OFFICE OF THE PRESIDENT
PROVINCIAL ADMINISTRATION AND INTERNAL SECURITY

KENYA NATIONAL FOCAL POINT
ON ILLEGAL SMALL ARMS AND LIGHT WEAPONS

Country Report to the second UN Biennial Conference on the status of implementation of the UN Program of Action on Illicit Small arms and Light weapons.
NAIROBI JULY 5TH, 2005.

ABBREVIATIONS

CBO-Community Based Organization.
CFB-Central Firearms Bureau.
CID-Criminal Investigation Department.
CS-Civil Society Organization.
EAC-East African Community.
GSU-general Service Unit.
NFP-Kenya National Focal Point.
NSC-National Steering Committee on Peace Building and Conflict Management.
OAU-Organisation of African Unity.
SRB-Interpol Sub-Regional Bureau For Eastern Africa.
UNPOA-United Nations Program of Action on Illicit Small Arms and Light Weapons.
SRIC-Security Research and Information Centre
KANSA-Kenya Action Network on Small Arms.
RECSA-Regional Center for Small Arms
1.0 INTRODUCTION

The problem of small arms and light weapons is a global phenomenon, whose adverse effects are most visible in Africa. Although they do not themselves cause the conflicts and criminal activities in which they are used, the easy availability and accumulation of small arms and light weapons directly contribute to the conflicts, intensified violence, increased crime rate and impede economic and social development.

Kenya has been a destination for weapons finding their way easily from neighbouring countries where conflicts are rampant. The arms are smuggled into the country through our long and porous borders and sold in secret markets. The impact has been an upsurge of crimes such as cattle rustling, armed robberies and conflicts among the pastoral communities.

1.1 AREAS AFFECTED

The illicit small arms and light weapons problem has two dimensions within the Kenyan set up. These are the rural and urban gun problems. While the urban problem is mainly restricted to the major urban centers in Kenya like Nairobi, Mombasa, Kisumu, Nakuru, Eldoret and Kakamega, the rural manifestation covers mainly the areas inhabited by pastoralist communities such as:

- The North Rift Region –This includes Turkana, West Pokot, Trans Nzoia, Samburu, Laikipia, and Baringo as the most affected areas.

- North Eastern Region; Mandera, Garissa, Wajir, and Ijara.
- Coast Province; Tana River and Lamu.

- Eastern province; Moyale, Marsabit, Isiolo and some parts of Meru.

The practice of cattle rustling among pastoral/nomadic communities, which spread along the Kenyan boundary with Ethiopia, Sudan, Uganda and Somalia has substantially contributed to proliferation of illicit arms and light weapons in the region. Political instability in these countries has, also increasingly exacerbated the problem. Additionally availability, accessibility and affordability of small arms and light weapons in the region as a result of instability has largely increased the severity of the problem and completely changed the character of historical resident communities conflicts that previously involved simple traditional weapons.

1.2 CAUSES OF SMALL ARMS PROLIFERATION IN KENYA

i. *Political instability in the region* - civil wars in neighbouring countries and the collapse of civil authority in Somalia provide a convenient, steady illegal supply of arms in the region.

ii. *Control over natural resources* - these arms fuel conflicts among communities as they seek supremacy and control over natural resources, which encourages armed conflicts over pastures, access to water etc during the dry season.

iii. *Cattle rustling* - acquisition of small arms encourages stealing of livestock from neighboring communities for sale and for enhancing supremacy over others. It also encourages illegal trade in livestock.

iv. *Feelings of insecurity* - Some communities arm themselves to protect
themselves from others whom they suspect to have also acquired arms to raid their livestock.

v. *Environmental factors* - The prevalence of natural calamities such as drought, floods and environmental degradation contribute to the conflict in the region, consequently heightening the demand for arms.

vi. *Restocking* - during drought, livestock is reduced due to lack of pasture and the affected communities resort to the use of arms in raiding their neighbours for the purpose of restocking when rains come and there is pasture.

vii. *Clan feuds* - historical differences and cleavages create conditions that encourage possession of arms amongst clans, hence escalation and counter acquisition of arms by opposing clans.

viii. *The livestock culture* - Most of pastoral communities strongly believe that cattle provide all means to livelihood. Their entire lives are centered on livestock ownership. This over dependence on livestock as the only source of income and food encourages communal theft and raids. All communities have therefore, to protect themselves, by arming against each other.

ix. **Other causes:** These include:
   - Retarded structural and economic development in the areas affected by the insecurity.
   - Enhanced poverty among the communities living within the areas proliferated with illegal arms.
   - Under development - more and more professionals have deserted regions prone to insecurity reversing any achievements in Agriculture, Education and Administration.
The mode of trafficking small arms and light weapons is mainly by refugees and displaced people, merchandise transporters, herders, gun dealers, bandits and traders.

