



# Arms control in a rough neighbourhood

The case of the Great Lakes Region and the Horn of Africa

## INTRODUCTION

A number of countries within the Great Lakes Region and Horn of Africa are severely affected by the proliferation of small arms and light weapons (SALW). Pastoral conflicts, political tensions, and the persistent presence of rebel groups continue to exacerbate the demand for and misuse of SALW, and porous state borders facilitate cross-border criminal operations and illicit trading in SALW.

Acknowledging the detrimental effects of SALW proliferation, states in the Great Lakes Region and Horn of Africa have adopted a regional approach aimed at curbing the supply and misuse of illicit SALW, in the form of the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa (Nairobi Protocol). Building on earlier regional agreements, the protocol is one of the most comprehensive regional SALW-control agreements in Africa, and it has impelled significant levels of cooperation between signatory states in tackling arms control issues. However, while cooperation at the regional level has been noteworthy, attempts to implement the provisions of the protocol at the national level have met with a number of obstacles. These obstacles include inadequate financial resources, insufficient levels of technical expertise and a lack of political will.

This paper examines the processes leading up to the adoption of the Nairobi Protocol and the establishment of a regional coordination body to oversee its implementation. It also attempts to assess regional and national progress made in implementing the protocol, including the development of National Action Plans (NAPs) and the marking of SALW in the region, as well as the factors that are hindering progress.

## BAMAKO AND THE UNITED NATIONS PROGRAMME OF ACTION

In the mid to late nineties, growing recognition of the devastating effects of the proliferation of SALW

throughout the world prompted the development of various international and regional initiatives. One of the most significant of these initiatives was the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in all its Aspects, held in New York in 2001. At this conference, states committed themselves to addressing both the proliferation of SALW and the destruction they cause in societies worldwide.

The conference aimed to bring together representatives from across the globe from national governments, inter-governmental organisations and civil society organisations. The goal of the conference was to develop a framework for reducing the availability and flow of SALW within countries and across international borders. This resulted in the development of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UNPoA). The UNPoA provided states with guidelines and recommendations for strengthening and implementing stronger national and regional controls over SALW. States that committed themselves to the process were encouraged to submit annual reports to the UN documenting progress made in implementing the recommended controls.<sup>1</sup>

In preparation for the UN conference, AU member states met in Bamako, Mali, to establish a common position on tackling the problem of illicit SALW proliferation, circulation and trafficking. This position later became known as the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons.

The African common position recognised that the proliferation of SALW is a regional problem, and one that requires extensive multilateral cooperation in order to be effectively addressed. Member states also agreed that existing measures aimed at curbing the proliferation of SALW should be strengthened, and expressed a need for greater capacity in order to implement more effective measures to address SALW proliferation. Specific actions were recommended at the national and regional levels,

and an appeal was made to the international community, and particularly to arms-exporting countries, to limit their trade to governments and authorised traders.<sup>2</sup> This African common position was later presented at the 2001 United Nations Conference and was influential in guiding discussions at that meeting.<sup>3</sup>

Given the difficulties in obtaining consensus on issues at the global level, international agreements have increasingly been pursued at the regional level, where they have been adapted to suit regional characteristics and challenges. In Africa, several agreements have been drafted and organisations established to act on the commitments made at Bamako and at the UN Conference. These include:

- The Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials (2006). (The ECOWAS Convention evolved from the politically binding 1998 ECOWAS Moratorium on Light Weapons, but has not yet been entered into force)
- The Southern African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials (2001)
- The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (2004)

The Nairobi Protocol is the most recent and progressive legally binding regional SALW agreement in Africa

The Economic Community of Central African States (ECCAS) has also been involved in various SALW activities. In May 2003, ECCAS held a seminar that focussed on the implementation of the UN PoA in Central Africa, and member states met again in March 2005 to assess progress made in doing so.<sup>4</sup>

The Nairobi Protocol is the most recent and progressive legally binding regional SALW agreement in Africa. As with the ECOWAS Convention, the process of addressing the proliferation of SALW in the Great Lakes Region and Horn of Africa began before African states met in Bamako.

## THE NAIROBI DECLARATION

In March 2000, States in the Great Lakes Region and Horn of Africa met in response to the problem of illicit

SALW proliferation in the region and signed the Nairobi Declaration to signify their commitment towards addressing the issue.

The Nairobi Declaration is a non-legally binding document that demonstrates the political commitment of signatory states to addressing the problem of SALW proliferation. The declaration was signed by ten states<sup>5</sup> in 2000 and paved the way for the development of the Nairobi Protocol, which was signed in 2004.

The declaration recognises both the cross-border dynamics of conflicts and arms availability in the region and stresses the need for cooperation between governments, multilateral agencies and civil society organisations. Pursuant to the signing of the Nairobi Declaration, a practical Agenda for Action and an Implementation Plan were developed in 2000 in order to provide member states with clear guidelines for implementing the provisions set out in the declaration. These guidelines provide a comprehensive strategy for amending and updating national legislation and regulations governing, amongst other things, the manufacture, trade, acquisition, possession and use of arms, as well as weapons collection, and destruction programmes.<sup>6</sup> Three years after adopting the politically binding Nairobi Declaration, states in the region furthered their commitment to addressing SALW proliferation by developing the legally binding Nairobi Protocol.

