

**CONSTRUCTIVE DIALOGUE ON THE REVIEW PROCESS FOLLOWING THE CONCLUSION OF THE
TENTH SESSION OF THE WORKING GROUP ON FIREARMS**

**UNODC, VIENNA INTERNATIONAL CENTRE
FRIDAY, 5 MAY 2023**

**REMARKS BY MARTIN EWI
ORGANISED CRIME REGIONAL OBSERVATORIES COORDINATOR
ENACT PROJECT, INSTITUTE FOR SECURITY STUDIES**

The illicit use and proliferation of firearms is responsible for more than 250 000 deaths annually. Firearms are also the most frequently used weapons in war and in peacetime. They are, therefore, the primary cause of the deplorable and recurrent humanitarian emergencies in many regions of the world, not the least in Africa. Firearms, especially small arms and light weapons, are widely referred to as weapons of mass destruction in Africa to emphasize their major role in conflicts, terrorism, violent extremism, transnational organised crime, and various forms of violent conduct on the continent.

The desire and urgency to eliminate the illicit manufacture, transfer, proliferation, possession, and use of firearms cannot be overstated. In May 2013, African leaders adopted the goal of silencing the guns in Africa by 2020, subsequently extended to 2030, in order to rid the continent of wars, civil conflicts, human rights violations, humanitarian disasters, and violent conflicts and to prevent genocide. The goal of silencing the guns has provided the much-needed impetus for mobilizing political will for African states to take practical actions to strengthen alliances and joint endeavours with civil society actors in addressing the threat posed by illicit arms and their use in Africa. The past ten years have witnessed greater collaborative initiatives between states and civil society in Africa in countering illicit arms, though much remains to be done to fully achieve the potential of this partnership.

The United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components, and Ammunition is, therefore, an essential global instrument for the control of firearms. 39 African countries, or more than 70% of African States are states parties to the Protocol, making it the largest region of states parties. While this is a positive showing, the goal should be to achieve complete universality of the Protocol in Africa and the world at large. The fifteen African States that have not yet acceded to the Protocol should, therefore, consider becoming states parties to the Protocol as a matter of urgency.

The implementation of the Protocol and other related international instruments, such as the United Nations Programme of Action, has inspired the adoption of regional anti-firearms regimes in Africa. The domestication, or regionalization, and transposition of key elements of the Protocol are now evident in the four main regional instruments:

- (1) The 2006 ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (for West Africa)
- (2) The Revised 2001 SADC Protocol on the Control of Firearms, Ammunition, and Other Related Materials (for Southern Africa)

- (3) The 2004 Nairobi Protocol for the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (includes countries in Eastern and Horn of Africa)
- (4) The 2011 Kinshasa or Central African Convention for the Control of Small Arms and Light Weapons.

The important role of civil society organisations in the fight against small arms and light weapons was recognised as far back as 2000, when the Organisation of African Unity (OAU) adopted the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons. That Declaration encouraged the active involvement of CSOs in support of the central role of governments.

One common feature of Africa's small arms and light weapons regimes is their focus on illegal arms. There is, therefore, a clear delineation between what is lawful and what is unlawful, particularly with respect to the manufacture, possession, transfer, and use of firearms, their ammunition, and components.

As an adjoint to the UN Convention against Transnational Organised Crime, the drafters of the Firearms Protocol clearly placed it within the realm of criminal regimes, confining it mostly to non-state actors. This removes some of the perceived ambiguities over the definition of what is licit and illicit. These definitional ambiguities are more visible in contexts where people are allowed to own certain categories of firearms for whatever reason.

The definition of firearms in the Protocol is very expansive to include *any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas* manufactured before 1899. This definition is broad enough to cover all contemporary and even future-generation firearms. The fundamental problem, however, is that some firearms are allowed for hunting, sports, and self-defense; and some categories of non-state actors, such as private security companies' employees and vigilante groups, are allowed to carry some categories of firearms, which otherwise are only reserved for state law enforcement agencies. This makes implementation of the Firearms Protocol not a straightforward thing.

This means that the definition and classification of firearms, their parts, and ammunition are crucial for effective control regimes and for the implementation of the Protocol. National implementation experiences in Africa have revealed gaps or grey areas that have been exploited by criminals. The granting of licenses that allow people to own hunting rifles and sport firearms, and firearms for self-defense is so loose that anyone who can pay the fees can get the weapons. Another major gap in the implementation is the ever-advancing scientific and technological innovations in weaponry. Most national laws contain archaic definitions or criteria for hunting rifles that leave big room for exploitation. With new technology, people have found ways to produce even more sophisticated hunting rifles and firearms for sports, which in principle, meet the criteria. Another gap of major concern is the internet, which provides a virtual market for the illicit trade in firearms. Through the darknet, for example, people can buy and sell various types of firearms literally without any impediments because many African governments lack the capacity and expertise to govern or police the internet. Furthermore, the marking and tracing of firearms have so far largely been implemented by manufacturers, whereas many brokers and dealers have not. This makes it difficult to trace the routes and sources of arms in Africa. Criminal networks, including terrorist groups, have found ways

to erase markings and rebrand or modify certain arms. These groups have also perfected the manufacture of artisanal firearms, making it difficult to trace or categorise.

