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# ATT Article 10 Brokering Controls

Canada's approach to brokering controls

Presented to the ATT Working Group on Effective Treaty Implementation (WGETI) on March 16, 2027



# History of Canada's brokering controls

- **Long-standing interest in brokering controls (circa 2000)**
  - (Wassenaar Arrangement (Best Practice (2003)), OAS Draft Model Regulations (2003))
- **ATT impetus (2013-2015)**
  - Canadian law – implementation required before treaty accession
- **Heavy lift (2015-2019)**
  - Legislative and regulatory amendments - Governmental Approval
- **Implementation (2019-present)**

# Canada's Brokering Controls

- Built on the same foundations as Canada's export controls under the *Export and Import Permits Act*
- Familiar processes encourage compliance and reduce administrative burden
- Controls focused on regulating brokering activity related to the movements of the controlled goods and technology

Brokering Controls*	Export Controls*
<ul style="list-style-type: none"><li>• Brokering Control List</li><li>• Brokering Permit Regulations</li><li>• Assessment against Article 6 &amp; 7</li></ul>	<ul style="list-style-type: none"><li>• Export Control List</li><li>• Export Permit Regulations</li><li>• Assessment against Article 6 &amp; 7</li></ul>

# Foundational Concepts

- **Legal Definition of Brokering**

- Involves arranging or negotiating transactions that relates to the movement of controlled goods or technology between foreign countries
- “Includes a transaction that relates to its acquisition or disposition, and a transaction that relates to the movement of technology also includes a transaction that relates to the disclosure of its contents”

- **Scope of Brokering Activities (arranging or negotiating)**

- Covers formal negotiations and facilitation of controlled item transfers

- **Actors Engaged in Brokering in Canada and Canadians internationally**

- Defense firms, consultancies, intermediaries, and technology suppliers

- **Regulatory Boundaries and Intent**

- Excluding administrative or logistical support to avoid over-regulation and align with international treaties (“directing mind”)

# National Authorities and Responsibilities

- ***Export and Import Permits Act***

- The *Export and Import Permits Act* is the law that governs Canada's export and brokering controls regime, including the implementation of Arms Trade Treaty obligations

- **Global Affairs Canada Role**

- The Minister of Foreign Affairs is responsible for the administration of the *Export and Import Permits Act*. Global Affairs Canada oversees brokering controls through the Strategic Export Controls bureau managing permits and compliance

- **Inter-agency Collaboration**

- Global Affairs Canada consults internally with geographic, non-proliferation and regional security partners, as well as other government departments as appropriate. Enforcement is conducted by the Royal Canadian Mounted Police

# Establishing a framework for Brokering Controls

- **Amended the *Export and Import Permits Act* (EIPA) to develop authority for brokering controls**
  - Introduced brokering controls and mandatory ATT risk criteria
  - Enabled development of supporting regulations
  - Had to be fully scoped and presented to Cabinet before authority was granted to proceed
- **Drafted regulations that were published for consultation**
  - Allowed stakeholder input and refinement
- **Implemented to meet ATT Article 10 obligations**
  - Required brokering controls as part of Canada's 2019 accession
- **ATT accession in September 2019**
  - Brokering regime fully in force just before Canada's accession to the ATT

# Brokering Regulations & Administration

- **Brokering Control List (BCL) defines controlled brokering items**
  - Military items and components, and dual-use items with potential WMD applications
- **Brokering Permit Regulations**
  - Regulations specifying permit requirements
- **Regulations Specifying Activities that Do Not Constitute Brokering**
  - Exemptions reduce administrative burden where risk is minimal (ex. Transaction for end-use by an affiliate; When a Canadian does not exercise control over a foreign employer)
- **General Brokering Permit No. 1**
  - Applies to most Munitions List items and to listed Eligible Destinations

## Administrative Guidance and Enforcement

- Handbook and Notices to Brokers guide compliance and ensure enforceable, transparent brokering controls in Canada

# Brokering Application – Requirements

- **Applicant Identification**

- Applicants must provide full legal name, address, citizenship or residency, and contact details for brokering permits

- **Transaction Party Details**

- All parties involved, including sellers, purchasers, consignees, and brokers, must be clearly identified in the application

- **Controlled Goods Description**

- Detailed technical descriptions (if available), control list references, and export item numbers are required for all controlled goods or technology

- **Details of the Items to be Brokered**

- Applicants must disclose quantity of goods and value in Canadian dollars

- **End-Use Statement**

- Applicants provide end-use certificates for commercial or government use, if available

# Case-by-Case Review

- **Individual Brokering Permits assessed case-by-case**

- Applicant self-assessment for items being brokered
- Application assessment is based on the items, the quantity and value, parties involved, and potential risks
- Further to consultations within Global Affairs Canada and with Canada`s Department of National Defence

- **Alignment with International Law**

- Canada`s approach supports international commitments to regulate brokering activities under the Wassenaar Arrangement, the OAS Model Regulations and the ATT.

