



**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON REGIONAL AFFAIRS AND CONFLICT
RESOLUTIONS ON THE OVERSIGHT ACTIVITY ON THE PROLIFERATION
OF SMALL ARMS AND LIGHT WEAPONS IN THE EAST AFRICAN REGION.**

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LIST OF ACRONYMS AND ABBREVIATIONS

ATT	Arms Trade Treaty
AU	African Union
EAC	East African Community
EAPPCCO	Eastern African Police Chiefs Cooperation Organization
EALA	East African Legislative Assembly
ICRC	International Committee on Red Cross
IHL	International Humanitarian Law
IO	International Organizations
ITI	International Tracing Instrument
KRCS	Kenya Red Cross Society
MS	Member States
MOU	Memorandum of Understanding
NFPs	National Focal Points
RACR	Regional Affairs and Conflict Resolution
RECSA	Regional Centre on Small Arms
RECS	Regional Economic Communities
RSTS	Regional Small Arms Tracing Software
SADC	Southern African Development Community
SP	State Parties
SALW	Small Arms and Light Weapons
SARPCCO	Southern African Regional Police Chief's Cooperation Organization
TRCS	Tanzania Red Cross Society
UN	United Nations
UNPOA	United Nation Programme of Action
UN	United Nations

1.0 INTRODUCTION

In line with the oversight role of the East African Legislative Assembly, as stipulated in Article 49 (2), (d) of the Treaty for the Establishing the East African Community inter alia that “the Assembly shall discuss all matters pertaining to the Community and make recommendations to the Council as it might deem necessary for the implementation of the Treaty”.

In March 2019, the Regional Affairs and Conflict Resolution (RACR) Committee analysed the Council of Minister’s report on the progress made by the EAC on the development of its common foreign and of security policies.

The Committee compiled a report that was tabled and presented before the House. The Assembly unanimously adopted the report. As the House may recall, the report highlighted many serious security challenges facing the East African region among others, the persistent issues of illicit Arms trafficking, misuse of Small Arms and Light Weapon (SALW), Terrorism and other transnational organized crimes (piracy, poaching, cattle rustling, human trafficking, narcotics and other contraband), internal conflicts; etc.

Suffice to note, the widespread of the small arms continues to be a source of permanent insecurity and instability, to ruin lives and set back development with potential to derail the EAC integration agenda.

Thus, during the consideration of the Committee work plan, the Committee resolved among its priorities, to interact with one of key regional bodies, especially the Regional Centre on Small Arms (RCSA), involved in matters of security cooperation; and the International Committee of the Red Cross (ICRC), as an international independent and neutral organization, whose mandate is to ensure the protection of lives and dignity of victims of armed conflicts and other situations. It endeavours to prevent suffering by promoting and strengthening international Humanitarian Law (IHL), and universal humanitarian principles. ICRC advocates for the ratification and the implementation of the Arms Trade Treaty (ATT) that establishes common international standards for regulating the international trade in conventional arms and seeks to stop irresponsible transfers of arms. It also constitute a complementary instrument that contribute to sustainable peace, security and development in the region.

It was therefore resolved to undertake a comprehensive activity to assess the prevalence of the proliferation of arms and its effects of insecurity and fragility; materialised by conflicts, violence, poverty and others threats to state authority. The activity also assessed the impact of the control of SALW issues. It also drew lessons and made appropriate and practical recommendations for

a harmonized regional approach to effectively tackle the illicit proliferation and the misuse of SALW and ammunitions in order to strengthen regional resilience and stability towards regional integration and prosperity.

This activity was undertaken in accordance with Rule 81 (C,E,F) and Annex 5 E of the Rules of Procedure of the East African Legislative Assembly. It was held in Nairobi from 25th to 28th August, under the theme “**Building Capacity for the Effective Implementation of the Arms Trade Treaty among EALA Legislators**”. The ICRC Nairobi delegation hosted the platform and facilitated the discussions.

The Committee interacted with RECSA and ICRC in a fruitful, cordial and franc discussion. Members received first-hand information on the extent of the proliferation of SALW, and on the institutional and legal frame work in place to co-ordinate efforts, to control and regulate the transfer and circulation of firearms in order to mitigate human suffering caused by weapons and ensure sustainable peace and security in the region. The forum was an important and great opportunity for Members to interrogate matters of regional security and assess how EAC Governments (individually or collectively), are addressing the persistent issue of illicit arms trafficking, possession and misuse of SALW and its impact in our region.

The report thus examines the magnitude and the impact of the proliferation of SALW in East Africa, the progress made by the EAC Partner States in strengthening security of the Community and its Partners as directed by Chapter 23 and article 123 3(b) of the Treaty for the establishment of the EAC. The report recommends several measures that EAC needs to undertake to enhance the implementation of the existing instruments; and expedite the ongoing initiatives to complete the EAC Peace and Security architecture.

The report is structured into seven parts:

Part one provides the background to the problem; Part two addresses the objectives of the oversight activity; Part three shows the methodology used. Part four addresses the analysis of the prevalence and the extent of the proliferation of the small arms light weapons in the Great Lakes Region and Horn of Africa; while part five is dedicated to the Assessment of the ratification, domestication and the implementation of international and regional instruments on SALW. The Sixth and the Seventh parts provide respectively the general observations& the recommendations, and lastly, the conclusion.

2.0 BACKGROUND

Regional Integration accelerates political, social, and economic development. Ensuring that lasting peace and stability exists in the East African region is a key panacea in the realization of the process of integration of the East African Community. Article 6 of the Treaty establishing the East African Community spells out the fundamental principles that are mandatory for governing the achievements of the Community. They include but are not limited to mutual trust, political will, sovereign equality, peaceful co-existence and good neighbourliness among others. As the EAC implements the pillars of the integration process, recognizing and undertaking deliberate measures designed to ensuring a peaceful and stable EAC remains a paramount goal of the Community.

In order to attain the objectives of the Community, peace and security are key pre-requisites for all the stages of integration. This factor is further amplified by the vision of EAC which envisages “a prosperous, competitive, secure, stable and politically united East Africa.” The objectives further necessitate the Community to ensure regional stability if the integration is to deepen and widen.

