SECOND BIENNIAL MEETING OF STATES TO CONSIDER THE IMPLEMENTATION OF THE UN PROGRAMME OF ACTION TO PREVENT, COMBAT AND ERADICATE THE ILLICIT TRADE IN SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS, 11 TO 15 JULY 2005

NATIONAL REPORT OF THE REPUBLIC OF SOUTH AFRICA

1. **INTRODUCTION**

   Since the adoption 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) in July 2001, South Africa has initiated or has been involved in a number of activities aimed at preventing, combating and eradicating this illicit trade. This is South Africa’s third report on the issue and is both an update of the second report and a reflection of what the country has done over the past two years.

   National measures aimed at implementing the recommendations of the UNPoA include the promulgation and implementation of the Firearms Control Act and its regulations on 1 July 2004, the promulgation of the regulations to the National Conventional Arms Control Act during May 2004 and the proclamation of a firearm amnesty for the period 1 January to 30 June 2005.

   As far as South Africa’s regional priorities in the field of small arms is concerned, one of the foremost issues to be undertaken is the full implementation of the provisions of the Southern African Development Community (SADC) Firearms Protocol and to encourage other SADC Members to do the same. This far-reaching instrument, which goes beyond that of a politically binding declaration, which came into force during 2004, provides the region with a legal basis upon which to deal with both the legal and the illicit trade in firearms.

   At the global level, South Africa actively participated in the meetings of the United Nations Working Group on the Marking and Tracing of Illicit Small Arms and Light Weapons.

   This report gives a more detailed overview of certain developments at the respective national, regional and global levels.

2. **NATIONAL**

2.1 **National contact point**

   In terms of Part II, paragraph 5 of the UN Programme of Action, South Africa’s national point of contact that acts as liaison between States on matters relating to the implementation of the Programme of Action, remains the Directorate: Disarmament and Non-Proliferation in the Department of Foreign Affairs.
2.2 Legislation

2.2.1 Firearms Control Act

The Firearms Control Act of South Africa (Act 60 of 2000) provides for the operational control of all legal firearms stocks in South Africa. Key elements of the Act are requirements in relation to competency, relicensing of firearms, limitation on the number of firearms for self-defence, the categorisation of types of firearm ownership and strict control of state owned stocks, up to 12.7mm calibre.

The Act was assented to on 4 April 2000 and was promulgated and fully implemented on 1 July 2004. The purpose of the Act, as stated in its preambular section, is to:

- Enhance the constitutional rights to life and bodily integrity;
- Prevent the proliferation of illegally possessed firearms and by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
- Enable the State to remove illegally possessed firearms from society, to control the supply, possession, safe storage, transfer and use of firearms and to detect and punish the negligent or criminal use of firearms;
- Establish a comprehensive and effective system of firearms control and management; and
- Ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.

Regulations to the Act, relating to accreditation of associations, shooting ranges and training institutions were finalised and came into operation on 1 July 2004.

The Firearms Control Act provides for the declaration of persons to be unfit to possess firearms and has taken in consideration crimes that have come to the fore more often in modern times, such as domestic violence and substance abuse.

Misrepresentation or the withholding of information with the aim of obtaining any permit or license relating to firearms, small arms, light weapons, ammunition and related materials is prohibited and punishable according to the Act.

The SAPS is tasked with the implementation of the Firearms Control Legislation in South Africa. As primary implementor of firearms control it is the responsibility of the SAPS to ensure that effective co-ordination takes place with the various departments who contribute to the maintenance of the firearms control legislation such as Customs and Excise, Trade and Industry etc.

