REGIONAL INITIATIVE ON THE PROLIFERATION OF SMALL ARMS
AND LIGHT WEAPONS: AN ANALYSIS OF THE NAIROBI PROTOCOL

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SEPTEMBER 2014
DECLARATION

This dissertation is my original work and has not been submitted for a degree in any other university

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MUGWERU GEORGE                                          DATE

This dissertation has been submitted for examination with my approval as a university supervisor

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OCHIENG KAMUDHAYI, PhD                                    DATE
ABSTRACT

The study focuses on the Great Lakes region and the Horns of Africa which is host to, among others, strings of violent armed conflicts which have challenged sovereignty of member states. These conflicts result in enormous human tragedy and account for the economic and societal deprivation that plagues the sub region while also stifling its development. Small arms and light weapons proliferation not only exacerbate these conflicts but also perpetuate the prevailing climate of insecurity in the Sub region.

The thesis ask how can the small arms and light weapons continue to exert their notoriety even after the commissioning of a small arms control instrument, the Nairobi Protocol. The research takes a journey to analyse this regional initiative which is also part of a global and regional approach to deal with the insecurity equation posed by the proliferation of this weapons.
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<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>CASA</td>
<td>Coordinated Action Small Arms</td>
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<tr>
<td>CBO</td>
<td>Church Based Organisation</td>
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<tr>
<td>IANSA</td>
<td>International Action Network on Small arms</td>
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<td>LRA</td>
<td>Lord s Resistance Army</td>
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<td>NAP</td>
<td>National Action Plan</td>
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<td>NFP</td>
<td>National Focal Point</td>
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<td>NGO</td>
<td>Non-governmental organization</td>
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<td>RECSA</td>
<td>Regional Center on Small Arms</td>
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<td>RMCS</td>
<td>Royal Military College of Science</td>
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<tr>
<td>RSCT</td>
<td>Regional Security Complex Theory</td>
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<td>SALW</td>
<td>Small arms and Light Weapons</td>
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<td>SU</td>
<td>Soviet Union</td>
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<tr>
<td>UNDDA</td>
<td>United Nations Department for Disarmament Affairs</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNGA</td>
<td>United Nation General Assembly</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UN PoA</td>
<td>United Nations Program of Action</td>
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DEDICATION

Just like Martin Luther King Dream I dedicate this piece of research to all theorists and practitioners working behind the scenes to bring an end to the gun culture and militarization of the society for the future generations to inherit a peaceful environment.
ACKNOWLEDGEMENT

This document serves as a symbolic testimony of the hard work, dedication, and undying support of a great network of friends too numerous to count. Am forever grateful for the incalculable assistance they rendered me through the entire process. I wish to thank my anonymous reviewers for comments on earlier drafts, whose advisory services in the early stages of research helped shape its outcome. I would also like to pay tribute to Dr. Ochieng Kamudhayi, my supervisor, whose guidance and thought provoking criticisms and suggestions made it possible for the completion of the dissertation.
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CHAPTER ONE

BACKGROUND TO THE STUDY

1.0 Introduction

The death toll from small arms dwarfs that of all other weapons systems and in most years greatly exceed the tolls of the atomic bombs that devastated Hiroshima and Nagasaki. In terms of the carnage they cause, small arms, indeed could well be described as weapons of mass destruction. Small arms proliferation is not merely a security issue; it is also an issue of human rights and of development. Annan, Kofi.  

This comes as a confirmation of how Small arms and light weapons have precisely been considered to be the most lethal weapons. During the Cold War, most if not all arms control negotiations have largely focused on major weapons systems like nuclear bombs, ballistic missiles, and aircraft. This concern was dependent of the view the devastation that a nuclear war could cause but very much unlikely, these are not the weapons that are being used in many of today’s conflicts. Therefore to reduce armed conflict and global insecurity, a need arose to focus attention on small arms and light weapons.

Global efforts to contend with the proliferation and misuse of small arms and light weapons have since then been on the rise and national governments, regional and the UN bodies have made a number of initiatives in response to Small arms and light weapons crisis through lobbying, conferences and treaties aimed at curbing arms trade and trafficking. Specific initiatives by the UN include the July 2001 conference on illicit trade in small arms and light

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3 Light weapons are weapons designed for use by several persons serving as a crew, such as heavy machine-guns, hand-held and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank and anti-aircraft missile systems, and mortars of calibers of less than 100 mm and ammunition and explosives (Muggah& Berman, Geneva: 2001, p.vii).
weapons in New York, *inter alia*. The initiatives have sought to provide states with recommendations on strengthening laws and policies in the areas of importing and exporting firearms, civilian ownership, the management of stockpile, collection and destruction of surplus and illicit small arms and light weapons.

