

Review Of The Multi- Lateral Instruments And Agreements Aimed At Combating The Proliferation Of Small Arms And Light Weapons In Sub-Saharan Africa

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Abstract:

The aim of this paper is to make a review of Multi - Lateral Instruments and agreements aimed at combating the proliferation of small arms and light weapons in Sub – Saharan Africa. Armed conflicts and the illicit proliferation of small arms and light weapons are becoming a grave threat to the peace and security of most African countries. These proliferations are too great to be ignored. Conflicts today in Sub-Saharan Africa have become far too easy due to the availability of arms. Trade in arms has become a well-established and prosperous industry. Like other industries, it has become increasingly globalized. Over the last decade, Regional agreements and instruments have being made for the purposes of combating the proliferation of small arms and light weapons in Sub- Saharan Africa. This paper concludes that lack of comprehensive national legislation on SALW coupled with the lack of political wills of most leaders in sub-Saharan African states have undermined the effectiveness and implementation of these instruments governing the control of SALW. However, in the best cases, regional instruments have supported global norm-building by creating institutional framework leading to coordination of small arms action in specific regions.

1.1 Introduction

West Africa has for many years been the most unstable sub region on the continent. Since 1960, of the 15 member states that make up the Economic Community of West African States (ECOWAS), most have being through several military coups, 37 of which were successful.¹ One causative factor for such unprecedented insurrection is the movement of small arms and light weapons (SALW) throughout the sub region which movement has acerbated conflict and brought destructions, untold hardships, poverty and underdevelopment. In Central and Eastern

African states, many lives have been lost through conflict and its related effects. The irregular warfare that has been common there in recent decades is well served by these kinds of weapons, which are easily available and sometimes cost less than food items.

Small arms and light weapons are widely available in Southern Africa. Civil and interstate conflicts drive demand for small arms and create a pool of weapons that can be used to commit violent crime as well as fuel conflict.

The argument is that in Sub- Saharan Africa, the proliferation of small arms and light weapons are increasing in proportion and Africa is also a major transshipment point for the international trade, as

¹ Keili F. L. "Small Arms And Light Weapons Transfer In West Africa: A Stock Taking", available at <http://www.unidir.org/pdf/articles/pdf/2832.pdf> at 2832 pdft. retrieved on 11/4/2011, p. 1.

well as a major producer of local arms. This phenomenon threatens the consolidation of democracy and security in the region which is necessary for sustainable development.

There have been the aged long problems with the law, action or programme or policy implementation of agreements, treaties and protocols. In addition, there is no development of an effective legal and policy frameworks for the management of small arms and light weapons in Sub-Saharan Africa. Over the years there have been calls to harmonize and unify laws governing the proliferation of small arms and light weapons for the purpose of bridging the gaps caused by dichotomies existing between the laws but this has proved not to be very easy due to the fact that not all states have adopted legislation relating to small arms and light weapons, national laws relating to small arms and light weapons were not adopted during the same period, states rules and regulations often address different circumstances which poses a real problem and the conditions for the grant of various authorizations to carry or trade in weapons differs from one country to another.

1.2 Instrument and Initiatives

Instruments can either be;

- i. Legally binding instruments,
 - ii. Politically binding instruments and
 - iii. Recommendatory instruments
- i. **Legally Binding Instruments.** These are instruments concluded agreement which state may become party to. Ratification of such instruments indicates a legal committal to implement the instruments provision within national legislation. This includes convention and protocols, such as UN Protocol against illicit manufacturing of and trafficking of firearms, the parts and components and ammunition, supplementing the United Nation

Convention against Translation Organized Crime.²

- ii. **Politically Binding Instruments.** These are formally concluded instruments that states sign up to and that states align themselves with. Such instruments indicates a political/rhetorical commitment but rare not binding upon signatories. These includes agreements and declarations, such as the United Nations Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, 2001.³

- iii. **Recommendatory Instruments.** These are instruments that set forth recommendations for action that state may formally align themselves with or commit to implementing. Although recommendatory, and therefore non binding, many of these instruments represent a consensus, or emerging consensus, on how states may act. Recommendatory instruments are often connected to and elaborate on the commitment of legally or politically binding instruments.⁴ Such instrument includes best practice guidelines and handbooks for example OSCE Handbook or best practice on small arms and light weapons.

