

BULLETPROOF WORLD
PREVENTING THE PROLIFERATION AND MISUSE
OF
SMALL ARMS AND LIGHT WEAPONS:
CURRENT INITIATIVES, FUTURE POSSIBILITIES

A Master's Thesis

by
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July 2008

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The Institute of Economic and Social Sciences
of
Bilkent University

by

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In Partial Fulfillment of the Requirements for the Degree of
MASTER OF ARTS

in

THE DEPARTMENT OF
INTERNATIONAL RELATIONS
BILKENT UNIVERSITY
ANKARA

July 2008

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ABSTRACT

BULLET PROOF WORLD PREVENTING THE PROLIFERATION AND MISUSE OF SMALL ARMS AND LIGHT WEAPONS: CURRENT INITIATIVES, FUTURE POSSIBILITIES

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July 2008

This thesis analyzes the proliferation of Small Arms and Light Weapons (SALW) and efforts to prevent the proliferation of this deadly category of weapons in order to assess whether or not current initiatives are efficient in dealing with this global pandemic. The category of SALW will be defined and discussed in the second chapter of the thesis while also examining the historical trends in both SALW proliferation and in efforts to counter this proliferation. It will seek to give explanations on why this category is the category regrouping weapons that are the weapons of choice in most current conflicts. This will enable an accurate analysis of the consequences of SALW proliferation. The thesis will also trace the evolution of both international and regional agreements aiming to prevent SALW proliferation in order to evaluate whether or not the steps taken so far are efficient in dealing with the problem, and to highlight areas that can be further improved to better prevent SALW proliferation and misuse.

Keywords: Small Arms and Light Weapons, Arms Trade, Disarmament

ÖZET

KURŞUN GEÇİRMEZ DÜNYA KÜÇÜK VE HAFİF SİLAHLARIN YAYILMASINI ENGELLEMEK: YÜRÜRLÜKTEKİ ÖNLEMLER, GELİCEK OLASILIKLAR

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Temmuz 2007

Bu çalışma küçük ve hafif silahların yayılmasını ve bu ölümcül silah kategorisinin yayılmasını engellemeyi amaçlayan girişimleri, yürürlükteki önlemlerin ne derecede etkili olduklarını analiz etmek amacıyla incelemiştir. Tezin ikinci bölümünde küçük ve hafif silahlar kategorisi tanımlanmış ve incelenmiştir. Aynı zamanda hem bu silahların yayılmasının hem de bu yayılmayı engellemeye yönelik girişimlerin tarihsel süreci araştırılmıştır. Bu kategoriye giren silahların neden günümüz çatışmalarında en çok tercih edilen silahlar olduğu analiz edilmiştir. Ayrıca bu kategori silahların yayılmasının sonuçları da araştırılmıştır. Ayrıca küçük ve hafif silahların yayılmasını engellemeye yönelik hem uluslararası hem bölgesel anlaşmalar analiz edilerek bu girişimlerin ne derecede başarı gösterdikleri de tartışılmıştır. Ayrıca küçük ve hafif silahların yayılması ve yanlış kullanılmasını engellemeye yönelik gelecekte alınması gereken önlemler de tartışılmıştır.

Anahtar Kelimeler: Küçük ve Hafif Silahlar, Silah Ticareti, Silahsızlanma

ACKNOWLEDGEMENTS

I would like to express my special thanks to Assistant Professor Mustafa Kibaroglu, who has not only introduced me to the subject of this thesis, but who has also supported me incessantly throughout my studies and my research. I sure wouldn't be able to complete this work successfully without his support.

I am also deeply grateful to all my professors in Bilkent University who have invested time and effort in sharing their knowledge with us.

Lastly I would like to thank my family and friends who have always been there for me.

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CHAPTER I

INTRODUCTION

Since the detonation of the first nuclear device during the Second World War, policy makers have been concerned with the proliferation and misuse of such deadly weapons known as Weapons of Mass Destruction (WMD). WMD's are still considered as the most pressing and dangerous category of weapons to be dealt with, numerous initiatives and international agreements are used to control their spread, production and use. However, especially during the 1990's the decrease in tensions between Cold-War rivals and an increase in the global community's attention towards atrocities occurring in other parts of the world, primarily in the developing world, caused a shift from initiatives targeting solely WMD proliferation to a new phase. Small Arms and Light Weapons (SALW) became an area of concern. This paper aims to define SALW, how this category was formed in order to see if the weapons in the category have similarities and differences that play a role in their proliferation or in efforts to prevent their spread. It also aims to explain how the spread of SALW has occurred so far, to explain how the devastating consequences of SALW proliferation and misuse have brought the issue to the global agenda. The issue will be examined through various perspectives, ranging from the consequences of SALW proliferation on the physical safety of people to the environmental consequences of SALW proliferation in order to underline the wide range of negative impacts SALW

proliferation has. After defining the issue, it will describe initiatives launched to deal with SALW proliferation at global, regional and sub-regional levels, in order to assess the strengths and weaknesses of those initiatives. The differences between SALW and some other types of weapons will be dealt with in order to underline the specific difficulties in taking measures against SALW proliferation. Then non-governmental organizations' activities on SALW will be dealt with. To conclude, the need to achieve a global Arms Trade Treaty (ATT) as a pillar upon which regional and sub-regional initiatives which are seen in this paper as more efficient means to deal with SALW proliferation than international mechanisms will be underlined to conclude that the international community must put pressure on states to achieve a legally binding ATT.

CHAPTER II

DEFINING THE ISSUE

2.1 Definition

In order to discuss issues emanating from the proliferation of Small Arms and Light Weapons, it is essential to adopt a common definition on SALW. The most accurate definition to be used in defining this category of weapon is the definition reached by the Panel of Governmental Experts on Small Arms formed by the request of the United Nations General Assembly according to the paragraph 1 of the UN Resolution 50/70 adopted on December 12, 1995 (UN, 1995). According to this definition, small arms are arms designed for “person use by one person”. They include revolvers, self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns. According to the same definition, light weapons are weapons that can be used by a small crew and encompass: heavy machine-guns, grenade launchers, small mortars, mobile anti-aircraft and anti-tank guns, mobile rocket launchers, shoulder-fired anti-aircraft missile launchers, and mortars of calibers under 100 mm. There are also ammunitions such as cartridges for small arms, shells and missiles for light weapons, anti-personnel and anti-tank hand grenades, landmines, explosives and shells for single-action anti-aircraft and anti-tank systems.

The main reason for adopting this definition is the fact that it is the most widely accepted definition of SALW and that it is the definition to which almost all international, regional and sub-regional agreements refer to. However, the definition has in itself several limitations. Although the definition and the efforts made to prevent the proliferation and excessive accumulation of SALW tend to deal with the SALW category refer to SALW as a “monolithic block”, the category encompasses a wide range of weapons (Small Arms Survey, 2005). The weapons differ on several aspects. The production process varies greatly from one weapon to another, also the time needed for the production and also the necessary capabilities to produce different SALW vary. The Governmental Experts defined SALW in the above-mentioned words due to two main concerns. First of all, the weapons that have been regrouped under the label SALW do not belong to any other categories and have some similarities such as their portability. In this sense it can be argued that the diversity in the SALW category emanates from the fact that it is a residual definition. Another reason why the Panel ended up with such a definition is that those weapons included in the definition are those that have caused the most negative impacts both on human security and humanitarian operations led by the UN in the 1990’s. Therefore it must be recognized that the definition has limitations in itself and can cause difficulties for the development and adoption of policies since there is no uniformity in the SALW sector. There are great differences in production processes and there are differences in the markets they appeal to. For example, military style weapons differ largely from

weapons that are sold for recreational purposes; it is not evident to deal with both types of weapons under the same category.

2.2 SALW Data

It is very difficult to have exact data on SALW related issues. This is due partly to the fact that like most black market transactions, illicit trade in SALW can only be estimated. However, it is also difficult to estimate the legal transactions and transfers of SALW. This is due to the lack of transparency that hinders efforts to establish reliable data sets on SALW (UN, 2008). Reliable data sets can only be achieved if states agree to provide accurate information on the number of SALW and related components they produce, on the amount of SALW they have in their inventories and on the number of SALW in civilian possession in the country (Hill, 2006). They should also agree to give information on the trade in SALW, being exports, imports or transits. States should also provide accurate information on SALW related legislations they apply. The United Nation Secretary General stated in a report on SALW published on April 17, 2008 that “of all transparency measures on weapons systems, those on small arms are the least developed” (UN, 2008). This statement has been previously made by experts working for the Small Arms Survey who concluded that more data was available about existing nuclear warheads, on stocks of chemical weapons held by states or on transfers related to major conventional weapons systems than the existing data on SALW.

As a consequence of the impossibility to acquire exact data on both legal and illegal SALW, experts on the issue today can only estimate the number of SALW in circulation. The latest estimated figure of SALW in circulation around the world amounts to a minimum of 875 million (UN, 2008). This figure is however very alarming since the estimate was in 2006 around 600 million SALW in circulation worldwide.

2.3 Advantages of SALW

A common factor that unites such a variety of weapons is the fact that they have been the weapons of choice in most, if not all, conflicts that took place in the 1990's and SALW are still widely used by regular troops in international conflicts, also by irregular warfare, terrorism and crime. The Panel of Governmental Experts reported several advantages of SALW relative to other types of weapons that helps to understand why SALW are the weapons of choice in today's conflicts and consequently why action to prevent SALW proliferation is vitally important.

Most importantly, unlike heavy artillery, SALW can be easily carried from one place to another. This is an important advantage, especially in areas where other weapons cannot be easily or cheaply transported due to geographical characteristics, such as in difficult terrain conditions such as mountains, jungles or urban landscape (UN 1997). They can be acquired through smuggling especially in regions where borders are porous and where governments fail to provide accurate border or customs controls.

The production of SALW and ammunition is relatively easier compared to other types of weapons (Swadesh, 1995). As it will be dealt with in later parts of this paper, SALW can be produced with very limited tools and know-how. Especially in the age of globalization, it is striking to see that even in remote regions, such as South and South-West Africa home-made guns are used in conflicts and crime. The relatively easy transportation and production makes SALW the main components of light forces today.

SALW are cheaper than most other weapons. As it will be explained in following paragraphs, there are many countries where many producers supply the global demand for SALW and the demand for SALW ammunition. There are also less reliable indigenous production capabilities in conflict-zones or in zones adjacent to conflicts that feed the demand for SALW. There is also a huge “second hand market” on SALW, which adds to the availability of weapons and decreases their price. It is alarming to see that weapons that cause so much insecurity and inflict such pain and suffering can be bought for so little money. For example, many of the AK-47’s used in Rwanda are suspected to have been sent from Uganda for the price of a chicken each, and the same AK-47’s were known to be sold at \$6 in Swaziland in 1995 (Swadesh, 1995).

As it will be explained in detail in following pages, SALW are the weapons of choice in conflicts where child soldiers are used due to the small size and light weights of the weapons. For example, the AKM series rifles are not only light, 4.5kg, but are also easy to assemble and use since they have only nine moving parts (Muggah & Batchelor, 2002).

SALW don't require the level of maintenance that other weapons such as tanks require, in addition to that their spare parts and ammunitions are widely available and often much less expensive than parts and ammunitions of other types of weapons (UN 1997). The little maintenance, know-how and logistics needed to use SALW, make it the weapon of choice in prolonged conflict and enables ongoing conflicts to be sustained.

They have a very long lifespan; therefore SALW can be used over and over again in several conflicts that can take place several decades after one another. For example, the AK-47's and M-16's used in Vietnam have been also used in Nicaragua and El Salvador more than 30 years after the Vietnam War (Muggah & Batchelor, 2002).

Another advantage of SALW is that the weapons of this category can be easily hidden, therefore their transfer is less likely to be intercepted than other conventional or WMD weapons.

Although it increases the amount of damage and suffering caused by SALW, the lethality of those weapons allow their users to inflict death and injury over both combatants and civilians, often without discrimination. Technology allows an ever-increasing lethality and power projection ability to its users (Karp, 2006). The SALW category encompasses weapons designed to be used against tanks and aircrafts not only allow fighting fractions to pursue operations against enemy combatants in terrains unsuitable for combat but also allow armed groups to perpetrate attacks on civilian transports including civilian planes.

Maybe the most important advantage that acts as multiplier to other advantages of SALW is that there are fewer regulations on SALW than in other types of heavy machinery conventional weapons and than for other types of weapons of mass destructions (WMD).

2.4 Historical Trends in SALW Proliferation

There are various factors that help to understand the increase in SALW proliferation (Banerjee, ?). The first waves of SALW proliferation took place during the Post-Colonial stabilization operations led in the Middle East and in Africa throughout the 1960's and 1970's and caused an increase in the armament of the populations in those regions. Another event that has fueled the proliferation of SALW has been the deliberate armament of proxies by the Soviet Union and the United States (US) during the Cold War. Cold War opponents supplied important amounts of SALW and SALW ammunition to not only governments but also non-state actors sympathetic to their ideologies. Although the Cold War ended about a decade ago, the arms that have been transferred to the region still exist and are still used. For example, the wide availability and misuse of SALW in Cambodia has been related by the experts to the 300,000 weapons provided by the US and other parties to the area during the Vietnam War (Muggah & Batchelor, 2002). The third reason of the increasing proliferation of SALW is the leakages from the stocks of the states resulting either from poor controls or corrupted officials. Another source of proliferation has been the cross border illegal trade, where SALW are smuggled through the porous borders of especially weak states,

like oil or drugs. The practice followed by some states, which sell old earlier generations of SALW or the surpluses in their inventories to buyers in conflict zones, such as in Africa has also caused an increase in SALW proliferation. Another important factor that has contributed to the increase in SALW proliferation has been the Collapse of the Soviet Union at a time when states in the Soviet federation were ranked among the leading producers of SALW. The economic crisis, and unemployment experienced by those states caused them to sell their SALW's as sources of income (Gamba, ?). There have also been areas in which weapons lost their importance after a peace process has been launched; however the weapons present were not subjected to a post-conflict disarmament program. In such cases, impoverished populations who still had their weapons sold those SALW to other zones of conflict. Another way in which SALW proliferation has increased is that both in developed and developing countries, weapons licensed to individuals are lost due to their owner's negligence or theft. Another reason that increases the global inventories of SALW is that in most cases weapons that have become obsolete are not being disposed of properly. Those weapons can be easily diverted to the black market if not stored properly. It is alarming to see that the number of surplus SALW destroyed each year remains much lower compared to the number of SALW produced (Monterey Institute, 2000). The final reason to explain the increase in the proliferation of SALW is that absence of conflict is no longer perceived as being secure (UN, 1997). In cases where individuals feel that their states are not capable of protecting them

from criminality, armed violence and banditry, individuals seek to acquire SALW for self-protection.

Although most SALW used in recent conflicts are weapons that are not new, the increase in the number of available SALW is also due to new producers that entered the market in the 1990's and also to the increase in indigenous production capabilities of many states and groups, through reverse engineering, co-production licenses signed with suppliers and turn-key define production arrangements between suppliers and buyers (Swadesh, 1995).

In order to understand SALW proliferation and in order to control this process, it is essential to understand the existing markets and the differences among those markets.

2.5 SALW Production and Trade

The combination of those advantages creates a huge market for SALW trade. It is estimated that more than 1000 companies in around a 100 different countries are involved in some stage of SALW production (UN, 2008). There are about 30 significant SALW producer countries. As said before it is not possible to have exact figures, however experts estimate that between 7.5 million to 8 million SALW are produced each year.

The increase in the production of SALW has accelerated during the twentieth century. Due to their durability, properly SALW can last for decades; therefore the increase in production has caused the increase of the number of SALW in circulation worldwide (Karp, 2006).

Other means of production are licensed production, in which there is no clear understanding on where the responsibility on export controls or the responsibility to export production techniques lie (UN 2008). For example, the German firm Heckler and Koch has licensed the production of a range of military type SALW to several countries such as Turkey, Iran and Pakistan. However, most countries that have such deals do not possess export controls that are based on international standards put in place to protect human rights or to assure that transfers of SALW are in conformity with international humanitarian law (Control Arms, 2005).

Craft production is another source of SALW. It is the production of SALW in private workshops. Although it constitutes a very small part of the overall SALW production craft production can cause severe instability in small areas.

2.6 SALW Transfers

The increasing mobility of people, goods and services allowed by the process of globalization has caused important changes in the patterns of SALW supply (UN, 2008).

2.6.1 Legal Transfers

Most of SALW are sold or transferred legally. The large part of SALW is legally owned. Also, the major part of international and domestic SALW transfers follows legal practices. Legal SALW trade consists on arms transfers that have been authorized by the government or that have been licensed by the government.

The value of the legal trade in SALW at a global scale amounts to an estimates US 4\$ billions per year. This is an estimate since even legal SALW transfers lack transparency. Whereas previously, SALW sales and transfers were confined to orders and consignments between states through state authorities or government agents, today the increase in SALW outlets has complicated controls.

2.6.2 Brokers and the Grey Market

The commercial market for SALW has tremendously increased and the number of private intermediaries has followed the trend (UN 2008). Brokers today operate in the international arena, often from several locations, to arrange arms to be supplied to government's defense industries, armed forces, law enforcement agencies but they also arrange arms supply for private ownership.

Although it can be argued that private intermediaries are essential in providing states with their SALW needs, it is essential that the activities of those intermediaries is controlled and regulated through norms and rules that have an international validity, to achieve a holistic approach to prevent illicit practices or to have a clear distinction on what is legitimate trade and what constitutes diversion or a risk to human rights. It is worrying to see that by 2008 about 80 percent of UN member countries have failed to enact specific laws and regulations covering brokering activities in their legislations on arms exports. It often remains unclear, whether other existing laws encompass brokering.

Arms brokering severely contributes to the violation of UN arms embargoes. Brokers usually seize opportunities to use loopholes and ambiguities

in existing laws and regulations to avoid customs controls. Another way brokers usually use in violating UN arms embargoes is to falsify the required documents such as passports, end-user certificates and other documentation. An example to illustrate the gravity of the situation is Somalia. Although there has been a 16 year arms embargo, it is reported that the arms available in Somalia are, in quantity and diversity, superior to any point in time since the early 1990's (UN, 2008).

A group of experts has been asked by the UN General Assembly to work on improving the international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons. The Group of Governmental Experts concluded in their report to the UN General Assembly that in order to deal with illicit SALW proliferation, all illicit brokering activities should be punished by law. They also concluded that the same types of penalties should be adopted towards brokering activities that breach UN arms-embargoes. An important step achieved by the GGE has been to establish the first agreed definition on what constitutes an act of illicit SALW brokering. The agreement on a definition will allow the development of common approaches to counter illicit arms brokering and this way brokers will no longer be able to easily move around differences between national perceptions to pursue their activities. The GGE also suggested to include extraterritorial activities in legislation and to include activities that allow brokers to continue their transfers such as activities relating to the transportation and financing of transfers of SALW.

The absence of normative norms adopted by all states makes it difficult to control arms transfers and brokering activities. There are up to now no

international standards adopted to deal with brokering activities. This in turn hinders efforts to deal with SALW proliferation and diversion.

2.6.3 Illicit market

Illicit trade in SALW encompasses transfers that are contrary to national or international law. Illicit transfers take place without any official or covert government authorization or supervision (Florquin, 2006). SALW can enter the illicit or “black” market through several ways and the estimated value of the illicit SALW market is worth several hundred million dollars. Generally nearly all illicit SALW transfer begins as legal transfers. Domestically, SALW can enter the illicit market through distribution by opposition forces, through diversion such as theft, leakage from government inventories, pilferage and resale of legally acquired arms to illegal channels. For example, it is estimated that in South Africa, each year around 22000 civilian firearms are stolen (Mthembu-Salter, 2004). SALW are also sold to conflict zones in the form of small-scale cargoes that can be sent through land, air or sea, mostly in zones where borders are porous and inadequately controlled (Florquin, 2006). Due to their durability and low-maintenance characteristics, SALW are also sent from one conflict zone to another.