A number of countries⁴ within the Great Lakes Region and Horn of Africa have not been insulated from the problem of small arms and light weapons proliferation. Acknowledging the effects of this proliferation, states in the region have adopted a regional initiative aimed at curbing the supply and misuse of illicit small arms and light weapons, in the form of the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa.

This initiative has been regarded vital in addressing the state and human security problems caused by the profiling nature of small arms and light weapons and also considered as a significant step towards tackling their socioeconomic and political impacts. The study thus seeks to conduct an analysis of the protocol in addressing the proliferation of small arms and light weapons in the Great Lakes Region and Horn of Africa.

### 1.1 Statement of the problem

The end of the cold war ushered in a spate of renewed global interrelation that spurred an era of unprecedented economic growth and prosperity. This regrettably was not the case for the Great Lakes and Horn of Africa region. The aftermath of the Cold War in contrast unleashed an outbreak of callous intrastate and trans-state conflicts resulting in untold human tragedy. The region for the past two decades played host to some of the most brutal conflicts in recent

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⁴ See *E.g.* Burundi, Democratic Republic of Congo, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, United Republic of Tanzania, and Uganda
history, came to be epitomized by massive killings, internal displacements, wanton refugee flows and acute poverty.

Arguments that small arms and light weapons do not cause conflict is well taken, but spiral effects of conflicts remain too significant to ignore. Beyond these multiplier effects of SALW to conflicts, its consequence to post conflict security situation is of no less significance. Increased availability of SALW has in the aftermath of conflicts led to exponential increase in crime rates in the sub region, perpetuating a climate of insecurity. As a measure to solve the insecurity equation posed by SALW, states in the region have drafted the Nairobi protocol, as legally binding instrument.

The aim of the protocol is to close loopholes and ensure that its signatory states uniformly address and cover all aspects related to the illicit proliferation of small arms and light weapons. However, despite a mechanism instituted to address the menace, SALW still posit their notoriety and destructive reputation in the sub-region. Their wide availability plays a role in perpetuating violence and making it more lethal at every level.

Henceforth, the fundamental research question being investigated is; why is the proliferation, wide availability and misuse of small arms and light weapons still a norm in the region? The study, therefore, sets out to investigate the factors hindering the Nairobi protocol from achieving its mandated purpose and to this end will be focusing on identifying a neutral position on the subject and striking a balance based on available facts.

\[\text{\small \textsuperscript{5} Ibid}\]
1.2 Objectives of the study

Broadly stated the study aims to undertake an analysis of the Nairobi protocol, the regional initiative obligated to curb small arms and light weapons in the Great Lakes Region and Horn of Africa.

Specific objectives of the study are

i) To examine policy responses/control initiatives formulated in the field of small arms and light weapons

ii) To conduct an assessment of the Nairobi protocol as a regional initiative dealing with small arms control

iii) To conduct a critical analysis of the issues emerging from the research study as a result of data analysis

1.3 Literature Review

The literature review for this study will be divided into various sub-sections. It starts by defining the concept of small arms and light weapons and proliferation respectively. Proceeds with a detailed review of existing works of the Dynamism of the SALW problem; basically an overview of efforts by the international community and other parties involved in stemming down the global threat. It further focuses on the Great Lakes and Horn of Africa region which is widely affected by this phenomenon and draws in the issue of control initiatives/policy responses to the problem. It concludes with Literature on the Nairobi protocol; the control initiative of the area under study.
1.3.1 Concept of Small arms and Light weapons

There raises various discourses that exist in relation to concepts associated with SALW; this is in cognizance of the lack of consensus by experts on the subject. There is no single understanding in scholarly works about small arms and light weapons because of what the concept constitutes. The categories of weapons have undergone some changes due to the dynamics of technological development. The definitions available have a tendency to describe such arms and weapons either by their configuration, characteristics, size, user perspective or a combination of some of these.

Renner\(^6\) considers small arms to be any weapon that can be carried by an individual. This includes everything from revolvers, pistols to machine guns, light anti-tank weapons and shoulder fired surface-to-air missiles. Laurence\(^7\) on the other hand, on a user's perspective, views them precisely as those weapons that can be carried by an infantry soldier or perhaps a small vehicle or pack animal.