## THE NAIROBI PROTOCOL

The Nairobi Protocol was signed by 11 states in April 2004 at The Second Ministerial Review Conference of the Nairobi Declaration. It entered into force in May 2006 after acquiring an additional signature from Somalia and being further ratified by two-thirds of its signatories.<sup>7</sup>

Reaffirming the goals of the declaration, the Nairobi Protocol is a detailed legally binding regional agreement that builds on the commitments of the politically binding declaration. It should be noted that the protocol did not replace the declaration but rather sought to make its objectives and measures legally binding. Though states generally refer to the implementation of both the declaration and the protocol in their progress reports, their main focus is on the execution of the protocol within the region. Reference to the declaration is simply to indicate commitment to the process and to highlight the progression from the politically binding declaration to the legally binding protocol.<sup>8</sup>

The key elements of the protocol include:

- Reviewing and harmonising legislation governing the control of firearms, including controls over civilian possession of SALW

- Improving the operational capacity of law enforcement agencies
- The collection, destruction and disposal of SALW
- Tightening controls and ensuring accountability over state-owned stockpiles of weapons
- Raising public awareness of the negative impacts of SALW proliferation
- Marking, tracing and record-keeping of SALW
- Establishing effective import, export, and licensing systems
- Establishing systems for regulating dealers, brokers and brokering in SALW

Building on the experiences of the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials in the SADC Region (SADC Protocol), the Nairobi Protocol is in many ways more progressive than the earlier protocol, as its articles are more specific in prescribing particular actions.

Whereas the SADC Protocol requires states to implement legislative ‘provisions that regulate firearm brokering in the territories of State Parties’ (Article 5 (m)), the Nairobi Protocol requires that ‘State Parties, that have not yet done so, shall establish a national system for regulating dealers and brokers of small arms and light weapons’ (Article 11).

The Nairobi Protocol aims to close loopholes and ensure that its signatory states uniformly address and cover all aspects related to the illicit proliferation of SALW

The Nairobi Protocol then goes on to specify that ‘such a system of control shall include:

- regulating all manufacturers, dealers, traders, financiers and transporters of small arms and light weapons through licensing;
- registering all brokers operating within their territory;
- ensuring that all registered brokers seek and obtain authorisation for each individual transaction taking place;
- ensuring that all brokering transactions provide full disclosure on import and export licenses or authorisation and accompanying documents of the names and locations of all brokers involved in the transaction; and

- licensing, registering and checking regularly and randomly all independent manufacturers, dealers, traders and brokers’ (Article 11).

In specifying actions to be undertaken by member states to address SALW proliferation, the Nairobi Protocol aims to close loopholes and ensure that its signatory states uniformly address and cover all aspects related to the illicit proliferation of SALW.

In June 2005, signatories to the Nairobi Protocol agreed to a set of Best Practice Guidelines, which provide detailed policy and practice recommendations to guide states through the implementation of the Nairobi Protocol.<sup>9</sup> In the same year, the Nairobi Secretariat, which was established under the Nairobi Declaration to coordinate and to oversee its implementation, was transformed into the Regional Centre for Small Arms and Light Weapons (RECSEA).

## THE ESTABLISHMENT OF RECSEA

RECSEA was established in June 2005 at the Third Ministerial Review Conference of the Nairobi Declaration in Kenya. It is a subregional organisation with a legal mandate and is comprised of three organs, namely the Council of Ministers, the Technical Advisory Committee, and the Secretariat.

The Council of Ministers is composed of Ministers of Foreign Affairs or any other designated ministry from signatory states. The council meets every two years in the country of the chairperson, whose post is rotated amongst member states. The functions of the council include approving RECSEA’s budget and administrative documents, making policy and controlling the functioning of RECSEA, appointing the Executive Secretary and the Deputy Executive Secretary, and reviewing reports received from the Secretariat.

The Technical Advisory Committee (TAC) consists of the Executive Secretary, National Focal Point (NFP) Coordinators and civil society representatives. A chairperson heads the TAC with the assistance of a deputy chairperson, both of whom are nominated to office for a two-year period. The posts are rotated amongst member states. The committee sits twice a year in the country of the chairperson of the committee.<sup>10</sup>

The functions of the TAC include reviewing and revising the annual work plan and budget when necessary, supporting RECSEA in resource mobilisation and advocacy programmes, evaluating and monitoring RECSEA’s activities, and identifying and endorsing strategies undertaken or to be undertaken by member states and/or partners to combat the illicit proliferation of SALW. The TAC also sets the agenda for the meeting of the Council of Ministers. In order to fulfil

this function, the TAC meets before the ministers' meeting.<sup>11</sup>

The Secretariat comprises of two units, namely an administration unit and an implementation unit. While the Executive Secretary heads the secretariat, a Deputy Secretary heads the administration and implementation units.

The administration unit provides logistical and administrative support to all programme activities. It is currently made up of a Procurement and Administration Officer, as well as some support staff. At the time of writing, the Director and Finance officer's posts are yet to be filled.

The implementation unit consists of a Communications and Public Relations Officer, a Legal/Legislation Officer, and a Research/Gender Officer. At the time of writing, the posts of Political Liaison Officer and the Planning and Operations Officer are yet to be filled.