2.1 Multi-Lateral Instruments

2.1.1 Initial Element of the Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement) 2006

This is a politically binding instrument⁵ which covers 40 participating states from Europe, the Americas, Asia, Australia, New Zealand and

²United Nations Development Programme (UNDP) How to guide small arms and light weapons legislation, UNDP July, 2008, p. 138.

³*Ibid.*

⁴*Ibid.*

⁵Came into force on 12th July 1996 and amended in December 2006.

South Africa.⁶ South Africa is one of the sub-Saharan states in Africa. The Wassenaar arrangement was the first global multilateral arrangement on export controls for conventional weapons and sensitive dual use goods and technologies.

The purpose of the instrument is as follows:

- i. To promote transparency, exchange of views and information and greater responsibility in transfer of conventional arms and dual use goods and technologies, thus preventing destabilizing accumulations;
- ii. To provide a mechanism through which states share information on arms exports and dual-use goods and agree on common standards and procedures by which to conduct exports of arms dual-use goods.

The scope of the instrument is as follows:

- i. To seek through their national policies and legislations to ensure that transfers of all conventional weapons and sensitive dual use goods and technologies do not contribute to the development or enhancement of military capabilities which undermines the goals of the Wassenaar Arrangement and are not diverted to support such capabilities;

- ii. The Wassenaar Arrangement creates list of Dual-use goods and Technologies and ammunitions list which set out the weapons and goods covered by the Wassenaar Arrangement;

As the Wassenaar Arrangement covers conventional weapons, it therefore includes SALW.

The key provisions relating to SALW legislation are:

- i. Transfers.⁷ No corresponding provisions relating to civilian possession and PSCS, manufacturers, dealers and gunsmiths, marking and record-keeping and state-owned SALW.

The initial element requires that participating states have in place national legislation and policies, which are implemented on the basis of national discretion, to ensure that transfer of conventional weapons and sensitive dual-use goods and technologies are consistent with the goals of the Wassenaar Arrangement.⁸ It requires particularly states through the application of their own national legislation and policies to follow guidelines and procedures established by the Wassenaar Arrangement as a basis for decision-making on exports.⁹ These guidelines include;

- ii. Elements for objective analysis and advice concerning potentially destabilizing accumulation of conventional weapons;

⁶Participating states of the Wassenaar arrangement (WA) are: Argentina, Australia, Belgium, Bulgaria, Canada, Criteria, Czech Republic, Denmark, Ethiopia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.

⁷Part II, Art, 7 of Wassenaar Arrangement.

⁸United Nations Development Programme, How to guide small arms and light weapons legislation, *op cit*, at P. 144.

⁹*Ibid.*

- iii. Statement of understanding on intangible transfers of software and technology;
- iv. Best practice guidelines for exports of small arms and light weapons (SALW);
- v. Elements for export controls of mass-portable air defence system (MANPADS);
- vi. Elements for effective legislation on arms brokering;
- vii. Statement of understanding on control of non-listed dual-use items.

The Wassenaar Arrangement specific information exchange requirements involve semi-annual notifications of arms transfers, currently covering seven categories derived from the UN Register of conventional arms. Members are also required to report transfers or demand of transfers of certain controlled dual-use items. Denial reporting helps to bring to the attention of members of the transfer that may undermine the objective of the arrangement.

