law.
- c) There are different options for *enforcement* of arms brokering laws. Enforcement is a crucial issue for the credibility of the legal system. Documentary requirements are necessary to monitor the brokering activities, and serve both to ensure compliance and to give clear evidence of non-compliance. Procedures to ensure efficient cooperation between relevant ministries are important, and this is also an area where harmonization of international regulations could greatly improve results.

### **Presentation 2: Dirk Roland Haupt & Christoph Monreal**

A number of choices have to be made when designing brokering laws, and one that is important is whether to use a *core approach* or a *broad approach* to the legislation.

- A core approach just comprises the core activities of mediating between parties involved in arms transactions.
- A broad approach can comprise including associated services such as transportation, financing and technical services.

These two approaches have relevance to criminal investigation and gathering of evidence, public prosecution, conduct of trial and court proceedings, and transboundary legal assistance.

It was stressed that a core approach was more likely to lead to successful prosecutions than a broad approach. First, because such related activities would better be handled by specific instruments rather than including them in brokering laws. Second, the difficulty in enforcing financial regulations (given the experience from prosecuting other types of financial crimes) makes enforcement unlikely.

It was suggested that closer international cooperation would be a key means of improving the enforceability of brokering legislation. This would include cooperation between intelligence services, pre-licensing information exchange, verification of end-user certificates and delivery, and verification of other additional documents.

## **Discussion**

The ensuing debate brought up the following themes:

- The usefulness of media attention in enforcement. If the media can be taught about brokering issues, and become more interested, they might be helpful in highlighting breaches of the laws.
- More states need to criminalize UN sanctions violations, as they are required to do. At present only 12 states have incorporated this into national laws.
- It transpired that there exist different national practices for initiating prosecutions under the brokering laws.
- The countries that have such laws have also initiated a very different number of prosecutions based on them. Some states already have experience in this regard, whereas other states have not yet undertaken such prosecutions. One reason that was mentioned for not undertaking prosecutions was the fear that possible unsuccessful cases might not set a good precedent.

## **Workshop 6: International Co-operation**

### **Presentation 1: Roy Isbister**

The transnational, and potentially complex, nature of arms brokering makes international cooperation essential to governments' efforts to control illegal activities. However, progress has been slow. The capability, often demonstrated, of brokers to take advantage of jurisdictional discrepancies and operate across the globe makes international, rather than just regional, cooperation an urgent priority. Shared understandings of the problem of illicit brokering, and the best means to tackle it, are fundamental to cooperation among governments; and essential to ensure the coherence of states' national legislation.

Cooperation needs to take place on a number of levels: effective and coherent regulation, enforcement and prosecution, and the provision of assistance. Specifically, this would include cooperation on: license decision-making, particularly concerning communication between the licensor and purchaser; sharing intelligence on the purchaser and all other parties involved in a potential transaction; sharing basic information regarding other states' laws and regulations (to ensure that a potentially illegal transfer is not authorised); facilitating extradition requests; law enforcement measures via the collection of evidence of illegal activity; and the circulation of information on wrongdoing as such information becomes apparent.

### **Presentation 2: Katherine Verrier-Frechette**

The presentation first stated that given the transnational nature of brokering activities, international cooperation is important. In addition to mentioning the responsibility shared by governments, the UN Programme of Action mentions the benefits that might be derived from cooperation, at both regional and global levels, in tackling issues related to the illicit trade in SALW, including illicit brokering. There are three opportunities for sharing information:

- when drafting legislation.
- in response to a request from a licensing authority trying to establish the credibility of a broker.
- for law enforcement purposes.

These opportunities imply that that there is work to be done to ensure that international cooperation is addressed when designing legislation and regulation, for example, to ensure that the legislation has an aspect “international cooperation”.

International cooperation on best national practices has already been at work for some time. There is an infrastructure in place, based on the export control infrastructure, for sharing information for law enforcement purposes (but this is dependant upon laws having been broken). The main challenge will be to design and implement a system whereby information exchange will enable licensing authorities to determine the credibility of a broker, and overcome restricted access to information, such as concerning the protection of confidential personal or commercial information.

## Discussion

Speakers and participants in this workshop discussed the transnational nature of the problem, and emphasised the value of international co-operation in order to close loopholes and gaps that can be exploited by brokers operating outside the law. The importance of information sharing as one of the main aspects of international cooperation on brokering was stressed. Although several participants warned of the potential and actual barriers to information sharing, there was a common understanding of the value of international co-operation in this area, although there is a clear need to elaborate on how this could be best achieved. During the discussion, the importance of political will in making international cooperation effective was highlighted. A number of initiatives in various fora were identified as promising in this regards, including the Wassenaar Arrangement processes, the OSCE best practice guide, the common position of the European Union, the commitments of the Firearms Protocol and the OSCE Document on SALW, and the work on the UN sanctions committees.

Information sharing in the fields of legislation, brokering control, and enforcement were found to be the main elements of international cooperation. In order to make it effective and coherent, some shared understandings of the nature of the problem would be instrumental. These could be done on the basis of the UN Programme of Action, although it was mentioned that the PoA only provides guidelines, which would need to be further developed. Questions were raised about whether or not the international community had reached a critical mass in order to move towards greater international co-operation in the form of such shared understandings or even model regulations. For example, it was noted that acceptance among governments of the need to license brokers has grown substantially during the last six months. A number of states now have brokering legislation or are in the process of preparing such legislation and could contribute towards common understandings by sharing their experiences on this legislation and on its implementation. Meanwhile the forthcoming OSCE Best Practice Guide on national control of brokering activities might provide a useful basis for the development of common understandings or model regulations.

However, it was pointed out that regional organizations, such as the OSCE or the Wassenaar Arrangement cannot develop truly international understandings. Without such international co-operation, brokers are able to move from country to country exploiting weaknesses in legislation. Second, the quality of international cooperation depends on national capacity to coordinate internally. Third, problems relating to the sharing of information between various actors, including states, the UN, Interpol, OSCE, EU and others, and possible ways to overcome these, such as through proactive information sharing, were discussed.

A division of information sharing into legal activities, semi-legal activities and illicit activities of brokers was suggested as a useful way of approaching the issue. Information sharing within these three areas would take very different forms. For example, states could exchange lists of registered or licensed brokers through official diplomatic channels, and share sensitive criminal intelligence on illicit activities, or licence/registration revocations through law enforcement channels. However, it was noted that information sharing on criminal intelligence relies on a law having been broken. Some felt that when it came to brokering activities, information sharing

should be more proactive, and mechanisms should be developed that would allow for information to be shared *before* a law is broken. The example of the work done by UN Sanctions Committees was cited in this connection, although it was noted that lack of systematic collection of information on UN sanctions busting by unscrupulous brokers means that sanctions committees and expert monitoring groups have to start from scratch each time. Some participants felt that this situation creates problems, such as a lack of institutional memory, and indicates an absence of political will to carry the process forward.

It was suggested that political will also depended strongly on public opinion. Because of this, NGOs should work for a better understanding of the issue among the public. Some felt that any future campaign on the small arms issue would have to involve the humanitarian community. The example of the International Campaign to Ban Landmines was mentioned.

In summary, participants were optimistic about the potential to share information on legislation and experiences with a view to developing shared understandings or model regulations. They looked forward to the elaboration of the EU common position and the OSCE best practice guide as steps in this direction. They were more cautious about the logistics and sensitivities surrounding the sharing of information on illicit activities, while nevertheless recognizing the value of such exchange. Finally, they considered the Framework Convention on brokering as a useful document and potential catalyst for action.