The Secretariat coordinates the implementation of the Nairobi declaration and protocol within respective member states through their NFP.<sup>12</sup>

Additional functions of the Secretariat include:

- Consulting with regional and international agencies, as well as civil society, on the implementation of the Nairobi Declaration and Protocol
- Preparing surveys, studies, information and guidelines on legal, political, social, cultural and technical matters of common concern and increasing cooperation amongst member states
- Conducting and facilitating research and information exchange between member states
- Assisting NFPs in implementing the declaration and protocol

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Member states are required, both under the declaration and the protocol, to establish a national focal point (NFP) on SALW

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Together, the three organs of RECSA are capacitated to coordinate, backstop, monitor and evaluate the activities in member states that are geared towards achieving the aspirations of the Nairobi Declaration and Protocol. In addition, RECSA assists with fundraising for these activities. RECSA is also mandated to work with and act as a link between various agencies working on SALW issues, including civil society organisations and other international and regional agencies.<sup>13</sup>

RECSA coordinates the implementation of the Nairobi Protocol in the 12 signatory states<sup>14</sup> that subscribe to its principles, aims and objectives.<sup>15</sup> These member states are required, both under the declaration and the protocol, to establish a national focal point (NFP) on SALW. NFPs are comprised of representatives from various ministries or departments that deal with internal security issues, and are tasked with facilitating and coordinating implementation of the protocol at the national level.

Each country's NFP undertakes to implement the protocol by developing a national action plan (NAP), which is based on the set of 'Best Practice Guidelines'. They are also responsible for providing RECSA with biannual reports on national implementation (which they do during TAC meetings) and for informing RECSA of areas where assistance is required.<sup>16</sup> Thus far, three signatory states have developed NAPs, namely Kenya, Tanzania and Uganda.

At the regional level, RECSA is mandated to promote and coordinate 'the joint effort by NFPs in Member States to prevent, combat and eradicate stockpiling and illicit trafficking in small arms and light weapons, ammunition and related material in the Great lakes and Horn of Africa'. In order to fulfil this mandate, RECSA is tasked with ensuring 'that states parties to the declaration put in place adequate laws, regulations and administrative procedure to exercise effective control over the possession and transfer of SALW'.<sup>17</sup> As part of the organisation's efforts to assist member states in this area, RECSA has run various training and capacity building workshops across the region. These workshops have been aimed at providing assistance to states in strengthening policy and amending and harmonising legislation.<sup>18</sup>

## ACHIEVEMENTS

Of the 12 signatories to the Nairobi Protocol, all have established NFPs, although some function more efficiently and effectively than others. NFPs are key to implementing the protocol, as one of their primary functions is to develop a NAP to facilitate and guide implementation of the Nairobi protocol. Somalia is the only member country that has not officially launched its NFP, although it plans to do so in the near future.

Somalia is also the only country that does not yet have a legal drafting committee.<sup>19</sup> Legal drafting committees are tasked with reviewing and proposing amendments on existing legislation relating to the control of SALW in order to 'harmonise' national laws to comply with the protocol.<sup>20</sup>

Overall, progress in reviewing and amending legislation in the region has been slow. At the time of writing, no country has adopted new SALW legislation. Countries that have made progress in this area are

Rwanda, Burundi and the DRC. These three states have presented bills to their respective parliaments, and are at different levels of approval. Kenya, Uganda and Tanzania have also made some progress towards amending their legislation but have yet to submit bills to their respective parliaments. While no country has yet passed new legislation, none are opposed to amending, updating or even adopting new legislation.<sup>21</sup>

To support the process of amending legislation, an annual regional Parliamentary Forum workshop is held to promote and garner support from parliamentarians for legislative reforms. It also highlights the importance of strengthening legislation relating to the control of SALW. The workshop aims to encourage parliamentarians to support and promote the approval of bills once drafted and submitted to national parliaments. One difficulty with this process though is that the composition of parliamentary committees changes on a regular basis in some Member States, and this delays the process.<sup>22</sup>

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One of RECSA's major achievements in the region has been encouraging member states to the Nairobi Protocol to relocate their NFP, which most had established in their foreign affairs departments, to a department or ministry that deals with issues of internal security. RECSA has succeeded in doing so in all states except for the DRC. Furthermore, all NFP coordinators in the region are now from the national police forces of their respective states. This has improved the operational and technical capacity of NFPs, given that the strengthening of controls over SALW is predominantly an issue relating to internal security.<sup>23</sup>

RECSA has also developed, in partnership with the Institute for Security Studies (ISS) and researchers in Kenya and Uganda, a 'Strategic Plan on Integrating Research Capacity-Building and Information Exchange on Small Arms and Light Weapons (SALW) in the Great Lakes Region and Horn of Africa'. Recognising that 'primary applied research is essential in bringing out the salient issues about SALW' and 'determined to fulfil its mandate towards the development and implementation of research agenda within member states', RECSA

has drafted a strategic plan to 'remedy the shortfall in research capacity in the region'.<sup>24</sup>

In line with the commitments outlined in this plan, RECSA set up a resource centre in April 2007. The centre contains seminar and conference reports, maps, periodicals, and policy briefs. Furthermore, it is equipped with a database to ensure that materials are easily accessible. This database also holds an inventory of profiles of researchers and research institutions working on SALW in the region. Through this initiative, RECSA hopes to better coordinate research activities in the region and ensure wider dissemination of research findings among researchers and policymakers.<sup>25</sup>

Furthermore, RECSA, in partnership with the ISS, has hosted research capacity building workshops in Kenya (2007), Tanzania (2008) and Uganda (2008).

