



**CITS**

CENTER FOR INTERNATIONAL TRADE & SECURITY

THE UNIVERSITY OF GEORGIA

# **The Characteristics of Illicit Brokering Activities**

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***Combating Illicit Brokering***

**Conference in Geneva**

**June 30, 2010**



# ***The Concept of Brokering in General***

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- **The modern day realities of international trade**
- **New actors – broader scope**
- **Strategic trade controls**
- **New responses and methods of control to address new proliferation challenges**
- **Balance between security and trade**
- **The role of brokering**
- **Legitimate versus illicit**



# ***Brokering - an Elusive Concept***

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- **Difficult finding one definition**
  - Person?
  - Activity?
- **The goods in question?**
  - A broker does not necessarily have to be in physical or commercial possession of the goods
    - Neither an exporter nor an importer
- **Jurisdiction and extraterritoriality**
  - Who to prosecute and where?

***Trying to capture the facilitation of a transaction***



# *The Different Actors – Different Roles*

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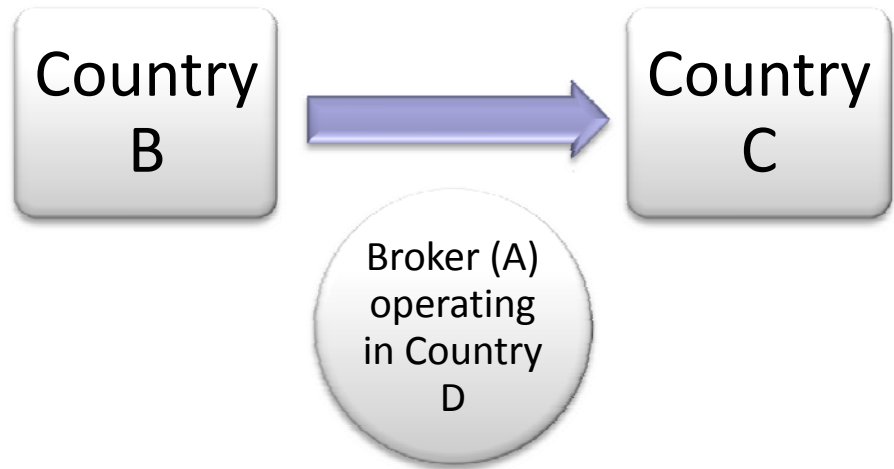
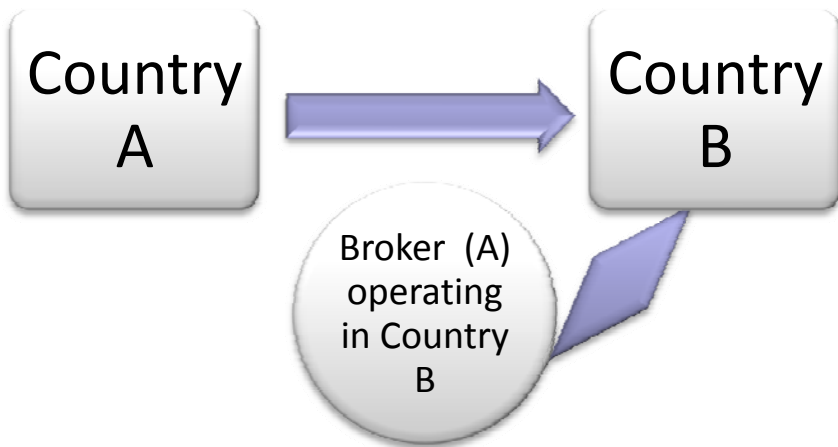
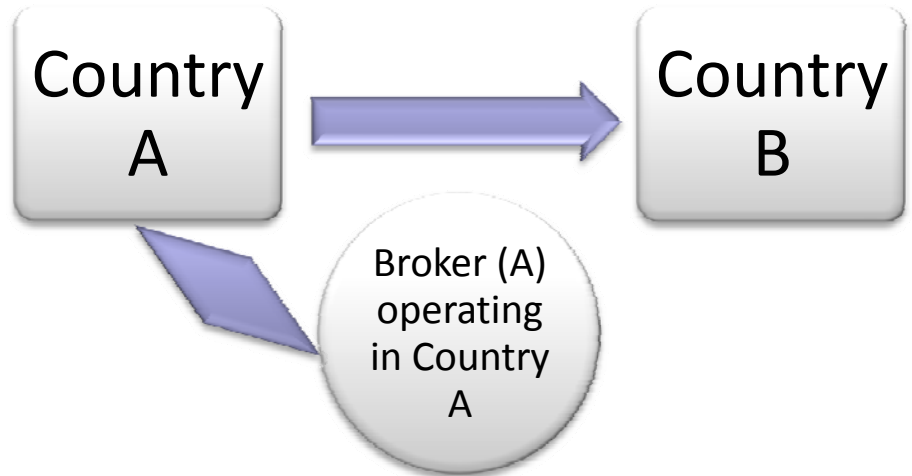
- **Broker – who?**
  - Individuals
    - The “free” agent
  - Companies
    - Brokering as a business structure
  - Freight Forwarders
    - Connecting the world’s dots
  - Delivery Services
    - The extent of the service
  - Financial Institutes
    - Facilitation through finances