The Treaty for the establishment of EAC provides for the cooperation in regional peace and security matters.

Article 124 of Treaty recognizes that peace and security are prerequisites for social and economic development. None the less, stability cannot be attained, until people are safe, trust each other, their governments to guarantee their protection and accord them a safe and secure environment to live, settle, trade, and travel freely.

The illicit rapid increase in number of SALW presents a direct threat to the development of the East African region and the African Continent as a whole. The easy availability and movability of SALW continue to escalate armed conflict, sustained poaching and cattle rustling abet with terrorism and other serious crimes.

The arms have increased the propensity of resorting to armed violence to resolve disputes in the weak and ineffective properly functioning institutions. They have facilitated the violent shifts of political regimes, contributed to massive violations of human rights, state instability, as well as abetting terrorism and other transnational organized crimes such as piracy, poaching, cattle rustling, and trafficking of humans, narcotics and other contraband.

Although the SALW is a global issue, East African people continue to suffer from arms that are in the wrong hands. The Great Lakes region and the Horn of Africa are recognized to be parts of the world severely affected by these

weapons. To this end, international, regional and national instruments have been enacted to halt the escalation of SALW and monitor their transfer and use:

i) At the global level:

- The issue of the proliferation of SALW was raised in a United Nation (UN) forum in 1995 General assembly resolution (A/RES/50/70B)
- At the UN Conference on the illicit trade in SALW and in all its aspects held at UN headquarters in New York from 9th- 20th July 2001, Member States (MS) adopted a Program of Action (UNPoA) to Prevent, Combat and eradicate the Illicit Trade in SALW in All Its Aspects; as an instrument that includes a number of measures at national, regional and global levels.
- The UN Protocol against the Illicit Manufacturing and Trafficking in Firearms, their Parts, and Components and Ammunitions was adopted on May 2001 to supplement the UN Convention against Transnational Organized Crime.
- The Arms Trade Treaty (ATT), was negotiated in New York at global conference under the auspices of UN from 2nd -27th July 2012. It was adopted on 2nd April 2013 and entered into force on 24th December 2014. The ATT is an international instrument that seeks to regulate the international trade of conventional weapons for the purpose of contributing to international peace, reduce human suffering; and promote co-operation, transparency, and responsible action among States.

ii) At AU level we have:

- The Protocol Relating to the Establishment of the AU Peace and Security Council as an umbrella for key AU mechanisms for promoting peace, security and stability in the African continent;
- The Protocol on the Relations between the AU and the RECs;
- The MOU between the AU and the RECs on Peace and Security;
- The AU theme “silencing the guns by 2020 “adopted by the AU heads of States during the 50th anniversary of the AU in 2013, as a flagship project of Agenda 2063.

iii) At the sub-regional level:

- The Ministers of foreign affairs of Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda signed the Nairobi declaration on the problem of

proliferation of illicit SALW in the Great Lakes Region and the Horn of Africa in March 2000, in recognition of the problems caused by small arms.

- Due to membership to many Regional Economic Communities (RECs), Tanzania signed the 2001 SADC Declaration Concerning Firearms, Ammunition and other Related Materials.
- SADC Protocol on the Control of Firearms, Ammunition and other Related Materials, reaffirms that priority should be given to prevent, combat, and eradicate the illicit manufacturing of firearms, ammunitions, and others related materials among Members States (MS)
- The Nairobi Protocol of the Prevention, Control and Reduction of SALW in the Great Lakes Region and the Horn of Africa; aiming at implementing the Nairobi Declaration of 2000 was signed.
- The Best Practices Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on SALW whose aim is to elaborate a framework for development of policy, review of national legislation, general operational guidelines and procedures on all aspects of SALW.

iv) At the EAC Regional level:

- The 13th EAC Council of Ministers meeting held in November 2006, adopted the EAC Peace and Security Strategy as a framework to guide EAC level interventions in Peace and Security Sector. The Strategy covers the collaboration on cross border crimes, auto theft, drugs trafficking, terrorism, money laundering and other crimes
- The Protocol on Peace and Security was established to promote peace, security and stability within the Community and good neighborliness among the Partner States.
- EAC conducted in 2014 a security threat assessment of the EAC Region, focused on the conflicts dynamics; the emerging threats; and the need to adopt commensurate measures. It is the outcome of the assessment that informed the updating of EAC Regional Strategy on Peace and Security adopted by the Council of Ministers in November 2014.
- Other protocols especially the Protocol on combating illicit drug trafficking in the East African Region; the East African Community Protocol on Co-operation in Defense have also been concluded.

Given the fact that illicit arms are mostly manufactured outside the continent, they are transferred from legal to illegal hands through diversion and illicit trafficking.

The lack of harmonized approaches to prevent and control the movement of contraband including illicit arms across EAC borders is a hindrance to regional security and integration. The illicit flow of SALW is a major cause of insecurity and fragility in the Great Lakes and Horn of Africa region

It is thus crucial that Partner States undertake a comprehensive regulatory and control mechanism to tackle the problem of proliferation SALW. The Nairobi declaration on the problem of the proliferation of illicit SALW in the Great lakes region and the horn of Africa signed was signed on the 15th –march -2000 recognises the growing international concern that the easy availability of illicit small arms and light weapons escalates conflicts and undermines political stability and has devastating impacts on human and state security.

In 2004, Partner states across EAC and the horn of Africa put in place the Nairobi Protocol to establish the RESCA whose mandate is to coordinate and regulate all SALW interventions within the Partner States.

Therefore, it is imperative that all the relevant actors build the necessary institutions, put in place the relevant legislation, and initiate cross-border cooperation and coordination to finding a lasting solution to the human security question. This will entail galvanizing harmonized approaches that will enable law enforcement agencies across all EAC borders to identify the criminal networks that are involved in the illicit flow of small arms and light weapons and dismantle them effectively.