The UN panel of government experts on small arms considers SALW as those weapons ranging from knives, clubs and matches to weapons particularly below the caliber of 10millimeter, small arms are those weapons manufactured to military specification and designed for use by one person, whereas light weapons are those used by several persons working as a crew.\(^8\)

The Royal Military College of Science (RMCS) Handbook on weapons and vehicles takes the definition in a more similar way but in a more detailed manner such as. Man portable,

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\(^6\) Michael Renner, Curbing the proliferation of Small Arms; The world Watch Institute Homepage; www.worldwatch.org/node/3738


Largely shoulder controlled weapon of up to 12.7 millimeter (0.5 inches) caliber; such weapons generally have a flat trajectory and an effective operational range of 0 to 800 meters although this varies considerably with caliber and weapon type, certain weapons can also provide neutralizing fire up to 1800 meters.\(^9\)

It is thus evident from the above that there is a lack of consensus in these definitions of small arms and light weapons. Honwana and Lamb\(^{10}\) contend the lack of consensus in the literature is with respect to identifying a small arm as opposed to a standard conventional weapon. This they claim has led to the formulation of an alternative concept light weapons which emphasizes a more technologically sophisticated category. However, despite the emergence of the light weapons concept, defining small arms still lacks clarity and even the distinction between small arms and light weapons is a matter of debate.

### 1.3.2 Concept of Proliferation

In relation to arms; it describes the spread of weapons, generally, from one country to another. Proliferation of arms is facilitated by certain intermediaries based on legal or illegal demands coming from particular lawless or restricted environments. The Geneva-based organization, Small Arms Survey, maintains, that SALW do not proliferate themselves rather, they are sold, resold perhaps stolen, diverted and maybe legally or illegally transferred several time. The UN acknowledges that massive acquisition and accumulation of arms could enhance proliferation. It however, qualifies the accumulation with such terms as excessive and destabilizing under certain conditions.\(^{11}\)

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\(^9\) Royal Military College of Science, Handbook on Weapons and Vehicles (Shrivenham: 1993)

\(^{10}\) Joao Honwana and Guy Lamb, Small Arms Proliferation and Drug Trafficking in Southern Africa, conceptual paper presented at the Center for Conflict Resolution, University of Cape Town South Africa, February 1998;

\(^{11}\) See UN Panel Report, 1995 P 3. By its resolution 50/70 B of 12 December 1995, the General Assembly requested the secretary General to prepare a report on small arms with the assistance of a panel of governmental experts.
1.3.3 Dynamism of the Small arms and light weapons problem: An Overview

The global dimensions of the small arms and light weapons problem were initially brought home in the context of UN efforts to tame a series of intra-state conflicts in the first half of the 1990s. Peacekeeping troops from many nations, along with their political leaders, were suddenly confronted with the reality of small arms proliferation. The UN’s increasing willingness to circumvent the principle of non-intervention in the internal affairs of states also helped legitimize the idea of global action on a still-sensitive issue.12

Research confirmed that the supply of small arms and light weapons was global in scope. States and armed opponents looked to the whole world for the sources and transit routes of their weapons. At the same time, many of the states thirteen worst hit by SALW proliferation were asking the international community for assistance. As the problem’s global dimensions became clear, the landmine campaign, and its resulting treaty banning antipersonnel mines, demonstrated the potential of global action centered on a particular type of weapon.14

By the mid-1990s, SALW were also viewed as a problem of international security and disarmament issue. UN Secretary-General Boutros-Ghali helped direct attention to the issue, in these terms, in his 1995 Supplement to An Agenda for Peace. He challenged the international community to find effective solutions to the problem of small arms proliferation and misuse illustrated by the conflicts the UN was grappling with at that time.15 And by 1997, Non-governmental Organisations had joined both of these UN tracks emphasizing on global action on SALW.

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12 The Small Arms Survey 2001. The Small Arms Survey is an independent research project based in Geneva Switzerland which was established in 1999 as the principal international source of public information on small arms aspects.
13 E.g. Somalia, Democratic Republic of Congo, Sierra Leone, Liberia among others
14 Small Arms Survey Op cit
15 See UN Secretary-General Boutros Ghali report, Supplement to An Agenda for Peace, paras. 60-63 and 65. At the 50th session of the UN General Assembly 1995
At a meeting in December 1997, after four years of research and conferences, NGO groups agreed that the time was right to begin developing a global action plan and in January 1998, a website was developed which, by May 1999, became the basis for the establishment of the International Action Network on Small Arms (IANSA). With over 300 members, IANSA has become the main coordinating body for NGO efforts to raise the awareness of civil society, media, and governments, to encourage the development of global policy initiatives, and to work with governments, regional organizations, and the UN to combat the small arms and light weapons problem.\(^\text{16}\)