## PROGRESS IN THE GREAT LAKES REGION AND HORN OF AFRICA

States in the Great Lakes Region and the Horn of Africa have made significant progress in cooperating with each other to tackle the problem of SALW proliferation and misuse. While progress has been slow at the national level in some countries, a positive aspect in the region has been the commitment that states have shown towards addressing the proliferation of SALW. Since signing the declaration and protocol, states have continuously reaffirmed their commitment to the process, and implementation has generally been hindered by a lack of resources and technical expertise rather than resistance to the protocol.<sup>26</sup>

Furthermore, both the Best Practice Guidelines, developed to facilitate the implementation of the protocol, and the provisions of the protocol itself, expand on and go beyond the provisions of the UN PoA. For example, they require states to establish national systems for the regulation of brokers and brokering activities, and require that they impose restrictions on the number and types of firearms that may be possessed by civilians.

More recently, at an arms-marking and recordkeeping workshop<sup>27</sup>, all 12 member states to the protocol reaffirmed their commitment to the marking of all state-owned firearms by the end of 2008. The marking of firearms in the region is a provision of the protocol<sup>28</sup> and the Best Practice Guidelines.<sup>29</sup>

Three years ago, state signatories to the Nairobi Protocol agreed to mark all state-owned SALW and create national databases by the end of 2008. Given that many states did not possess appropriate marking machines at the time and have been dependant on RECSA to secure marking equipment on their behalf, that deadline was not met. However, many states have started marking their SALW.

To facilitate the marking process, RECSA acquired electronic marking equipment for the region and has since also managed to secure an additional marking machine for each state. Having originally acquired manual marking equipment, RECSA exchanged the equipment for electronic marking devices in order to speed up the marking process. It was also found that the manual marking equipment damaged certain SALW.<sup>30</sup> Member states also expressed a preference for electronic equipment as it automatically captures and stores information on marked SALW into database systems. RECSA is in the process of signing a memorandum of understanding with Interpol to assist in the development of a regional tracing database system.<sup>31</sup>

The Great Lakes Region and Horn of Africa is the first region to attempt a regional marking programme. If completed, it will assist states considerably in their efforts to trace SALW in the region and map out illicit trade patterns. It will also be considered to be a significant advancement in implementation of the protocol.

RECSA has supported various collection and destruction programmes in the region. Between 2005 and 2006, RECSA reportedly supported the destruction of 95072 SALW. Destructions took place in Burundi, the DRC, Djibouti, Ethiopia, Kenya, Rwanda, Tanzania and Uganda. To date, Uganda has destroyed the highest number of illicit firearms, followed by Kenya.<sup>32</sup>

## The Great Lakes Region and Horn of Africa is the first region to attempt a regional marking programme

RECSA has made a move to adopt yearly plans, and key areas for its 2008 work plan include:

- Establishing effective stockpile management systems, including marking and recording systems, and the construction of state armouries in Rwanda and the DRC
- Further increasing the capacity of RECSA to better fulfil its mandate
- Continuing with the development of NAPs in Burundi, Djibouti, DRC, Eritrea and Rwanda
- Signing Memorandums of Understanding with Angola, Central African Republic, Republic of Congo and Zambia under the International Conference on the Great Lakes Region (IC/GLR) Pact
- Continuing to conduct functional analyses in member states where they have not yet been conducted

Set targets to be achieved between 2008 and 2010 are outlined in the table below:

2008	<ul style="list-style-type: none"> <li>■ All firearms in state and civilian possession are to be marked in accordance with the Best Practice Guidelines in at least six member states</li> <li>■ Destruction of all obsolete and illicit firearms collected to take place in at least six member states</li> </ul>
2009	<ul style="list-style-type: none"> <li>■ Electronic databases of firearms records to be created in at least five member states</li> <li>■ At least four member states to harmonise their firearms legislation in accordance with the Nairobi Protocol</li> </ul>
2010	<ul style="list-style-type: none"> <li>■ NFPs to be established and fully operational in at least six states</li> <li>■ NFP offices, as well as the RECSA Secretariat to be fully equipped</li> <li>■ NFPs to be trained in project and stockpile management</li> </ul>

*Source: RECSA 2008 Budget and Workplan*

Considering the targets set out in RECSA's 2008–2010 plan, it is evident that the full implementation of the protocol will take some time yet, and that states will require significant amounts of assistance. RECSA is aiming to ensure that a minimum of four signatory states harmonise their legislation with the provisions of the Nairobi Protocol by 2009, and although every member state has a NFP, RECSA is aiming for six of these NFPs to be fully established and operational by as late as 2010. This is a clear indication of the extent of work that is still required to achieve the objectives of the protocol.