3.0 OBJECTIVES OF THE ACTIVITY

In line with Article 49 (2) (D) of the Treaty for the Establishment of the East African Community and Rule 81 (E), the objectives of the activity included the following:

- a) To understand the concepts and principles on the SALW;
- b) To deepen the members understanding and awareness of the magnitude of SALW in East Africa;
- c) To assess the impact of SALW on the state of security in East Africa;
- d) To study the relevant institutional and legal frameworks in place to addressing the problem of SALW in East Africa;
- e) To deepen and broaden the Committees understanding of the challenge and extent of proliferation of SALW in East Africa and to;
- f) Make recommendations to the Council of Ministers on measure to be undertaken to address effectively and efficiently the challenge of Small Arms and light weapons in order to ensure a complete and lasting stability of EAC region.

4.0 METHODOLOGY

In undertaking this activity, the Committee used the following methodology;

- a) Reviewed and made reference to a number of documents including but not limited to:
 - i) The Treaty for the Establishment of East African Community;
 - ii) The Rules of Procedure of the East African Legislative Assembly;
 - iii) The 2001 UN Protocol against the Illicit Manufacturing and Trafficking in Firearms, their Parts, and Components. It was adopted to supplement the UN Convention against Transnational Organized Crime;
 - iv) 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;
 - v) The Protocol Relating to the Establishment of the AU Peace and Security Council as an umbrella for key AU mechanisms for promoting peace, security and stability in the African continent;
 - vi) The AU undertaking of “silencing the guns by 2020;
 - vii) The Protocol Relating to the Establishment of the AU Peace and Security Council;
 - viii) The Protocol on the Relations between the AU and the RECs;
 - ix) The Protocol on Peace and Security of the EAC;
 - x) Protocol on combating illicit drug trafficking in the East African Region;
 - xi) East African Community Protocol on Co-operation in Defence;
 - xii) The International convention on the Arms Trade Treaty;
 - xiii) The Memorandum of understanding on cooperation in the area of peace and security between the African Union, the Regional Economic Communities and coordinating mechanisms of the Regional standby Brigades of Eastern Africa and Northern Africa;
 - xiv) EAC Regional Strategy on Peace and Security 2006;
 - xv) EAC Regional Strategy on Peace and Security 2014;
 - xvi) The 2001 SADC Declaration Concerning Firearms, Ammunition and other Related Materials;
 - xvii) The Best Practices Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on SALW;
 - xviii) Regional Action Plan Against Piracy to ensure Regional Maritime Security;
 - xix) The Bamako Declaration on the Common African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, December 2000 ;
 - xx) ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, June 2006;

- xxi) Kinshasa Convention 2010-Central African Convention for the Control of SALW, Their ammunition and all Parts and Components that can be used for their Manufacture, Repair and Assembly.
- b. Held interactive meetings with the management and Head of Delegation of the International Committee of the Red Cross and the Secretary General of the Regional Centre on Small Arms and Light weapons.

5.0 ANALYSIS OF THE PREVALENCE AND THE EXTENT OF THE PROLIFERATION OF THE SMALL ARMS AND LIGHT WEAPONS IN THE GREAT LAKES REGION AND HORN OF AFRICA; AND THE EXISTING INSTRUMENTS AND INSTITUTIONAL MECHANISMS THAT HAVE BEEN PUT IN PLACE TO ENSURE THAT PEACE AND SECURITY SYSTEMS PREVAIL IN THE EAC.

5.1 Magnitude of the proliferation of SALW

Small Arms are weapons that are specifically designed to be used by one person. Although they are numerous types of small arms, the main ones include rifles (including the assault rifles) pistols, light machine guns and sub machine guns. Conversely, light weapons on the other hand are meant to be used by a crew of two or more persons. They include heavy machine guns, mortars, grenades, grenade launches, anti-aircraft guns and anti-tank guns. All the light weapons use less than 100 mm calibre ammunition. One of the most significant and pressing security threats facing the Horn of Africa is the apparent and increased proliferation of SALW.

Suffice to note, that these weapons cannot be used without the requisite ammunition and explosives such as shells, missiles, and cartridges for use in Arms as well as missiles and shells used in light weapons.

As a result of the misuse of these weapons, millions of people have lost their lives in the region through decades of long sustained violent conflicts. The proliferation and misuse of small arms affects people from all over the world. As such, it is a complex and multi-dimensional phenomenon. Owing to the fact that the SALW are cheap and easy to manage has made them the most preferred weapons in most violent conflicts globally. They have contributed to the emergence of armed conflicts in previous peaceful areas. In addition, they are conducive and attractive for conflicts and violence. This is due to the fact that they are cheap, highly effective, easy to use and carry, and easily concealable.

5.2 Some Statistics

- Globally it is estimated that there are 640 million firearms in circulation;

- ▶ Africa alone has an estimated 100 million firearms;
- ▶ Sub Saharan Africa has an estimated 30 million of which;
 - 59% are in the hands of civilians;
 - 38% are held by government armed forces;
 - 2.8% are in possession by the Police;
 - The black-market trade for small arms stands at US \$1 billion.
- ▶ During the Committee interaction with RESCA, the Committee was informed that according to the 2018 Geneva Small Arms Survey, there are 7.8 million small arms in the wrong hands in a region where almost half of the Countries — Somalia, South Sudan, Sudan, Democratic Republic of Congo and Burundi — are undergoing or just recovering from conflict.
- ▶ In the Horn and the Great Lakes, the possession of small weapons is seen as a source of income, security and a cultural symbol like in South Sudan.

The estimated distribution of civilians in Eastern Africa: 7,802,000 persons out of the total population of 416,676,000 possess firearms; an average of 1.23%.

5.3 Factors that call for acquisition of SALW in East Africa and the Main sources of Illicit Arms.

The factors promoting the demand and supply of SALW in the region are and not limited to:

- Chronic instability in some of the countries of the sub-region;
- Intra-state ethnic violence among pastoralists ;
- Gun culture especially in the pastoral zones;
- Availability of the guns on market;
- Fear of insecurity;
- Porous borders;
- Ethnic rivalries;
- Scarcity and contestation over shared resources;
- Cross bordering regional land use conflict;
- Organized crime;
- Poverty and unemployment
- Criminal groups organized and structured for purposes of committing serious crimes for profit (trafficking in SALW and human beings, cattle rustling, cybercrimes, poaching, money laundering, etc.); the main source of SALW being:

5.4 Progress made by EAC in the promotion of peace and security in the Region

5.4.1 Peace and Security Structure in EAC

The international community has agreed to undertake to cooperate and to ensure coordination, complementary and synergy in efforts to deal with the illicit trade of illicit SALW. EAC is part to the UNPoA whose mission is to prevent, combat and eradicate the illicit trade in SALW in all its aspects.