CHAPTER III

CONSEQUENCES OF SALW PROLIFERATION

Although this thesis does not define SALW as the main cause of violence, it argues that it provides means to increase and sustain violence, especially in environments where poverty, unemployment, frustration, fear, jealousy or depression already cause tensions amongst groups or individuals (IANSA, 2007).

3.1 Direct consequences

It has been since long agreed that SALW proliferation and excessive accumulation, although not necessarily being the primary cause of conflict, causes an aggravation of conflicts by increasing the number of deaths and injured due to their high lethality, and prolong the duration of conflicts. Most of today's conflicts are fought mainly with SALW. Those conflicts are often intra-state conflict rather than inter-state conflict, in both cases SALW are the weapons of choice of belligerents. Even in zones of peace, the spread of SALW contributes to insecurity by giving the ability of power projection to terrorists, members of organized crime networks as well as gangs. The readily availability and excessive accumulation of SALW also heightens the feeling of insecurity amongst the population and causes a greater demand for more weapons, creating a security dilemma for the society (UN, 2008).

The direct results of SALW proliferation are gun related deaths and injuries. The purpose of SALW is to kill. It has been estimated that an attack perpetrated by a SALW is 12 times more deadly than attacks where other means are used. Gunshot injuries are particularly severe than other types of injuries because of the excessive damage caused by bullets to the surrounding tissue. In addition guns can kill at a distance, whether by direct aim or by stray bullets. Therefore targets cannot easily run away from an assailant holding a gun, whereas they might have a survival chance if their attacker held a knife.

In addition, in cases of assault involving SALW, it is hard for a third party to intervene to the situation, whether in order to assist the victim or in order to prevent the assailant.

It is estimated the SALW are used to kill around a thousand people each day. 250 of deaths by SALW occur in conditions of war or armed conflict. The remaining deaths result from homicides, that accounts for 56% of SALW related deaths, suicides that account for 14% and accidental shootings that make up for 5%.

In some regions considered as at “peace”, the level deaths by SALW can be as high as or even higher than the level of gun related deaths in conflicts. For example, the amount of gun related deaths in Rio de Janeiro between 1997 and 2000 exceeded the number of deaths registered during the same period in conflict zones such as Afghanistan or Uganda.

SALW proliferation has also an impact on the number and success rates of suicides. As underlined above, the lethality of SALW makes an attempted suicide

much more “successful” than other methods. An Australian study has demonstrated that the national rate of suicide had decreased once the country adopted stricter laws on gun purchases (IANSA, 2007).

Another direct impact of SALW proliferation and Misuse is the number of injured people. It is estimated that around 3000 people are injured with SALW every day. Those people often cannot seek medical care and rehabilitation due to the lack of such services in zones of conflict. The reasons why medical and humanitarian aid are scarce in zones of conflict is elaborated in following sections.

In post-conflict zones where the peace agreements have failed to address the issue of SALW disarmament, destruction and the reintegration of combatants, it has been observed that the surplus of SALW contributes to insecurity and instability and the number of firearms related homicides often constitute higher mortality levels than the number of deaths caused by the actual conflict in the battlefield (UN, 2008).

The gender implications of gun violence are various, both in time of conflict and in time of peace.

Globally, men are the greatest users but also the greatest victims of SALW (Mutimer, 2006). In most conflict, the majority of combat troops are constituted of men; therefore men will be the predominant victims and users of legally acquired SALW.

Over 90% of gun related homicides occur among men, among those who commit suicide with a firearm 88% are men and boys are involved in about 80%

of the accidental shootings that take place in the US each year all those incidents generally occur with a legally held arms (Mutimer, 2008).

Those figures clearly show that the differentiation between legally held and illicit weapons is not meaningful if the problem is to be dealt with efficiently.

3.2 Indirect Consequences of SALW proliferation

3.2.1 Human Rights

SALW also contributes to a great number of human rights violations that include not only killings that violate the most crucial human right that is the right to life, but also contribute to other severe human rights violations such as maiming, rape and other types of sexual violence, enforced disappearance, kidnappings, torture, or forced recruitment of children by fighting fractions (UN, 2008). The United Nations has concluded that SALW are the most commonly used weapons in committing human rights abuses. The proliferation and misuse of SALW spreads a culture of violence in which resolving conflicts or grievances, for groups or individuals, is primarily done at gunpoint rather than through peaceful means of resolution. In such a climate of violence, reliance to the state's ability to provide security or justice decreases, causing a further demand that emanates from civilians that want to protect themselves or a demand that emanates from the private security providers that usually prosper in insecure areas.

Amnesty International reported that in the last decade between 1/3rd and 3/4th of all grave human rights abuses were committed with SALW.

3.2.2 Natural Resources

In regions where there are wars over natural resources and commodities such as diamond oil or timber, SALW are essential in order to defend ones position in relation to those natural resources. Also in regions where natural resources and commodities are abundant there is a vicious circle where resources are used to finance SALW purchases and SALW are used to secure ownership over those resources (Small Arms Working Group, 2006).

3.2.3 Non-State Actors

Although only a limited number of SALW are in the possession of insurgents, the impact of those weapons on security and development are disproportionate to their quantity (Humanitarian Dialogue Policy Team, 2006). As stated before, in today's conflicts, civilians are often targeted on purpose by fighting fractions, and do no longer constitute just collateral damage. Even a small number of SALW are enough for terrorizing and displacing populations, therefore challenging the ability of the ruling authority to assure the security and welfare of the population.

It is difficult to hold non-state actors responsible for their actions, since there are numbers of loopholes and varying interpretations in international law regarding the definition and associated responsibilities of non-state actors. Besides since they differ from states in their often loose organization and unclear legal responsibilities, it is hard to come to an understanding with those groups through negotiations.

In addition to the direct impacts of the proliferation of SALW to non-state groups, those being deaths and casualties, there are several other consequences that put into jeopardy regional and international stability and security. Often, those non-state actors lack the capacity to control the SALW in their possession. This is not difficult to understand since even organized legitimate governments have on many occasions shown inability to assure accurate management and storage of their SALW. Therefore, guns held by non-state armed groups can be easily stolen or diverted to other illicit channels and continue to cause instability and insecurity long after the conflict in which it was used is over. For example, \$2 billion worth guns provided by the US to the Afghan mujahideen between 1979 and 1989 continued to cause instability in the entire region, long after the Soviets withdrew from Afghanistan.

In recent years, the increase in the privatization of security has been a global phenomenon (Mthembu-Salter, 2004). Therefore, insurgents and non-state armed groups are not the only non-state actors to play a role in the proliferation of SALW. Among those groups, there are militias, paramilitaries, or civil defense units, which are often, supplied arms by the governments when the regular armies fail to address emergency crisis. There are also mercenaries, composed by individuals who fight in wars for financial interest; they are often armed by governments or armed groups. There are private military companies, which are corporate entities that provide offensive services, and which are often hired by governments in places where security cannot be guaranteed by government services alone. Private security companies on the other hand, are corporate non-

state actors, which provide defensive services to protect the lives and properties of individuals. Multinational companies, humanitarian agencies and individuals often hire private security companies.

All those groups benefit from existing loopholes in the international system to continue acquiring, selling and diverting those weapons to illicit channels. There are several problems with their existence, such as whether or not they have the accurate training to use the weapons they have or to engage in combat. It is argued that weapons' training is often poor and that competency certificates are often issued without sufficient government control, especially in less developed countries. There are also problems regarding to the storage of weapons held by private security firms. On the other hand the most important and pressing issue is to establish who they are answerable for their actions, to what extent can they be held accountable and by what means can the international community control their actions.

Today, there are several problems in achieving consensus on how to tackle the correlation between SALW proliferation and non-state actors. Although the International Criminal Court can prosecute perpetrators of human rights abuse in internal conflicts, there are many difficulties in putting into practice the Common article 3 of the 1949 Geneva Conventions and the provisions included in Protocol II of 1977, which apply to non state armed groups (Center for Humanitarian Dialogue Policy Team, 2004).

Another problem in dealing with SALW proliferation through non-state actors is the reluctance of some states to deal with the subject in an international

agreement, perceiving that such an instrument will grant non-state armed groups legitimacy.

On the other hand, there are states opposed to the restriction of arms transfers to non-state groups claiming that this in turn will take away their capacity to fight oppressive regimes. David B. Kopel, from the Independence Institute in the US, argues that it is necessary to transfer arms to at-risk populations (Kopel, 2004). However it is not clear whether or not the legitimacy of the struggle legitimizes the arms transfers and the resulting use of force (Center for Humanitarian Dialogue Policy Team, 2004).

The new world order established after September 11, 2001, has led to a new impetus to discuss the issue of non-state armed groups, with many governments showing willingness to adopt stricter international norms and regulations on arms transfers to non-state actors and stricter controls on brokering activities. The EU members by adopting the European Union's Joint Action on Small Arms in 1998, agreed to sell SALW only to governments. However, no international agreement has been reached yet, the issue has been left out of the UNPoA.

In order to achieve holistic and sustainable solutions to prevent the proliferation and misuse of SALW, governments have to tackle the issue of non-state actors in their negotiations. Legal and political measures are necessary in local, regional and global initiatives to control the spread of SALW among those groups, and to prevent those groups from transferring those weapons to further illicit channels willingly or through negligence.

3.2.4 SALW and Terrorism

In addition to all their other devastating effects, SALW are also the weapons of choice of terrorist organizations (Shroeder and Sthol, 2006). It was estimated on a US Department of State report on global terrorism entitled “MANPADS Menace: Combating the Threat to the Global Aviation from Man-Portable Air Defense Systems” that nearly half of the terrorist activities documented by the Department of State were committed with SALW.

Another reason why SALW proliferation needs urgent attention and most of all action is that SALW are the most frequently utilized weapons types used by terrorists (Shroeder and Sthol, 2006). The US Department of State published a report on international terrorism where it was found that nearly half of 175 terrorist attacks that took place in 2003 were perpetrated with SALW. A United Nations Development Program report shows on the other hand that in Colombia, SALW are the weapon of choice of terrorists and guerilla movements that have in 1999 alone committed over 1,000 massacres, more than 300 “forced disappearances” and more than 2,940 disappearances (Small Arms Working Group, 2006).

There are instances where SALW proliferation causes terrorism as an indirect consequence. For example, one the most imminent threats faced by the US, Al-Qaeda terrorists, have benefited from the training and armament of Afghan rebels by the US during the Soviet invasion.

The European Union’s (EU) report on SALW proliferation suggests that terrorists use SALW not only as a mean to perpetrate their attacks, but also as a

tools of self-defense that allow them not to be punished for their crimes especially in areas where local police forces are weak (UNIDIR, 2006).

Terrorists also use SALW as a source of income, by selling weapons illicitly to zones of conflicts. It has been observed by the UN that terrorist illicitly sell weapons through the same channels they use to sell other commodities such as drugs or natural resources. This problem is especially severe in areas where local police forces are weak or highly corrupted.

3.2.5 Relief Operations and Peace Keeping Missions

Those weapons are also frequently used in an alarmingly increasing number of attacks against United Nations employees, whether during relief missions or peacekeeping activities. They are also being used against members of humanitarian organizations and NGO' in conflict zones where they are needed the most, often jeopardizing the missions undertaken by the organizations.

In addition to killing, wounding thousands each year, contributing to terrorism and organized crime, thereby hampering development, SALW proliferation also causes problems for relief operations and peace keeping missions undertaken by international organizations (Small Arms Working Group, 2006). There have been cases where the fighting that is taking place within the country where relief and peacekeeping operations are largely and immediately needed caused the postponement of such operations until the end of the armed hostilities. Much of the insecurity and instability in those regions of conflict is caused by the use and availability of SALW, and the delay caused by the armed

violence prevents the international community from saving lives and from establishing stability.

In some cases, the lives of the peacekeeping personnel are directly endangered by the presence of SALW. The Small Arms Working Group gives figures to illustrate this claim, such as the 13 peacekeeping personnel that were killed during an operation in Haiti or another example where more than 500 UN peacekeepers have been held hostage for weeks in Sierra Leone.

3.2.6 Development

In addition to contributing to grave violations of human rights, SALW also have serious consequences upon development. There is a great consensus that armed violence aggravates poverty, limits access to social services and diverts resources that are often already scarce towards the conflict efforts and away from where it is most needed such as health and education that would improve human development.

It has often been concluded that armed violence, often sustained and prolonged by the availability and spread of SALW has prevented in countries where there are high levels of insecurity to achieve progress towards the Millennium Development Goals.

It has also been argued that SALW proliferation causes the displacement of massive numbers of people, causes the loss of the bulk of the manpower in vast regions involved in conflicts due to the death of the people or due to their participation in the fight, therefore plays an important part in food insecurity in

those regions. Forced Displacement is another indirect effect of SALW proliferation on development. It undermines human development, tears families and communities apart, disrupts the economies of both the regions that people have to leave and of the host regions. As explained in the section dealing with refugees, armed violence acts as a major factor in people's decision to flee or migrate. SALW availability in a region also hampers the return of the displaced people to their homes, thereby prevents economic activity to resume. The displacement in turn causes grave public health issues such as the spread of highly contagious diseases such as malaria or tuberculosis (Small Arms Working Group, 2006). Often, when attacked by armed combatants, the infrastructures such as water purification or sanitation are disrupted, creating a favorable environment for diseases to spread. Sexual violence at gunpoint, which has also been treated in the section concerning gender differences on the impact of SALW proliferation, increases the spread of sexually transmitted diseases such as AIDS.

Despite the fact that the regions in conflict are often the poorest and the most in need for aid and development, the presence of SALW prevents this due to its consequence of prolonging the conflict, and the high and indiscriminate number of deaths it can cause.

Another indirect impact of SALW proliferation on development that is not restricted to developing countries or to countries at war is the economic burden that SALW imposes on countries economies, being developing or industrial countries at times of peace or at time of war. The cost of medicines and care needed to assist SALW victims is high. The Small Arms Working Group claims

that in 2000 alone, the US spent over \$1.4 billion dollars to provide medical care to patients with firearm injuries (Small Arms Working Group, 2006). Most policy makers and experts agree that it is impossible to successfully implement measures needed to achieve sustainable development in areas where there is a climate of insecurity. In interstate conflicts experienced today, it is often seen that fighting factions target physical and human resources needed to achieve economic growth in order to hamper each others war effort. For example, transit routes are often targeted, natural resources are diverted for the fighting factions personal needs and key domestic industries are seen as strategic targets. Conflicts that occur today and that are mostly fought with SALW are seen as the most common source of food insecurity (UN 2008).

Another important consequence of SALW proliferation is related to natural resources. In regions where there are wars over natural resources and commodities such as diamonds, oil or timber SALW are essential in order to defend one's position in relation to those natural resources. Also in regions where natural commodities and resources are abundant, there is a vicious circle where resources are used to finance SALW purchases and SALW are used to secure ownership over those resources.

Another consequence of SALW proliferation relating to natural resources, is that due to the scarcity of natural resources, the competition to acquire those can hinder efforts to prevent SALW proliferation, since countries that want to have access to those resources can sell arms to regions where their presence and accumulation can exacerbate or sustain conflict, sometimes going against UN

Security Council arms embargoes or international humanitarian concerns. For example, Chinese arms sale towards African countries have been source of grave concern for the international community.

CHAPTER IV

DISPROPORTIONATE AND VARYING EFFECTS UPON DIFFERENT SPHERES OF THE POPULATION

4.1 Gender Impact of SALW Proliferation and Misuse

SALW proliferation does not affect all spheres of society equally. It is important to assess the impact of SALW on different parts of society in order to develop accurate policies to prevent SALW proliferation and also in order to assist those populations and make them part of the policy making mechanisms in relation to SALW proliferation. However in each case difference between genders or age groups should not be solely viewed as the relation of those fractions to SALW proliferation as victims. This section argues that the line between victims and “non traditional fighters” is not necessarily clearly defined.

4.1.1 Women

4.1.1.1 In Times of “Peace”

Thousands of women are suffering from the proliferation and misuse of legally or illegally acquired SALW each year, in developing countries as well as in industrial countries, both in war-zones and in regions perceived as “in peace”. In order to develop appropriate measures to deal with the negative consequences

of SALW proliferation and misuse, it is essential to recognize the degree to which women are affected but it is also essential to study cases in which women are not mere victims of SALW proliferation but are also actors in such processes.

In times of peace, the presence and easily availability of SALW affects women in particular both physically and psychologically. Although the majority of SALW victims are men, men also represent a disproportionate fraction of SALW users and of those who perpetrate violence. Women are rarely the buyers, owners or users of SALW, with more than 90% of SALW related homicides occurring amongst men and that 88% of accidental shootings that kill around 400 children in the US each year and injure close to 3000 involve boys (Cukier and Kooistra, 2002).

It is estimated that during their life time, one in three women undergoes an instance of domestic violence (IANSA). The risk of those instances of domestic violence escalating into deadly disputes is highly increased by the availability and presence of SALW in the house. It is estimated that the presence of a firearm in a house increases the probability of a household member being killed by 41%, whereas the same probability increases by 279% for a woman living in the house (Mutimer, 2006). Women are more at risk from their intimate partners than are men, and the presence of SALW makes this risk even more remarkable since firearms are often the weapon of choice (Cukier and Kooistra, 2002).

A report published by the Small Arms Working Group shows that women are often killed or injured by people they are close to such as friends, husbands, boyfriends or ex-partners (Small Arms Working Group, 2006). Interestingly the

same study suggests that half female homicide victims are killed by an actual or former intimate partner and the probability of such as death is increased by 50% in cases where the woman has herself a gun. In France, where there are 30 firearms for each 100 people it was estimated that 33 percent of female homicides were perpetrated by their husband or an intimate partner (IANSA). This number was significantly higher in the United States, 66 percent, where there is an estimated 96 firearms for every 100 inhabitants. In South Africa more women are shot in their home during domestic disputes than are shot by strangers (Cukier and Kooistra, 2002). In the Brazil, among women killed by their intimate partners, 46 percent are killed by firearms. This number is 25 percent in Canada, where most firearms are owned legally by the perpetrators. Research from Turkey also underlines the fact that more and more guns are used by men to harm or kill their wives. In South Africa, the country with the highest recorded number of women killed by their partners, around 4 women a day or one woman every six hours is killed by men known intimately by the victim. In one fifth of the cases, the gun used to kill the victim is legally owned (Farr, 2002).

The presence of a firearm decreases the chance of survival of the victims dramatically since it is difficult to escape from bullets and it is difficult for third parties to intervene in the dispute or assist the victims when there is a firearm involved.

The psychological impact of SALW proliferation on women is that for every women killed, more women feel under pressure. SALW are used by men to intimidate their partners to force them to undergo sexual pressures and other types

of physical and psychological pressures. This threatening aspect of SALW is important since studies show that the patterns of threatening are remarkably similar across borders and cultures and involve inflicting harm with an arm on the house pet as a method of warning or often getting the gun out with the pretext of cleaning it in the middle of an argument to put psychological pressure on the women.

Some regional initiatives can help illustrate the gendered consequences of tighter gun control laws (Farr, 2002). For example, since the Firearms act of 1995 was adopted in Canada, according to which men with previous convictions for domestic assault are denied gun permits, extensive background checks are conducted whenever there is an application for a license taking into account any history of violent dispute, substance abuse, existing criminal record, separation or pending separation with a partner or any depressive illness, employment or financial problems. Since the adoption of the Firearms Act, gun related deaths have declined although shooting remained the primary method of homicide. Although still more women were killed by men known to them, there were fewer incidents of domestic homicides with a decrease in the number of females killed. A similar experience has been observed in Australia, where new gun laws were strengthened across a group of eight states and territories (Farr, 2006). Those new laws included the prohibition of semi-automatic and pump-action rifles and shotguns and also limited the range of weapons that could be owned by civilians. Studies have shown that since the adoption of stricter gun control laws in the states and territories where those laws have been adopted have experienced a

sharp reduction in gun deaths. It is underlined in the study that there has been a sharper decline in SALW related feminicides than in the number of men murdered with SALW. The overall gun death rate, including suicides for women dropped 56% compared to 40% decrease for men. The gun homicide rate for women has dropped 65% whereas the same figures dropped 54% for men.