2.2.2 National Conventional Arms Control Act

In terms of South Africa’s Interim Arms Control Policy that was formulated in 1995, a National Conventional Arms Control Committee (NCACC) had been established as a subcommittee of the Cabinet to oversee all arms control matters. The National Conventional Arms Control Act, which was promulgated on 1 May 2003 (Act no. 41 of 2002), provides the NCACC with statutory powers. Regulations in terms of the Act were promulgated during May 2004. The regulations are based on the Wassenaar Arrangement controls.
The Act contains the requirements that must be adhered to in conventional arms transfers, including small arms and light weapons. The Act:

- Establishes the National Conventional Arms Control Committee;
- Ensures compliance with the policy of the Government in respect of arms control;
- Ensures the implementation of a legitimate, effective and transparent control process;
- Seeks to foster national and international confidence in South Africa’s conventional arms control procedures;
- Provides for an Inspectorate to ensure compliance with the provisions of the Act;
- Provides for guidelines and criteria to be used when assessing permit applications;
- Ensures adherence to international treaties and agreements; and
- Ensures proper accountability in the conventional arms trade.

The Act also regulates issues relating to brokering.

2.3 Law Enforcement Strategy

The SAPS has developed a Firearms Programme, based on the Firearm Strategy of the SAPS, which in turn encompasses the declared priorities of the SAPS. The programme was explicitly developed to focus not only on particular policing or legislative aspects, but address the full spectrum of establishing effective firearm control in South Africa.

The Firearm Strategy on the SAPS is based on five pillars, namely:

- **Develop and maintain appropriate firearm related regulators**
  Includes regulators at International, Regional, National, Provincial and Local levels with a specific focus on interdepartmental and inter-agency cooperation.

- **Ensure effective control processes and procedures regarding firearms**
  Entails the establishing and optimisation of all control processes and capacity, compliance auditing and identification of control dysfunctions in order to affect operational Firearms Control.

- **Reduce(eradicating) the illegal pool and criminal use of firearms**
  Entails the detailed analysis of control dysfunctions, the detection of illegal origins of firearms, and the procedural interventions such as the Criminal Justice System, focussed organised crime projects and cross-border operations. The development of appropriate information resources and the drafting of an information support strategy to continuously inform on the extent of the Firearm problem.

- **Ensure the Prevention of Crime and Violence through Public Service Awareness, Civil Awareness and Social Design**
  This would focus on the social elements relating to firearms such as social awareness, alternative conflict resolution, culture of violence etc. The development of a Communication Support Strategy, both internal and external would be managed under this objective.

- **Regional Cooperation**
  Focus on international and regional cooperation through various forms, which promote firearm control. A specific emphasis is placed on interdepartmental and inter-agency cooperation.
2.4 Law Enforcement: Practical Measures

2.4.1 Firearms Control Information System

The aim of the Firearm Control System (FCS) is to provide the Department of Safety and Security with a mechanism to effectively manage the relevant business processes pertaining to all firearms and ammunition, from the time of manufacture / import through individual ownership, until such firearms and ammunition are either exported or destroyed. The FCS will replace the current Firearms Register System.

2.4.2 Marking of Firearms

The Firearms Control Act requires the marking of all firearms at the time of manufacture or import, as well as on export.

A confirmed marking process has been agreed with between the South African Police Service, manufacturers and South African National Standards. Aspects taken in consideration is the management of firearms manufactured, imported as well as exported from South Africa, unique identifying codes for manufacturers and the year in which the firearm was manufactured.

The Firearms Control Register of the South African Police Service keeps databases of all markings.

2.4.3 Tracing of illegal firearms

The South African Police Service has developed a specific methodology for tracing illegal firearms through a methodology involving specific steps to determine possible criminal intent or involvement.

2.4.4 Public Awareness on Firearms

The high levels of firearm violence in South Africa have contributed to the drafting of stricter legislation to prevent and reduce these incidences. Public awareness and debate focus particularly on firearm safe handling, communicating implementation process in relation to the firearms legislation, firearm owner responsibilities in relation to children and the safekeeping and protection of children in environments where firearms are stored and kept.

The amnesty referred to in paragraph 2.4.7 below has also been accompanied by a public awareness campaign involving the media.

2.4.5 Standards for safekeeping of firearms

The safekeeping of firearms is essential to ensure that access to firearms is limited to those who are fit and proper to use and possess such firearms. To set a general standard for safes, strong rooms and safety devices, minimum requirements have been finalised in co-operation with South African National Standards. These minimum requirements were integrated into the Firearms Control Regulations.
2.4.6 Minimum unit standards for competency training

Minimum unit standards for training have been developed to establish a standard for levels of competency training in South Africa. Competency testing is one of the key elements contained in the firearms control legislation. No requirement such as this had existed prior to the firearms control legislation and it is therefore necessary to provide for a platform from which competency can be determined and measured in future. These minimum unit standards were submitted to the South African Qualifications Authority (SAQA) for the necessary publication in the Government Gazette for public comment. The final minimum unit standards were approved by SAQA during June 2002.