1.3 **IMPACT.**

The problem has impacted negatively on the affected communities as follows:

i. Commercialization of cattle rustling, thus increasing the frequency of conflicts among the pastoral communities.

ii. Increase in gun related crimes, mainly in urban areas, which scares away prospective investors.

iii. Fear and despondency among citizens in the areas affected, which affects the engagement in other useful normal activities.


v. Increase in trans-national crime including drug trafficking and terrorist activities.

vi. Displacement of persons both internally and externally.

vii. Poaching of wildlife.

viii. Increase in roadside banditry and general insecurity.

ix. Economic downturn mainly in growth sectors like tourism from which Kenya derives 45% of GDP.

x. Increase in cost of providing services due to insecurity in the affected areas.

xi. Increase in incidences of HIV/AIDS due to poverty.

xii. Negative impact on primary and secondary education in affected areas.

xiii. Impeded reconciliation among conflicting communities.
In order to address the above challenges, the Government of Kenya reaffirms its commitment to the implementation of the UN Program of Action with special emphasis to the coordinated agenda for action developed through the Nairobi Protocol. In this regard the following measures have been instituted.

2.0 NATIONAL LEVEL COORDINATION

In Kenya, a National Focal Point (KNFP) Secretariat has been strengthened with two additional personnel an additional vehicle, and commensurate office equipment. Besides, its mandate has been expanded to include Peacebuilding and conflict management work, implementation of the IGAD Conflict Early Warning Mechanism (CEWARN) and promotion of Community Based Policing, in partnership with other state and civil society actors. A new coordinator was appointed in June 2004, by the Government. Membership to the Focal Point Committee has been retained with substantial civil society participation. This is testified by the diversity of the Kenyan Delegation to the 2nd Biennial meeting of States.

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To ensure a coordinated efforts towards the ultimate objective of sustainable peace and security, the KNFP works in close coordination with the National Steering Committee on Peace Building and Conflict management (NSC) that also handles certain aspects of small arms and light weapons, particularly where
economic and socio cultural interventions and promotion of the culture of peace are concerned. The two share one secretariat for the purposes of coordination.

The National Focal Point has continued to hold its meetings regularly over the last year and has recorded the following achievements over the reporting period.

3.0 DEVELOPMENT AND IMPLEMENTATION OF THE NATIONAL ACTION PLAN

The Kenya National Action Plan was completed in early 2004 and is due for launch in September 2005. In the meantime implementation of certain aspects of the NAP deemed urgent were commenced in July 2004. The following activities have so far been undertaken:

3.1 ARMS RECOVERY AND DESTRUCTION.

During the reporting period (June 04-July 05) the Kenya Government through amnesties, voluntary surrender and forceful recoveries has recovered over 6000 assorted weapons. Of these, 3839 were deemed ready for disposal and were destroyed in a public ceremony held in Nairobi on 29th June 2005. The rest have legal encumbrances which have to be addressed before commencement of destruction. The Government remains committed to ensuring that all illicit arms recovered are removed out of circulation in a transparent and participatory process.

Additionally the Kenya Government and the Government of Uganda have since June 2005, been involved in a community based disarmament program targeting the Karamoja cluster that straddle the common border. So far a total of 1619 assorted weapons and 2099 rounds of ammunitions have been recovered. This
process will continue with simultaneous attention to necessary developmental interventions aimed at demand reduction.

3.2 NATIONAL SMALL ARMS MANAGEMENT POLICY

The gist of the implementation of a National Action Plan is the presence of an arms management policy that informs on legislation that provides for permanent institutional arrangements and defines linkages with other stakeholders. To this end the Kenya National Focal Point Committee, with assistance from Saferworld and the UNDP has just completed development of a draft Policy. The Policy will soon be circulated to stakeholders and validated before presentation to parliament vide a sessional paper. Its approval will no doubt facilitate adjustment of legislation to reflect the gravity of the threats illicit arms pose to society and consistency with international protocols and standards.

The Policy will also guide the estimation of regulations and administrative procedures to ensure consistency with the UN program of Action.