Even in high income countries, researchers acknowledged that the female homicide rates in those countries are considerable higher, if SALW are easily available (Farr, 2002).

4.1. 1.2. In Times of Conflict

In times of war, the situation is even worse, during the build up, the actual conflict and also in the aftermath of the conflict.

In conflict zones, the presence of SALW helps to maintain the male dominance over women. It has been observed that women are more and more seen as strategic targets in conflicts. Most, if not all, forms of violence perpetrated against women in war zones are facilitated by the presence of legally or illegally acquired SALW (Farr, 2002). The proliferation of such weapons has several consequences for women.

Most often, the shifts in governments' but also household budgets from basic necessities to financing the war machine results in women's inability to have access to adequate healthcare, access to safe contraceptive methods that are especially important for women. Women often lose their freedom of choice over their sexual reproductive functions in order to follow pro-natalist policies. They

are expected by their societies to produce children to carry on the nation's cultural traditions after the war as well as to replace lives that have been lost in battles. The fact that women are seen as the carriers of a nation's future has a paradoxical consequence; it increases women's vulnerability as targets of sexual violence. Rape as a form of ethnic cleansing mechanism has been used in several conflict during the 1990's, such as in Yugoslavia, Rwanda, Haiti, Peru. Women also endure mass rape and forced prostitution in those forms of conflict.

Even when the conflict ends, women remain at risk for several reasons. First of all after the conflict the women that have been sexually enslaved or raped with the threat of firearms face social difficulties. They are perceived as a nation's humiliation, especially if they have been forced to give birth to the enemy's child. They often miss the appropriate psychological and social assistance that is much needed after the conflict ends in order to be reintegrated into society.

Another danger that arises from the proliferation and misuse of SALW for women in post-conflict areas is that the level of domestic violence involving SALW increases dramatically. This occurs because large number of men owned SALW remains in circulation and the violence that had been encouraged during the times of war is transferred to the domestic sphere with the formal resolution of the conflict. In addition, when the overall number of SALW casualties continues to increase after a conflict it becomes the women's duty to care for the casualties. Taking care of gun-related casualties becomes a major occupation for women in those regions where the conflict is formally resolved but where arms remain in

uncontrolled circulation, tacking into account that often those regions suffer from poor healthcare and legal systems.

The changing nature of warfare in the 1990's meant that vulnerable spheres of society such as women, children, the elderly and refugees have become strategic targets (Farr, 2002). However, due to the characteristics of SALW such as their light weight, easy transportation and low training requirements have caused women to acquire new functions in conflict (Cukier and Kooistra, 2002).. In times of the new types of conflicts that emerged during the 1990's after the demise of the Cold War and that involve more and more civilians and the use of SALW, women are essential to the maintenance of war efforts. In the military sphere women work as combatants, care takers, or as sex-workers. In the civilian sphere women continue work that the combatant men left behind. There is also another side to women's relation with SALW. While their presence makes women's lives and well being endangered, it has been observed that women have taken active role in the proliferation of SALW by smuggling and storing firearms. Examples of such behavior have been observed in Sierra Leone, where women were active smugglers of light weapons, also in Namibia, South Africa and Zimbabwe. This approach can be explained by the perception that in times of conflict the arms were perceived as a legitimate tool to achieve a political cause (Farr, 2002).

To conclude on this part, it can be said that there is strong evidence to suggest that SALW proliferation and availability whether in times of peace or in instances of conflict increases the risks of deadly violence against women. In the

case of SALW violence against women, the distinctions between “times of peace” and “times of conflict”, “civil” or “military” use of SALW or “legally obtained SALW” and “illegal SALW” become meaningless. All those facts combined prove the urgent need to curb both the legal and illegal proliferation of SALW with a special emphasis on gender. Women should not only be considered as victims but also as valuable assets that can contribute to the solution.

4.2 Impact of SALW Proliferation on Refugees and Internally Displaced People

Today’s conflicts are the most important determinant in households’ decisions to flee their country of origin and become refugees, or to flee their homes and move to other regions in their country as internally displaced people. Internal conflicts caused by ethnic, religious or political differences and conflicts over territory and natural resources have caused since decade increasing number of civilians to become refugees or internally displaced people to flee their countries or to become directly involved into the ongoing conflicts (Farr, 2006). There are two forms of relationships between SALW proliferation and refugees. First, it is acknowledge that the proliferation of SALW, by destabilizing countries, if not whole regions and by being instruments of prolonged conflicts and human rights abuses, adds to the global number of refugees and internally displaced persons. Then we also see that the internally displaced and refugees are often targeted, therefore victims of SALW proliferation. However on the other hand we can see that refugees play also a role in the proliferation of SALW.

Firstly we will analyze how refugees become SALW victims. Often refugees and internally displaced people flee regions that are affected by conflicts that are conducted with SALW. As previously stated, the availability of SALW often increases the duration, incidence and lethality of armed conflict. As noted by the United Nations High Commissioner for Refugees (UNHCR), armed conflict and violence perpetrated by the means of SALW is the immediate cause of most part of the refugee problem.

In most cases refugees run away from human rights abuses and atrocities carried out by government agents of countries that fail to comply with basic human right norms and agreements. In other cases, governments' failures to control the use and transfer of arms of the private actors causes armed individuals and groups to commit acts of violence and oppression causing people to leave their homes and flee.

Even after they leave their homes, refugees face threats emanating from the widespread availability of SALW in refugee camps. There are several cases reported around the world where refugees in camps were subjected to acts of intimidation such as injuries, rape, forced prostitution, slavery, or even forcefully recruited as soldiers into militias.

The proliferation and misuse of SALW impedes the process of voluntary repatriation, and hinders the reintegration of refugees into societies. In other cases the proliferation of SALW puts into jeopardy all relief efforts, makes humanitarian assistance more difficult and costly and puts relief workers under danger by making them legitimate targets of armed actors. It is reported that

nearly half of the populations living in areas of conflict are deprived of humanitarian assistance because the regions are highly dangerous for aid workers to access.

Although refugees are part of the most vulnerable spheres of the global society and are seriously put into danger by the proliferation and misuse of SALW, we must not disregard the role played by the refugees themselves in the proliferation process.

During the Cold War, many refugee camps received arms and ammunitions as part of a “war by proxy” strategy of the Superpowers in which refugees were among the surrogate actors (Mogire, 2004). The Taliban created and sustained by Afghan refugees living in Pakistan offers a good example of this phenomenon just like Karen refugees help to sustain the Karen National Union’s resistance against the Burmese government or the Palestinian refugees support for the PLO. The CIA is said to have played a crucial role in supporting the Afghan Mujahedin along with transfers of arms by China and Arab Nations. Although there is not a figure that is agreed upon, some argue that weapons that are worth over US\$8 billion were transferred to the region up to 1992, others such as Human Rights Watch, claim that the US has sent approximately US \$2.3 billion covert assistance to the Mujahedin and has trained over 80 000 refugee warriors.

“Refugee militarization” is a phenomenon that is increasingly worrying the international community (Mogire, 2006). This occurs in a number of different ways. First, refugee militarization occurs when active ex-combatants, former soldiers, militia or other government agents in possession of arms form part of the

refugee flows along with civilians. Secondly, refugees can get guns and training in the country of asylum where they are likely to meet other refugees that resent their condition and take part in rebel movements. Refugee camps are a good resource for recruitment for rebel movements since refugees are more vulnerable than the rest of the population to comply under physical or psychological pressure when facing a group that represents authority. Thirdly, refugees can be manipulated into becoming “resources for war”. Those people who have fled their homes and businesses can see that joining the militia or other organized crime groups is more rewarding in social and economic terms than any other alternative that is presented to them.

Armed activities of all types are explicitly prohibited by the Executive Committee’s (EXCOM) seminal Conclusion No. 48. According to this, refugee camps and settlements should strictly remain civilian. The UN Security Council has also acknowledged the problem and advised that militia and civilians should be kept apart. However, the measures adopted by international agencies and also by regional organizations such as OAU failed to hinder the proliferation and use of SALW in refugee camps nor did they succeed in preventing third parties from pushing arms in refugee camps and arming and training refugees to participate into militias.

Host states are also victims of SALW proliferation (Mogire, 2006). When movements of ex-combatants or refugees that have been armed or have joined the militia cross into the borders of host countries, the number of uncontrolled

unregulated arms in the host state increases, therefore increasing unrest and crime in the country.

Refugees are not always necessarily forced to participate to the transfer and use of SALW; there are cases where they participate to the process willingly. For example, facing ethnic, economic or social pressures from the host country's government, refugees may willingly back insurgent movements.

Refugees have also been supporting or participating into armed violence when they saw no other option for economic, political or social change in their own country. Not many political refugees give up their beliefs once they move into the host country, so they tend to support resistance movements by generating money or by taking active part in the conflict. There have been cases such as in the case of Rwanda where refugees resorted to weapons when the issuing country adopted a policy of no return against the refugees.

Like the case of Palestinian refugee camps used to target Israel, there are cases where refugee camps, under international law's protection, served to launch attacks. Besides those refugee camps receive aid that is a good source of income, food and medical supply for guerilla movements or terrorist groups.

The rebellions led by refugees not only increase the number of available weapons in the host state but forces the targeted state to increase its own arsenal, to increase its armed forces and even in some cases to arm civilians.

Another way in which refugees help the proliferation of SALW is by providing economic resources to combatants. This is mostly true since the end of the Cold-War, when the superpowers stopped most arms transfers to insurgent

groups. Insurgents needing alternative sources to finance their armament needs have turned to refugees that have become a source of money through direct economic contribution resulting often from ethnic ties to the insurgent's cause or that have become an economic source through forced taxation (Mogire, 2006). The cases where refugees in Tanzania were forced to make financial and food contributions to combatants, or cases where Diaspora communities such as Tutsi's Palestinians, Kurds or Sri Lanka Diaspora's contributed to the arms purchase of the insurgents help to illustrate this claim.

Another way in which refugees helped to maintain arms purchases is to divert refugee assistance into the war efforts. Humanitarian aid hijacked by insurgents or host governments has in several cases such as Rwandan camps in the Congo, or Cambodian refugees in Thailand underlines the dilemma in which the international community has the moral duty to help those in distress, but once the aid is diverted toward arms purchases, the aid only helps to keep the conflict alive.

The discussion above shows that the "refugee warrior" problem and associated cases where refugees stop being victims of arms transfers and misuse and become active part of the proliferation process can only be resolved through better management of conflicts and better management of the situation in which refugees find themselves in camps or in host countries. Another mean in halting the proliferation and use of SALW through refugee camps is to stop the support of the receiving state to refugee armament. If the state that receives refugees adopts clear policies of disarming the refugees and preventing the flow of arms to the

refugee camps than the problem can be resolved. However, too often the receiving states are not able, even if they want to, to adopt appropriate control mechanisms to disarm and prevent rearmament. Therefore it is advisable that those states should be helped by external power, being third parties or international organizations with the necessary resources and training to conduct disarmament policies and border policing in refugee camps. In cases where the receiving state willingly allows the transfer and use of SALW by refugees for political or economic motives, the international community should be willing to impose sanctions on the receiving state until this state adopts necessary measures to stop SALW proliferation through refugee camps. Another necessary step in halting the flow of SALW through refugee camps is to locate the refugee camps in secure areas far from national borders, where it is easier to smuggle arms through poorly controlled border areas, and to provide sufficient security for the refugees, for them not to have the need to arm themselves.

4.3 Impact of SALW Proliferation on Children

Children are another sphere of society that has a complex relationship with SALW. On one hand it is important to see how devastating SALW proliferation is on children to prevent children from being hurt by SALW, whereas it is also important to see to what extent children have become involved in conflict to formulate policies to reintegrate them into society to enable them to lead normal lives and prevent them from being agent in the proliferation and misuse of SALW.

SALW have a negative impact on children even in regions of relative stability and peace. A study of children who have witnessed gun violence between their parents concluded that those who have been exposed to such violence involving guns and knives are more likely to develop conditions such as conduct disorders, depression and anxiety (Rothman and Hemenway, 2005).

In armed conflicts, SALW are used to kill and injure children among others (Small Arms Working Group, 2006). They are also used to commit human rights abuses against children. It is important to see that children are particularly vulnerable against the effects of SALW proliferation and misuse in order to find accurate policies to prevent SALW proliferation and to assist children who have endured violence caused by the spread and excessive accumulation of SALW.

Often in armed conflicts, fought primarily if not exclusively, with SALW traditional family structures are weakened. Too often, parents are killed or injured, leaving the child with no support system. Conflicts also caused forced separation of children from their families. It is often difficult, if not impossible, to reunite families after conflicts. Orphans find themselves cast out of society, especially in less developed countries where post-conflict assistance to orphans or their reintegration to society is not seen as a priority.

When a child experiences gun related violence at an early age, this can influence the child's decision to participate at conflicts as combatant or can cause the child to perceive guns as a legitimate mean to solve problems rather than other peaceful means such as mediation or negotiation.

Another consequence of SALW proliferation on children as well as other vulnerable groups is that children are deprived from basic services such as health and education. SALW used in conflict often hinders humanitarian efforts such as food assistance. It also interferes with harvesting of foods and livestock production due to the climate of insecurity it creates.

Children are among the most affected when SALW proliferation and excessive accumulation contributes to the escalation and prolongation of conflicts causing massive population displacement. In such cases children are more susceptible than adults to disease, violence including sexual violence, malnutrition, even to forced military recruitment. It has been estimated that in the 1990's 20 million of children have been displaced in order to flee from armed conflict.

The insecurity caused by the availability of SALW and the use of SALW in conflicts often prevent children's access to education. Insecurity can cause schools to shut down, in some cases teachers are targeted on purpose by opposition groups to intimidate the population and to challenge government authority, in other instances, parents abstain from sending their children to school fearing that their children will be kidnapped in order to be recruited by an armed group.

The phenomenon of child soldiers is entirely linked with the characteristics of SALW. Whereas children often serve in armies in supporting roles such as cooks, messengers, porters or spies, they are increasingly conscripted as soldiers (UN, 1996). Whereas some are conscripted, there are also children who are press-

ganged, abducted or who are forced to participate in conflict in order to protect their families. In some cases, children join in armed groups because of economic reasons. In some instances, armed groups pay a wages directly to the children's families, making it attractive for parents in poor regions to give their children to armed groups as soldier.

Due to their light weight, their relatively easy handling and the fact that they need minimum training and maintenance made SALW the weapon of choice of those who saw children as part of their war effort. Children as young as seven or eight years can handle assault rifles, fire them, strip and reassemble them (UN, 1996). Today, hundreds and thousand of children are used as soldiers in various conflicts around the world, the majority being boys but there are also several girls who are used as soldiers. Those children are particularly vulnerable during conflict due to their lack of training and lack of experience.

The decision to study the impact of armed conflict on children was first agreed upon in the UN with the General Assembly resolution 48/157 adopted in December 1993. The resulting study gave a picture of the extent to which SALW infested conflicts impacted upon the lives of children and proposed solutions to those problems. It invited the international community to denounce attacks against children as "intolerable" and "unacceptable". The report underlined the consequences of armed conflict on children and the need to prevent children from being used as soldiers. It also urged the international community to take into consideration children in making DDR programmes, where a special emphasis should be given in reintegrating child soldiers to the community they belong to.

The UN has since then been actively looking for solutions to prevent the use of child soldiers in conflicts.

However the issue of child soldiers causes various degrees of support and concern among members of the Council (Security Council, 2006). Among the permanent members, France has been the country that has been the most active in promoting the issue. However, it has failed to obtain the support of the other countries. This lack of support is due to several reasons. First of all some permanent members fear that if cases listed in Annex II are included in the agenda of the Security Council, then issues that directly affect their national interest and national policies will be included in the Council's agenda. For example, if the Council decides to tackle groups and organizations that are listed in Annex II and that recruit child soldiers in conflict, then Northern Ireland or Chechnya that have been included for a brief period in Annex II in 2003, can lead the way to the involvement of the UN in the United Kingdom and Russian Federation's internal affairs. In such cases permanent members have objected to the inclusion of those groups in Annex II claiming that the issues mentioned could not be qualified as "armed conflict". This in turn causes selectivity in issues to be dealt with; therefore hampering the overall aim of preventing the global use of child soldiers, besides this double standard hinders the enforcement ability of the Council by turning a blind eye to some parts of the world and trying to intervene in others. The United States and Japan believe that the Security Council should deal with specific issues rather than having ambitions to deal with thematic issues such as children in armed conflict. Both countries express their willingness to see progress

on actual policies before the subject is further incorporated to the Council's agenda and allocated further resources. In addition some countries in the Southern Hemisphere of the Americas such as Colombia who were in the Council when some important discussions have taken place have often prevented the inclusion of Annex II issues in the resolutions and in decisions.

Another issue that has caused differences between Council members has been whether or not humanitarian measures should be used against non-compliance or whether stricter sanction measures are to be adopted. This is once again due to the diverging interests of Council members on the issue. Since some governments are more supportive of the groups that recruit child soldiers or since they do not want to see sanctions imposed on their own territories, such as it is the case for China and Russia, they support humanitarian responses and oppose any forms of punitive sanctions to be applied in case of non-compliance.

These differences that are due to states' political interests show that often politics are priorities upon human security. The weakness of international instruments in this issue, just like most international instruments in general is the need to achieve consensus and the inability to reach it. However, it must be taken into account that all states need security and stability to prosper and that in a globalized world, there is no longer the luxury to believe that a country can isolate itself from insecurity and instability taking place in other parts of the world. In addition it must be acknowledged that progress in achieving security and stability also lies in the ability of the international community to break cycles of violence, and reintegrating children into civilian life is a first step in this regard.

CHAPTER V

CONTEMPORARY INITIATIVES TO PREVENT SALW PROLIFERATION

Although the consequences of the spread and use of SALW has been felt by all spheres of society, efforts to remedy to this pandemic have not been followed on a continuous manner. The evolution of the importance given to SALW proliferation has to be studied in order to understand the circumstances under which current international and regional efforts in dealing with SALW proliferation have come to life.

While the attempts to control the proliferation of SALW are seen as a phenomenon of the 1990's, the international community began attempts to deal with SALW proliferation in the late 1800's (Karp, 2006). The Brussels Act of 1890, the Article 23 of the League of Nations Covenant in 1919 and the Treaty of St. Germain were all attempts in creating a common framework in controlling SALW. However each of those attempts failed to provide concrete results, largely because of States reluctance to give up their ultimate control over their exports. The issue of SALW was left aside and attention was diverted towards major conventional arms and later attention nearly only focused on nuclear weapons and other weapons of mass destruction (WMD). Therefore, failures to achieve agreement on SALW and the diversion of attention to other types of weapons

resulted in decades of unregulated international trade in SALW and related ammunition (Karp, 2006). The most concrete legacy of previous international initiatives was the acceptance of export licenses. Those licenses allowed for national supervision of arms trade in SALW but did not require national controls; therefore governments were free to regulate SALW trade. The only way in which the UN Security Council was able to compel governments to control SALW exports and trade, was through arms embargoes. In addition, issues relating to the production and the private ownership of SALW and related ammunition were left entirely to states' judgment. Although, as it will shown in following sections, the international instruments in regulating SALW proliferation remain limited, the capabilities and distribution of SALW have changed drastically.