2.4.7 Amnesty offered by the South African Authorities

An amnesty was declared by the South African authorities in terms of the Firearms Control Act (2000) for the period 1 January to 31 March 2005. The amnesty was subsequently extended to 30 June 2005. The amnesty was based on a three-pronged approach:

- The first element was the voluntary handing in of unwanted registered firearms. This was deemed necessary due to the fact that the pool of registered firearms is one of the sources of illegal firearms.
- Secondly, provision was made to recover as many illegal firearms and as much ammunition as possible by providing the incentive of amnesty from prosecution for such possession. No financial compensation was offered for firearms that were handed in.
- Lastly, police operations to locate and seize illegal firearms and to arrest persons in possession thereof, continued unabated during the amnesty period. In this regard it should be noted that a person could not call upon the amnesty after being arrested for the illegal possession of a firearm or ammunition. The above-mentioned police operations are a permanent feature of crime prevention and law enforcement, but were intensified during the amnesty period.

The total results of the amnesty for the period 1 January 2005 to 30 May 2005 are as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal firearms surrendered:</td>
<td>26 326</td>
</tr>
<tr>
<td>Illegal ammunition surrendered:</td>
<td>449 605</td>
</tr>
<tr>
<td>Voluntary handing in of unwanted, licensed firearms:</td>
<td>36 078</td>
</tr>
<tr>
<td>Voluntary handing in of unwanted ammunition of licensed firearms:</td>
<td>654 577</td>
</tr>
<tr>
<td>Firearms confiscated as a result of police operations:</td>
<td>14 735</td>
</tr>
<tr>
<td>Ammunition confiscated as a result of police operations:</td>
<td>182 315</td>
</tr>
<tr>
<td>Other spin-offs of the amnesty are the handing in of the following:</td>
<td></td>
</tr>
<tr>
<td>- 106 hand grenades</td>
<td></td>
</tr>
<tr>
<td>- 1 anti-personnel mine</td>
<td></td>
</tr>
<tr>
<td>- 23 rifle grenades</td>
<td></td>
</tr>
<tr>
<td>- 24 mortar bombs</td>
<td></td>
</tr>
<tr>
<td>- 4 anti-tank rockets</td>
<td></td>
</tr>
<tr>
<td>- one limpet mine</td>
<td></td>
</tr>
<tr>
<td>- one rocket, warhead, and</td>
<td></td>
</tr>
<tr>
<td>- one aircraft rocket</td>
<td></td>
</tr>
<tr>
<td>The following types of firearms were recovered under the above categories:</td>
<td>56 147</td>
</tr>
<tr>
<td>- Revolvers/pistols</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rifles:</th>
<th>12 719</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shotguns:</td>
<td>6 294</td>
</tr>
<tr>
<td>Automatic/semi-automatic firearms (excluding pistols):</td>
<td>212</td>
</tr>
<tr>
<td>Home made firearms:</td>
<td>410</td>
</tr>
</tbody>
</table>

The above-mentioned totals are not inclusive of firearm components, that is barrels, frames or receivers, of which a huge number was recovered.

2.5 **Destruction of Seized, Redundant, Obsolete and Confiscated Small Arms**

The South African Government position is that all surplus, redundant, obsolete and confiscated small arms of a calibre below 12.7 mm should be destroyed in order to prevent these from ending up in the illicit small arms trade.

The Government of South Africa has an on-going programme of identifying and destroying redundant and obsolete State owned firearms.

Since July 2003 to date the South African Police Service has destroyed 202 796 firearms, which were either seized during crime operations or which were in the possession of the state and found to be redundant or obsolete.

3. **REGIONAL**

3.1 **Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC) Region**

The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Region, which came into force during 2004, is a comprehensive legally binding instrument aimed at dealing with both the legal and the illicit transfers of firearms in the region.