# Compliance With Article 6 Prohibitions

- **Absolute prohibitions applied to all authorizations**
  - Includes UN embargoes and international legal obligations
- **No authorization where items may support serious international crimes**
  - Covers genocide, crimes against humanity, war crimes,. etc.
- **Compliance and enforcement measures**
  - Global Affairs Canada promotes compliance through verification, education, and support
  - If brokers do not follow the terms and conditions of their permits, they may lose brokering privileges (i.e. the individual brokering permit could be suspended or canceled)
  - The Royal Canadian Mounted Police is responsible for enforcement of brokering controls
  - Imprisonment up to 12 months on summary conviction and of 10 years on indictment
  - Monetary fine on summary conviction up to \$250,000 (greater on indictment)

# Brokering Transaction Assessment

- **Rigorous Risk Assessment**

- Evaluates to ensure transactions do not undermine international peace or security following ATT Article 7 criteria lines with the same consultees as our export permit assessment process

- **Identification of Overriding Risks**

- Assessments identify risks related to violations set out in the ATT criteria, including humanitarian law, terrorism, organized crime, and gender-based violence
- Implemented under Canadian law as the **substantial risk test**

- **Mitigation and Denial Measures**

- Risk mitigation measures are applied, and applications are denied if overriding risks remain despite mitigation efforts

- **Regulatory Coherence**

- Harmonized export and brokering standards close loopholes ensuring consistent and responsible arms transfer governance

# General Brokering Permit No. 1 (GBP-1)

- **Streamlined authorization for low-risk brokering**
  - Applies for eligible destinations
  - Limited to specific items on the Munitions List
  - Applicants must register intent to use GBP-1 in each calendar year
- **Reporting Requirements (semi-annually)**
  - Transaction party details
  - Controlled goods description
  - Details of items to be brokered (BCL item number, description, quantity and value)
- **Record Keeping Requirements (six years)**
  - Must keep transaction details as above as well as date of movement of controlled goods (if applicable)
  - Copies of available contracts, invoices, or shipping/export documentation

# Individual Brokering Permit vs. GBP-1

Individual Brokering Permit	GBP-1
<ul style="list-style-type: none"><li>• requires a case-by-case assessment</li><li>• requires full transaction-specific details (parties involved, items, values, end-use)</li><li>• requires approval before each transaction</li><li>• required for all other transactions</li></ul>	<ul style="list-style-type: none"><li>• streamlined authorization for defined low-risk scenarios</li><li>• simplified upfront requirements</li><li>• post-activity reporting</li><li>• designed for low-risk brokering transactions</li></ul>

# Extraterritorial Scope of Canada's Brokering Controls

- **Scope of Brokering Controls**

- Canada's brokering controls extend beyond borders to include brokering activities of Canadian citizens, residents, and entities abroad

- **Narrow Exemptions**

- Certain activities are exempt, except as relates to ATT Article 2 items (ex. When a Canadian working aboard does not exercise control over foreign employer)

- **Alignment with International Security**

- Controls ensure Canadian brokering aligns with global security goals and seeks to prevent arms diversion to conflict zones

- **Challenges with enforcement**

- Limited visibility into foreign-to-foreign transactions
- Enforcement depends on external authorities for information and action (limits to MLATs/Extradition Treaties)
- Challenging to determine when a Canadian is actually "brokering" without the above information

# Compliance, Reporting, and Enforcement

- **Individual Brokering Permits and GBP-1**
  - Terms and conditions of permit must be met as specified in the permit or GBP-1
- **Compliance and Reporting**
  - Brokers must submit reports to ensure regulatory oversight and control, as well as annual pre-notifications for use of GBP-1
- **Inter-Agency Collaboration**
  - Global Affairs Canada administers brokering permits and ensures compliance with treaties and laws
  - Multiple agencies collaborate on technical, security, and foreign policy matters to support comprehensive brokering control enforcement
  - The Royal Canadian Mounted Police leads on criminal investigations into unauthorized brokering and supports evidence gathering and enforcement with domestic and foreign partners

# Contribution of International Cooperation

- **Exchange of National Practices**

- States share national practices and discuss challenges to improve brokering control systems (benchmarking, discussions and visits)

- **Use of International Guidance Tools**

- Ex. Small Arms Survey's Practical Guide to National Implementation, the "UN Disarmament Office's ATT Implementation Toolkit for government officials" support legislative development and administrative procedures for brokering controls

- **Strengthening Capacity and Enforcement**

- Continued cooperation helps harmonize approaches, enhance detection capacity, and enforce ATT obligations effectively

- **International Engagement**

- Canada actively participates in information sharing and capacity building through ATT bodies and international forums

# BROKERING STATISTICS

- **Individual Brokering Applications (2020-2024)**

- Average of 32 individual brokering applications per year
- Accounting for 0.5% of all applications received
- Approved circa \$1.43 billion in brokering permits annually

- **GBP-1 (2020-2024)**

- Utilization of some \$24.7 million in transactions annually
- On average, less than 10 companies utilize GBP-1 each year

- Information on individual brokering applications and usage of GBP-1 is presented annually in the Annual Report on Strategic Goods and Technologies Pursuant to Section 27 of the *Export and Import Permits Act* that is tabled in Parliament

# Key Links

- Brokering Controls Webpage:  
<https://www.international.gc.ca/trade-commerce/controls-controles/brokering-courtage/index.aspx?lang=eng>
- Notice to Brokers: <https://www.international.gc.ca/trade-commerce/controls-controles/notices-avis/216.aspx?lang=eng>
- Export and Brokering Controls Handbook:  
[https://www.international.gc.ca/trade-commerce/controls-controles/reports-rapports/ebc\\_handbook-cce\\_manuel.aspx?lang=eng](https://www.international.gc.ca/trade-commerce/controls-controles/reports-rapports/ebc_handbook-cce_manuel.aspx?lang=eng)