It is often said that the issue of SALW is an issue that emerged in the 1990's. This is due to several factors. The international community's primary concern during the Cold War was to control nuclear weapons. However with the end of the Cold War, the 1990's witnessed changes in warfare. Attention was turned to the intra-state conflicts. 47 of the 49 major conflicts that took place in the 1990's were fought primarily, if not exclusively with SALW (Hill, 2006). For example, nearly a million people were killed in Rwanda by groups using machetes protected by soldiers holding AK-47's (Schroeder and Sthol, 2006). In Liberia during a decade of civil war fought mainly with SALW, approximately 250,000 people were killed and nearly half the population of affected regions was forcefully displaced. It is still believed that SALW are the category of weapon that

is responsible for 60% to 90% of conflict deaths today (Schroeder and Stohl, 2006).

The UN's interest in SALW related issues first began by its attempts to resolve civilian wars that broke out in the aftermath of the Cold War (Hill, 2006).

By the mid 1990's the effects of uncontrolled SALW proliferation and accumulation have become more apparent, and UN Secretary General Boutros Boutros-Ghali underlined the necessity to create a "microdisarmament regime".

5.1 International Efforts

5.1.1 United Nations Programme of Action (UNPOA)

In the Post-Cold War period, new security issues, such as armed non state actors, intrastate wars, warlords, transnational crime, and security challenges faced by the UN staff during peace operations have come to the forefront of the international agenda, at a time when the concept of "human security" was being developed, according to which importance should be given to the security of the individual and communities of people and not only to state security or international security (Bourne, and et al, 2006). SALW proliferation has been on the agenda of the UN since 1993, when the president of Mali requested UN assistance in managing the SALW problem within the country's territory. Once it was clear that the issue was complex, multidimensional and required new tools, standards and norms to be dealt with, a panel of experts has been convened based on the General Assembly Resolution 50/70B taken on December 1995. The panel had the task of defining the types of weapons that were used most often in the new

security challenges addressed by the international community. The panel also had to make an inquiry on the nature and reasons of the “excessive” and “destabilizing” accumulation and circulation of SALW. When the first panel handed its report in 1997, it became clear that the issue had to be spared much more attention. Therefore the international community decided to form a new Group of Governmental Experts on Small Arms in 1998. The new group of governmental experts was asked to observe whether or not states followed the recommendations of the 1997 report. The new group was also asked to make wider proposals for action and to schedule a UN conference on the issue. The new group of governmental experts on Small Arms produces a Consensus Report of the Group in 1999. With the report of the new group of governmental expert as starting point, the international community, agreed with the General Assembly Resolution 54/54V to gather in 2001 under the hospices of the UN, to hold a conference on the issue.

The Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (hereafter referred to as UNPoA) has been adopted in 2001, following a conference held in New York from July 9th to 20th, 2001. The international community, including states but also more than a hundred NGO’s, has agreed upon various issues relating to SALW proliferation in a politically binding document to address the issues that play part in the proliferation of SALW and includes commitments for states, regional organizations and the UN. Two issues that proved to be impossible to agree upon

were issues relating to the transfer of SALW to non-state actors and relating to civilian possession of arms.

The UNPoA is not a legally binding document; however it aimed at establishing the blueprints of a programme, relatively comprehensive in scope that includes nearly all the issues specified in the two reports submitted by governmental experts. The main topics it covers are how to combat and prevent the illicit SALW production and trafficking, how to control effectively the legal production, holding and transfers of SALW, it includes guidelines and programmes on weapons collection and destruction, guidelines on how to manage and secure official and authorized SALW stocks. It provides recommendations on SALW control in post-conflict situations and includes measures on information exchange and confidence-building.

The UNPoA starts by acknowledging problems caused by SALW proliferation. It assigns the primary responsibility for managing SALW proliferation to states and gives governments the task of preventing and combating illicit trafficking of this category of weapons. It urges governments to cooperate and assist each other in order to deal with the issue with more efficiency. It also underlines the fact that SALW proliferation has to be dealt with on several dimensions, therefore emphasizes the need to establish strong national, regional and international mechanisms where all affected parties will have a say, including the civil society groups.

States party to the UNPoA declare their willingness to prevent, combat and eradicate the illicit trade in SALW by strengthening existing measures at the

global, regional and national levels that would help to deal with the prevention of SALW proliferation and they agreed to develop new measures that would further prevent the proliferation of those weapons and that would allow further cooperation amongst states and regions. States also pledged that they would implement measures that have been agreed upon on the final document of the UNPoA. They agreed that there was a need to be especially cautious about the accumulation and transfer of weapons to regions where conflicts have been recently over because of the destabilizing impact of SALW proliferation and accumulation to those zones. States have agreed upon the need to raise awareness on the serious impacts caused by illicit manufacturing and trafficking of SALW. Governments acknowledged their responsibility in preventing the circulation of SALW whether as import or export, transit or retransfer.

States party to the UNPoA have committed themselves to adopt controls and measures to prevent, combat and reduce the illicit trade in SALW by establishing national points of contact on SALW to gather data and to exchange information as well as establishing national SALW co-ordination agencies and bodies. They have agreed to criminalize unauthorized acts of manufacturing, possession trade or transfer of SALW. They pledged to adopt measures relating to manufacturing, marking, keeping records, tracing SALW and also measures relating to licensing end-use controls and controlling legal SALW transfers. They have also agreed to make efforts in controlling brokering activities. States have pledged their willingness to exchange information and be transparent about their operations relating to SALW proliferation and production. They have agreed to take

measures on weapons collection and on the destruction of illicit and surplus weapons stocks as well as on disarmament, demobilization and reintegration (DDR) projects. They have acknowledged the need to take further action on stockpile management and security. All states signatory of the UNPoA have agreed to comply with arms embargoes imposed by the UN Security Council. They have also agreed to encourage regional and sub-regional projects consistent with the UNPoA as well as to encourage and make it easier for international organizations and civil society to participate in efforts relating to the prevention of illicit SALW proliferation. All signatories pledged to give information on the progresses they make in implementing the UNPoA to the UN Department for Disarmament Affairs (UN DDA) for the UN DDA to gather the information and make it available to all.

In the third section of the UNPoA, the states taking part in the Programme of Action agreed to undertake measures that will make it possible to implement the UNPoA through international cooperation and assistance. They agree to share information as well as resources on several levels, being global, regional, sub-regional and national levels all levels including the participation of states, international and regional organizations, and also the participation of civil society groups. States consented to establish regional and international programmes for training on matters relating to stockpile management and security. States also pledged to provide assistance to one another in case of request to deal with issues relating to the implementation of the UNPoA.

The last part of the document relates to follow up mechanisms. States agreed at the 2001 Conference to meet on a regular basis, at biennial meetings (BMS) to share information and to discuss on the progresses achieved and the difficulties faced in the implementation of the UNPoA on a global, national and regional level (UN, 2001). The states also agreed that they should hold a review conference no later than 2006. The participants agreed that the Review conference would not discuss the norms and standards set forth during the 2001 conference but will result in a new document, non binding like the 2001 Conference UNPoA.

The UNPoA also requested the establishment of UN Study Group to assess whether or not an international instrument could be developed to identify and trace illicit SALW around the world. The Programme of Action called upon states to increase international cooperation in stopping illicit brokering of SALW.

The UNPoA has achieved important tasks. Most importantly, it has brought the issue of SALW to the international agenda. It has become one of the most important tools in the fight against the illicit proliferation of SALW by suggesting international, regional and national actions, programmes and schemes to exchange data, information and knowledge on the issue. It aimed at improving the existing legal frameworks to deal with illicit SALW proliferation, improving international control and cooperation. It also put a special emphasis on the needs of children.

The UNPoA has also resulted in States agreeing to criminalize unlicensed export, brokering and production of SALW (Karp, 2006). Another important achievement has been to increase and improve government control and management of existing stockpiles of weapons.

There has been since 2001, notable progress in the implementation of the UNPoA (UN, 2008). It has been observed that many states have improved their national legislations on SALW proliferation. There have been DDR programmes that have been developed and implemented. Several states have taken further steps by introducing small arms action plans to their national development schemes.

However there have been many difficulties and shortcomings in the implementation of the UNPoA and the implementation has not been at the same pace or at the same depth in all signatory states. At the national level, national reporting required by the UNPoA has not been uniform. Although the number of reports submitted has steadily increased, some regions remain behind and some reports remain superficial. Some national reports also fail to clarify the challenges the country has faced in the implementation of the UNPoA and fail to give recommendations to overcome those difficulties.

Although the UNPoA gives much emphasis on information exchange and cooperation, the level and effectiveness of information exchange between law enforcement and customs officials of States among each other and their exchange with the International Criminal Police Organization (INTERPOL) has been limited (UN, 2008).

Although the 2001 process started with large participation and countries expressed their willingness to deal with the illicit proliferation of SALW, the biennial meetings in 2003 and 2005 failed to provide consensus on improvement of the UNPoA and its implementation. The much anticipated review conference in 2006 produced no final agreement and no further development of actions to

counter illicit SALW proliferation. The need to achieve consensus often results in agreements expressing the lowest common denominator, if any consensus is reached (Karp, 2006).

The UNPoA has several limitations also acknowledged during the 2008 meeting by member countries (UN, 2008). First of all it is not a legally binding instrument but a politically binding one. Therefore it relies on states' willingness to comply with the suggestions in the UNPoA. Since it is not a legally binding document, non-compliance or failure to timely and effectively address the issue is not punishable. The non binding characteristic of the UNPoA prevents it from being an issue of high priority for most governments. Another reason why some states have been slower than others in adopting measures to implement the UNPoA has been the lack of specific numerical targets regarding the benchmarks that are aimed or any information about cut-off dates.

In order to understand the particular characteristics of the SALW problem it is important to compare it with existing non-proliferation agreements. First of all the nuclear nonproliferation regime and the UNPoA will be compared to understand the similarities and differences between the two categories and in understanding what particularities an approach targeting SALW proliferation has to challenge in order to successfully remedy the problem.

The UNPoA has several similarities with the NPT (Mutimer, 2006). Both regimes are formulated around the difference between licit and illicit aiming to prevent diversion of what has been legally acquired to illicit channels. In addition both regimes rely on export controls and "materials accountancy" to police the

adherence of states to the regime. To that end, the NPT has put into place an important monitoring regime that aims at preventing diversion and at detecting diversion if it occurs. Since both regimes aim at preventing diversion, they have to control the materials that cause danger once diverted. In the case of the NPT, the materials to be controlled are fissile materials whereas in the case of SALW proliferation the SALW itself has to be controlled. In both cases the most efficient way to control diversion is through export controls and through the issuance of end-use certificates. The second mean to sustain the regime in both cases has been the system of “material accountancy”. Whereas the NPT gives to the IAEA the task of controlling the quantities of nuclear material and the changes in the quantities as a measure of safeguard, the UNPoA calls for procedures to manage SALW stockpiles and encourages the creation of a marking and tracing system that will make it possible to control the flow of arms and that will also make it possible to trace the arms to where the diversion has occurred.

Although there are strong similarities between the two regimes and in the means they use to control compliance, there are also important divergences (Mutimer, 2006). For example, in the case of SALW proliferation there are no clear-cut definitions on what quantity constitutes a “significant” or “excessive” quantity. There is no agency to monitor the flows in cases of diversion or in cases of accumulation of SALW, such as the IAEA, which is mandated to follow quantities and diversion possibilities in the context of the nuclear nonproliferation regime. Another important difference rests on the technologies of the weapons themselves. SALW are extremely common and as the existence of craft

production shows, individuals can relatively easily manufacture them. On the other hand, nuclear weapons necessitate advanced know-how, and rare materials such as enriched uranium or plutonium. The differences in technologies are enough to put into question the similarity of the control regimes of two different weapons systems and can shed light on what is missing in the initiatives to deal with SALW proliferation.

The most remarkable limitation of the UNPoA is that it is only concerned with what is “illicit”. Although most illicit weapons start their journey in a legal framework, the UNPoA fails to deal with legal transfers of SALW. The word “illicit” appears in the document, which is only 83 paragraphs long, 55 times, defining the scope of the Programme (Mutimer, 2006).

Another disadvantage of the UNPoA is that although the title of the Programme of Action shows the ambition to deal with the issue in “All Its Aspects” the Programme focuses on a limited range of issues and leaves important matters aside (UN, 2008). One of the important issues relating to SALW proliferation that has been left aside in the UNPoA is the problem of SALW ammunitions. Although the Panel of Governmental Experts on Small Arms that produced the reports that laid the foundations of the UNPoA included SALW ammunition as an integral part of the solution the UNPoA failed to address the problem.

The UNPoA also gives the responsibility to control brokering activities to states. However as we have seen above, the progress in implementation at the national level changes from one country to another, therefore the UNPoA cannot

be an effective instrument in controlling brokering activities since the patchwork of national regulations that result from it enables brokers to continue their activities by using loopholes in the system.

The UNPoA fails to underline that development and security are intertwined (UN, 2008). Therefore it failed to encourage states to include SALW control issues in national development schemes and it has failed to include developmental components in disarmament strategies.

Another important issue that has been overlooked by the UNPoA has been the lack of attention given to the most vulnerable and the most disproportionately affected by SALW, which are children, women, elderly and refugees or internally displaced people. There are no explicit gender-specific measures to opt for against SALW proliferation.

Although the UNPoA gives special importance to the exchange of information, cooperation and assistance, it fails to give concrete blueprints to guide states on how to implement those measures aiming to improve and increase information exchange (UN, 2008). There are also no clear guidelines on international assistance to countries that desire to implement the UNPoA and often countries lacking resources have no clear procedures through which they can seek international assistance.

The UNPoA focuses on a limited range of issues related to SALW proliferation. It does not, for example aim to abolish SALW. On the contrary, many signatories underline in their national legislation their right to arm

themselves through granting arms to their officials and also the right of individuals to private civilian ownership (Karp, 2006).

It provided no new mandate for action on legally owned weapons, although there is a growing consensus that those are the weapons to tackle if progress is to be made. The UNPoA fails to address how to regulate SALW held by civilians (IANSA, 2007).

Another severe limitation of the UNPoA is that it does not mention human rights (IANSA, 2007). However, as shown in previous sections, SALW proliferation has a huge detrimental effect upon human rights around the world. The UNPoA also makes no reference to human rights abuses committed by state officials.

The limitations of the UNPoA and the UN conferences on small arms result from several factors. First and foremost, the need to achieve consensus hinders all efforts to address issues that impede States sovereign practices on SALW, such as civilian ownership. Some argue that the timing of the 2001 conference contributed to its limitations primarily because it coincided with the Bush administration's reluctance to adhere to any multilateral agreements (Mutimer, 2006). In addition, even if the government had been keener to adhere to global initiatives and adopt international norms and regulations on the issue, the gun lobby has a considerable influence on politics. Seeing the process as an attempt to limit their rights, if not take them away entirely, the gun lobby has imposed a series of limits to what could be agreed upon by the US representative John Bolton at the 2001 UN

conference. Those factors caused the final document of the conference, the UNPoA to have severe limitations.

The most successful campaigns in countering SALW proliferation have been adopted in countries that adopted national plans to deal with the issue (UN, 2008). Therefore, the international community should give the priority to national campaigns in arms infested regions instead of waiting for states to reach consensus in international initiatives.

In the case of the nuclear nonproliferation regime, the system is successful to a great degree because of the distinctiveness and rareness of uranium and plutonium required to produce nuclear weapons. However such a distinctiveness or rareness does not exist in the case of SALW, putting into question the usefulness to distinguish between what is legally acquired and what circulates in illicit channels.

The nuclear nonproliferation regime, like the UNPoA, focuses on controlling supplies, especially when it risks diversion. However there are no agencies such as the IAEA in case of SALW proliferation. Therefore there is the need to achieve a common marking and record keeping system to see at which point arms have been diverted. However such a system has not been achieved yet and the implementation of the UNPoA varies from one nation to the other, causing important gaps in quantity and quality of records kept by states.

Thirdly, the similarity of the NPT and the UNPoA is that both downplay the importance of the demand. However, whereas the supply being easier to control in the case of nuclear weapons can legitimize a supply driven approach to control the

proliferation of nuclear weapons. But failing to address demand of SALW and the underlying causes of the demand impedes the efforts to prevent the proliferation of SALW since illicit SALW can be more easily obtained than any other types of weapons.

Those differences make it that the current approach to the proliferation of SALW expressed in the UNPoA fails to address the core issues of the problem. Using similar instruments to deal with two totally different issues is not conceivable. If the UNPoA is to function as efficiently as the NPT, there needs to be several adjustments to its provisions. For example, the difference between licit and illicit should be abolished and an international monitoring system has to be put into place. However as stated several times in this paper, it is not realistic to expect that states agree on such an issue, especially considering the US position up to now, on changing their national regulations mainly on the issue of legal transfers of SALW, being between states or between private actors and states. Expecting a higher level of transparency that will be required to monitor all SALW related activities of states is also for now not realistic.

5.1.2 Firearms Protocol

The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (hereafter referred to as Firearms Protocol), lays down a regulatory framework to deal with the illicit proliferation of SALW and its consequences. The Firearms Protocol is an addition to the UN Convention against Transnational Organized Crime. It entered into

force on 3 July 2005 and had by the beginning of 2008, 52 signatories and 72 parties (UN, 2008). It obliges states to declare acts such as the illicit manufacturing and trafficking firearms and ammunition, the falsification of documents on SALW, or the destruction of existing markings as criminal offenses to be punished by law.

The Firearms Protocol is an important document not only because it sets global norms and regulations in the area of illicit SALW proliferation, but also because it complements other international and regional initiatives, that will be dealt with in the following sections, such as the UNPoA, the International Tracing Instrument, the CIFTA or .

5.1.3 International Tracing Instrument

The International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (hereafter referred to as the International Tracing Instrument) is an international instrument adopted by the decision 60/519 of the UN General Assembly. The International Tracing Instrument is an important document that can contribute to efforts aiming at preventing the illicit proliferation of SALW. It is, like the UNPoA, not a legally binding document, but rests on the political willingness of states to sign it and comply with it. It urges states to adopt laws and regulations on marking new productions of SALW and also on marking the existing SALW in government inventories. It also urges states to mark weapons at the time of import as soon as

they come into the country. One area neglected in the International Tracing Instrument is that it leaves SALW ammunition aside.

The International Tracing Instrument provides a basis for states on which they can enhance their efforts to prevent illicit SALW proliferation by allowing them to ask tracing request from one another and also enables peace keeping missions to request tracing from states. It establishes partnership between the UN and Interpol as partners in tracing SALW.

Although it is a valuable instrument, its lack of enforcement capability limits the efficiency of the International Tracing Instrument in countering illicit SALW proliferation. The success of the instrument can only be achieved if states cooperate between each other and assist one another in implementing the clauses of the Instrument. Once again transparency and cooperation among states to adopt common practices, norms and regulations is crucial.

5.2.4 UN Register of Conventional Arms

The UN Register of Conventional Arms regroups data on international arms transfers, information on actual military inventories of conventional weapons as well as information on procurements through national producers and policies on arms procurement. Since 1991 up to beginning 2008, 172 states have participated in the Register (UN, 2008). The relevance of the UN Register of Conventional Arms to the issue of SALW arises from the expansion of its scope that opened in 2003 the possibility for member states to report their SALW inventories, holdings, transactions and procurement policies. Although reports on SALW are rarer than

reports on other conventional weapons this is a step towards establishing official databases on SALW.

The UN Register of Conventional Arms aims to succeed in international and regional confidence-building by achieving transparency among states. Another advantage of the Register is that it allows observing the evolution of arms procurement and can help to prevent the excessive and destabilizing accumulation of weapons in a given region if the international community uses preventive diplomacy to prevent or reverse this trend.