At regional level, since its revival, EAC has undertaken to ensure that the benefits of integration agenda are shared across all the East African countries. This entails ensuring that all the efforts are put in place in the areas of crisis prevention, conflicts resolution, SALW control and the promotion of good governance.

In line with Article 123 (5), the Treaty has put in place an institutional framework through the establishment of various sectoral councils and committees to give direction and policy guidance. They include:

- Council on cooperation on interstate security;
- Council on cooperation in Defence;
- Council on foreign policy coordination and;
- Council on Defence, interstate security and foreign policy coordination;

EAC Peace and Security system is geared to prevention and peaceful prevention settlement of conflicts.

5.4.2 EAC Peace and Security legal and institutional Framework

1) EAC Peace and security legal Framework

The framework is hinged on the following;

- EAC Treaty,1999;
- EAC Regional Strategy on Peace and Security,2006;
- EAC revised MoU on Cooperation in Defence matters,2001;
- EAC Instrument establishing the Panel Eminent Persons, 2012;
- EAC instrument on conflicts prevention, management and resolution mechanism,2012;
- Protocol on the establishment of EAC Common Market, 2009;

2) 4th EAC Development 2011/2012-2015/2016;

- 5th EAC Development Strategy 2016/2017 -2021/2022;
- Protocol on Peace and Security,2013;
- Protocol on SALW;

- Protocol on Illicit trafficking;
- Draft protocol on conflict prevention management and resolution;
- Draft protocol on Foreign Policy Coordination which is ongoing;
- Draft frame work on good governance which is also ongoing;
- Draft protocol on preventing and combatting corruption ongoing.

3) EAC Peace and Security institutional frame work

The institutional framework includes;

- ✓ Peace and security department;
- ✓ Early warning Centre: a situation Room for anticipating, monitoring, and analysing conflicts within the region, as well in the surrounding countries;
- ✓ Panel of eminent persons
- ✓ Defence Liaison Office
- ✓ Nyerere Centre for Peace Research;
- ✓ Decision making in process in EAC Peace and Security Frame work.

5.4.3 Status of Implementation

The EAC Peace and security protocol is the sole existing instrument whose objectives are to foster regional peace and security, combatting terrorism and piracy, peace support operations, control of the proliferation of SALW; etc.

Article 2 of the protocol state that the protocol shall enter into force upon ratification by all the member states.

Article 15 stipulates that the EAC council shall make a determination of the institutional arrangements for the implementation of the protocol and this yet to be realized.

Committee observations

The protocol only makes sense on paper but in practice it lacks a modus operandi framework, without proper funding and human resource capacity. The implementation is still timid and slow.

The Committee recommends to the Assembly to urge the Council of Ministers to ensure that;

- All the Partner States should as matter of urgency ensure full implementation and domestication of the protocol.***

- ii. Council should also put in place a robust legal instrument for the protocol to move from theoretical framework into a practical *modus operandi*.**
- iii. The Council should develop instruments aimed at enforcing mechanisms to efficiently address any threat or breach to Peace and Security in the EAC region.**

5.4.4 EAC SALW Programme

Action against SALW proliferation has been boosted with the establishment of an experts group to prepare a regional arms management policy. Two drafts have been developed to complete the policy which will inform and guide the legislative harmonization process deemed at having a collective approach to dealing with SALW. At the same time, a study was commissioned to establish the prevalence of the SALW in the region in all its aspects. The outcome is expected to guide future interventions in the SALW issues from an informed perspective.

5.4 .5 EAC Security Challenges

EAC faces a broad range of SALW issues, for instance violent cattle rustling affects pastoral land of Northern Kenya, northern Eastern Uganda, Southern South Sudan, and Western Somalia.

Broadly they include;

- ☐ Insecurity and threats to peace and stability persist in EAC despite initiatives;
- ☐ Unemployment and underdevelopment in the Region create a fertile ground for recourse to crime and other ills;
- ☐ The extent of environment, climate change and the competition for the meagre natural resources are other emerging issues;
- ☐ Intra and inter-states conflicts remain matters of concern.

The Committee takes note that the 12th September 2019, H.E President Yoweri. Museveni and H.E. President Uhuru M. Kenyatta launched in Naitakwae, Mororo Town; a Cross-Border Programme for Sustainable Peace and Development in Karamoja. This event was witnessed by variety of stakeholders including the UN Agencies.

This sub-region is characterised by recurrent conflicts (cattle rustling, human wildlife conflicts, natural resources conflicts, natural and human induced shocks (droughts, flash floods, pest and disease outbreaks); food insecurity, and over-dependency on livestock. This area, blessed with a great potential for tourism, mineral development (oil, gas, etc); is located along porous borders

in proximity with States experiencing instability and is a major source of market for the illicit arms in the region.