3.3 PRODUCTION AND TRANSFERS

Kenya has a nascent arms industry restricted to the production of lower calibre ammunitions for use by the security services. Kenya is of the strong view that there is need for transparency and accountability in transfer of arms and ammunitions. In this regard, the Kenya Government actively participated in the just concluded 3rd Open-ended working group on marking and tracing meeting. Kenya remains committed to responsible management of arms transfers as a measure towards improving security, safety, governance and for entrenching democratic ideals.
3.4 COMMUNITY POLICING

The Kenya National Action Plan recognized that community police relations is critical to the fight against illicit SALW. Community/Police partnership, where the community engages the police and vice versa in crime detection is a fundamental principle in crime control. The trust between the public and the police is critical to management of security issues that can effectively facilitate interdiction in arms related crimes and trafficking. In this regard, the Kenya Government formally adopted community policing as a crime reduction strategy. The strategy was launched by His Excellency the President, in May 2005. Trainings have been carried out with assistance from Saferworld and other civil society organizations. Donor assistance through the GJLOS program has so far sustained extensive coverage of the country.

It is envisaged that the constitution of community Police forums countrywide will strengthen police ability to respond to challenges of armed crime.

3.5 PUBLICITY AND AWARENESS CREATION

Kenya recognizes that the presence of illicit small arms and light weapons remains an impediment to development and a great threat to security. As a result of this, the government has embarked on multi pronged community based strategies to discourage the gun culture. Amongst the measures that have been put in place are:

i. Public awareness campaigns-communities continue being educated through local forums by local administrative officers, political leaders, and civil society, on the need to give up weapons as a measure to bolster security and restore order.

ii. Community safety initiatives are ongoing under the Control Arms Campaign.
iii. Programmes have been put in place to encourage the surrender of illicit weapons in return for immunity from prosecution.

iv. Measures have been taken through the National Steering committee to promote peaceful and age old conflict resolution mechanisms, as an effort towards sustainable peace.

v. Communities have been encouraged, through community-based organisations, to adopt alternative means of livelihood, apart from livestock keeping.

vi. Measures have been taken through CBOs to encourage community members to move away from cultural practices that encourage stock theft and other retrogressive practices.

vii. Conflict early warning mechanisms have been developed to facilitate detection and address of potential conflicts before they occur, hence a disincentive to gun ownership.

viii. Through deliberate interventions, the Government is creating alternative means of livelihood and development as a way of discouraging gun ownership activity. The Government is also encouraging development dimensions in dealing with the problem.

ix. The Government has taken the war against small arms and light weapons to schools and the electronic/print media to create a positive influence in the mind set of the younger generation.

The print and electronic media also play a crucial role in facilitating dissemination of information to Kenyans on small arms issues. Other modes by which information is disseminated include The Rural Press using vernacular languages, public Barazas (meetings), Pronouncements by senior government officials and political leaders and civic education carried out by the civil society.

Weapons destruction events have also been used to highlight issues related to small arms, security and development. The role of the civil society in this particular area has been of utmost importance.
3.6 LAW ENFORCEMENT/CRIMINALIZATION

Kenya has one of the most stringent laws that govern all aspects of arms, licit and illicit. Over the years, the legislation has been amended from time to time, to adapt to changing circumstances. The current National legislation that regulates manufacturing, possession and stockpiling and trading of SALW is contained in the Firearms Act, Chapter 114 of the laws of Kenya, which apportions penalties for violations. However the Act is currently under revision to ensure that it provides more deterrent punishment. An amendment proposal to this legislation is already with the Attorney General to prepare an appropriate bill before it is tabled before parliament. The proposal includes classifying illegal firearm possession as capital offence, hence non-bailable and with stiffer penalties.

4.0 REGIONAL LEVEL ACTIVITIES

Kenya has continued to play a central role in the fight against illicit arms at both sub regional and regional level. Kenya was among the first countries to ratify the Nairobi Protocol. At regional level, Kenya was willing to participate in the United Nations Regional Centre for Disarmament in Africa, (UNREC), Small Arms Transfer and Control Regime in Africa (SATCRA) Project and participated in the initial training. However substantive participation will remain subject to stability being achieved in the volatile Great Lakes Region and the Horn of Africa.

As a measure towards achieving sustainable peace and reducing demand for illicit arms, Kenya successfully brokered peace deals for Sudan and Somalia with the signing of the Comprehensive Peace Agreement between the Government of Sudan, and SPLA/SPLM, and peace agreement between conflicting clan factions in Somalia. It is gratifying to note that the government of Somalia relocated to Somalia in May 2005. It is envisaged that with stability regained in these
countries, regional processes for disarmament will succeed and demand and supply of arms and circulation will be reduced.