5.1.5 Human Rights Council

The Human Rights Council can be, in the near future, a new instrument to formulate SALW related policies and practices (de Alba, 2007). The Council produces a series of “Draft Principles on the Prevention of human rights violations committed with small arms and light weapons (hereafter referred to as Draft Principles)”. The Draft Principles are constituted from two parts, the first part consisting on a set of principles laying down the responsibilities of State agents such as the officers of the police force or the army personnel, whereas the second part deals with measures proposed to increase due diligence in order to prevent human rights abuses perpetrated by private actors such as not only civilians but also armed groups and private security companies ‘personnel.

In the first part relating to State agents obligations, the obligation to endorse human rights principles is underlined. The importance given to the fundamental rights to life, to liberty and the right to security of the person are reaffirmed. In

turn, the Draft Principles state that in order to fulfill their obligations relating to human rights, states are obliged to adopt and implement strict rules and regulations about the use of force and that states have to prosecute all cases where there have been arbitrary or abusive use of force by independent and competent authorities. The issues of storage and stocks management are underlined, the Draft Principles calling States to assure the proper storage and management of SALW. It is stated that States have to provide appropriate training to their law enforcement personnel and make sure to have appropriate selection procedures during recruitment. There is a special emphasis on States obligation to provide good training concerning the proper use of guns and related ammunitions.

In the second part, dealing with due diligence measures to be adopted by states in order to prevent human rights abuse by private actors, the Draft Principles sets up regulations such as licensing requirements, for example a minimum age in order to be able to apply for a license. The mental fitness of the applicants should be controlled. They shouldn't have any prior criminal record or record of misuse, including acts of domestic violence or violence against an actual or former partner. There must also be a valid reason for civilians to acquire licenses and those who receive licenses should receive proper training. More importantly licenses should be renewed periodically in order to make sure that the licensing requirements are still fulfilled by the gun owner. The Draft Principles also call upon States to ensure proper controls over the manufacturing, marking and tracing of SALW. It encourages the development of DDR Programmes and weapons collection initiatives. It reaffirms the need to ensure that international

transfers that are contrary to States obligations under international regulations should be prohibited especially in cases where the transferred SALW are likely to be used to commit human rights violations.

The Human Rights Council can be an important instrument in providing new momentum to controlling the use of SALW, regulating the trade in SALW and in providing assistance to SALW victims if its work and resolutions are used to complement the UN process on SALW (de Alba, 2007).

5.2.6 Arms Embargoes

The UN Security Council puts into force arms embargoes. Today, there are nine standard UN arms embargoes in force. Those embargoes include clauses according to which the transfer or sale of SALW to sanctioned states, organizations and individuals is prohibited. Those arms embargoes aim at halting the spread of SALW to conflict zones where their presence will most likely cause an increase in tensions, to the continuation of hostilities, increasing numbers of casualties and prolongation of ongoing conflicts. Unlike any other international agreements, the Security Council has the ability to establish those embargoes. Today most, if not all, Security Council interventions to prevent or halt armed conflicts include provisions aiming to control the transfer of weapons to insecurity afflicted areas (Karp, 2006).

The success of arms embargoes depends on the ability of states to monitor borders of the sanctioned state as well as inspections inside the country (UN, 2008). Unfortunately, many of the states under UN arms embargo have porous

borders difficult to control. Therefore it is essential to achieve timely and effective information exchange between various agents present on site such as citizens of the sanctioned country, international and non governmental organizations, peacekeeping missions' personal and the media to control that the embargo is implemented correctly. Recent involvement of peacekeeping missions and independent monitoring agencies such as has improved the UN's ability to scrutinize the extent to which arms embargoes are respected (UN, 2008).

Although there have been improvement in the design and monitoring of arms embargoes, the success in the implementation of embargoes and their effectiveness varies tremendously between regions.

5.2 Regional Efforts

5.2.1 Africa

Africa is probably the continent in which the negative impacts of SALW proliferation is felt the most (Bourne, and et al. 2006). SALW proliferation in Africa has gained an impetus in the immediate years after most African states declared their independence (Vines, 2007). The demand rose with the numerous internal wars, uprisings and military coups that occurred in the post-colonial period of political instability. Some argue that there have been over 60 coups d'états in Africa from 1963 to 1984. During this period, SALW have contributed to the prolongation of violent conflicts, often increasing their lethality. The proliferation of SALW in the continent has also provided the necessary tools to armed gangs in pursuing their criminal activities. On the other hand, with the end

of the Cold War, many Eastern bloc countries were left with surplus weapons and ammunitions. They saw Africa as a good dumping ground due to the high demand from conflict zones such as Angola, Sierra Leone, and Liberia. Several brokers such as Victor Bout and Tomislav Damnjanovic have been known for making huge wealth from arms transfers to African countries. Although many argue that SALW issues on the African continent are due to actions or negligence of agents outside the African continent, some argue that the current problems are due to the countries internal dynamics rather than external factors. To support their claim, they state that African Kalashnikovs are the cheapest Kalashnikovs on the market. In addition to that due to the level of income of most of the demanders of SALW, due to loopholes in regulatory effectiveness, the availability of SALW left over from previous conflicts, due to the low supply costs, and porous borders, SALW are often cheaper to buy from African countries. The overall impact of SALW proliferation has been to prevent the even development of the continent. Although the number of military coups on the continent has declined since the beginning of this decade, the number of SALW in circulation on the continent and their impact on security and development remain alarming. There have been several limits to African action to control SALW proliferation. Governments are often preoccupied with the ongoing conflicts that still take place in most parts of the region. Even in the absence of conflict, the governments which are undemocratic and weak in providing security for their citizens do not see SALW proliferation as an urgent issue to be dealt with. Even in cases where the necessity to deal with SALW proliferation is apparent, governments of the region often lack the necessary

capacity to effectively make legislative changes and apply adopted policies. The lack of economic resources often causes one of the main challenges to efforts to prevent SALW proliferation and misuse.

Although they experience severe limitations in dealing with SALW proliferation relatively to other regions due to their underdevelopment, African states have in international forums voices the necessity to tackle the issue and sub-regional organizations and agreements have achieved considerable success in some areas of the continent, although the level of success varies among regions. In the international arena, the adoption of the Bamako Declaration by African states in December 2000 has not only proved the willingness of those nations to deal with SALW proliferation, but has in addition provided a framework in which the UNPoA has been developed. The Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons (Bamako Declaration), was adopted by African States in Bamako, Mali following a ministerial conference held from November 30th to December 1st 2000, to define a common African position in preparation to the 2001 UN conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (OAU, 2000). It is important to see that the Bamako Declaration has constituted an important foundation for the development of the UNPoA. It sets forth several recommendations on national, regional and international levels that have been adopted later in the UN process. Its most ambitious call has been to appeal to arms supplier countries in particular to limit their trade to governments and legally authorized licensed traders, to help SALW affected African countries

in dealing with the circulation and trafficking SALW in the continent. They call the international world to find ways in preventing the habit of dumping excessive SALW in the African continent, a practice that has on several accounts violated UN arms embargoes. Arms producing countries and the international community have been asked to make necessary legal changes in order to control arms transfers and strengthen existing laws and procedures to achieve better control over trade as to enable differentiation between illegal and legal trade to tackle the illicit trade in SALW. The Declaration is important since it voices the consequences of SALW proliferation for one of the most negatively affected regions of the world. Since those countries are the most adversely affected regions, their recommendations are the most comprehensive ones at dealing with the problem. Although several of the recommendations have been included in UNPoA recommendations, the need for consensus in the UN project has caused that some ambitious recommendations, mainly on the trade of SALW have been left aside.

All those international initiatives and the adoption in several regions of sub-regional agreements have caused differing results in the implementation of SALW related policies in the continent. It is important in order to assess the situation in Africa relating to SALW proliferation to see initiatives undertaken by regional organizations, and sub-regions.

The most important organization in Africa that deals with security issues is the African Union (AU). The AU has launched in 2004 the Peace and Security Council, which pledges to support and push for the implementation of

international agreements on SALW proliferation, arms control and disarmament. Although it has shown a strong willingness in tackling SALW proliferation in accordance with international measures adopted on the issue, the AU actually focuses mainly on peace support operations and crisis management. It lacks the capacity to prevent conflict as well as to achieve cooperation and coordination among members on SALW related issues (Bourne and et al. 2006).

In relation to the UNPoA, the AU has been supportive although its ability to push for UNPoA recommendations to be adopted has been limited. It has achieved in opening the dialogue between 50 African states in Namibia in December 2005, where the “African Common Position” was adopted. The African Common position on the implementation of the UNPoA caused dissatisfaction among some participants, because it was perceived as being less progressive than initiatives launched by African states such as the Bamako Declaration or sub-regional initiatives that will be explained in the following paragraphs.

The overall progress in implementing the UNPoA has been irregular in the African continent. There have been several countries that have adopted major measures to align their policies with UNPoA requirements, whereas others have made very limited changes.

An important fact that differentiates African states from most others is that countries in the region have often adopted National Action Plans. Those action plans have proved to be successful since they clearly identify the specific issues regarding the country and identify specific strategies to deal with those issues. In addition several African countries have today national coordination agencies as

envisaged in the UNPoA. Although there have been several positive developments in the continent, the established bodies lack the financial and economic resources that are needed to fully implement the designated strategies. Most importantly, they lack the support of the political actors of their countries.

The Great Lakes Region and Horn of Africa are two regions of the continent where both the availability and the demand for SALW are abundant. The availability of SALW in the region is due to the conflicts experienced in the 1990's and DDR programs are necessary to deal with those remaining SALW as well as in order to reintegrate ex-combatants into society to prevent them from turning to criminal activities. The demand on the other hand is being fueled by other conflicts, such as in Sudan and in the Democratic Republic of Congo. The weak stock management and security provided by states in the area in controlling their SALW arsenals and the existence of poorly controlled borders amongst countries of the region all cause significant difficulty in controlling SALW proliferation in the sub-region; however several significant steps have been taken by sub-regional actors in order to improve the situation.

The Nairobi Declaration on the Proliferation of Small Arms in the Great Lakes Region and the Horn of Africa (Nairobi Declaration) is considered by many experts on SALW proliferation as one of the most progressive sub-regional SALW agreements ever concluded (Bourne and et al. 2006). The objectives set forth in the Nairobi Protocol aim to put issues relating to SALW under the control of signatory governments, such as illicit manufacturing, import, export and transit of SALW, civilian possession, controls over SALW owned by governments and

related security forces, marking, recordkeeping, brokering, enforcement of arms embargoes, destruction of surplus, disused or obsolete weapons, capacity building for successful adoption and implementation of the Declaration, public education and awareness raising programs, information sharing and cooperation (Nairobi Protocol, 2004). One of the strengths of the Nairobi Protocol is its extensive measures on the civilian possession of SALW. The signatory countries pledge to adopt legal measures to prevent unrestricted civilian possession of SALW. They agree to prohibit the use of all light weapons by civilians and the possession by civilians of all automatic and semi-automatic rifles and machine guns. States guarantee that they will keep regulated and centralized records of all civilian-owned SALW in their territories on their national databases as well as keeping records of the trade in SALW that occurs on their territory. They also guarantee that they will adopt harmonized and heavy sentences for those who commit crimes with SALW. Those steps are especially important in preventing SALW proliferation and misuse, since it has been often repeated in this paper that most SALW used in illegal channels have first been on circulation in legal circles.

Another of the most important tasks that the signatory to the Nairobi Protocol agree to perform is to harmonize their SALW legislation and to include specific provisions into their domestic laws. To that end states have created the Nairobi Secretariat as the sub-regional body to coordinate action on SALW (article 18). The Secretariat was mandated by parties to the Protocol to supervise the implementation of measures included in the Protocol. It was also mandated to provide signatory states with guidelines or instructions to allow better

implementation. The Secretariat is also responsible for working with law enforcement agencies and attending to the problems they face while implementing the Protocol.

In order to compliment and improve the implementation of the Nairobi Protocol, member states have added in June 2005 the Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons. The Guideline allows better implementation of the Nairobi Protocol by providing signatories with recommendations and a comprehensive guide on how to apply the policies that have been agreed upon. An important characteristic of the Guideline that makes it a valuable instrument in preventing SALW proliferation is that it sets for participant states high common standards that almost always go further than standards set in the UNPoA, which reflect as it has been said in previous sections the most basic common standards to be applied due to the need to achieve consensus. The standards are especially comprehensive and elaborated in the area of SALW transfer and on how states should take the decision of granting export licenses without breaching their existing obligations under international law.

In June 2005, the Nairobi Secretariat was transformed to the Regional Centre on Small Arms (RECSA). RECSA has since its creation enjoyed the recognition of all sub-regional actors and also has benefited from an independent legal status. Its task has been to coordinate action of participants on SALW related issues and also to provide efficient information exchange between countries. RECSA has also been active in promoting harmonization between sub-regional

states' legislations on SALW by organizing workshops and annual meetings to review progress that has been achieved in the implementation of changes.

Although there is concrete progress in the implementation of SALW policies by countries in the Great Lakes and Horn of Africa, the national implementation of decisions such as the UNPoA or the Nairobi Protocol have been uneven. Although all signatories to the Nairobi Protocol have established National Focal Points coordination agencies needed for the implementation of both the UNPoA and the Nairobi Protocol, some of those agencies are not fully operational.

Real success has been achieved in Kenya, Tanzania and Uganda, the countries of the region which have all established national action plans in order to implement the measures of the UNPoA and Nairobi Protocol. Those countries have also put into place task forces that will ensure the implementation of SALW related policies in both regional and local scales. States such as Kenya, which has adopted a new small arms policy and has reviewed its legislation, as well as Uganda which has started to develop its new small arms policy and has started to review its records and procedures on the civilian ownership of weapons are two examples of successful implementation of international and regional agreements in the region. Also DDR programs have been relatively effective in areas where recent conflicts have resulted in the presence of surplus SALW, such as in Sudan where international organizations work together with regional authorities to address SALW related issues and in the reintegration of ex-combatants.

Civil society in the sub-region is deeply involved in security issues, SALW controls included. Civil society is encouraged to participate to the implementation

of international and regional plans as well as in National Action Plans. The high level of involvement of civil society in two of the states that display the most improvement in the implementation of the international and sub-regional initiatives, being Kenya and Uganda show that civil society involvement in SALW issues and in the implementation of policies, for example in monitoring and supporting those policies is highly influential upon the success of the projects.

Central Africa is another region of the African continent where SALW cause significant amount of problems. The SALW related issues in Central Africa are mostly due to the ongoing conflicts and also the availability of SALW in post-conflict settings. Although some states such as Sudan are members to the Nairobi Protocol, most Central African states remain outside of its scope. In stark comparison with the impact of SALW on the region's peace and stability, Central African states have no sub-regional agreements that would improve their implementation of SALW related policies and legal reforms. Their implementation of the existing instruments such as the UNPoA remains limited. Most Central African states have submitted reports to the UN DDA and some have national coordination mechanisms, there have been some efforts to disarm population and to destroy surplus weapons. However, those efforts get short from solving the actual problems faced by Central African states.

West Africa is among the sub-regions of Africa that are affected the most from the proliferation and misuse of SALW. Each of the countries of the sub-region has experiences armed violence. Therefore it is essential for countries of the region to effectively deal with SALW issues in order to achieve stability,

peace and development. Since this has been acknowledged by states of the region there have been positive regional initiatives that are important to study.

Since the problem of SALW proliferation in the region can only be dealt with through regional and sub-regional measures, it has been important for West African states to find common policies and principles to adopt regarding to the issue. The region's principal organization where SALW issues are dealt with is the Economic Community of West African States (ECOWAS).

Members of the ECOWAS have adopted during the 21st ordinary session of the Authority of Heads of State and Government held in Abuja in October 1998 the ECOWAS Moratorium, a document prohibiting the import, export and production of SALW by states party to the moratorium (ECOWAS, 1998). The document has not satisfied some critics who claimed that the language of the document was not clear enough and was open to different interpretations. The Moratorium covers the importation, exportation and manufacture of light weapons in ECOWAS member states. There were also problems related to its enforceability. Although it faced such criticisms, the ECOWAS Moratorium is still the instrument in the sub-region that has allowed the 15 signatory states to successfully implement most UNPoA recommendations. The criticisms have caused a review of the Moratorium by the ECOWAS Secretariat, and resulted in a Draft Convention that aimed at establishing a legally binding and enforceable ECOWAS Convention on Small Arms and Light Weapons that would not only deal with most provisions in place in the Moratorium, but that will also include provisions relating to ammunitions, that underlines gender perspectives in SALW

related issues and that will include clauses on brokering and domestic production of SALW. The ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (ECOWAS Convention) has been signed by member states at Abuja on the 14th June 2006 (ECOWAS, 2006). The ECOWAS Convention incorporates bold measures, such as in Article 3 where member states commit themselves to ban SALW transfers and to ban SALW manufacturing materials into, from or through their national territory. They also commit themselves to ban transfers of SALW to Non-State actors when the importing state has not explicitly authorized such a transfer (Chapter 2 paragraph 3). This is an important measure and is one of the few instances, along with the EU Code of Conduct, where SALW transfer to Non-State actors has been dealt with. States signatory of the Convention also commit themselves to several measures destined to control the manufacture of SAWL in order to have accurate registers and data on the quantity of manufacturing companies and the types of SALW they produce (Chapter 3). The Convention also aims at increasing transparency and exchange of information among members, in order not only to control SALW proliferation in the Community but also in order to increase the confidence of members towards each other, the pledge by member states to establish a sub-regional database and register of SALW under the ECOWAS Executive Secretariat is a proof of this (article 10). Operational mechanisms in the Convention are designed to control the civilian possession of SALW, by prohibiting the possession, use and sale of light weapons the civilians, by imposing severe restrictions on granting licenses to civilians, limiting the number

of weapons that civilians can have by restricting the number of weapons a license may cover. This is important in that the largest number of SALW in circulation today, as underlined several times in this paper, is in civilian possession and governments often fail to accurately monitor SALW possessed by their citizens, and misuse, negligence, theft or diversion of SALW possessed by civilians often results in instability, criminality and also insecurity. Other important measures include, marking and tracing of SALW, as well as their safe storage, the destruction of seized or surplus SALW, the harmonization of member states' legislation, the adoption of further measures to strengthen border controls and the initiation of public awareness and education programs. Another important feature of the Convention is the way in which brokering is dealt with. Member states pledge to register all individuals and companies including financial and transportation agents that are involved in SALW brokering. They also commit themselves to ensure that irrespective of the location in which the transactions take place, brokers will be asked to obtain explicit authorizations for their trading activities. The importance of this decision lies in the fact that the location of the transaction is not seen as relevant to the broker's obligation to obtain authorization. This might close some of the loopholes used by brokers who often prefer to operate from regions with lax legislations on brokering. In order to monitor the implementation of the Convention, parties have decided to mandate the Executive Secretary to appoint a Group of Independent Experts to right reports on the progress of member countries (Chapter 5 article 28). Although the adoption of the ECOWAS Convention by member states is a positive development, their

implementation has often been uneven and the pace of their implementation has often lacked continuity.

On a national level, states of West Africa have shown relatively good progress in implementing SALW related policies in line with UNPoA recommendations. Most states in the sub-region have established national points of contact and have progressed in the implementation of both the UNPoA and the ECOWAS Moratorium. Another area where sub-regional success has been remarkable is on issues such as DDR programs and Weapon Destruction initiatives that are not explicitly dealt with in the UNPoA. The “Arms for Development” initiatives that have been developed in Sierra Leone and Liberia are good examples to illustrate such developments. States in West Africa have also developed national strategies to deal with SALW proliferation and its negative impacts. Once again we can see that the presence of a relatively active civil society has contributed to the success of the implementation of national strategies. Civil society organizations in West Africa such as the West Africa Action Network on Small Arms, the Ghanaian or Nigerian Action Network on Small Arms have contributed to the implementation of national, sub-regional and international policies on SALW proliferation.