Participating states are also required to meet on a regular basis¹⁰ to ensure that transfers are carried out responsibly and in furtherance of international and regional peace and security. Decisions are made by consensus.¹¹

Some authorities consider the WA to be rather toothless organization because its decisions are purely political commitments without any binding legal force.¹² Its merits rest primarily in its promotion of transparency and cooperation amongst participating states. The forum discusses

and search for consensus sometimes pave the way for other more effective politically and binding decisions in other bodies.¹³

2.1.2 Wassenaar Arrangement Best Practice Guidelines for Export of Small Arms and Light Weapons (SALW) 2002

In 2002, at its annual plenary, the WA General Assembly adopted the Best Practice Guidelines for Export of Small Arms and Light Weapons.¹⁴ The Participating states committed themselves to organize strict national controls on the export of SALW and the transfer of technology for SALW designs, production, testing and upgrading. It is a politically-binding instrument¹⁵ and covers 40 participating states from Europe, the America, Asia, Australia, New Zealand and South Africa.¹⁶ South Africa is one of the sub-Saharan African states.

The aim of the guidelines on SALW is to:

- i. Control the flow of illicit SALW which pose a threat to peace and security, especially in areas beset by conflict and tensions. Having regard to the UN Programme of Action on SALW, the Wassenaar Arrangement through these guidelines on SALW affirm that participating states will apply strict national controls on the export of SALW, as well as transfers of technology related to their design, production, testing and upgrading.¹⁷
- b. **Scope of the Instrument**

¹³ *Ibid*, at p 51.

¹⁴ In December 2007, the document was updated with reference to the United Nations “Interantional instrument to Enable States to indentify and Trace in a timely and reliable manner, Illicit Small Arms and Light Weapons” available at <http://www.Wassennar.org/publicdocuments/2007/doc./SALWGuidelin es.pdf>.p.41. Accessed on 20/8/2012.

¹⁵ Entered into force in December 2002.

¹⁶ See footnote 2 *intra*.

¹⁷ See UNDP, *How to guide small arms and light weapons legislation* *op cit*, at P. 145.

¹⁰ At Vienna which is Wesenaar Arrangement Secretariat.

¹¹ UNDP – *op cit*, at P. 144.

¹² Lipson M, “The Wassenaar Arrangement: Transparency and Restraint through trans governmental Cooperation” In: Doyer D, *Non Proliferation Export control, Organs, Challenges and Proposals for Strengthening*, Ashgate Publishing Ltd, 2006, Pp 49 – 54.

The instrument covers the export, re-exports and licensed manufacture of SALW,¹⁸ taking into account a number of criteria¹⁹. In addition to the export criteria, the instrument requires participating states to take into account the stockpile management and security procedures of a potentially state;²⁰ and the provisions concerning small arms making, record keeping and cooperation by participating states introducing adequate legislation or administrative procedures towards the strict control of brokering activities including the institution of suitable sanctions.²¹

c. Key Provision Relating to SALW Legislation.

The key provisions relating to SALW legislation is as follows:

- i. Transfers²²
- ii. Manufacturers, dealers and gunsmith²³
- iii. Marking and record keeping²⁴
- iv. State owned-SALW²⁵

The guidelines on SALW require that participating states:

- i. Ensure that principles enumerated in the guidelines on SALW are reflected in their national legislation and for their national policy governing export controls;
- ii. Put in place and implement adequate laws or administrative procedures to control strictly the activities of those engaging in brokering of SALW and

ensure appropriate penalties for those who deal illegally in SALW;²⁶

The guidelines on SALW call for each participating state, in considering proposed exports of SALW, to take into account the following issues:

- i. The need to avoid establishing accumulation of arms;
- ii. The internal and regional situation in and around the recipient country, in the light of existing tensions or arms conflicts;
- iii. The record of compliance of the recipient country with regard to international obligation and commitment;
- iv. The nature of and costs of the arms to be transferred in relation to the circumstances of the recipient country, including its legitimate security and defence need and to the objective of the least dimension of human and economic resources to armaments;
- v. The requirement of the recipient country to enable it to exercise its right to individual or collective self defence;
- vi. The legitimate domestic security needs of the recipient country;

¹⁸ See Arts 1.1 & 1.2 of the Instrument.