5.0 LEGALLY BINDING INSTRUMENTS

Kenya remains firmly committed to the elimination of the proliferation of illicit arms and light weapons in all its aspects. In this regard, Kenya has exemplified its resolve by signing and ratifying the following conventions, protocols and declarations:

5.1 OAU Convention on the Prevention and Combating of Terrorism.

The Convention was adopted in Algiers on 14th July 1999 and Kenya acceded to it on 10th December 2001. Member States of the organization of African Unity recognized the need to promote human moral values based on tolerance and rejection of all forms of terrorism irrespective of their motivations as this poses a danger to stability and security of states. Member states of AU also considered the growing links between terrorism and organized crime, including the illicit traffic of arms, drugs and money laundering. To this end they agreed to develop and strengthen methods of monitoring and detecting plans or activities aimed at the illegal cross-border transportation, importation, export, stockpiling and use of arms, ammunition and explosives and other materials and means of committing terrorist acts.

5.2 The Nairobi Protocol.

The Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great lakes Region and the Horn of Africa was signed by 10 countries of the Great lakes Region and the Horn of Africa, Kenya included on 15th March, 2000. These countries recognize that the problem of proliferation
of illicit small arms and light weapons stems from past and ongoing armed conflicts in the region; collapse of Government authorities, poverty among the communities, livestock culture, ethnicity conflict as well as from terrorist activities, compounded by the inadequate capacity of member states to effectively monitor their borders. The Nairobi Declaration called upon member states to comprehensively address the problem of illicit small arms and light weapons and pursue positive policies and measures aimed at creating a socio-economic environment that would lessen the resort to arms by individuals and communities. To give the declaration additional effectiveness Member States Council of Ministers upgraded the Declaration to a legally binding Protocol in April 2004. Kenya ratified the Protocol in June 2005.

5.3 Protocol Against the illicit Manufacturing of and Trafficking in Firearms, their parts and components and ammunition, supplementing the United Nations Convention Against Transnational Organized Crime.

The United Nations Convention Against Transnational Organized Crime was adopted by the General Assembly in its Resolution 55/25 of 15th November 2000. The purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively. Kenya acceded to the above protocol against illicit manufacturing and trafficking in firearms in November 2004. Kenya has also ratified all the twelve international treaties related to Terrorism and is at various stages of implementation.

6.0 INTERNATIONAL AND REGIONAL INTEGRATION

International and Regional co-operation form a major component of Kenya's foreign policy. Kenya is an active member of the U.N. and its agencies as well as several regional initiatives, such as AU, EAC, COMESA, NEPAD, ACP-EU, IGAD and the Indian Ocean Rim Association for Regional Co-operation amongst others.
In the Kenyan context, the problem of SALW is not confined to the Country alone. In Kenya’s situation, the problem is a regional matter and must therefore be addressed regionally and internationally. The issue has thus been mainstreamed into Kenya’s foreign Policy Strategies hence Kenya’s lead role in regional peace processes and the international conference on The Great Lakes Region (ICGLR)

The proliferation and illicit trade in Small Arms and Light Weapons pose serious if not daunting challenges to the government and people of Kenya. It presents a single and grave threat to peace, security and stability, which impacts negatively on sustainable development. In an underdeveloped country such as Kenya with 48% of its population living on under 1 US$ per day, ravaged by the AIDS epidemic, threatened by both drought and floods and other natural and man made catastrophes including ethnic and other clashes, the threat posed by uncontrolled proliferation and illicit trade in SALWs is alarming and aggravates the problem of progress in all sectors.

6.1 FOREIGN POLICY AND RELEVANCE TO THE SMALL ARMS AND LIGHT WEAPONS

i. Kenya’s foreign policy in this respect is grounded on safeguarding its territorial integrity and sovereignty by actively promoting regional and international initiatives that ensure that the inflows of and trade in this Small Arms and Light Weapons are controlled to the maximum possible extent.
ii. Promotion of good neighborliness through cultural exchange and continuous contact in trade creates better understanding and confidence through such regional cooperation. All elements of society, governmental, non-governmental, and military and civilians are engaged in the promotion of cross-border cooperation and increased information sharing along with the training of law enforcement personnel in countering this menace.

iii. The development and maintenance of friendly relations with all states can be achieved by involvement in international action and other initiatives such as the Nairobi Declaration, Bamako Declaration and the United Nations Program of Action on the illicit Trade of Small Arms and Light Weapons in all its aspects. The Action Plans advocated for in these protocols will be incorporated into the National Plan of Action.