The final region in Africa that has to be mentioned in order to have an accurate and complete image of the implementation of policies related to SALW proliferation in the African region is South Africa. South Africa has, since the cessation of several sub-regional conflicts, has been a relatively stable region. The vast quantity of SALW in the region is however alarming and has to be dealt with.

SALW presence in the region is due to several reasons. First of all, the region has, during the Cold War, received huge amounts of SALW, and due to their longevity those SALW still circulate through inaccurately controlled borders, among regional and sub-regional actors. Important quantities of weapons are also produced in the region. The large number of SALW in the area causes insecurity by increasing criminality and therefore results in a vicious circle where insecurity further increases the demand for SALW. Those problems have pushed sub-regional countries to adopt significant measures in dealing with SALW.

The Southern Africa Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials that was signed in 2004 is an important agreement reached between fourteen regional governments (SADC, 2004). It covers several important issues such as increasing control over civilian possession of firearms, once again prohibiting the use of light weapons by civilians, also establishing record keeping procedures, as well as marking methods for SALW and related ammunition. State parties also pledge to assist each other in the implementation of legislative measures included in the SADC Protocol that are essential in controlling SALW proliferation. The most important characteristic of the Protocol is that it is legally binding and it includes ammunition in its scope. However the implementation of the SADC Protocol has been relatively slow. The absence of a sub-regional body mandated to monitor and coordinate the implementation of the Protocol can account for a reason of this tardiness, although the establishment of a Committee mandated to oversee the implementation of the Protocol is included in the Protocol (article 17).

There have been at the national level progress in the implementation of both the UNPoA and measures agreed in the SADC Protocol by sub-regional countries. Countries have established national coordination agencies and some have developed national action plans and national focal points to coordinate SALW policies. New legislations have in several sub-regional countries achieved to adopt more strict rules on SALW, for example South Africa, by adopting a new Firearms Control Act in 2004 has increased government control over the possession, sale and production of SALW.

Civil society has once again played an important role in the implementation of international as well as sub-regional tools to control SALW proliferation. There have been studies led by non governmental organizations to assess the impact of SALW proliferation in South Africa. There are also a number of informal forums through which experiences are shared such as the African Forum on Small Arms coordinated by the Institute for Security Studies.

There are however still issues to be addressed, such as DDR programs in areas where there are surplus weapons. There must be collection and destruction programs to decrease the number of available weapons in the region and prevent the excessive and destabilizing accumulation of those weapons in regions where they are likely to cause conflict. There must be an increase in the willingness of political actors in order to efficiently deal with SALW related issues in the sub-region and increase the level of cooperation in the area.

To conclude on this part dealing with the African region, it can be said that although there have been many countries where meaningful steps have been taken

in order to control SALW proliferation and to avoid their destabilizing accumulation, there are still areas where improvements are not only possible but urgently needed. There are opportunities to increase cooperation among states by increasing the number of existing coordination institutions such as the RESCA. All parties to treaties such as SADC Protocol and ECOWAS Moratorium should recognize those institutions and have the authority and the duty to coordinate member states' actions on SALW and promote the implementation of adopted decisions.

As it was repeated on several occasions in this paper, the international consensus on SALW transfers and international norms on arms brokers are essential to prevent SALW proliferation in Africa. This is due to the fact that even if African states achieve to control their control over several aspects of SALW such as managing and storing their own weapons or if they organize weapons destruction programs

As highlighted in the part dealing with UN arms embargoes, it is essential that the international community achieves to prevent the breach of arms embargoes to the region, especially towards areas of conflict or areas where the accumulation of SALW is likely to disrupt peace and security. In this regard, some NGO's suggest that states neighboring countries where UN arms embargoes are in force should cooperate with all groups that have the duty and capacity to monitor the effectiveness of the arms embargoes (Bourne, and et al. 2006). One of the major challenges to those African states being their lack of financial and technical ability to implement policies relating to SALW proliferation, those

states should be supported by developed countries in their efforts to develop national capacities to comply with international and sub-regional agreements they are party to.

5.2.2 Asia

Asian countries have suffered in recent years from a great number of factors related to SALW proliferation. Major armed conflicts, armed violent crime, transnational organized crime, terrorism or separatism have been the most common of those. Several states have suffered large scale armed conflicts in recent years. Those conflicts have in turn prevented effective and accurate law enforcement, economic development and have challenges governance. All those conflicts and their consequences are strongly related to the presence and use of SALW. The Asian response to counter the proliferation of SALW has been, relatively to other regions, poor and limited. Asia has achieved less progress than any other region facing similar challenges. The lack of progress can be explained by several reasons. The non-existence of a regional body to foster initiatives to deal with the issue is one of the reasons, whereas the lack of attention devoted by regional actors to the issue contributes to Asia's relative poor performance on the issue. Another factor is the lack of regional and sub-regional organizations mandated to deal with the issue. The fact that most regional countries only deal with SALW issues as part of their policies against conflict, terrorism and organized crime prevents awareness and limits action on SALW proliferation and misuse. There is a lack of comprehensive action on the issue, Asia not having any

significant regional agreement on SALW issues adopted by all regional actors (Bourne et al. 2006). Although the region overall has shown a limited willingness and ability to implement SALW related policies, there are some positive developments. Some sub-regional initiatives such as the agreement reached by members of the Asia Pacific Economic Cooperation (APEC) on Guidelines on Controls and Security of MANPADS and other agreements that deal, although not directly with SALW, include issues relating to SALW proliferation with regard to transnational crime and terrorism.

Since Asia is a vast region with many actors who encounter varying challenges and opportunities in dealing with SALW proliferation, it is important to see developments in sub-regions to properly assess the level of development in those areas to have a more accurate picture.

South Asia is a region experiencing both the proliferation of SALW and the consequences of this proliferation in several ways. In some countries of the region such as Nepal and Sri Lanka, SALW have been frequently used in internal conflicts and have often increased the duration and lethality of those conflicts. SALW proliferation has also fueled insurgency in some South Asian regions including Pakistan, Bangladesh and India causing a deficit in governments' ability to enforce law and order in the affected areas. The region has also, due to the existence of long and poorly controlled porous borders, contributed to illegal transfers of SALW. The South Asian sub-region lacks a coordination mechanism in issues relating to SALW proliferation, and lacks a common comprehensive policy in this regard. The most powerful sub-regional body, relatively capable of

dealing with such an issue, is the South Asian Association for Regional Cooperation (SAARC), with Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka as members. However the SAARC has been reluctant to address security issues, including SALW proliferation, since interference in security issues is seen by several member states as a breach of national sovereignty.

The lack of regional and sub-regional initiatives on SALW proliferation has resulted in a slow implementation of UNPoA measures in most South Asian countries. There have been some basic developments such as several countries establishing national points of contact and some have provided reports to the UN DDA on their progress in implementing the UNPoA.

Unfortunately none of the South Asian countries have so far reviewed their legislation in accordance with the UNPoA. Some have made changes that fall short to fulfill UNPoA requirements, with the exception of Sri Lanka, which has established a National Commission to organize and supervise all SALW control activities in the Sri Lanka.

Besides Sri Lanka, the most notable success in the sub-region relating to SALW proliferation has been in Afghanistan. The country has a long history of being both an important provider of SALW for the region and the scene of violent conflicts and repression perpetrated and sustained largely by SALW use and availability. The Afghan New Beginnings Program, a disarmament demobilization and reintegration (DDR) project, organized under the leadership of the UN has succeeded to disarm more than tens of thousands ex-combatants in the country

(Poulton,, 2004). The Disbandment of Illegal Armed Groups process, also under UN leadership, has achieved the collection of an important quantity of SALW. However, there remains a large number of SALW and ex-combatants in the region that have to be dealt with in order to achieve security and stability, not only of Afghanistan, but the overall region.

Another South Asian country where there are promising developments is India. The country has voiced in several international forums, its advocacy for marking and tracing controls to be put into place that would be legally binding and that would also cover SALW ammunition. It also encourages legal initiatives that would make the transfer of SALW to non-state actors illegal.

South East Asia on the other hand sees SALW proliferation as an issue that relates not to conflict, development or human security in general, but specific to transnational crime and terrorism (Bourne et al. 2006). There have been only a limited number of small scale actions to implement the measures proposed in the UNPoA. SALW proliferation and use in the region, where demand has been fueled by ongoing conflicts and insurgent movements such as in the Philippines and Indonesia and by the readily presence of SALW that were used in conflicts but that were not properly stored or destructed in DDR programs.

There have been some sub-regional initiatives that include clauses regarding to SALW proliferation. However, the scope of those agreements is limited to illicit proliferation in SALW especially focusing on transnational crime and terrorism. One of those initiatives has been the Plan of Action to combat transnational crimes, adopted by the Association of South East Asian Nations

(ASEAN) and that deals with SALW smuggling. ASEAN members have also shown willingness in cooperating on issues relating to border controls and arms trafficking. However, those initiatives and decisions being non-binding, their regional impact remains limited. Instead there have been cases of informal co-operations and ad hoc initiatives among member states. The Transboundary Cooperation Programme has been developed between Thailand, Laos, Cambodia, Myanmar and Malaysia and aims at those countries' effective prevention of arms trafficking among their borders (Bourne et al. 2006). Another initiative has been the Memorandum of Understanding between Indonesia and the Philippines designed to prevent the illicit trade in SALW.

National implementation of SALW related policies has been unequal in the sub-region; nevertheless all states of the sub-region have established national points of contact required for coordination on implementation of the UNPoA. There have been a couple of regions in order to revise the existing laws regarding to SALW. The Cambodian National Assembly, for example, has enacted new Arms Law and Indonesia and other regional countries' have announced that they would review existing laws. However there are serious efforts to be made in order to improve the sub-regional legislations on SALW, mainly with relation to arms brokering on which many states have no legislations.

There have been examples of successful DDR programs in the region. Cambodia, for example, has been a successful country where the community directly participated to DDR efforts. The "weapons for development" program in Cambodia was assisted by the EU by the EU's Assistance on Curbing Small Arms

and Light Weapons in Cambodia program (EU-ASAC) and also assisted by Japan's Assistance Team for Small Arms Management in Cambodia (JSAC).

In South East Asia, the civil society involvement in SALW related issues remains limited. However there are successful initiatives on awareness-raising campaigns, forums on SALW, and workshops organized by the existing NGO's.

North East Asia, like South East Asia sees SALW proliferation through the limited framework of transnational crime and terrorism. There is no agreement on SALW between countries of North East Asia; however some like China, Japan and the Republic of Korea align their policies and participate in initiatives led by ASEAN. Countries in the region also take part in workshops and meetings on SALW related issues. Considering that the estimated number of SALW in the hands of North Asian police and military establishments is around 22 to 42 millions, it is important that those regions adopt international norms, notably regarding the safe storage, and the training of state security forces on how and when SALW can be used (Small Arms Survey 2005). There is also a great need to prevent diversion.

On a national scale, it can be observed that there are uneven levels of implementation of SALW policies and in the implementation of the UNPoA. China and Japan have been relatively active in global initiatives regarding SALW proliferation and disarmament and have a high level of informal coordination on SALW issues. Although China has reviewed its marking system to enable the identification of weapons manufactured in China, Chinese SALW export practices have raised criticism.

The lack of voluntary weapons collection programs, and destruction processes is a cause of concern since the most efficient way in dealing with confiscated or collected weapons is to destroy them to prevent theft and diversion.

Another worrying fact is that the Democratic People's Republic of Korea has not been engaged in any international processes relating to SALW proliferation and no official information on its SALW situation. This is problematic since it is important to achieve a holistic approach in dealing with SALW in regional as well as global levels. Failure to deal with the issue in one country can cause the SALW epidemic to spread to other regions and can continue the supply of SALW to other regions.

To conclude this part, it can be argued that in order to improve the regional SALW policies and in order to better implement UNPoA measures, Asian countries have to act on several fronts. There has to be a stronger willingness of the regional actors to address SALW issues and more efforts to build national capacity and to build sub-regional organizations that can accurately formulate, implement and monitor policies on SALW adopted by regional states. Special policies can be formulated to the special needs of the region in relation to SALW, therefore increasing the likelihood of governments in complying with those policies to improve security and stability within their borders. Donor countries should be encouraged to increase the level of the assistance they provide to SALW infested countries. The participation of NGO's and civil society has to be promoted and improved in the entire region, since participation of the population

and increasing awareness on SALW proliferation is an essential component in dealing with SALW proliferation and misuse.

5.2.3 Americas

There are several countries in the Americas that have both public and private small arms producers. Those products are both sold in the domestic markets and exported to other countries. The US and Brazil are the two most important arms producers and exporters of the region. However, besides indigenous production capabilities and regional arms sales, countries in the Americas also import SALW from the European Union, Israel and recently increasingly from Asia. There is also an important amount of weapons that are transferred from the remnants of Cold War SALW inventories of the former Soviet Union that serves as an arms flow to the illegal groups that operate in the region (Schroeder, 2006). Experts estimate that SALW and related ammunition in Central America alone surpass the region of millions.

The SALW problem in the Americas can be characterized as arms trafficking, important number of cases of urban armed violence perpetrated often by organized crime, drug traffickers and an increase in the organization of young people in form of armed gangs (Bourne et al, 2006). Brazil, Colombia, El Salvador, Guatemala and Jamaica are among the countries with the highest rate of firearm homicide in the world whereas the United States has the highest firearm homicide rate between the industrialized countries, of course this can be seen as

normal since there are relatively more gun owners in the US than in the rest of the industrialized countries.

Countries in this region often display incapacity in providing public security services as well as poor judicial services. This has in turn led to an increased armament of individuals and an increase in the private security firms operating in the region. Although the outsourcing of security can be seen as a source only for legal demand for SALW, it should be also considered as a source for illicit SALW proliferation since those legally acquired guns can easily be diverted towards the illicit market if they are stolen because they are not stored properly, or because they are sold to third parties through diversion. Poor border controls and high levels of corruption within countries in the Americas help to keep the illicit trade in SALW alive.

In addition the regional problems stated above, two countries of the Americas experienced particular conditions that require their government to put special emphasis on SALW proliferation. Colombia had to put special emphasis on DDR projects after it started demobilizing and disarming ten of thousand paramilitary troops. Haiti on the other hand experiences a high level of armed banditry and the political climate in the country remains fragile.

More recently attention has been diverted to the link between SALW proliferation and terrorism in the Western Hemisphere (Shroeder, 2006). Although the region is not the primary source of armament of the most important terrorist organizations today, it has the potential to provide SALW and ammunitions to organizations that are especially hostile to the US. Examples of

two Lebanese diamond traders, Aziz Nassour and Samih Osailly, both under investigation for their alleged links with al Qaeda have been caught, by an investigative team of the OAS and the London based organization Global Witness, while planning to acquire a vast number of weapons including AK-47's, anti-aircraft guns, sniper rifles, and SA-7 surface-to-air missiles from an Israeli arms dealer operating from Panama.

Countries of the Americas have launched several initiatives to deal with threats and problems caused by SALW proliferation. Those initiatives are complementary to the UNPoA and overlapping within certain spheres. It is important to note that the civil society in the region has been very active in dealing with the issue and in pushing for reforms. There are an estimated 103 NGO's that take part in the International Action Network on Small Arms (IANSA) initiatives.

The prominent organization in the region that deals with SALW related issues is the Organization of American States (OAS). The most important regional agreement on SALW proliferation is the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Explosives and Other Related Materials (CIFTA). The OAS was the first organization to develop a legally binding document against the illegal trafficking in firearms and explosives and the CIFTA has been signed by all member states of the OAS, except the Dominican Republic (Von Tegen Page, Godnick and Vivekananda, 2005). In the CIFTA, the states party to the convention acknowledge that the illicit manufacturing and trafficking of firearms, ammunitions, explosives and other

related material are closely connected to instances of transnational organized crime, terrorism, drug trafficking, mercenary activities and other criminal activities that occur within their borders and in the region in general. It recognizes that criminals can easily use the trade in firearms; therefore it is important to make sure that the dealers, producers and exporters of such weapons make sure of the final destination of the products they are selling.

CIFTA aims at preventing, combating and eradicating the illicit manufacturing and trafficking in firearms, ammunition, explosive and other related materials by making it a criminal offense under the domestic law of the signatory states. It also makes unlawful to participate to such illicit manufacturing and trafficking as well as “association or conspiracy to commit, attempts to commit, and aiding abetting, facilitating, and counseling the commission” of those offenses.

States party to this agreement pledge that they will mark the firearms that they manufacture, that are manufactured on their territory, that they confiscate or seize in order to facilitate the identification and tracing of SALW. States are also obliged by this document to confiscate any illicit firearm, ammunition, explosive or related materials and have the responsibility to prevent those confiscated weapons return to the market through diversion or theft. They agree to establish effective systems regulating exports imports and transits of the said weapons and they commit themselves to strengthen controls at export points. They also agree to exchange information and know-how on both technical and legal matters and to cooperate on training of the officials for better intelligence gathering, tracing of

firearms and detection of those illicit firearms. Another important feature of the CIFTA is that all acts considered as offense in the document are accepted by states party to the Convention as offenses that are extraditable. The CIFTA paved the way to the establishment of Consultative Committee responsible for facilitating the application of the convention's clauses.

It is important to see that in various ways CIFTA overlaps with the UNPoA and complements it in overcoming several of its loopholes. For example it is important to notice that CIFTA also deals with ammunitions, an issue that has been problematic in the success of the UNPoA. Also it is important to see that unlike the UNPoA, which remains only a political instrument, the CIFTA is a legally binding instrument. However just like the UNPoA, an important characteristic of the CIFTA is that it underlines that the Convention does not intend to reduce or dampen "lawful leisure or recreational activities [...] or other forms of lawful ownership" and another important point is that the convention does not obligate signatory states to enact any legislation or regulations that would modify their domestic laws on firearms ownership, possession or trade of a domestic character. This can be seen as a compromise made to satisfy the rifle association in the US but also a compromise made in order to comply with the different cultural values given to guns in the participant states. The reluctance to deal with the private ownership of SALW is an obstacle to deal efficiently with the issue of proliferation. Another major problem that the CIFTA faces is the reluctance of the US to ratify the document. Although the US has been an early supporter of the Convention and has signed the CIFTA in November 1998 it has

failed to ratify it (Schroeder, 2006). This impedes the credibility of the Convention, although many of the changes envisaged by the CIFTA regarding laws and regulations have been adopted. The US being the most influential country of the region, US ratification and leadership on the issue is essential for the full implementation of the CIFTA and its further development. An additional problem caused by the US reluctance to ratify the document is that it hinders efforts by the US to enforce compliance with the CIFTA in case of non-compliance by member states and decreases the impact of statements and recommendations made by US officials during Consultative Committee meetings in which the US participates as observer. Considering the negative impact the US unilateralism in the international area has caused in its image and considering the high linkages between arms transfers, drugs trafficking and terrorism, it can be argued that ratifying the document and taking further action not only regionally but also in the international arena is in the best interest of the US.

The Model Regulations for the Control of the International Movement of Firearms, Their Parts and Component and Ammunition has been adopted at the OAS' 24th regular session in November 1997 in order to deepen cooperation in this area. The aim of the additional regulations, those are unlike the CIFTA not legally binding, to promote additional cooperation among states but also to harmonize import and export controls over the legal international movement of firearms and related parts and ammunitions. The Model Regulations give special attention to state responsibilities relating to record keeping, the computerization of records, also to information exchange and training and technical assistance issues.

Several governments have adopted measures to align their policies with the Model Regulations. For example, the Bureau of Alcohol, Tobacco and Firearms has made changes, although limited, in its policies and procedures (Schroeder, 2006). However the Model Regulations adopted in 1997 leave aside the state-to-state transactions of firearms and it also disregards SALW transfers for purposes of national security. As it was previously shown the fact that the agreements do not deal with the legal transfers causes problems for the control of SALW proliferation in general as legally acquired guns can be diverted to be used in illegal acts and state purchases can lead to human rights abuse.