### NOTABLE PROGRESS OF INDIVIDUAL STATES

States are required to present reports during TAC meetings on progress made in implementing the protocol. In addition to this, they also are required to submit biannual reports to the UN prior to PoA review conferences. These reports are accessible on the website of the UN Office for Disarmament Affairs (ODA).<sup>33</sup>

In 2008, the United Nations Institute for Disarmament Research (UNIDIR) published an assessment of progress made in implementing the UN PoA. The assessment was based on information submitted in reports from 2002 to 2008. Of the states that are signatories to the Nairobi Protocol, three have never submitted reports to the UN, namely Eritrea, Somalia and Seychelles. Burundi has been the most consistent in submitting reports to the UN.<sup>34</sup>

The nine countries that have submitted reports have focussed predominantly on existing national legislation pertaining to SALW (or the lack thereof), weapons collection and destruction, as well as disarmament, demobilisation and reintegration (DDR) programmes. All nine countries have requested assistance; most requests have been for financial and technical assistance.<sup>35</sup>

Five of the states that are signatories to the Nairobi Protocol have made some notable progress in implementing the protocol, namely Tanzania, Burundi, Rwanda, Uganda and Kenya.

Tanzania has begun the process of reviewing its firearms legislation, regulations and administrative procedures in order to comply with the UN PoA, the Nairobi Protocol, and the SADC Protocol.<sup>36</sup> According to Tanzania's national report to the United Nations, a proposed bill has been drafted and approved.<sup>37</sup>

Several workshops have also been held in the country. In addition to facilitating capacity building amongst civil society, these workshops have also provided training for the police force and the Department of Customs and Immigration on the enforcement of firearms legislation. The training has covered various technical aspects including firearms tracing, identification and crime scene investigation techniques. The Tanzanian Ministry for Public Safety and Security has also approved a Community Policing Plan.<sup>38</sup>

Records of all civilian-owned firearms in Tanzania have been manually maintained since independence in 1961, although these have recently been entered into a computerised system for easier access and use.<sup>39</sup>

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Despite ongoing internal conflicts, Burundi has held a seminar for government officials and civil society in preparation for the development and elaboration of a national plan of action. The country has also adopted a national strategy, developed by the Council of Ministers, for civilian disarmament and SALW control.<sup>40</sup> Burundi has begun revising and amending its national legislation and is in the process of compiling a draft text. The country has also been focussing on developing a NAP, as well as raising awareness of the dangers of SALW proliferation. Additional priority areas for Burundi include stockpile management and the marking of SALW.<sup>41</sup>

Rwanda has made the most progress with regards to amending its firearms laws and is likely to be the first country to pass this new legislation. Existing legislation was reviewed together with concerned institutions,

departments and agencies, and a new law was adopted in March 2008. This law is now awaiting approval by the senate.<sup>42</sup>

Rwanda began the process of marking all state- and civilian-owned firearms in 2007 and has established a central firearms registry. The marking and registering of firearms is a priority for the country, although the process is hindered by a lack of financial resources.<sup>43</sup> Rwanda has made considerable progress in developing its NAP and is likely to be the next country to officially launch a plan.<sup>44</sup>

Uganda has reviewed, and is in the process of amending, its firearms legislation. Guidelines for the development of national policy have been developed and, once approved by government, will form the basis for an amended bill intended to replace the existing 1970 Firearms Act.<sup>45</sup>

The Ugandan national police force has reportedly marked all its firearms, as well as those issued to private security organisations, and the country has recently begun marking all firearms belonging to the armed forces. Uganda plans to mark all legitimately owned SALW to allow for easy identification and tracing. It also intends to link its database to Interpol's Weapons Electronic Tracing System (IWETS) database to facilitate tracing.<sup>46</sup>

Uganda is addressing the issue of SALW stockpile management and a pilot project to improve the safe storage of police weapons has been initiated. Once the pilot project has been completed, and as more resources become available, a nationwide project to improve SALW storage will be undertaken. This project will be informed by the lessons identified from the pilot project.<sup>47</sup>

Kenya has accomplished notable achievements in some areas, although further progress has recently been hindered by political violence and ongoing pastoral conflicts in the northern regions of the country. Despite these setbacks, Kenya has a well-capacitated and fairly active NFP and all eight provinces of the country have established and trained Provincial Task Forces. Kenya launched its NAP in July 2006 and has also since completed the process of reviewing its firearms legislation.<sup>48</sup>

## CHALLENGES ENCOUNTERED BY THE RECSA SECRETARIAT

Since its inception, RECSA has been dependent on foreign donors, such as the governments of the Netherlands, United Kingdom and the United States. Some non-governmental organisations have also assisted RECSA with the implementation of its extensive mandate. SaferAfrica, Saferworld and SRIC have assisted Tanzania, Kenya and Uganda with the development of their NAPs, and have also provided support for workshops on improving

the structure, organisation and daily management of NFPs in several signatory states.<sup>49</sup> A number of research workshops have been held in conjunction with the ISS and Small Arms Survey, and the South African Police Service (SAPS) has provided signatory states with technical expertise and training on the marking and tracing of SALW.<sup>50</sup> In 2008, RECSA, in partnership with the ISS, undertook a regional study on the proliferation of Man Portable Air Defence Systems (MANPADS) in the Great Lakes region and Horn of Africa. Following this study, a workshop aimed at disseminating findings and raising awareness of the problem of MANPADS was successfully held in Nairobi in July 2008.