Committee observations / recommendations

The Committee recommends to the Assembly to urge the council of Ministers to;

- i. Urge the EAC and RESCA to strengthen their collaboration in entrenching weapons control programs in their peace and security initiatives. Drawing from the complementarities in the Nairobi protocol and the EAC Protocol on peace and security.***
- ii. Urge the EAC member states to integrate arms control into their National Development Plans for sustainable peace, security and development in line with the sustainable development goals. Noting the inextricable relationship between illicit arms, security and underdevelopment.***
- iii. Urge the member states to expedite the updating and harmonization of laws on small Arms and light weapons with regional and international frameworks on arms, management and control to facilitate better cross border cooperation between law enforcement and judicial agencies.***
- iv. Urge Partner States to invest in safe storage infrastructure for weapons and ammunitions, ethical training of armed personnel, enhanced remuneration and facilitation to avert the risk of diversion of the weapons.***
- v. The Committee urges the Council to support and initiate the stabilization efforts of neighbouring Countries and also promote comprehensive boarder security cooperation that are sensitive to the community dynamics including the movements of persons and goods / trade.***
- vi. EAC has developed various peace and security legal instruments, and others are in process of being developed. They need to be focused and codified into single improved instrument that constitutes a legal reference for all matters related to Peace and Security. These instruments should also identify the gaps in the existing framework and endeavour to address them.***
- vii. The Committee notes that the protocol on Peace and security now ratified by all Partner States does not indicate the institution that it is supposed to implement it. The institution is supposed to give it a strategic direction and guidance on all the matters of peace and security. As a matter of fact the Committee recommends to council that this institution should be established to handle issues of peace and security.***

6.0 ASSESSMENT OF THE RATIFICATION, DOMESTICATION AND THE IMPLEMENTATION OF INTERNATIONAL AND REGIONAL INSTRUMENT ON SALW BY EAC.

6.1 Status of ratification

In a bid to address the problem of proliferation of Small Arms and Light Weapons, instruments have been developed to guide and coordinate all the actors in the implementation and harmonization of the framework of the Small Arms Light Weapons. The instruments were developed by the international community and regional Governments. These instruments provide for definitions, marking, tracing, institutional framework (including designation of focal point of contact by each state), technical assistance, development and harmonization of legislation, cooperation and mutual legal, sharing of information, reporting, public awareness creation, disposal and confiscation, community and non-state actors participation, dispute settlement, acquisition of licenses, arms trade (imports and export), transportation, brokerage and offences. The instruments also make provisions on how States can acquire, manufacture, transfer and retain SALW for their own use. The instruments include the following;

a) ARMS TRADE TREATY (2013)

The ATT was promulgated to establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms. It aims at preventing and eradicating illicit trade in conventional arms and light weapons.

The ATT also applies to all conventional arms, such as missiles and missile launchers, battle tanks, armoured combat vehicles, calibre artillery systems, combat aircraft, attack helicopters, warships and SALW. The Treaty does not apply to the international movement of conventional arms by, or on behalf of, SP for its use provided that the conventional arms remain under that SP's ownership.

The Treaty provides for control and regulation of sale of ammunition, trade in parts and components, and requires its implementation to be broad, consistent, objective and non-discriminatory. The Treaty also requires State parties to establish and maintain a national control system, including a national control list that shall be provided to the ATT Secretariat.

It further prohibits State Parties from authorizing the transfer of conventional and or items, if the transfer would violate a UN Security Council resolution or imposed arms embargo. The transfer is also barred if there is suspicion or knowledge that the arms or parts would be used to commit genocide, crimes against humanity, war crimes or used against civilian objects or civilians in

protected areas. The ATT further provides for export and export assessment, imports, transit and trans-shipment, brokering, record keeping, prevention of diversion, reporting, and enforcement.

As regard the exports, all the State parties are obliged to assess whether the conventional arms or items would contribute to or undermine peace and security and/or could not be used to commit or facilitate a serious violation of international humanitarian law and human rights, and commit or facilitate terrorism or transnational organized crime. While for transportation, transit and transshipment the Treaty requires each importing state to take measures to regulate transit or trans-shipment and to ensure that appropriate and relevant information is provided, upon request pursuant to its national laws, to the exporting state, to assist the exporting SP in conducting its national export assessment.

The Treaty also specifically promotes international cooperation of states in its implementation and establishes a secretariat to facilitate effective implementation and cooperation of the Treaty.

EA States are among the 36 countries across the globe which have signed the ATT that entered into force in December 2014. But none of them has ratified the same so far.

b) THE NAIROBI PROTOCOL FOR THE PREVENTION, CONTROL AND REDUCTION OF SALW IN THE GREAT LAKES REGION AND HORN OF AFRICA (2004).

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 and bordering States was signed in April 2004 and entered into force in 2006.

The Protocol is one of the most comprehensive legally-binding regional agreement on Small Arms and Light Weapons. Involving the East African Community, it was modelled on the following:

- i) The UN PoA on the illicit Trade in Small Arms and light weapons in all its aspects, which was signed in July 2001;
- ii) The Bamako declaration on the Common African Position on the illicit proliferation, circulation and trafficking of small arms and light weapons, which was signed in December 2000;
- iii) The SADC Protocol on control of firearm, ammunitions and other related materials which was signed in 2000;
- iv) The ECOWAS convention on small arms and light weapons, their ammunition and other related materials which was signed in June 2006 and;

- v) The Kinshasa Convention and the Central African convention for the control of SALW, their ammunition and all parts and components that can be used for their manufacture, repair and assembly which was signed in 2010.

The Central African Republic, Somalia, Seychelles, South Sudan, Tanzania have not ratified the protocol but have signed and implemented it.

The primary objectives of the Nairobi Protocol (NP) include the following;

- i) To prevent, combat and eradicate the illicit manufacturing, trafficking, possession and use of SALW in the sub-region.
- ii) To prevent the excessive accumulation of SALW, control and management.
- iii) To promote of information sharing, cooperation, accountability, law enforcement, control and management of SALW held by governments and civilians;
- iv) To adopt legislative measures to establish as criminal offences under the national law acts of illicit possession and misuse of SALW, falsifying or illicitly obliterating, removing or altering the markings on SALW.
- v) To provide for the strengthening of operational capacity of national law enforcement and security agencies to enhance combating the proliferation of Small Arms and Light Weapons.
- vi) To provide for control and accountability of state-owned SALW and also provides for voluntary surrender of SALW by illegal holders and destruction thereof by the State.
- vii) To enhance public awareness campaigns. It requires state parties to develop local, national and regional public and community education and awareness programmes to enhance the involvement of the public and communities and support efforts to tackle the proliferation and illicit trafficking of SALW.
- viii) To enhance cooperation with other regional players, the protocol provides for regional cooperation on SALW issues and provision of for mutual legal assistance that require state parties to create a mutual legal assistance system to enhance their cooperation in mutual legal assistance in a concerted effort to eradicate the illicit manufacturing and trafficking, and control the possession and use of SALW.