The Protocol includes the need for:

- SADC Members to enact national legal measures to ensure, amongst others; proper controls over the manufacturing, possession and use of firearms and ammunition;
- Provisions promoting legal uniformity and minimum standards as to the manufacture, control, possession, import, export and transfer of firearms and ammunition;
- Ensuring the standardised marking of firearms at the time of manufacture, export or import;
- Provisions relating to brokering;
- Controls and limitation on legal civilian possession of firearms;
- Mutual legal assistance and information exchange; and
- The destruction of surplus, redundant or obsolete State-owned firearms, ammunition and other related materials.

3.2 Operation Rachel

One of the most successful cross border operations in relation to firearms, ammunition and other illicit materials in the region is Operation Rachel, which was launched in 1995. The aim of this co-operative project between the police services of South Africa and Mozambique is to destroy arms, ammunition, explosives and explosive devices, which were used during the civil war in Mozambique. Some of these arms had filtered across the border into South Africa where they had been used in criminal activities. Since the inception of Operation Rachel, a series of 23 co-operative search and destroy exercises have been undertaken. Thousands of tons of small arms and light weapons, explosives and other war material have been destroyed during these operations.

The success of Operation Rachel is based on the network that has been developed to ensure the flow of information on these matters. A key objective to achieve during the implementation of the SADC Protocol on Firearms, Ammunition and related materials is to duplicate a capacity similar to the Mozambican experience in other war-torn African countries to ensure that redundant weapons are found and destroyed.

3.3 Other Regional activities

Members of the National Police of the Democratic Republic of the Congo were trained by the SAPS during November 2004 to carry out operations similar to the Operation Rachel model.

During the period under review, the SAPS assisted the Swaziland Police with the destruction of obsolete and redundant firearms.

During March 2005, the South African Police Service was involved in a Workshop organised by the East African Police Chiefs Co-operation Organisation, aimed at providing training regarding marking and tracing of small arms and light weapons. The Workshop took place in the context of the implementation of the Nairobi Protocol.

South Africa participated in the Regional Consultation of Governmental Experts on Small Arms and Light Weapons (SALW) and the Biennial Meeting of States (BMS) Reporting in the Region of West Africa, which met in Bamako, Mali, from 28 to 29 April 2005.

Representatives from the South African Department of Foreign Affairs participated in the Regional Consultative Workshop of Governmental Experts of the Southern African Region on the Implementation of the UNPoA and its upcoming Review Conference, which took place in Windhoek, Namibia from 23 to 24th May 2005. The aim of the Workshop was to discuss the implementation of the UNPoA in Southern Africa and to prepare for the 2006 Review Conference.

A representative from the South African Department of Defence participated in the United Nations Regional Workshop on Conventional Arms, which took place in Nairobi from 31 May to 2 June 2005. The aim of the Workshop was to increase familiarity with, and encourage greater participation in, the “United Nations Register on Conventional Arms” and the “United Nations Standardised Instrument for Reporting Military Expenditures”. The Workshop also discussed the UNPoA and the submission of National Reports.

As part of its peacekeeping mission in the Democratic Republic of the Congo (DRC), the South African National Defence Force is assisting the government of that country with the
integration of various armed formations into one national defence force. It is foreseen that this assistance will lead to assistance with the control of the firearms that are emerging as the integration process unfolds.

South Africa participates in the activities of the Southern African Regional Police Chiefs Co-operation Organisation aimed at the implementation of the SADC Firearms Protocol.

4. **GLOBAL**

South Africa is party to the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components against Trans-national Organised Crime, which it signed on 14 October 2002 and ratified on 20 February 2004.

Members of South African Police Service visited to Nicaragua to do a feasibility study on the operationalisation of legislation based on the South African legislation. The Commissioners of Nicaragua will visit South Africa in June 2005 for further discussions relating to operations like Rachel, investigation with regard to firearm investigations and firearms control systems.

South Africa was an active participant in all the meetings of the United Nations Working Group to negotiate an instrument to identify and trace illicit small arms and light weapons.