In recent times, signatory states to the Nairobi Protocol have made financial contributions to RECSA's annual budget. In addition to this, through increased human resource capacity, RECSA has sought to become increasingly self-sufficient. According to RECSA's Research and Gender Officer, RECSA is independently assisting Rwanda and Burundi with the development of their NAPs.<sup>51</sup> However, RECSA does still collaborate with civil society organisations, such as the Groupe de recherche et d'information sur la paix et a sécurité (GRIP), the ISS, Saferworld and the Security Research and Information Centre (SRIC). A technical expert from the Mines Advisory Group is also located within the RECSA office in Nairobi.

Given that it now has the capacity to carry out its mandate, RECSA is independently implementing its projects in the region, and, through memorandums of understanding, has established more formal partnerships with organisations. These organisations include the International Conference on the Great Lakes Regions (IC/GLR), the ISS, Saferworld and the Mine Advisory Group.

A major challenge for states in the region is the amendment and/or development of legislation to satisfy the requirements of the protocol

## CHALLENGES IN IMPLEMENTING THE NAIROBI PROTOCOL

While cooperation and commitment remain strong at the regional level, implementation of the Nairobi Protocol at the national level continues to be difficult and

slow. Noteworthy progress has been achieved in certain countries through the processes that have been initiated and the resources that have been provided to facilitate the implementation of the protocol. This is particularly true of the development of NAPs and efforts to mark SALW. However, the lack of human and financial resources in many states, in addition to conflicting priorities, continues to hinder any significant progress. This is problematic as it is at the national level where change must take place if the implementation of the Nairobi Protocol is to be realised.

A major challenge for states in the region is the amendment and/or development of legislation to satisfy the requirements of the protocol, as many countries have outdated or obsolete firearms laws and regulations. Furthermore, the provisions of the protocol require states to develop legislation covering a broad range of issues. These include:

- Legislation pertaining to the importing and exporting of firearms
- Legislation restricting the number and type of firearms civilians may possess
- Legislation regulating the brokering, dealing and manufacturing of firearms
- Legislation on the marking, seizure and confiscation of firearms
- Criminalising all illicit firearms-related activities

Despite the existence of Legal Drafting Committees in almost all of the member states to the Nairobi Protocol, measurable progress in amending or adopting new firearms legislation to cover all aspects outlined in the protocol is yet to be effected. This can be attributed to a number of reasons, including a lack of capacity, technical knowledge and even a lack of political will. African states face a wide range of challenges and amending firearms legislation may not be a high priority for a particular government, which makes any advancement of the process difficult. RECSA is, however, actively providing states with technical legal assistance and feedback on legislative issues in order to encourage advancement of the process.

Another obstacle faced by states in the region is that, in many instances, a single person is responsible for coordinating all the activities of an NFP. Furthermore, the designated person often has additional policing duties alongside those of the NFP. Given the various government departments that comprise many focal points, it can be difficult for NFP coordinators to obtain consensus on issues and bring about significant progress. While the involvement of all relevant departments in matters such as the development of NAPs is essential, the day-to-day running of NFPs should be left to departments that deal primarily with matters of internal security, such as the police and department



of defence. Appointed persons in other relevant departments should be available for consultation when needed. Mandating a few key persons to carry out the daily functions of the NFP and ensuring that they have the necessary resources to do so would ensure that they are more functional and able to carry out implementation measures more efficiently than a single person trying to steer a number of departments with different agendas and mandates.

The South African NFP, while not a conventional NFP, provides a good example of such a construction. The NFP is an informal arrangement made up of key persons from the South African Police Service (SAPS), the Department of Defence, and the Department of Foreign Affairs. The focal point is generally run in an efficient manner, and significant progress has been made in tightening SALW weapons controls in South Africa.

RECSA has recently conducted a functional analysis of NFPs in the region and is hoping that, through this analysis, it will be able to highlight to states the necessity of having a fulltime coordinator and support team to

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oversee and organise implementation of the protocol. In the past, it has been difficult to highlight the importance of this to states.<sup>52</sup>

Probably the greatest challenge and impediment to implementing the protocol is that a number of states in the Great Lakes Region and Horn of Africa are in conflict situations, which creates a demand for SALW. These include Uganda, the DRC, Burundi, Sudan, and Somalia. Although these conflicts often occur in specific areas, they complicate arms control efforts, particularly as many of them spill across state borders, making it difficult for states to regulate the flow of weapons within their territories.

An example of this can be seen in Uganda where ongoing conflicts between the government and the Lord's Resistance Army (LRA) have hindered arms control efforts in the country and the region. Uganda is often cited as having made considerable progress in implementing the protocol and is one of the three countries to have developed a NAP. The Ugandan NAP came into effect in June 2004 and was publically launched in September 2005. It focuses on three key areas, namely the

control and management of existing SALW stockpiles, the reduction of the number of SALW already in circulation, and the prevention of future SALW proliferation.<sup>53</sup> Although Uganda has made some progress in reducing the existing number of SALW in circulation by destroying significant numbers of illicit firearms, achieving any notable progress in the other two key areas will prove extremely difficult until the conflict is resolved.