***The illicit “mirror”***



# Location, Location, Location!

- In the globalised marketplace the broker can operate from anywhere
- Illicit brokering activities take place in the jurisdictional grey zones in between





# *Types of Jurisdiction for Brokering Controls*

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- **National Jurisdiction** – includes regulations which control or prohibit brokering activities by persons residing in the country and facilitating the transfer of weapons/dual-use items from that country to a second country.
- **Extended Jurisdiction** – a more comprehensive strategy, is a set of regulations that can apply to individuals in the country who broker the delivery of weapons/dual-use items from suppliers in a second country to recipients in a third even though the weapons never cross the State's borders.
- **Extra-territorial Jurisdiction** - the widest approach, enables the State to regulate brokering activities of its citizens no matter where they reside.

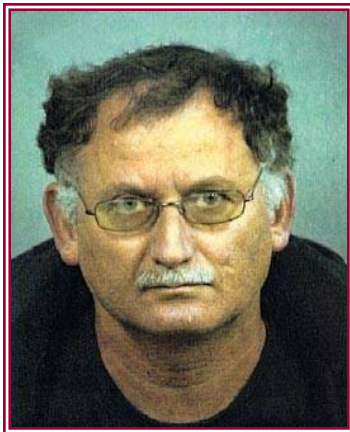


# *Businessmen or “Lords of War”?*



Suspected Russian arms dealer Viktor Bout attends his first extradition hearing in Bangkok. Photograph: Sukree Sukplang/Reuters

Source: The Guardian Aug 13, 2009



Source: PBS Frontline World, March 2005 “the Middleman” Mark Shapiro

- Both Viktor Bout and Asher Karni had/have legitimate business models with an illicit twist
- Forum shopping for products
- Multilayer procurement – front companies, false end-user certificates, strange trade routes, false flight plans
- “Surfed/Surf” the legalistic loopholes worldwide



# *Examples of Initiatives to Counter Illicit Brokering*

- **Conventional Arms and Munitions**

- The Wassenaar Arrangement, “*Elements for Effective Legislation on Arms Brokering*”, December 2003
- The European Union “Council Common Position 2003/483/CFSP on the Control of Arms Brokering” , June 23, 2003
- European Union “Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment”

- **Dual-Use Products and Technologies**

- UN Security Council Resolution 1540, April 28, 2004
  - Calling on all UN Member States to: “*develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the *illicit trafficking and brokering in such items.**”
- European Union “Council Regulation (EC) No 428/2009 of May 5, 2009 setting up a Community regime for the control of exports, transfers, brokering and transit of dual-use items”

**UN General Assembly Resolution 63/67. “Preventing and combating illicit brokering activities “ December 2, 2008**

# *The Challenges and Solutions to Illicit Brokering*

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## • **Challenges**

- The legitimate broker
  - Modern day business needs the agent
- Citizenship – legal person
- The dual-use dilemma
  - How maintain control on civilian produced items and technologies?
- The jurisdictional reach

## • **Solutions**

- By regulating the legitimate broker – illicit brokering will be more easy to identify
- Registration
- Acknowledging the balance between trade and security
- Universal adoption of brokering controls and information sharing will close the loopholes better



**Thank you for your time and attention!**

QUESTIONS?

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