The Firearms Protocol complements existing regimes, many of which focus on small arms and light weapons. These are more specific and well-defined categories of firearms. Although, in principle, the concept of firearms seems to be more encompassing, comprising both small arms and light weapons, legally speaking, the Protocol does not specifically mention that small arms and light weapons are sub-categories of firearms. The Revised 2001 SADC Protocol on Firearms, which was directly inspired by the UN Firearms Protocol, is one of few instruments that use all three terms (firearms, small arms, and light weapons). By using the generic definition of firearms, and the specific definitions of small arms and light weapons, the SADC Protocol seems to suggest a hierarchy in which the other two are sub-categories of firearms. This is perhaps the most logical way to make all the instruments function in a complementary manner. Therefore, it is important that the UN Firearms Protocol formally incorporates the concepts of small arms and light weapons to strengthen synergies with regional and international instruments dealing with them.

Civil society actors play an important role in developing, elaborating, implementing, monitoring, and evaluating international and regional firearms regimes. Apart from their proximity to the people and concerned communities, they also have a comparative edge over states because of their apolitical nature, which makes them more focused on the task. Civil society actors bring skills and expertise and make project implementation more cost-effective.

Since its inception in 1991, the Institute for Security Studies (ISS), a Pan-African not-for-profit Think Tank with offices in Dakar, Senegal (West Africa), Nairobi, Kenya (East Africa), Pretoria, South Africa (Head Office), and Addis Ababa, Ethiopia (African Union, diplomatic community and Horn of Africa), has been helping African States and Pan-African Organisations to address the multifaceted problems posed by firearms to human security in Africa. The ISS' work has been mainly in three principal areas:

- (1) **Research**—to support evidence-based policy-making and responses to the threat posed by small arms and light weapons in Africa
- (2) **Capacity-building and training**—to sensitize and strengthen practitioners' knowledge, skills, and expertise on critical small arms and light weapons disarmament programmes that are community-based and adapted to each cultural context in Africa. This programme also seeks to sensitize law enforcement agencies and other relevant state institutions on the key obligations of states under international and regional firearms instruments. It also promotes a common understanding or interpretation of key provisions, including definitions of offences, sanctions, and common standards and practices related to stockpile management, marking, and tracing of firearms.
- (3) **Technical assistance**—supporting States and Pan-African Organisations to develop the necessary tools to domesticate and implement regional and international firearms regimes. To this end, the ISS has provided critical assistance for developing, drafting, and strengthening national and regional strategies, action plans, legislations and regulations, protocols, and other strategic policy frameworks for implementing the UN Firearms Protocol and other regimes. This assistance has also enabled states to establish national and regional interagency coordination mechanisms. The ISS does not compete with but complements states. Most of its work, and perhaps the far more effective work, is its discrete support to

states and giving them full ownership. This is particularly important for sensitive matters such as firearms issues.

The ISS fully supports the establishment of the long-awaited review process, which hopefully, will generate increased impetus for implementing the Firearms Protocol. We also applaud the initiative of the Working Group to engage civil society organisations across the globe in this Constructive Dialogue.

How can we make this process work?

In order for the Constructive Dialogue to be more successful in ensuring the effective implementation of the Firearms Protocol, the following recommendations should be considered:

- (1) The universality of the Firearms Protocol is a sine qua non for its effective implementation universally. Big powers should lead the universalization of the Protocol to ensure the application of universal standards and to eliminate safe havens. The ISS strongly encourages the 15 African countries, as well as countries in other regions that have not yet joined the Protocol, to do so without further delays.
- (2) The involvement of civil society should be institutionalized. The creation of a permanent forum is highly desirable to terminate the current ad hoc approach. Membership in such a permanent forum will strengthen the commitment, planning, and participation of CSOs. The latter can do even more if given appropriate access, democratic spaces, and collaborative partnerships.
- (3) Decentralise the Constructive Dialogue to encourage consultations at various levels of the international system, including local, sub-regional, and regional consultations among states and CSOs. This will enrich the dialogue and help bring to the fore local, sub-regional, and regional concerns that should be addressed to ensure the effective implementation of the Protocol.
- (4) Support African countries in their campaign of silencing the guns in Africa by 2030. The continent cannot do this alone. Most manufacturers and dealers of firearms are not based in Africa. There is therefore a need for support from and dialogue with other regions to regulate exports and imports of arms to Africa.
- (5) Use the agency of the Firearms Protocol as a niche for the collective implementation of other firearms regimes such as the UNPOA and the ATT. This approach will help address the need for synergies in the implementation of these regimes, as well as the growing reporting fatigue among member states.

The ISS is grateful for this opportunity to participate in this Constructive Dialogue and would like to express its gratitude to the Chairperson of the Working Group for the excellent manner in which he is conducting the affairs of the Working Group. The Institute also conveys deep appreciation to the UNODC Civil Society Section for inviting and facilitating ISS' participation. The ISS remains open to future collaboration and follow-up.

Thank you.