Model Brokering Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition was adopted by the OAS member states in 2003. This document listed a series of criteria in order to limit brokering activities and in order to issue fewer licenses, especially in cases in which the arms sold have a high probability of being used in acts of genocide or in actions those breach human rights; that are contrary to international law (Center for Humanitarian Dialogue, 2006). The document also limits the brokering activities and the issuance of licenses in cases where the arms sold will probably be used in perpetrating war crimes, or in cases when the broker's activity are likely to go against UN Security Council embargoes or other international or multinational sanctions or if the arms trade is suspected of serving terrorist activities. Model Brokering Regulations also aim to prevent the diversion of firearms to illegal practices especially carried out by organized crime. It also limits the brokering

activities and licenses to those who comply fully with bilateral and multilateral arms control and non-proliferation agreements signed by participating states.

Another legally binding document similar in scope to the CIFTA is the Andean Plan to Prevent, Combat and Eradicate the Illicit Trafficking in SALW in All its Aspects adopted with the Decision 552, by all the member states of the community, being Bolivia, Colombia, Ecuador, Peru and Venezuela, on the 25th of January 2003. Before this plan, SALW related issues were being dealt with within actions to cope with drugs and related crimes as well as money laundering. The Andean Plan on the other hand aimed at dealing with the illegal proliferation of SALW since it has been acknowledged by the signatories as closely linked with threats to regional countries' security, such as terrorism, corruption and drug trade. The regional countries acknowledged that dealing with the illicit proliferation of SALW would allow in the long-term to achieve peace, development as well as stability in the region. The Andean Plan consisted on measures to enhance cooperation on the issue by improving the dissemination of information between member states, to establish a concrete agenda to deal with the issue, to allow member states to exchange experience related to the means of halting the illicit SALW proliferation and also to enhance public awareness on the subject through education and campaigns.

However the attempts to deal with the proliferation of SALW in the Andean community have been hampered by political instability and vacuums in political leadership. States have a wide range of other priorities such as poverty and development and momentum has not been achieved to pursue the Andean Plan,

the legal and institutional bases needed to pursue the plan have not been fully operational in most signatory countries and the existing bodies often meet at ad-hoc basis (Bourne et al. 2006).

Once again we see that the Andean Plan focuses its actions on the illicit trade and trafficking of SALW. This leaves aside the legally acquired weapons that, as said before, can easily end up in the wrong hands due to theft or diversion. Besides like the CIFTA and the Model Regulations that were dealt with above, none of the documents aiming to prevent illegal SALW proliferation deal with the legal acquisitions made by private security firms that are often not controlled accurately by the countries in which they operate.

To conclude on the initiatives that the countries of the Americas have promoted, it can be said that those initiatives are strongly in line with international initiatives such as the UNPoA in talking the illicit trade in SALW. However, we see that the implementation varies from region to region as well as from nation to nation, therefore limiting the overall effectiveness of the treaties. It is encouraging to see that there is progress in the importance given to the issue since it is crucially intertwined with other major security threats to the region such as drug trade, criminality, terrorism and organized crime. However in each treaty, including the UNPoA, the issues of legal transfers and private ownership have been left aside. This impedes efforts to tackle the proliferation and misuse of SALW because most illegal SALW have once been in the possession of civilians or government officials who have legally obtained them, then have been lost, stolen or channeled towards the black market through diversion.

5.2.4 Europe

The European Union has been since the end of the 1990's committed to challenge the spread of SALW and their accumulation. One of the first initiatives launched by the EU has been the EU that dealt, partially, with SALW proliferation was the Programme for Preventing and Combating Illicit Trafficking in Conventional Arms. Agreed in June 1997, the Programme called upon signatory states to increase their efforts to prevent the illicit trafficking in conventional arms, SALW especially within and around their borders. Signatories also pledged to help one-another on the issue. This program promoted cooperation and coordination of countries' intelligence, customs and law-enforcement agencies and helped to increase the exchange of information and data on the issue that was until then kept at national databases if kept at all. The scope of the Programme went beyond the borders of the Union by signatories pledging to assist third countries in their fight against illicit arms trafficking. It encouraged signatories to help third countries, especially countries in a post conflict situation and countries where stability and security are fragile, in legal and administrative matters relating to illegal arms transfers and in training those third countries' police forces and customs officials. Especially in post-conflict situations the Program envisaged signatories to adopt appropriate measure to limit the illicit proliferation of SALW during peace operations and foresaw cooperation with international and regional agencies such as the UN in weapons collection and destruction initiatives as well as in education and reintegration programs.

One year after the agreement over the Programme for Preventing and Combating Illicit Trafficking in Conventional Arms, the EU adopted the EU Code of Conduct on Arms Exports (CoC), adopted in the General Affairs Council on June 8, 1998. The CoC is a politically binding document that aims to set common standards for signatories on the management of conventional arms trade and transfers. It invites signatories to increase the level of information they exchange to increase the level of transparency on their dealings with conventional weapons. The CoC gives the responsibility on arms exports to signatory states by making them responsible for assessing applications made for export licenses on a case-by-case investigation, where the applications will be judged on whether or not they comply with the provisions of the CoC. The CoC document is divided into two, with the first part setting the common criteria on arms exports and the second part consisting on operative provisions for the implementation of those criteria. The criteria on arms exports adopted in the CoC consist of the eight criteria adopted by the European Council in 1991 and 1992. According to those criteria, signatory states pledge to respect international commitments, norms and agreements agreed on the issue of non-proliferation with a special emphasis to comply with the decisions of the UN Security Council. According to the CoC, signatory states should, in all cases of arms exports, take in to account whether or not the country of final destination of the export respects human rights as well as taking into account the internal situation of the country of final destination on whether or not the country experiences high levels of tensions or is in conflict. The CoC aims that signatories, while considering exporting weapons to other countries, consider

the impact of the exports on regional peace, security and stability. Parties to the CoC are also invited to consider the impact of their arms exports to the national security of other member states and of “territories whose external relations are the responsibility of a member state, as well as that of friendly and allied countries.” In addition, signatories are asked to consider in their decisions to export arms, the conduct of the country of final destination in matters relating to the international community’s security, in particular the stand it has on terrorism and on whether or not it respects international law and on whether or not the final country of destination has the technical and economic means of achieving its legitimate security needs without allowing the exported weapons diversion. The CoC puts special emphasis in taking into account in decisions to export arms the risk that the exported arms will be diverted within the buyer country or the risk that the weapons will be re-exported towards countries where they will be misused or easily diverted to illegal channels. With provisions for review and the undertaking of the Review of the Code, the CoC is remains one of the most established and dynamic regional instruments for arms transfers control (Bourne et al. 2006).

Another tool envisaged by the EU is the EU Joint Action on Small Arms and Light Weapons adopted on December 17th, 1998. The Joint Action sets objectives in combating the destabilizing accumulation and spread of SALW, gives principles and measures that will contribute towards that end and that would also contribute towards the reduction of the existing surplus weapons. The principles put forward by the Joint Action commit all signatories to import and possess arms only in accordance with their legitimate security needs, while exporting countries

commit themselves to supply arms only to governments and to comply with existing international and regional arms export control agreements, especially the CoC. The Joint Action puts forward the establishment of national inventories of legally acquired SALW and underlines the necessity for signatories to formulate restrictive national weapons legislation for this category of weapons. It also aims that parties to the Joint Action adopt measures to increase transparency and openness on their dealings with SALW by increasing the exchange of information on exports, imports, production, inventories of SALW by establishing regional registers on SALW and also by exchanging information on their national weapons legislation. Effective national controls are at the heart of the EU Joint Action, however the Joint Action also puts special emphasis on the importance of public education and awareness programs in combating the culture of violence and the “gun culture” that are seen among the reasons for the demand of SALW. Just like the Programme for Preventing and Combating Illicit Trafficking in Conventional Arms, the EU Joint Action on Small Arms and Light Weapons does not limit its scope to the signatory states. It includes measures that will help to foster action to reduce the accumulation of SALW and the reduction of existing surplus of SALW in the international and regional levels. Parties to the Joint Action pledge to help countries that want to eliminate surplus SALW within their borders. It also envisaged helping with confidence building measures to stop the accumulation of SALW and incentives to decrease the existing stocks and surplus through voluntary surrender program. It also encompasses the assistance to countries in disarmament, destruction and reintegration programs. It puts forward the

willingness of parties to the Joint Action to help third countries in the safe storage or destruction of existing SALW surpluses. The Joint Action also includes the decision to help other programs, agencies and international initiatives to combat SALW proliferation and accumulation. The EU has contributed to several initiatives since the adoption of the Joint Action on Small Arms and Light Weapons, such as in Cambodia, or Mozambique, has also been active in international initiatives such as the UN projects in Lima and has also been acting in partnership with other regional organizations such as the Economic Community of West African States (European Commission, 2001). An important positive step has been the inclusion in 2002 of the importance of SALW ammunitions in destabilizing peace and security (Bourne, et al, 2006).

The Union's determination in combating SALW proliferation manifested itself once again in the EU Development Council resolution on "Combating the excessive and uncontrolled accumulation and spread of small arms and light weapons as part of the EU's emergency aid, reconstruction and development programs" that was adopted on May 21st 1999. This resolution was important in making a linkage between SALW proliferation and development programs. The EU member countries party to the resolution decided to include the issue of SALW proliferation in their political dialogue with their development cooperation partners such as African, Caribbean and Pacific (ACP) countries. The resolution commits countries to assist countries wishing to eliminate the surplus arms within their territories and envisages the inclusion of arms collection and destruction programs to development cooperation schemes putting special emphasis to DDR

processes in which developmental approach can help the reduction of SALW and can prevent the escalation of tensions in post-conflict situation by helping the rehabilitation of especially ex-combatants and by encouraging them to leave their arms and reintegrate them in society through education and employment. It incites parties to the resolution to stop the culture of violence through education and awareness programmes, especially with the help of local organizations and communities. As is can be observed the resolution is highly similar to the Joint Action on Small Arms and Light Weapons, however this resolution puts more emphasis in the complex relations between demand for arms and issues relating to development, it also acts as a complementary tool for the application of the Joint Action decisions and has a broader geographical scope with the inclusion of dealing with the ACP within the framework of action against SALW proliferation.

One of the most recent agreements of the EU on SALW proliferation has been the agreement on an EU Small Arms Strategy. According to this decision, the EU will incite candidate countries to systematically align their border, police, and intelligence services as well as customs practices with EU practices relating to illicit SALW trafficking and illicit exports. The strategy also reaffirmed the need to be consistent in linking development programs and programs related to DDR and SALW reduction.

To conclude, it can be observed that the EU has sought to promote cooperation and coordination in initiatives aiming to prevent the illicit proliferation of SALW. Resolutions and decisions have aimed at achieving common standards, common norms and approaches relating to the issue. The EU

has been active not only as a regional actor but also as an international actor by adhering to international agreements such as the UNPoA and has also actively cooperated with international organizations such as the UN and regional actors such as ECOWAS by providing assistance and funds. The Union has taken important steps in improving regional and national legislations and practices to deal with SALW proliferation. An important achievement of the EU has been to establish links between development and SALW proliferation and its willingness to deal with both issues especially in times of humanitarian crisis and in post-conflict situations has been important.

The regional initiatives have achieved a good level of national implementation of UNPoA recommendations (Bourne et al. 2006). Although the pace of implementation varies between regions within the Union, the overall progress is positive.

Although important steps have been achieved by the EU on national, regional and international levels on the proliferation and excessive accumulation of SALW, there have been loopholes, limits and challenges to the EU initiatives on this issue. A major difficulty has been the limited standardization of national legislations and policies.

Although the EU acknowledged the linkages between development and arms demand and in its documents has put an emphasis on dealing with both issues simultaneously for better results, its actions have often been limited to control the supply side (UNIDIR,). There is also a lack of communication between EU bodies in charge of development projects and EU bodies dealing with

disarmament issues. The 2006 Strategy will hopefully in the long term diminish those problems.

Challenges to the EU in dealing with illicit SALW proliferation emanate from various sources. Although most EU

5.2.5 Middle East and North Africa

SALW demand and supply to the Middle East and North Africa (MENA) result both from past and ongoing conflicts, such as the Arab-Israeli conflict or insurgent movements in Iraq or by separatist movements such as PKK terrorists operating in Southeast Turkey and Northern Iraq. The geographic location of the region makes it an ideal trading route for SALW. It has been estimated in 2005 that non-state actors had between 45 and 90 million SALW in their possession, whereas police and military personnel of the region have an estimate inventory ranging from 13 to 17 million SALW (Small Arms Survey, 2005). The high availability of SALW in the region results from the number of weapons that have been transferred to MENA during the Cold War by the then competing superpowers in the form of clear government agreements or in covert transactions. Smuggling that takes place between the long and porous borders of countries in the region causes significant challenges to efforts to combat SALW proliferation in the region but also to combat international SALW proliferation.

Countries in the region have been slow in implementing international, regional or national SALW policies. The attention of the regional countries has been more focused on larger conventional weapons and nuclear proliferation,

leaving SALW proliferation on the sidelines of their agenda and often disregarding the human impact of SALW.

Regional cooperation on SALW policies has been limited and countries have not adopted any tools or formal agreements to deal with the issue. Regional cooperation among regional countries has been impeded as any other cooperation opportunities by the ongoing Arab-Israeli conflict. The insurgencies in Iraq and international tensions due to Iran's nuclear ambitions have also contributed to an impasse on SALW issues.

Although there are many obstacles to cooperation and coordination between MENA members, there have been positive developments in recent years. The meeting organized by the UN and the Arab League in December 2003 marked the beginning of dialogue between UN bodies in charge of disarmament such as UNDDA and Arab states. It was also encouraging to see that 18 states of the region have participated to a regional symposium on the implementation of the UNPoA organized by the UNDDA in April 2005.

The main regional organization to implement SALW related policies and assure the coordination of those policies in the region is the League of Arab States. One of the most important decisions achieved by the League has been the implementation of Resolution 6447, which urges members of the League to coordinate their efforts in combating the illicit trade in SALW (League of Arab States, 2004) .This Resolution mandates the Secretary General of the League as the regional focal point in charge of the coordination of the League members' activities in combating illicit SALW proliferation and gives the Secretary General

the mandate to support national policies of member states especially in the areas of border control and information exchange that are essential in controlling illicit SALW proliferation. However, steps that have been taken remain weak and the proliferation of SALW especially to non-state armed actors remains an important security issue in the area that has not been dealt with in the Resolution 6447, that although aims at adopting a common position on controlling illicit SALW trade undermines the importance of SALW proliferation by stating in its first paragraph that the Arab position in the common position of Arab States is to give priorities in the area of disarmament to nuclear proliferation and weapons of mass destruction. The Report of the “First Meeting of Arab National Focal Points On Small Arms and Light Weapons” held in the hospices of the League of Arab States in Cairo, from 26 to 27 December, where 27 experts and officials from the Arab League’s National Focal Points representing 17 Arab States, showed both positive and negative developments on the League’s approach to SALW proliferation and to the UN process on SALW. The meeting underlines the necessity to adopt a common Arab position to be presented in the UNPoA review Conference held in New York in 2006. It also states that Arab efforts to combat the illicit trade in SALW also contribute to the efforts of those states in combating terrorism and to the adoption of an “Arab Model Law on Weapons, Ammunitions, Explosives and Hazardous Material”. The League countries also agreed that controls should not only be imposed on importing countries but that it is equally important in complying with UNPoA requirements to impose restrictions on exporting countries as well. It is mentioned that adopting more strict measures on

permit issuance can instead of decreasing SALW proliferation increase the proliferation of SALW through illicit channels. This, by preventing the adoption of stricter legislation on SALW permit issuance goes against most principles agreed by the international community in the UNPoA and can in long term hinder efforts to stop SALW proliferation. The Arab League countries in the meeting agreed that they should be present at all international opportunities and workshops, no matter how small those are. The members of the Arab League have also expressed during the meeting the importance of border control in this region of the world, where it can be hard for a country to control its borders due to geographic features such as mountains or long porous borders. The Arab League countries have agreed on several important principles, such as the importance of linking illicit trade in SALW with organized crime, the importance of urging Arab States that do not have National Focal Points to establish those in order to submit reports to the League's General Secretariat. There are also important decisions such as involving the media and civil society in raising awareness on the consequences of SALW proliferation. It is also important to note that the meeting resulted in a set of recommendations that are proposed at different levels. For example, the League urges national governments to establish National Focal Points if they have failed to do so. It also encouraged the national focal points to submit annual reports on the progress they have made in implementing the UNPoA recommendations in order to gather enough information to report the overall progress made by regional countries in this regard. One of the important recommendations resulting from the meeting is that states should work towards

establishing a database that provides information on SALW related policy implementation of regional countries. It recommends national authorities to work with their domestic media and civil society networks to raise awareness on SALW related issues in a manner that would deal with specific consequences of SALW proliferation for each country.

At the regional level, the League urged member countries to form from national data provided by states a regional database that will allow more information and expertise sharing among countries. There is a call for countries to seek international financial and technical assistance for the training of national cadres in the region to support the League's effort in preventing SALW proliferation. The meeting concludes that more efforts in strengthening cooperation are needed that would allow further information and expertise sharing. It is encouraged that the regional focal point of the Arab League gets into cooperation with other regional focal points and cooperates with other regions whenever cooperation proves to be possible. However the document includes some negative conclusions that instead of encouraging governments to increase the attention given to SALW proliferation can act as a means of blocking action on SALW. Those negative conclusions are that the UNPoA review conference should only be held in order to review progress and should not try to include new issues or to re open negotiations on issues that have been difficult to agree upon in 2001. Most importantly the statement that the priority in disarmament issues should be given to nuclear disarmament and the spread of weapons of mass

destruction casts a shadow over the important consequences that SALW proliferation has on global peace and stability.

At the national level, there have been progresses in the implementation of international agreements such as the UNPoA, with several states designating points of contacts required by the UNPoA. However the absence of monitoring at the regional or international level means that the level and success of the implementation of the UNPoA or other international agreements is not possible. The reports that have been submitted so far to the UNDDA show great diversity in their comprehensiveness and quality. It is also important to note that regional actors have failed to review their SALW legislations and they also show uneven capacity to manage and secure their SALW stocks. There have also been no destruction or collection programs in the region since the UNPoA has been adopted. It is worrying to note that although the area has hosted several internal and interstate conflicts there have been no DDR or weapons collection programs to remove surplus weapons from circulation or to reintegrate former combatants, who in the absence of alternative livelihoods are likely to turn to illegal practices or to sell those weapons to neighboring regions where they will be used in fueling, prolonging and sustaining other wars.

The authoritarian character of many of the MENA countries puts serious limits to civil society's involvement in SALW policies and in their implementations. However there are positive developments such as the creation of the Middle East and North Africa Action Network on Small Arms.

There are still important steps to be taken by MENA countries if successful policies in preventing SALW proliferation are to be effectively implemented in the region. Increasing collaboration in border control is amongst one of the requirements for success as well as increasing importance that is needed to be given to weapons collection and disarmament initiatives to reduce surplus SALW in circulation in the area. Collaboration on SALW can have a spill over effect; thereby increased interaction between states that have hostile positions towards one another can result in cooperation that would act as a confidence building measure and reduce the threat perception amongst nations. Lastly the involvement of civil society in the process of preventing SALW proliferation can increase the success level and impetus for action on the issue. However, since most regimes in the region are not democratic and security issues are not often discussed with the population this last step can seem for now idealistic.