¹⁹ This criteria includes the situation prevailing in the recipient country and the risky situations that would lead to the preferable denial of export licences.

²⁰ See Arts 11(1) & (2) of the Instrument.

²¹ See Arts 11.3a & b, 11.3c of the Instrument.

²² Part 1, Art 1 – 4; Part II, Art, 1-3.

²³ Part 1, Art 4; Part II, Art 2(a).

²⁴ Part II, Art 2(a) & (c).

²⁵ Part II, Art 2(b).

²⁶ UNDP, *How to guide small arms and light weapons legislation*, *op cit* at P. 145.

vii. The requirements of the recipient country to enable to participate in peacekeeping measures;

viii. The respect for human rights and fundamental freedoms, and

ix. The risks of diversion or re-export.²⁷

In addition, the guidelines on SALW call for each participating state to avoid issuing licenses for exports of SALW where it is deemed that there is a clear risk that the small arms in question might:

- i. Support or encourage terrorism;
- ii. Threatens the national security of other state;
- iii. Be diverted;
- iv. Contravene its international commitments;
- v. Prolong or aggravate an existing armed conflicts;
- vi. Endanger peace, create an excessive and destabilizing accumulation of small arms, or otherwise contribute to regional instability;
- vii. Be contrary to the aims of the guidelines, be re-sold, re-produced without license or be re-exported;
- viii. Be used for the purpose of repression;
- ix. Be used for the violation of human rights and fundamental freedoms;
- x. Facilitate organized crime, and;

xi. Be used other than for the legitimate defence and security needs of the recipient country.

Guidelines on SALW are implemented through the same structures and procedures as the Wassenaar Arrangement. The Guidelines does not:

- i. Not contain legislation or provisions relating to civilian possession and PSCS.
- ii. Not legally binding but only contains political commitments.
- iii. Only applies to the export of SALW but not to brokering.
- iv. Not define brokers and their activities; and
- v. The scope of application of the application covers SALW without any reference in the document to a definition or description thereof.

2.1.3 Wassenaar Elements for Exports Controls of Man-Portable Air Defence Systems (MANPADS) 2003

This is a politically-binding instrument²⁸ and covers 40 participating states from Europe, the Americas, Asia, Australia, New Zealand and South Africa.²⁹ The exporting government commit themselves not to resort to non- state approved brokers or services for trade in MANPADS unless appropriate permission are granted by the government in question.³⁰

In response to the recognition that this misuse of MANPADS³¹ can have potentially devastating and indiscriminate effects, particularly in the hands of non-state actors (NSA) and terrorist

²⁸Entered into force on the December 2003.

²⁹See the list of participating states of the Wassenaar Arrangement.

³⁰ See Art 3.3 of the Instrument.

³¹This is a specific category of SALW.

²⁷*Ibid*, at P. 145.

groups, the Wassenaar Arrangement developed this instrument to tighten controls in this field.

The Wassenaar Arrangement instrument on MANPADs relates to exports of:

- i. Surface-to-air missile system designed to be made man-portable and carried and fired by a single individual, and;
- ii. Other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;³²

This includes complete systems, components, spare parts, models, training system, and simulators, for any purpose, by any means, including licensed export, sale, grant, loan, lease and co-production or licensing arrangement for production.³³

The key provisions relating to SALW legislation includes:

(i) Transfers³⁴

The Wassenaar Arrangement instrument on MANPADS requires that participating states must apply strict national controls to the exports of MANPADs, including setting in place control conditions and evaluation criteria, and establishing a case-by case licensing system. Member states must ensure that adequate penalty provisions are in place.

Decision to authorize MANPADS exports will take into account the risk of diversion, the risk against unauthorized transfers, loss or misuse, and

the adequacy and effectiveness of the recipient government stockpile security.

