

WORKSHOP ON THE HARMONISATION OF LEGISLATION ON LEGISLATION ON SMALL ARMS AND LIGHT WEAPONS IN THE GREAT LAKES REGION AND THE HORN OF AFRICA HELD AT PANARI HOTEL, NAIROBI, ON 22ND – 23RD SEPTEMBER 2005.

EXECUTIVE SUMMARY

In the framework of the implementation of 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, a workshop on the harmonization of legislation on small arms and light weapons was held in Nairobi from 22nd to 23rd September 2005. It was jointly organized, co – hosted and co- funded by the Regional Centre on Small Arms and Light Weapons (RECSEA) and Saferworld. The Workshop brought together about 50 participants including National Focal Point Coordinators from member States signatory to Nairobi Declaration and the Nairobi Protocol, other Governmental Officials are drawn from key Ministries / Institutions involved in respective national laws management namely the Attorney's General's Chambers / Constitutional Affairs, the Police / Military and Foreign Affairs as well as facilitators from civil society organizations partners SaferAfrica and Saferworld.

The objectives of the workshop were:

- (i) To develop guidelines for harmonization of legislation on outstanding issues of small arms control (manufacture, civilian possession, transport and sentencing);
- (ii) To reach a common understanding of the requirements for harmonization of legislation (consistent with the Nairobi Protocol) and the Best Practices guidelines; and
- (iii) To agree guidelines for the process of harmonizing legislation and reviewing national legislation.

During the workshop, participants discussed thematic areas and agreed on the themes which required further development during the harmonization of legislation process to be carried out by the

Member States. These themes are: the civilian possession of arms, manufacturing of arms, transport of arms and legal uniformity in sentencing.

At the end of the two days workshops, participants agreed on the the harmonization plan / Process at national and regional levels and the following way forward and recommendations:

AT REGIONAL LEVEL

- A regional meeting to brief parliamentarians on the nature of the small arms problem and the process of harmonisation of legislation should be held. RECSA should co-ordinate such a meeting in co-operation with AMANI-Forum and AWEPA. Such a meeting is scheduled for December 2005;
- The exchange of information on national review processes and the discussion of emerging common standards should take place on a regular basis. NFP Co-ordinators should identify opportunities presented by other regional meetings to take forward these discussions.
- An annual review meeting involving a broader range of stakeholders should also be held to review the regional harmonisation process; and
- RECSA should act as a facilitator and co-ordinator of this process. It should collect information from NFP on national review processes, identify key emerging issues relating to common legislative standards and disseminate information on these to NFPs.

AT NATIONAL LEVEL

- NFP Co-ordinator should provide feedback and briefings for members of the NFP and relevant Ministers on the development

of the Best Practice Guidelines and the regional harmonisation process;

- Following these briefings a schedule and terms of reference for the national review process should be drafted. This should include identifying the key stakeholders to involve in the process (including parliamentarians) and the scope of issues to be addressed;
- A legislative drafting team should be established. The drafting team should consist of both technical as well as legal experts and should include a variety of key members of the National Focal Point (NFP). As a minimum the team should, on the technical side, consist of a ballistic expert, a senior Police officer, a representative from the military and a member of the existing firearms register. On the legal side the team should consist of a legislative drafting expert, legal officer from the police, a representative from both the Attorney Generals Office and Judiciary. Relevant representatives of civil society should also be included in the review process. The drafting team should be co-ordinated by the Co-ordinator of the NFP. The drafting committee should be established by 28th April 2006;
- The drafting team should commence the process by collecting all the information that is available that will influence the content of the new legislation. This will include various international instruments such as the UN Programme of Action and the UN Firearms Protocol. At regional level, the Nairobi Declaration, Nairobi Protocol, the Best Practice Guidelines and this document. At national level the results of any research conducted on small arms and light weapons through the NAP or independently thereof and the national policy on firearms should be collected. Copies of other countries legislation that have recently been reviewed and all existing pieces of national legislation that contain provisions relevant to the control of firearms should also be collected and considered in the review process. Additionally, information on the nature of the small arms problem in the country may need to be collected; and

- National Focal Points should provide regular updates to RECSA on the process of national review.