- ix) Enjoins State Parties to establish appropriate mechanisms for cooperation among law enforcement agencies to promote effective law enforcement and provides for mechanisms for cooperation through transparency, information exchange and harmonization.
 - x) The protocol also commits states to establish national focal points to facilitate the rapid information exchange combat cross-border Small Arms and Light Weapons trafficking and;
 - xi) In addition, the state parties commit to institute appropriate and effective measures for cooperation between law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of SALW. They also undertake to establish national focal point and mandate the Nairobi secretariat (RECSA) to oversee the implementation of this protocol.
 - xii) The protocol undertakes to institute disarmament initiatives. These include undertaking collection programmes, voluntary surrender, forceful disarmament, and states considering granting immunities from prosecution to those who have voluntarily surrender.
- i. **All the EAC Countries have established the national focal offices to coordinate the issues of illicit flow of fire arms and light weapons;**
 - ii. **The United Republic of Tanzania and the RSS have not ratified the Nairobi Protocol, but have they have signed and are implementing it.**
 - iii. **A regional office secretariat (RECSA) to coordinate and oversee the implementation of the protocol was established in Nairobi – Kenya**

Committee Recommendations

The Committee recommends to the Assembly to urge the Council of Ministers to:

- i. ***To urge the United Republic of Tanzania and RSS to expedite the ratification of the protocol.***
- ii. ***Endeavour to implement and ensure that the National Focal Offices are fully operational and functioning with the requisite resources to help in coordinating the national responses to the illicit flow of fire arms and light weapons.***
- iii. ***Galvanize all the Partner states to ensure that it implements all the provisions contained in the protocol.***

e) THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) PROTOCOL ON THE CONTROL OF FIREARMS, AMMUNITION AND RELATED MATERIALS (2001)

The Protocol aims at preventing, combating and eradicating the illicit manufacturing of firearms, trafficking, possession and use in the Region.

- i) It promotes and facilitates cooperation and exchange of information. State parties also commit to consider becoming parties to international instruments relating to the prevention, combating and eradication of illicit arms and light weapons.
- ii) It also prohibits manufacturing and trafficking in, possession and use of firearms, ammunition and other related materials and to ensure that state parties implement such instruments within their jurisdictions. The SADC Protocol on SALW (2001) is applicable to RECSA because of the dual membership of some states;
- iii) Just like in the Nairobi protocol, the protocol requires member states to enact necessary legislation and take other measures to establish as criminal offences under their national law to prevent, combat and eradicate the illicit manufacturing of firearms and ammunition;
- iv) The protocol obligates the national legislation to ensure that provisions on legal uniformity and minimum standards for sentencing, manufacture, control, possession, import, export and transfer of firearms;
- v) The protocol further prohibits total prohibition of the possession and use of light weapons by civilians, co-ordination of procedures for the import, export and transit of firearms shipments and regulation and registration of all civilian owned firearms and;
- vi) It further provides for manufacturing of SALW and ammunition, marking and identification, monitoring and audit, seizure, confiscation and forfeiture of SALW, pawning and pledging, storage and brokering.

f) UNITED NATIONS PROGRAMME OF ACTION TO PREVENT, COMBAT AND ERADICATE ILLICIT TRADE IN SALW IN ALL ITS ASPECTS (2001)

The United Nations Programme of Action to Prevent, Combat and eradicate illicit trade (UN PoA) was adopted in 2001 by the resolution of UN Member states who attended the UN Conference on illicit SALW in New York in 2001. The UN PoA provides actions and commitments by the member states during the conference.

During the conference the State Parties agreed to undertake national, regional and international measures to prevent, combat and eradicate the illicit trade

in SALW in all its aspects. Some of the measures are similar to those provided in the Nairobi Protocol and Arms Trade Treaty.

The key actions under UN PoA includes:

- i) Putting in place legislative measure to prevent, control and regulate SALW, establishment of criminal offences acts of illegal manufacture, possession, stockpiling and trade of SALW.
- ii) Establishment of designated as appropriate, national coordination agencies or bodies and institutional infrastructure responsible for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in SALW.
- iii) Providing for actions on disarmament, demobilization and re-integration, stockpile management, disposal and destruction and;
- iv) Ensuring that public awareness measures are put in place to combat the illicit proliferation of SALW.

This instrument is both the basis the source of the Nairobi Protocol and continues to guide the EAC peace and security policy.

6.2 Progress made in the implementation of the Nairobi Protocol

EAC countries have demonstrated the willingness to address SALW at international, regional and national levels; and have resolved themselves to tackling the illicit flows of SALW. In so doing, policies and the legislation related to this has been developed and continue to coordinate with the RECSA. Never the less, the extent of SALW and the lack of capacity constitute a big challenge. Furthermore, in order to prevent destabilising backlash, EAC has deemed essential to implement fully the Nairobi Protocol which is tailored to regional concerns, by working and coordinating closely with RECSA.

All partner states have established NFPs to oversee the implementation of the protocol which are also the points of contact for UNPoA

Partner states have therefor reviewed and modified their legislation in accordance with the provisions of the Nairobi Protocol.

❖ RCSA Key achievements

The key activities being undertaken by RESCA in the proliferation of small arms and light weapons field are:

a) Public awareness campaigns and education programs

RESCA has undertaken public awareness and education programs throughout the Partner States on the illicit flow and usage of fire arms and light weapons. This is being done in close collaborations with ministries in charge of Internal Affairs, Police departments, Civil Society, institutions of learning, and non-Governmental Organizations.

b) Addressing gaps in the Institutional Review Development.