The instrument on MANPADs is implemented through the same structures and procedures as the Wassenaar Arrangement.³⁵ The following deficiencies are inherent viz;

- i. The instrument does not contain provisions or legislation on civilian possession and PSC, manufactures, dealers and gunsmiths, marking and record keeping and state owned SALW.
- ii. There are no criteria provided regarding licit versus illicit trade in MANPADS.
- iii. The document does not contain a description of the term brokers or their activities.
- iv. It has no legally binding effect.

2.1.4 Wassenaar Arrangement Elements for Effective Legislation on Arms Brokering 2003

This is a politically binding instrument³⁶ and has 40 participating states from Europe, the Americas, Asia, Australia, New Zealand and South Africa.³⁷ Similar to elements for exports controls as MANPADs, the Wassenaar Arrangement elements for effective legislation on arms brokering focuses on a specific area of export control identified as requiring specialized controls. As such, the Wassenaar Arrangement agreed on the element for arms brokering in order to avoid circumvention of the objectives of the Wassenaar Arrangement and UN Security Council arms embargoes. The elements on arms brokering

³²UNDP, "How to guide small arms and light weapons legislation" *op cit* at P. 146.

³³*Ibid.*

³⁴Arts, 1.2, 1.3, 2.1, 2.2, 2.3, 2.7, 2.8, 2.9 & 3 of Wassenaar Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS).

³⁵See for the above, for implementation provisions of initial elements of the Wassenaar Arrangement on Export controls for conventional arms and dual-use Goods and technologies.

³⁶Entered into force on 2003.

³⁷See the list of participating state of the Wassenaar Arrangement.

are intended to create a clear framework for lawful brokering activities and to enhance cooperation and transparency on arms brokering activities between participating states.

The instrument aims at applying strict and comprehensive national controls in the activities of those who engage in the brokering of conventional arms (therefore including SALW) by introducing and implementing adequate laws and regulations. As such license applications for brokering activities should be accessed on a case-by-case basis in accordance with the principles and objectives of the Wassenaar Arrangement initial elements and other Wassenaar documents.³⁸

The key provisions relating to small arms and light weapons legislation includes:

- i. Transfers;³⁹
- ii. Marking and record keeping.⁴⁰

The element for arms brokering requires that participating states must ensure that the common Wassenaar Arrangement policy in arms brokering is consistent with their participating states, national legislation and practices. As such, participating states shall;

- i. Implement a national licensing system for activities of negotiating or arranging contracts, selling, trading or arranging of arms and related military equipment;
- ii. Keep records of individuals companies which have obtained a license, and;

- iii. Establish adequate penalty provisions and administration measures.⁴¹

Participating states may also:

- i. Implement extra- territorial control on brokering activities;
- ii. Define brokering activities to include those cases where the arms and military equipments are exported from their own territory;
- iii. Seek to limit the number of brokers, and;
- iv. Establish a register of brokers.⁴²

Participating states are to report to the plenary meetings of the Wassenaar Arrangement on the progress made in meeting the objectives of the elements. This instrument is implemented through the same structures and procedures as the Wassenaar Arrangement.⁴³

The deficiencies inherent in the instrument are as follows:

- i. The instrument does not address civilians' possession of small arms and light weapons;
- ii. It does not consider non-state actors, state officials, misuse of arms and the role of public wealth, gender consideration or human rights;
- iii. Furthermore, it lacks legally binding force.

³⁸UNDP, How to guide small arms and light weapons legislation, *op cit*, at P. 147.

³⁹Arts, 1-5.

⁴⁰Art 2.

⁴¹UNDP, *op cit* at P. 147.

⁴²*Ibid*.

⁴³*Ibid* at P. 148 available at

<http://www.wassenaar.org/publicdocuments/2003effectivelegislation.html> retrieved on 2nd September, 2012.

- iv. The provisions apply to arms and associated military equipments without explicit reference to a definition.