Burundi faces similar difficulties. The state has shown significant commitment to implementing the protocol and is currently developing a NAP with RECSA. However, it is likely that implementation of the provisions of the protocol will remain a complex and difficult process because of internal conflicts.

States in post-conflict situations face the additional challenge of addressing the excess accumulation of SALW within their borders from the period of conflict. Conflict stimulates the demand for SALW, not only amongst those involved in the conflict, but also amongst members of the civilian population who acquire SALW for self-defence during a conflict. As a result, large numbers of weapons are circulated within a country and across its borders during conflict and post-conflict periods.<sup>54</sup>

States attempting to control the proliferation of SALW within their borders bear the heavy burden of ensuring that large numbers of SALW are removed from circulation during the post-conflict period to ensure that they are not used to fuel future conflicts. In addition to this, states need to promote a sense of security amongst the civilian population and address the root causes of the conflict in their region to encourage disarmament and minimise the chances of rearmament.

## ADDRESSING THE ROOT CAUSES OF CONFLICT

In order to effectively tackle the proliferation of SALW, states need to address the root causes of conflicts within their borders. The proliferation of SALW does not cause conflicts; rather, it increases their lethality. The tendency of states to concentrate on controlling and preventing the proliferation of arms has diverted attention from the real need to assess why people are arming themselves in the first instance.

It is not surprising that states are focussing on arms control as a means to reduce conflicts as opposed to addressing the reasons for the demand for SALW, as it is often far less daunting to attempt to control the use and circulation of SALW than to address the origins of conflict in a particular state. It is far easier for states to reduce the number of SALW within their borders than it is to address the socio-economic and political issues that give rise to conflicts by, among others,

ensuring democracy and securing access to water and pastoral land.

At the regional and international level, arms control agreements have, for the most part, failed to address the root causes of conflicts and, by implication, the demand for SALW. In order to effectively address the proliferation of SALW, a multifaceted strategy is required to address the legal, political, social and economic aspects of proliferation. Many regional and international arms-control initiatives, however, continue to focus largely on the legal and political aspects, with little emphasis on the social and economic issues relating to the demand for these weapons.

The Nairobi Protocol for example acknowledges 'that the problem of small arms and light weapons in the region has been exacerbated by political strife, terrorist activities and extreme poverty', but makes no mention of addressing the demand for these weapons or the root causes of conflicts, which for the most part are a result of socio-economic factors.

Furthermore, the acknowledgment that a comprehensive strategy is needed to arrest and deal with the problem of illicit SALW proliferation by putting in place structures and processes for promoting democracy, good governance, the protection of human rights and economic recovery and growth greatly underestimates the importance of focussing on the reasons why people are arming themselves to begin with. This gap is, to a certain extent, filled by the Geneva Declaration on Armed Violence and Development, but not all the states that are signatory to the Nairobi Protocol are signatory to the Geneva Declaration.<sup>55</sup>

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In order to effectively address the proliferation of SALW, a multifaceted strategy is required

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Although the Nairobi Protocol is used to illustrate this point, the same can be said for many other regional and international agreements aimed at addressing the proliferation of SALW.

The 2007/2008 post-election violence in Kenya emphasises the futility of addressing the proliferation of SALW without addressing the origins of conflict. Kenya is one of the three countries to have developed a NAP to implement the provisions of the Nairobi Protocol and is in the process of implementing this plan. During the period of violence following the election however, civilian acts of violence were for the most part committed with machetes and other traditional weapons, not

firearms. Though the proliferation of SALW exacerbate, intensify and perhaps even prolong conflicts, they do not cause them. Seeking to address the proliferation of SALW as a means to reducing conflict and promoting stability in the region will remain ineffective as long as the root causes of conflict remain unaddressed.

## RECOMMENDATIONS AND CONCLUSION

National implementation of the Nairobi Protocol has been protracted in the Great Lakes Region and Horn of Africa, despite the existence of a fairly active regional support and facilitation structure. This can be attributed to several causes, including a lack of resources and technical expertise, ongoing conflicts within many states, and insufficient political will and support for improving controls over SALW at the national level. When considering these obstacles, it is fair to conclude that progress will continue to be slow, and that achieving full implementation of the protocol will remain a distant goal for some time yet.

Despite strong commitment to the protocol at the regional level, political will behind key implementation processes at the national level has been poor. RECSA is in the process of completing a functional analysis of NFPs, conducted in states in the region during 2008, after which it will make recommendations to states on how to improve the operational capacity of their NFPs. Streamlining NFP structures and ensuring that a few key individuals are mandated to carry out the day-to-day running of NFPs will ensure that they function more efficiently. Once NFPs are able to do so, they should be encouraged to undertake initiatives to increase political will to address legislative and administrative procedures relating to the control of SALW within their borders. Raising awareness and garnering support for these procedures from government officials, parliamentarians and policy makers will greatly advance the implementation of the protocol. Parliamentarians in particular should be encouraged to engage in the implementation process, given their central role in promoting and passing legislation.

The approach towards implementing the protocol in the region has thus far predominantly been a top-down one. It has been successful in ensuring cooperation and commitment in the region, but a bottom-up approach is now required to facilitate successful national implementation. While RECSA has made good progress in ensuring sufficient coordination of activities in the region, it now needs to encourage and further capacitate NFPs to carry out measures to ensure national implementation.