CHAPTER VI

LIMITATIONS OF CURRENT INITIATIVES AND AREAS TO BE FURTHER DEVELOPED

6.1 Civilian Possession

SALW are probably the only category of weapons where governments do not have the sole authority of possession and use. The majority of SALW today are in the possession of civilians (UN, 2008). NGO's such as IANSA estimate that up to 74% of SALW in circulation are in the possession of civilians and non-state actors (IANSA, 2007). This suggests that the number of privately held SALW is three times more important than the number of SALW in government arsenals. Another important fact is that civilians who are the largest number of gun owners are also the largest number of SALW victims.

The findings relating to the gendered impacts of SALW proliferation also show that there are special cases when the fact that the gun is possessed legally or illegally doesn't change the damaging consequences of its presence in the household, such as it is the case for women.

It is essential, in order to achieve holistic common approaches to prevent the proliferation and misuse of those weapons that powerful states such as the US, cease to succumb to the pressures emanating from their gun lobbies. This is also due to the fact that if the US itself does adopt laws and norms that will breach the

international principles or that will facilitate diversion of SALW, the world community will have no reasons or obligations to listen to one of the most influential countries today in order to prevent the excessive accumulation, proliferation and misuse of SALW.

6.2 Marking and Tracing

Another area where there is a need to promote more action is related to marking and tracing. This is an important step to achieve, since it enables authorities to follow the footsteps of SALW from the point they originate to their last legitimate owner. This in turn will allow determining the point at which the SALW has been diverted to illicit channels. By marking and tracing SALW, the last legitimate owner can be held accountable of diverting the weapons to illicit channels, of allowing its use in criminal activities or in acts that breach international humanitarian principles. This is an effective measure to prevent and discourage diversion. However this can be only achieved if there are international standards for marking SALW at the moment it is produced to make it possible to know the country of production, then marking it upon each stage of transfer it is submitted to (UN, 2008). It is also essential in order to successfully follow the journey of SALW to keep updated records. In addition, all existing stocks of SALW should also mark, because of possibilities of theft and diversion by corrupted government officials. All the records should be present on a database accessible by all states at anytime. This is an initiative that can help preventing the illicit transfers of SALW by attributing responsibility to states that will be able to

hold responsible the last legitimate owner of the weapons in question. However, it was concluded in the most recent report of the UN Secretary-General that these initiatives on marking and tracing were at the stage of “infancy”.

6.3 End Use Verification

End-use certificates constitute another mean to prevent the diversion of legal arms transfers. However, for end-use certificates to effectively combat the illicit proliferation in SALW there is the need to establish a holistic system that encompasses controls in the licensing, that also establishes control mechanisms of the documents related to the end-user and also inspects post-shipment activities (UN, 2008). It becomes practically impossible for states to combat the illicit traffic in SALW, if there are no agreed norms and standards on end-use certificates.

It is encouraging to see that most arms exporting countries have establish national legislation and control mechanisms to combat illicit end use. However the information that they provide to third states and verification of end use remain limited. Today, no international instrument to deal with end-use verification exists.

6.4 Ammunition

A third important tool in preventing SALW proliferation and misuse is to put into place measures related to SALW ammunition. Controlling SALW

ammunition is an essential component to deal with the insecurity and instability caused by the availability and excessive accumulation of SALW (UN, 2008).

Most SALW ammunition have their various parts produced by various factories in various regions and are assembled as a final product. Several countries have turned to domestic production of ammunition in order not to depend from foreign supplies or because they could not buy the needed ammunition due to UN embargoes imposed upon them. In some cases, developing nations conclude licensed production agreements with industrial countries and acquire the know-how to produce the ammunition without necessarily having the willingness nor the means to control the final destination of the ammunitions produced. This causes great risks especially if those countries neighbor conflict zones or areas of tension.

Contrary to the longevity of SALW, their ammunition has to be bought once the existing stocks are used. Therefore it is essential to prevent the supply of ammunition to be used with illicitly acquired SALW. Without readily available and cheap ammunition, existing SALW are useless. For example, the security forces have found Galil and M-16 types of SALW that had been dropped to the Oubangui River by rebels in the Republic of Central Africa, it has been discovered that the weapons were disposed off due to the difficulty in finding the appropriate ammunition, 5,56mm. cartridges (Small Arms Survey, 2005). If ammunitions are rare, their price increases, this has in turn strong impacts on the way in which SALW are used. If ammunitions are scarce, the conflicting parties have to be selective in their targeting, targeting the more potentially dangerous

spheres of society such as young men instead of indiscriminate killing of civilians including the most vulnerable such as elderly, women and children. Military targets are more valuable than civilians and only the best shooters are allowed to use SALW. This means that decreasing the availability of SALW ammunition in a conflict good can be a step in limiting the disastrous consequences of SALW proliferations without fully remedying the problem. It can be seen as a way in achieving the lesser evil rather than aiming and failing at achieving the ultimate good. On the other hand it might cause the substitution of weapons, where vulnerable populations are targeted with instruments such as blades. Although those other weapons can sustain violence, they are not as lethal as SALW.

The problem that SALW ammunition can potentially cause in cases of diversion, theft or irresponsible transfers can more accurately be seen by giving data on the quantities of ammunition available around the world. For example, it is estimated that the Russian Federation had decided to destruct 140 million cartridges from 2002 to 2005. It has also been estimated that in 2005 Ukraine has 2.5 millions of tons of ammunition in stock, whereas Byelorussia around 97.000 tons and Kazakhstan and Uzbekistan some 90.000 tons between them (Small Arms Survey, 2005). If produced and stored properly, kept away from heat and humidity, ammunitions stocks can feed conflicts for decades. Just like SALW weapons, their ammunitions are designed to resist harsh conditions; therefore bullets produced during the Second World War are still used in by rebel groups operating in the Pacific.

Efforts to counter the proliferation of SALW ammunition face similar challenges to counter the proliferation of the weapons themselves. Just like SALW, SALW ammunition can be diverted from legit uses to illegal channels or end up in the hands of irresponsible actors. It has been observed that most ammunition used by non-state actors has been acquired through diversion from government inventories (UN, 2008).

The United Nation Secretary General also points out in his 2008 report that ammunitions kept in unsafe warehouses have caused several explosions in places such as Afghanistan, Mozambique or Albania, causing a great number of casualties.

Not giving special attention to ammunitions also hinders efforts in DDR projects. Even if some weapons are collected it is not possible to reach all spheres of society and convince them to leave their arms, therefore additional efforts should be made to deal with ammunition, through which the overall damage caused by the remaining SALW can be limited.

The UN Panel of Governmental Experts on Small Arms has acknowledged in its 1999 Report that attempts at controlling the proliferation of SALW would be incomplete if they do not cover the issues of ammunitions and explosives (Small Arms Survey, 2005). However the UN process on SALW has so far not produced any concrete outcomes. Most international agreements such as the UNPoA have defined SALW ammunition, but have left ammunitions out of the recommendations and practices to be adopted. In addition, in most cases no agreements directly aim to control the materials necessary to produce SALW

ammunition. A Group of Governmental Experts was established by the decision 61/72 of the UN General Assembly to prepare a report on further steps to enhance cooperation in the area of conventional ammunition stockpiles in surplus. They are expected to present their report during the 36th session of the UN General Assembly. This report will hopefully show the devastating effects of the illicit trade in ammunition, the problems caused by their leakage and problems caused by inadequate storage of ammunition.

The availability and relative low prices of SALW ammunition help to feed conflicts in which SALW are widely used to prolong and escalate violence. There are some initiatives that can be adopted in order to deprive the conflicting parties from their bullets. Marking and tracing ammunition can help to control the proliferation of the ammunition and can prevent it from being diverted or can pinpoint to the point in which ammunition has been diverted to address the issue. If they are kept in their original boxes, the producer, year of production, type of ammunition, and the route followed by ammunitions can be identified. However this is not the most efficient way in tracing ammunition, since it is not always possible to find the boxes where the ammunitions were stored and a the lot number lacks precision since the same number is given for a quantity that ranges from 250.000 cartridges to a million cartridges. By engraving the numbers relating to the producers to the cartridges with laser technology, the exact provenance of each cartridge can be traced back. However, efforts in marking and tracing bullets have so far proved to be limited. The UN Firearms Register only declares that ammunitions should be marked if such a marking is feasible and

appropriate. The marking and tracing mechanisms described in the UNPoA only apply for the SALW and not their ammunitions.

SALW ammunitions represent several advantages in efforts to combat SALW proliferation and in controlling SALW misuse. It is easier to identify and localize ammunition producers since they are less numerous than the SALW producers. There are a small number of companies that produce “amerces” therefore their activities are easier to monitor. Besides as underlined above, once sold a SALW can be used for decades, whereas there will be the need to restock ammunitions if they are used. Not all cartridges can be refilled and those willing to refill the cartridges will need specific materials to do so. Marking ammunitions can limit misuse of SALW by making SALW legitimate SALW users such as government forces, the police or the army more responsible in their use of SALW. Besides it has been estimated that if a common marking and tracing mechanism is put into place together it will take only ten years that all SALW ammunitions used will be traceable, whereas SALW that entered the market decades ago without having been marked will stay in circulation for several decades in the future (Small Arms Survey, 2005). Therefore marking and tracing of the ammunition can be more timely and effective in monitoring SALW proliferation and misuse.

A lot can be achieved by destroying surplus ammunitions and by controlling the proliferation of SALW ammunition. If they lack appropriate ammunitions, SALW are useless. Stronger incentives are needed to address the critical issue of ammunitions at national, regional and international levels. Once again the demand aspect should not be overlooked and the reasons why populations refrain from

destroying the ammunition they have after the end of a conflict should be studied to find appropriate confidence building measures to prevent the re-escalation of conflicts.

6.5 Stockpile Management

Stockpile management and security is another key issue related to SALW proliferation. As noted above, poorly managed government stockpiles are, through leakages, a source of illicit SALW proliferation. An important case to support this claim is Iraq, where stability and security were endangered following the fall of the regime when the population looted millions of SALW, their ammunition and explosive materials, mainly used against coalition forces by the insurgents.

It can be argued that instead of putting surplus weapons in warehouses, it is more beneficial to destroy them. Especially in post-conflict situations, where the availability of weapons can resurrect tensions, or can push those who were soldiers and have no other livelihood to turn to criminal activities, it is better to destroy the surplus weapons and their ammunitions. According to the UN Secretary General report on Small Arms published in 2008, it is more economically advantageous to destroy the surplus weapons in post-conflict situations than to spare large parts of much needed funds in securing and maintaining stockpiles of weapons (UN, 2008).

6.6 NGO's and the SALW Movement

The efforts of the international community have resulted in reshaping the international agenda. SALW activism has also left an institutional legacy that will make sure that small arms action will remain in the spotlight for the years to come (Karp, 2006). Some argue that the most important achievement of SALW activists cannot be sought in a given document but in the “creation of the movement itself” because it achieved in directing the international community’s attention to the issue of SALW proliferation. The achievements of the movement can be seen in the evolution of the UN’s agenda, the creation of new instruments to deal with SALW such as the UNPoA or the increasing number of regional initiatives. Although some international initiatives such as the UNPoA remained limited in several aspects of the SALW problem, the process achieved to provide basis for global norms and principles on SALW related policies, mainly through the creation of national points of contacts and efforts on information exchange and coordination.

Although the SALW movement and efforts made by NGO’s have succeeded in making SALW issues an important part of the international agenda, some analysts underline that the limitations of the current policies and treaties result mainly from the States shaping the agenda of the SALW movement and not the SALW movement determining the States ‘policies on SALW related issues (Karp, 2006). It can be observed that decisions taken during negotiations often pose no serious challenge to policies on which states are often very persistent upon. For

example, the US treasures its policies on civilian gun ownership, therefore it rejects any agreements that would jeopardize it, causing deadlock in international agreements where consensus among participants is needed to be able to pass decisions. It can be said that the current agreements have been reached because they were diverted from what was asked by SALW activists, namely stricter controls not only on illicit SALW proliferation but also stricter regulations on legal trade production and licensing of SALW, to what could be agreed upon by states. This is due to the respect of the sovereignty of States, whereby all agreements have to “suit” the most powerful states national legislations.

The fact that SALW activist often, if not always, need the financial support of governments to launch their initiatives limits their independence (Karp, 2006). Therefore, they cannot force the governments that they are dependent upon to make drastic changes in their legislations that will cause unpopularity among voters. When the cooperation between SALW activists and governments increases we often see increasing government influence on research and projects that are led by SALW activists. Increasing government financing, due to the freedom of governments in dropping the project and the dependence of the researchers on the financial grants, means a loss of independence.

Another shortcoming of the SALW movement is that it lacks to provide a clear agenda on what is needed to be done next. The lack of direction is also accompanied by a lack of coordination among various existing activist groups. The goals of SALW activists are not clearly set. Some claim that the “goals of small arms activity are whatever it does” (Karp, 2006). SALW activism has

instead of aiming quantitative objectives or clearly defined legislative measure always aimed at achieving “more” of the existing measures, for example they have advocated for more controls, more information, and more cooperation. And since there has been a general discontent in the SALW activism inability to challenge the main areas of concern such as the civilian ownership, there has been an increase in the issues that the activists put into their agenda. They have, it might be argued, adapted themselves to their inability in challenging the powerful states reluctance to change their national laws on private ownership. We see that SALW activism now goes further than the immediate issues, and deals with victims support, developmental initiatives, DDR programmes, programmes designed with women and children as target.

It is essential that NGO’s and activists dealing with SALW set themselves clearly defined goals as Karp suggests. This is not only essential to secure the movement’s future, but it can also allow better evaluation of the outcomes of efforts on the issue. A clearer proof of their success can in turn generate more support for the SALW movement.

As it has been seen in the section dealing with international agreements, the international community’s primary concern on SALW proliferation has been on the illicit production, trade and use of SALW. This is a political choice, since the illicit aspects of SALW proliferation have so far been the only on which states have come to an agreement.

6.7 Arms Trade Treaty

On December 7th 2006, the UN general Assembly agreed to start working on an Arms Trade Treaty (ATT). The decision was adopted with the consensus of the overwhelming majority of member states. 153 member states voted in favor of the initiative with only one state, the US voting against it and 24 other states abstaining. The immediate benefits of an ATT are its ability, if implemented, to prevent arms sales in cases where SALW will be used to commit human rights abuses or where the excessive accumulation of SALW will result in conflict. Also a global ATT can serve as a confidence building measure between countries by increasing the transparency in SALW trade. The feasibility studies for such a global arms trade treaty are expected to start in 2008. There are several recommendations that can be made in order to establish a successful ATT regime that can serve as a pillar upon which all future initiatives can be built, remedying most consequences of SALW proliferation and misuse.

First of all such a treaty will have to be legally binding. This is due to the observation that, although they express the good will of signatory states to work towards a common goal, non-binding treaties are not enough to establish common standards that are crucial in dealing with SALW proliferation and sometimes can result in states acting selectively in their interpretation of the treaties. For example, whereas arms shipments from a European country towards troubled regions can be seen as a legitimate purchase of arms for a government in order to satisfy its legitimate security needs, whereas similar sales from China or Russia

towards similar countries can be perceived and denounced. A legally binding treaty will have more specific clauses, since it has legal consequences and this in turn will prevent loopholes resulting from different interpretations. Besides a non-binding treaty will only duplicate the existing principles. Since today, there are several international and regional treaties in place; the logical step to follow would be to establish a legally binding treaty.

The ATT will have to a comprehensive framework, that while setting minimum norms and standards that will be universally adopted by signatories to limit immediately the proliferation and misuse of SALW, it would also set the framework for the possibility to achieve consensus on other related issues in addition to trade, such as reintegration programs or assistance schemes for SALW survivors. In order to provide peace and security to the world community, and prevent loopholes, it should include the supervision and restriction of all transfers.

In order for an ATT to be efficient, it is absolutely necessary that is universal. Due to reasons explained in previous chapters, such as the loopholes that are created by differing national laws and lax controls, it is essential to achieve common approaches and principles regarding marking, tracing, the verification of borders as well as end-use certificates. This universal ATT should also include arrangements regarding to institutions that will enable the international community to control its implementation. As seen in the Chapter dealing with regional and sub-regional agreements on SALW, the measures that are the most successfully adopted are ones that are those that have institutions and

agencies to monitor compliance, help coordination and the exchange of information.

The ATT should include the principle that signatories to this treaty accept the clauses of other international agreements and resolutions such as the UN Security Council arms embargoes, clauses of the UN Charter and norms of international humanitarian law. Due to the legally binding character of the ATT, this could be the most efficient way to prevent breaches of UN arms embargoes or the excessive accumulation of SALW in regions where it is likely to cause instability or exacerbate conflict.

This Treaty should include the establishment of follow up mechanisms that will enable signatories to share their experiences, to make changes in the Treaty if necessary and to review compliance of the signatories.

Regional problems have to be taken into account, since regions have differing problems and differing areas of priority regarding SALW proliferation, as it was observed in the chapter dealing with regional initiatives. Regional instruments that are already in place can be used to complement the ATT and the regional institutions can provide additional tools for cooperation and exchange of information, whereas all existing points of contacts can provide data in their archives to the global instrument that will monitor the implementation of the ATT, therefore remedying to the problem of SALW related data explained in the first chapter.

The ATT should also foresee the establishment of research, training and capacity building institutions that will enable better aptitude to deal with SALW

proliferation and will harmonize international approaches and practices. This will also be a good way in which countries can assist one another in dealing with SALW proliferation.

CHAPTER VII

CONCLUSION

To conclude, it can be said that this research has shown the magnitude of the negative impacts of SALW proliferation and misuse. It has been obvious that no state or region is immune from these blows. It has been shown that SALW proliferation and misuse, not only kill and injure thousands of people per year, but that proliferation and misuse also hinders development, harms natural resources, prevents education, healthcare and aid to be provided for those most in need and also have disproportionate impacts on children and women.

The issue had been long neglected by the international community, and the end of the Cold War gave an opportunity for the issue to be discussed in international fora. There have been several regional agreements and initiatives to deal with the issue, those initiatives were also complemented with regional and sub-regional structures.

The existing international mechanisms are obviously positive developments. Not only has the international community acknowledged the impact of SALW proliferation but has chosen to act upon it. There are however several limitations in this area. The principal limitation comes from the fact that nearly all existing international agreements deal with the issue of “illicit” proliferation. However it has been shown in this study that civilian possession of SALW, legal or illegal,

can lead to the loss of lives, to repression and arbitrary power projection. In addition it has also been shown that most illicit SALW, if not all, have at some point been obtained legally.

It can be observed that regional initiatives are often more efficient in dealing with SALW proliferation than international agreements because states in the same regions often face similar challenges and can develop policies that will help them in better dealing with their priorities. Also the institutions and mechanism that regions create to share experience and assist one another are useful instruments for the monitoring of agreements.

However, there are still loopholes to be closed to eradicate SALW proliferation and misuse. Ammunitions should also be regulated because without ammunition SALW become invalid. There should also be more involvement from society, especially women who are disproportionately affected by SALW proliferation to find a solution to this pandemic and brokers should be held accountable in cases where their activities jeopardize peace and stability.

The aim of establishing an arms trade treaty seems the best framework upon which the efforts of eradicating SALW proliferation can be laid. This ATT will surely decrease incidence of diversion of SALW since it will raise the accountability of the last owner and will allow the international community to be able to follow the path of diversion to remedy to it. Therefore SALW activist should aim at pushing this issue forward in the international agenda.

However, the Presidential elections in the US, the Iranian nuclear program and the situation in Iraq will continue to have a priority in the international

agenda. Therefore, it is unfortunately possible that the issue of SALW proliferation will lose the momentum it had obtained in the later part of the 1990's. Some SALW activists had hoped that Obama, if elected, would hear their voice and make changes in the US policies on civilian ownership, however the Presidential candidate hasn't made a clear statement on any changes that would modify US policies towards SALW. These factors combined show that no drastic changes is likely to occur on the issue in the near future.

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