2.1.5 Best Practice to Prevent Destabilizing Transfers of Small Arms and Light Weapons (SALW) through Air Transport 2007

This is a politically binding instrument.⁴⁴ The instrument covers 40 participating state from Europe, the Americas, Asia, Australia, New Zealand and South Africa.⁴⁵ South Africa being one of the sub-Saharan African states makes this instrument relevant to this study. Its purposes include:

- i. The Wassenaar Arrangement recognizes that air transport is one of the main channels for the illicit spread of SALW, particularly to destinations subject to a United Nations arms embargo or involved in armed conflict;
- ii. The instrument sets out current best practices guidelines amongst participating states on the transportation of SALW.

The Best Practices covers air transport of SALW, excluding those that are transported by government, military or government chartered air craft. The instrument requires participating states to assume full responsibility for transport by their government, military or government chartered aircraft and that they encourage other states to assume the same responsibility.⁴⁶

The key provisions relating to small arms and light weapons legislation include:

- i. Transfers.⁴⁷

The Best Practices include:

- i. Requiring additional information on air transport to be provided when issuing an export license for SALW, which may include information on the air carrier and freight forwarding agent involved in the transportation; the aircraft registration and flag, the flight route to be used and planned stopovers, records of previous similar transfers by air and compliance with existing national legislation or international agreement relating to air transport of weapons.⁴⁸
- ii. Requiring experts to provide information on certificates of unloading or other documents that can verify the delivery of SALW.⁴⁹

The Best Practices also include provision for sharing of information on the air transportation of SALW with other participating states. This instrument is implemented through the same structure and procedures as the Wassenaar Arrangement.

The deficiencies inherent are as follows:

- i. The instrument does not address civilian possession of small arms and light weapons;
- ii. It does not consider non state actors, state officials,

⁴⁴It came into force in December 2007.

⁴⁵For the list of participating state, see the participatory state for the Wassenaar Arrangement.

⁴⁶UNDP, *op cit*, at P. 148.

⁴⁷*Ibid*.

⁴⁸Art 2.

⁴⁹UNDP, *op cit*, P. 148.

misuse of arms and the role of health, gender considerations or human rights;

iii. Furthermore, it lacks legally binding force.

Some authorities consider the WA to be rather toothless organization because its decisions are purely political commitments without any binding legal force.⁵⁰ Its merits rest primarily in its promotion of transparency and cooperation amongst participating states. The forum discusses and search for consensus sometimes pave the way for other more effective politically and binding decisions in other bodies.⁵¹

3.1 Effectiveness of Multi - Lateral Instruments and Agreements for Combating the Proliferation of Small Arms and Light Weapons in Sub-Saharan Africa

There has been tremendous increase in Multi – Lateral Instruments and agreements relating to small arms control initiatives. The importance of in the fight against small arms proliferation was already clear in the 1990s, when small arms and light weapons as a specific category was first taken up in the United Nations Context. For example, in 1996, the African Union initiated an in-depth study on ways to reduce small arms proliferation and to improve sub regional cooperation in dealing with illegal arms smugglings⁵². Regional agreements, especially in sub-Saharan Africa became part of the international process addressing problems related

⁵⁰ Lipson M, “The Wassenaar Arrangement: Transparency and Restraint through trans governmental Cooperation” In: Doyer D, Non Proliferation Export control, Organs, Challenges and Proposals for Strengthening, Ashgate Publishing Ltd, 2006, Pp 49 – 54.

⁵¹ *Ibid*, at p 51.

⁵² Stott N, “*Implementing the Southern African firearms Protocol: Identifying Challenges and Priorities*”, Institute for Security Studies, occasional paper No. 83, 2003 available at <http://www.iss.co.za/pubs/papers/83/paper83.html>.

to the uncontrolled spread of and illicit trade in SALW.