States need to be pressured into fulfilling their commitments under the protocol by prioritising implementation of its provisions. In order to do so, however, they will require human and financial resources.

Funding has for the most part been channelled to the regional level, and while this has assisted RECSA in carrying out its function in the Great Lakes Region and Horn of Africa, it has also meant that activities have largely taken place at the regional level. Donor governments and organisations might consider directing some funding straight to the national level to better capacitate NFPs to implement the protocol.

RECSA has begun to source funds for individual projects to facilitate national implementation measures. An example of this is the funding RECSA acquired for SALW-marking equipment.

RECSA might consider developing a standardised template to guide national reporting to ensure that relevant information is provided. This will assist states, as well as RECSA, to identify areas where progress is lacking.

Many member states lack the technical expertise to implement some of the obligations of the protocol. Given the region's commitments to the marking and tracing of firearms, as well as the strengthening of stockpile security, RECSA is in the process of liaising between organisations that are able to provide technical expertise and its member states to ensure that they are able to effectively address these issues.<sup>56</sup>

While RECSA is able to provide support and training on certain issues, regional and international organisations such as Interpol and its subregional bureau in East Africa, the East African Police Chiefs Cooperation Organisation (EAPCCO), are able to provide necessary technical support and training. These agencies, amongst others, can provide support in developing tracing instruments, and can facilitate training of national enforcement agencies on issues such as marking, tracing and identifying SALW. Both Interpol and EAPCCO have committed themselves to assisting member states in the region to implement the protocol.

States in the Great Lakes Region and Horn of Africa have made significant efforts towards cooperating to combat the proliferation of SALW in the region. A comprehensive legally binding strategy has been put in place and a support and coordination body established. Although there has been much activity at the regional level, this has had little significant impact on the implementation of the protocol at the national level. While states have consistently reiterated their commitment towards implementing the provisions of the Nairobi Protocol, measureable concrete national implementation is yet to take place.

States must now be held to task on their commitments under the protocol in order to establish an effective system to combat the proliferation of SALW and to ensure the promotion of peace and security in the Great Lakes region and Horn of Africa.

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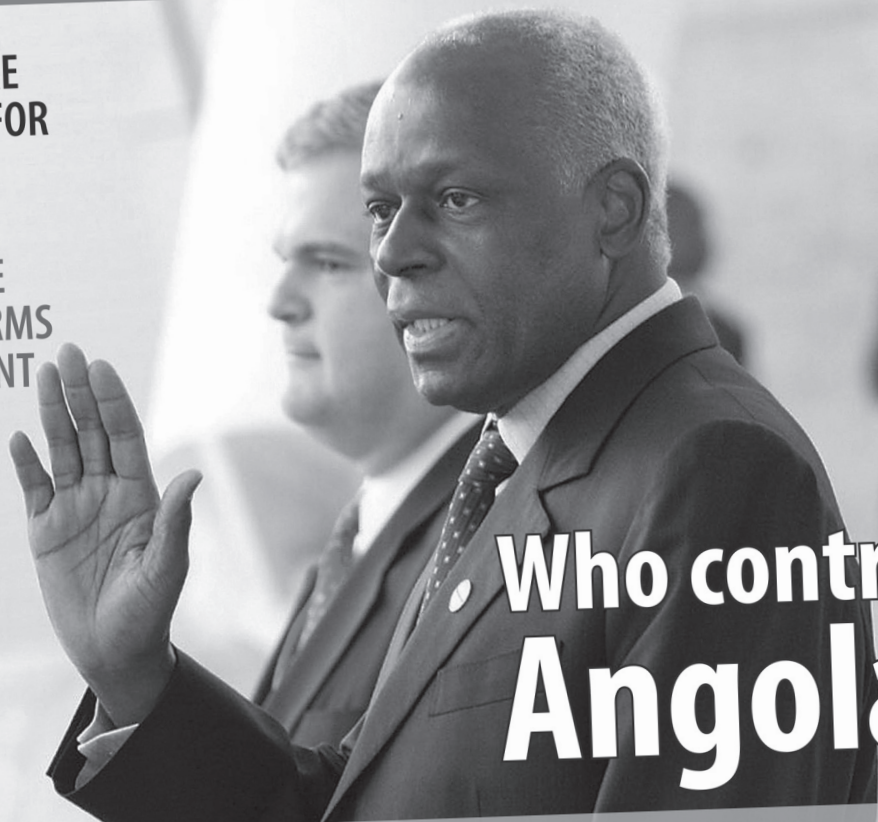
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## ABOUT THIS PAPER

In an attempt to address the detrimental effects of SALW proliferation, states in the Great Lakes Region and Horn of Africa adopted a regional initiative, the Nairobi Protocol, in 2004 aimed at curbing the supply and misuse of illicit SALW. The Protocol is one of the most comprehensive regional SALW-control agreements in Africa, and it has impelled significant levels of cooperation between signatory states in tackling arms control issues, despite difficulties in its implementation.

This paper examines the processes leading up to the adoption of the Nairobi Protocol and the establishment of a regional coordination body, the Regional Centre on Small Arms (RECSA), to oversee its implementation. It also attempts to assess regional and national progress made in implementing the protocol, as well as the factors that are hindering progress.

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