RESCA is working with Partner states in addressing the gaps of institutional review development. In this aspect, it has facilitated the Partner States to establish the formal National Focal Points (Commission, Agency, and Directorate) which coordinates RESCA activities in the various Partner States.

c) In order to enhance cross border agency coordination, RESCA has undertaken the following activities ;

- Promotion of coherence of action, information sharing and effective coordination at the national levels;
- Confidence building, dialogue, coordination and joint action;
- Bilateral dialogue and awareness raising on SALW issues;
- Promotion of inter-agency dialogues at the national level;
- Been conducting regional forums for dialogue on the implementation of the Nairobi Protocol;
- It has supported the joint operations being undertaken by Eastern African Police Chiefs Cooperation Organization (EAPCCO) and the Southern African Regional Police chiefs cooperation Organization (SARPCCO).
- It has enhanced cooperation with other Regional Economic Communities (RECs) and International Organizations to strengthen regional voice and action on SALW;

The following activities have been undertaken in order to promote confidence building, dialogue, coordination and joint action;

- It has enhanced bilateral dialogue and awareness raising on SALW issues;
- It has been promoting inter-agency dialogues at the national level and;
- Has supported regional forums for dialogue on the implementation of the Nairobi Protocol.

c. The Arms Marking Programs.

Has put in place regional standard firearms marking system that can easily identify and trace fire Arms. This system is designed to enhance fire arms accountability and tracing. In order to facilitate this exercise, arms marking machines have been provided and training conducted in all RECSA Member States.

In a bid to enhance the physical security & stockpile management, RESCA in collaboration with all the member countries has put in place a reliable and strong data base that is customizable with Small Arms Tracing Software (RSTS). This database is meant to ensure that data is electronically recorded and kept safe. The software facilitates easy tracing, retrieval and keeping. Innovative safe storage infrastructure has also been provided to various RESCA Countries to prevent diversion, theft, and expulsion of the ammunition.

d) Destruction Activities.

The destruction of Small Arms and Light Weapons is essential for post-conflict societies where peace-building efforts have often been hampered by the easy availability and continued misuse of such weapons. Their timely destruction in such situations will help to stem the flow of arms and ammunition from one conflict or post-conflict zone to another. Destruction however has to be undertaken under professional guidance with due care to safety and the environment.

Suffice to note, the over 400,000 firearms and more than 2000 tons of unexploded Ordinances (UXOs) have been destroyed in the last 10 (ten years). In addition, deliberate measures have been undertaken to ensure that destructive practices follow internationally environment-friendly practices. A shear crushing machine – has been provided to all RESCA countries.

e) Control of civilian ownership of guns.

In order to ensure that the fire arms do not fall into the hands of wrong elements, RESCA has adopted the following measures to control the civilian ownership of guns.

- Supported voluntary civilian disarmament initiatives;
- Developed and disseminated regional guidelines on practical civilian disarmament;
- Supported the marking of civilian firearms;

- Undertook a baseline assessment on civilian disarmament in the region;
- Carried out civilian disarmament campaigns in Burundi, Kenya, South Sudan & Uganda;
- Carried out awareness raising activities on the dangers of possessing fire arms. These are meant aimed at disarming the hearts & minds of civilians;
- Carried out Synergies and partnership building activities with Civil Society Organizations for civilian sensitization on gun ownership.

CHALLENGES FACING SALW CONTROL

In the process of implementation of its mandate, RECSA has faced the following challenges;

- Limited financial resources to implement activities;
- Limited prioritization of SALW management and control in National Development strategies and planning;
- Limited capacity of the national institutions responsible for SALW management and control;
- Slow harmonization of legislation with regional and international instruments;
- Weak Cross-border cooperation on SALW interventions and porous borders;
- Geopolitical shifts among the RECSA partner states especially like Somalia, Eritrea, and Djibouti. These have many vested interests due to their proximity to the Middle East (Yemen, Saudi, Qatar and UAE). The effect of this has been that throwing them into the arena of power politics and directly bearing the power competition. For instance, Djibouti has many military bases from China, United States, and Japan while Somalia has become the dice for Saudi – United Arab Emirates politics. All the above-mentioned Countries are outdoing each other to woo Somalia for oil and other international perceptions and;
- Most RECSA members' states have given more attention to redress measures than prevention.

Committee observation

By implementing the Nairobi Protocol EAC Partner States are also somewhat implementing many international instruments related to SALW. The lacuna remain in the ratification and the domestication of ATT which has a lot of similarities with the Nairobi Protocol.

7.0 GENERAL OBSERVATIONS/RECOMMENDATIONS

1. Urgent and immediate requirement for all the East African Community Partner states to ratify, domesticate and operationalize the Nairobi protocol and the Arms Trade Treaty.

The Committee observes the following;

- Proliferation and trafficking of the Small Arms and Light Weapons will continue to escalate in the region since the Partner states are less committed and enthusiastic at signing the protocols which are aimed at that ending the flow of the Small Arms and Light Weapons.
- There are higher possibilities of these weapons falling into wrong hands and terrorist networks since EAC Countries do not have cooperative and harmonized approaches in dealing with the problem of illicit flow of fire arms and light weapons. This has created an institutional Lacuna on the operationalization and implementation of the agreed areas of cooperation.

The Committee recommends to the Assembly to urge the Council of Ministers to;

- i. Ensure that all the EAC Partner States expedite the process of ratification and domestication of these protocols;***
- ii. Urgently expedite developing a regional legislative framework of addressing the problem of proliferation of small arms and light weapons in the EAC;***
- iii. Expedite the establishment of the relevant institutions to implement, coordinate and operationalize the provisions of these protocols and;***
- iv. Introduce sunset clauses and give specific timelines for Partner States ratify these protocols.***

2. Urgent need for Mandatory firearms registration

As enumerated above, the EAC region still lagging behind in the marking and registration of firearms and yet this one of the crucial aspects of the Nairobi protocol on illicit flow of firearms and light weapons. The Committee was informed that Uganda, Kenya and Rwanda are the only EAC Countries currently marking and registering the firearms. For the Republic of Burundi it's only the Burundi National Police which is marking the firearms.

The Committee recommends therefore to the Assembly to urge the Council of ministers to ensure that as a matter of priority, all the EAC countries priorities the process of marking and registering the firearms

and light weapons in order to enhance the fight against the Trans boundary crime.

3. Harmonized approaches of disarmament of civilians in EAC Countries.

The Committee observed that there are 39 million illegal firearms in the hands of civilians in Africa, of which 7.8 million are in East Africa, the Horn and Great Lakes region. This has scenario has been occasioned by the history of conflicts in the region, inadequate border control mechanisms and minimal police presence in vast and porous parts of East Africa region. This has created a favourable environment for illicit small arms trafficking, and possession.