Some authorities consider the WA to be rather toothless organization because its decisions are purely political commitments without any binding legal force.⁵³ Its merits rest primarily in its promotion of transparency and cooperation amongst participating states. The forum discusses and search for consensus sometimes pave the way for other more effective politically and binding decisions in other bodies.⁵⁴

In general however, regional organizations suffer from problems similar to those of member states in implementing the Multi Lateral Instruments and agreements; often, a lack of resources, their non binding nature and expertise hinders effective implementation. Although, regional activity can be valuable in supporting international and national actions, examples have shown that half-implemented regional instruments can in fact prove detrimental to small arms action and multi lateral instruments and agreements implementation. Because of under implementation, multi lateral instruments and agreements have become only paper commitments with no real reference to the situation on the ground, and no visible impact. They have become toothless instruments in relation to the increasing nature of arms proliferation. Implementation of its paragraphs is left to voluntary action of member states. They contain no sanction for non-compliance or passivity, no any monitoring mechanism to measure the level of implementation. A number of regional instruments like the Nairobi Protocol and SADC Protocol have gone further than the Multi Lateral Instruments and agreements in being legally binding.

While regional actions are crucial to prevent illicit

⁵³ Lipson M, “The Wassenaar Arrangement: Transparency and Restraint through trans governmental Cooperation” In: Doyer D, Non Proliferation Export control, Organs, Challenges and Proposals for Strengthening, Ashgate Publishing Ltd, 2006, Pp 49 – 54.

⁵⁴ *Ibid*, at p 51.

small arms trade, to date, however, active and meaningful Multi lateral instruments and agreements to combat SALW proliferation are still an exception, and most states are not members of substantial Multi lateral instruments and agreements. Moreover, input from experts' shows that implementation of Multi lateral instruments and agreements by government remains uneven and leaves loopholes from which illicit SALW trafficking profit.⁵⁵

Lack of comprehensive national legislation on SALW coupled with the lack of political wills of most leaders in sub-Saharan African states have undermined the effectiveness and implementation of these instruments governing the control of SALW.

4.1 Conclusion and Recommendations

Armed violence is now widely recognized as having a significant negative impact on long term sustainable development and human security. One of the main contributing factors in the prevalence, severity and longevity of armed violence, is the widespread, uncontrolled proliferation and illicit trafficking of small arms and light weapons SALW.

Over the last decade, important progress has been made both at the policy and programmatic levels – to strengthen controls over and reduce the availability of SALW.

At the policy level, a range of international and regional initiatives and agreements have been concluded that commit member states to a series of regulatory and control measures to tackle the proliferation of SALW.

At the programmatic level, dealing with the widespread availability of SALW has become a priority for many states, particularly for those in

the developing world which have been most severely affected by SALW. An increasing number of states have now developed (or are in the process of developing) national strategies and action plans to address the uncontrolled proliferation and illicit trafficking of SALW.

The existence and enforcement of comprehensive legislative and regulatory framework are critical for the control of SALW. Many states, however, have legislations that are out dated or limited in scope, which reduces the effectiveness of efforts undertaken. In this context, the review and strengthening of the legislative and regulatory framework have become a priority for many governments, but a successful review process is reliant on significant and predominant expectation and financial resources which are not always available.

Central to the efforts in curtailing the proliferation of small arms and light weapons in Sub Saharan Africa, is the institution of a comprehensive and informed risk assessment within the context of the SALW transfer licensing process, comprehensive provisions for regulating the import, export, bunkering, transit and transport of SALW including effective end-user and re-export controls, measures to ensure that all states-authorized SALW holdings are secure, and more active use by states, of tracing instruments. National systems and capacities for enforcement of transfer controls through customs and border controls are also central to check SALW transfers and proliferation in that they can play a vital role in uncovering or interdicting illicit SALW shipments.

Lack of comprehensive national legislation on SALW coupled with the lack of political wills of most leaders in sub-Saharan African states have undermined the effectiveness and implementation of these instruments governing the control of SALW. However, in the best cases, regional instruments have supported global norm-building by creating institutional framework leading to coordination of small arms action in specific regions.

⁵⁵ Geneva forum, 2004, *'The Role of Regional Organization in stemming the illicit Trade in Small Arms and Light Weapons'*, findings of a special seminar, 29th to 30th January 2004, Geneva at <http://www.geneva.forum-org/reports/20040129-30.pdf>.