iv. The issue of protection and promotion of National Interests is being addressed through support for the proposed mechanism on marking and tracing of Small Arms and Light Weapons which would ensure that the Eastern Africa sub-region does not become a dumping ground for these weapons by their manufacturers.

v. Kenya and Uganda have formed a joint ministerial and technical cooperation task force to jointly address the problem of SALWs among the Karamoja, Turkana and Pokot who live along the common boundary. One meeting of each ministerial and technical level took place in Entebbe, Uganda, and the next ministerial meeting is scheduled in
Nairobi in August 2005. The joint efforts will address gradual disarmament of the communities, and development interventions by two Governments focusing on the communities affected. These include; building schools, providing water supply, improving health services, and improving livestock husbandry and marketing.

vi. Kenya is working with the East African Community for a common position on small arms issues within the context of the Nairobi Declaration. The recent creation of a customs union poses a challenge that requires the three East African States to apply similar procedures in regulating import and export of SALWs.

vii. Within the context of the East African Community, the member states have been actively working on harmonizing laws that relate to illicit arms among others. This process has been proceeding in tandem with the efforts made through the Eastern Africa Police Chiefs Cooperation Organisation (EAPCCO) and Interpol sub-regional Bureau for a common approach towards the illicit arms menace.

6.2 GLOBAL LEVEL

6.2.1 International instruments against terrorism and crime

Kenya strongly ascribes to the UN Security Council resolution on suppression of terrorism. Having been frequently targeted and attacked by terrorists, Kenya has published a draft anti-terrorism bill that addresses definition, evidence and procedures to deal with terror related crimes. The draft bill is awaiting
presentation to stakeholder’s forum for comments and inputs before presentation to Parliament.

6.2.2 International cooperation and assistance

In order to effectively address the underlying demand driving issues, Kenya continues to appeal for international support particularly in Developmental interventions that would reduce the Gun culture and address the livestock complex. Kenya also has long porous borders with unstable neighbours that require very specific capacity support to law enforcement agencies to effectively Police. There is also need to support capacity building, both Governmental and Non Governmental cross border initiatives, operating at local levels. There is further need to support a comprehensive study on cattle and gun culture among the pastoral communities in the region.

6.2.3 Cooperation with civil society and NGOs

The UNPoA is very explicit on the crucial role the civil society has in achieving the ultimate objective of an illicit weapons free society. In this regard the Kenya National Focal point continues to view the civil society as valuable partners in the fight against illicit weapons. This is demonstrated by the enhanced membership in the National Focal Point.

At the National level, the KNFP maintains a compendium of all its civil society partners and promotes information sharing and collective approach amongst them. Measures have been taken to encourage partnership between National Level Civil Society organizations and those that operate at community level. This will certainly increase the reach and hence the effectiveness of the campaign against illicit arms.
At regional and global levels, the KNFP continues to benefit from expertise and experience available with regional and global civil society organisations in undertaking technically complex and difficult tasks like mapping. The benefits the KNFP continues to receive from these organizations in terms of resource mobilization and networking are acknowledged.

7.0 CONCLUSION

As exemplified by the activities already undertaken or in process as outlined above, the KNFP remains firmly on track in the implementation of the provisions of the UNPoA. It indeed requires a lot of courage, political will and commitment to implement the measures expected of each signatory nation. This commitment, at all levels, has been demonstrated by the measures taken within the short time the NFP has been in existence.

Among the impediments standing in the way of Kenya in the implementation of the UNPOA are resource scarcity and appropriate technical skills necessary to effectively deal with the small arms problem. Kenya continues appreciating, both the financial and technical support that has been made available to the Country by Development partners, the civil society and UN bodies towards addressing the menace. The assistance so far availed through OXFAM GB, Saferworld, Security Research and Information Centre (SRIC), The UNDP and the friends of the Nairobi Declaration has been instrumental in facilitating the achievements reported herein.

As has already been mentioned, Kenya is still in need of development assistance, particularly in dealing with the rural illicit arms problem. Resource based conflicts that create demand for illicit arms cannot be addressed by law enforcement alone, but in tandem with attention to the underlying factors. There is optimism that the international development partners will come forward in support of the National Plan of Action and assist the country in finding a sustainable solution
through better law enforcement, security sector reform and Development assistance.

To reaffirm commitment to the fight against illicit small arms, the Government of Kenya has commenced support to the KNFP through inclusion in the regular office of the President Budget as an independent entity.