The Committee further notes that whereas some governments in EAC have been relatively successful in disarming its populations, it has been difficult to mop up arms in all the EAC Partner States. The lack of a holistic disarmament approach within the all the EAC Countries will undermine the integration process.

The Committee recommends to the Assembly to urge the Council of ministers to;

Develop an integrated, holistic, and comprehensive long-term civilian approaches towards disarmament. These should be complemented by socio economic inputs and confidence building measures between the public and security officers. In addition, the approaches should be of regional nature and should address the alternative live hoods and demobilize the mind.

4. Urgent need to address the challenges of implementation of the Nairobi protocol

The Committee observed the following challenges in the implementation of the Nairobi protocol;

The lack of human and financial resources in many states, in addition to conflicting priorities, continues to hinder any significant progress to the implementation of the Nairobi protocol. Since its inception, RECSA has been dependent on foreign donors and non-governmental organizations. This is problematic, since it is at the national level that change must take place if the implementation of the Nairobi Protocol is to take place.

Amending and developing legislation is a major challenge, since many states have outdated firearms laws. The following key provisions in the protocol require states to develop legislation covering a broad range of issues like;

- Pertaining to the importing and exporting of firearms,
- Restricting the number and type of firearms civilians may possess;
- Restricting the number and type of firearms civilians may possess;
- Regulating the brokering of firearms
- Dealing and manufacturing of firearms and;
- On the marking, seizure and confiscation of firearms

The Committee observed that despite the commitments by 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 has been attributed to lack of capacity, technical knowledge and lack of political will. The Committee noted that Partner 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.

- i. ***The Committee recommends to the Assembly to urge the Council of Ministers to ensure that as a matter of priority urgent measures are undertaken to ensure that the necessary funding is advanced to RESCA to enable it implement the Nairobi protocol.***
- ii. ***Partner States should develop the requisite laws to regulate the flow and movements of firearms within the region.***
- iii. ***RESCA should actively enhance its role by providing states with technical legal assistance and feedback on legislative issues in order to encourage advancement of the process.***

6. Lack of Awareness and Sensitization

The Committee observed that in order to bolster the Partner States to stifle illicit accumulation and trafficking of Small Arms and Light Weapons, undertaking awareness and sensitization campaigns on raising awareness on the dangers and necessity to eliminate the firearms is of paramount importance. The Committee noted that this critical aspect of the campaign against the illicit flow of the firearms has not been given the necessary attention that it deserves both by RESCA and the ICRC.

When the public and other stakeholders are sensitized on the dangers of the firearms, they will collaborate the law enforcement agencies to ensure that they do not engage in the proliferation of the firearms and they will also report those involved in the trafficking and possession of the firearms.

The Committee recommends to the Council of Ministers to ensure that in partnership with RESCA the sensitization campaigns are undertaken with key stakeholders like the religious organization, civil society, school's community and local Governments to ensure that they are sensitized on the dangers of the firearms.

7. International cooperation to prevent illicit proliferation of firearms

The Committee observed that in order to bolster and prevent the illicit proliferation of firearms there is need for all the Partner States to enhance the flow and exchange of information in order to monitoring illicit arms flows, identifying new threats, generating actionable weapons intelligence, and coordinating responses.

The Committee recommends to the Council of Ministers to ensure that regional database is established which should be able to generate and disseminate information on a timely manner on the usage, acquisition so as to facilitate and regulate the flow of firearms in the region.

8. Lack of resources and developmental initiatives as a motivating factor to the illicit proliferation of small arms and light weapons

The Committee observed that the proliferation of small arms and light weapons in East Africa and Horn of Africa is predominant in areas where resources and development are less and scarce.. The Committee notes that these weapons are used as a source of protection or as a source of means for attaining developmental needs. The Committee notes that the search for pasture and water among the Topsea, Tulkana, Jie, and Karamajong Communities will continue to pose a challenge to the elimination of these small arms and light weapons. The Committee applauds the recent signing of the memorandum of understanding between H.E Uhuru Kenyatta and Yoweri Museveni to ensuring that developmental projects are undertaken in the Tulkan region.

The Committee recommends to the Council of Ministers to ensure that;

- i. The Committee notes that although these initiatives will enhance and bolter development in the Communities between Uganda and Kenya, the problem is much bigger which require the interventions and engagements of all the countries in the region like the Republic of South Sudan and Kenya Ethiopia. It therefore imperative that the Republic of Uganda and Kenya engage the Republic of Sudan to join the MOU between Kenya and Uganda and;***
- ii. Urge the Republic of Uganda and Kenya to expedite the provision of the necessary services such as water, electricity, roads to the pastoralist communities of West Pokot, Turkana and Karamoja.***

8 Peace and security framework in the EAC

The Committee observed that the institutions that are mandated to deal with peace and security are not empowered to efficiently handle internal and external threats to the peace and security in EAC region. This due to the lack of clear decision making process in the instruments that create those institutions. Lack of sustainable and reliable funding mechanism affect the operations of these institutions.

The Committee recommends to the Council of Ministers to ensure that;

- i. EAC Peace and security institutions should endeavour to use peaceful means in the settlement of conflicts. Furthermore, EAC should learn from other RECs and set up a uniquely empowered organ to deal with serious situations. This institution should be in charge of coordinating other bodies and organs that deal with the peace and security.***
- ii. The mandate of this intuition should be clear with a sustainable funding mechanism of peace and security operations.***
- iii. EAC Treaty needs to be very explicit to provide the rest of instruments and institution the flexibility to allow then to provide the peace and security frame work to undertake necessary measures in order to fill the gaps that it contains. Therefore, the Treaty needs to be amended.***

8.0 CONCLUSION

The Committee undertook an oversight to the activity to understand and assess the extent of SALW in the region; and to analyse the international, and regional legal and institutional framework availed to EAC to handle SALW issues and other emerging security challenges. A more or less comprehensive report that proposes actions to be undertaken and other recommendations has been complied. The Committee therefore urge the august Assembly to adopt the report.