In 1998, the global process was further advanced when the United Nations Department for Disarmament Affairs was designated as focal point for all action on small arms within the UN system. Under its leadership, a mechanism called the Coordinated Action on Small Arms (CASA) was created and began to integrate the developmental, criminal, and humanitarian features of the problem with its security aspect.\(^\text{17}\) As the efforts described above advance, often slowly, towards fruition, several global institutions have also begun to fund programmes which seek to address the SALW problem at local and national levels.

A 1997 United Nations General Assembly resolution established a process known as the Group of Interested States whereby donor countries meet with states especially hard hit by small arms and light weapons to identify promising practical disarmament projects for funding. Despite its reluctance to get involved in security issues, recognition of the negative effects of small arms on development, the World Bank’s Post-Conflict Unit has also been established to explore how it can be of assistance\(^\text{18}\). This is after research shows that an estimated that half a million people are killed by small arms each year; 300,000 people are killed in conflict regions

\(^\text{16}\) Small arms survey op cit
\(^\text{17}\) The key documents are available from the UNDDA website (http://www.un.org/Depts/dda/CAB/action.htm).
\(^\text{18}\) Small Arms Survey op cit
such as the Great Lakes region and the Horn of Africa and a further 200,000 are killed in gun violence in non-war-torn countries.\(^{19}\)

### 1.3.4 Small arms proliferation in the Great Lakes Region and the Horn of Africa

The Great Lakes and Horn of Africa region is amongst the most affected regions by the easily availability and proliferation of SALW. The sub-region has received and recycled arsenals of arms and weapons from the decolonisation struggles throughout the Cold War and its aftermath. Conflicts and incidents of cattle-rustling involving Sudan, the Democratic Republic of Congo, northern Uganda, Burundi, Rwanda, and north-western border area between Kenya and Somalia, continue to threaten peace and stability and consequently hinder prospects for socio-economic development in the entire sub-region.

At the core of this and other conflicts is the availability and proliferation of SALW as tools of violence. The effects and impact of these arms have been manifested in the high levels of death, injury, social dislocation and economic destruction. A prime example is the Republic of Congo, where research by Small Arms Survey revealed an estimated figure of 41,000 weapons in the hands of various militias scattered throughout the country.\(^ {20}\)

Kizito and Cheruiyot\(^ {21}\) point out how this illicit proliferation and misuse of SALW aggravated the security situation of pastoral communities in the sub region. The flow and use of the weapons is also seen to contribute directly to the escalation of pastoral conflicts because of their lethality and destructive nature which triggers vengeance and counter vengeance that leads

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\(^{19}\) World Health Organization, World Report on Violence and Health (2002); Robert Muggah and Martin Griffins, Reconsidering the Tools of War: Small Arms and Humanitarian Action (London: Overseas Development Institute, 2002).

\(^{20}\) See<www.africaonline.com/site/Articles/1,3,43165>.

to a vicious cycle of violence during cattle rustling hence creating a direct complication for both state and human security.

Knighton\textsuperscript{22} in his study estimates the presence of five million small arms to be circulating among 189 million inhabitants of the pastoral areas of eastern Africa and the Horn. These arms, he contends, have increased cross-border raids between the Karamajong and Pokot, the Karamajong and Jie, Dodoso, Turkana, Samburu, Marakwet, Sapiny or Sabaot, and Bakusu. These conflicts are known to occur in the border areas of North-eastern Uganda and Western parts of the Kenyan border.

In the Horn of Africa, Somalia, for years without government authority, is today regarded as the major transit point for weapons to the region.\textsuperscript{23} The country has also received attention in the USA's war against terror. There have been allegations that terrorist groups such as the Somali-based \textit{Al Itihaad} are using the country for training and use charitable organizations to transfer money and smuggle arms. Many Somali militia are said to be involved in the trafficking of arms that can reach as far as Ethiopia and downtown Nairobi.

In the Great Lakes region, Cheruiyot\textsuperscript{24} gives insights of how violence has decreased commercial activity along the Congo River, a primary transport network. The arising scarcity is highlighted as destabilising the prices and the meager trade that persists becomes unpredictable. Armed banditry along the region has also curtailed the supply of cash crops and transport markets, forcing farmers to abandon commercial harvests leading to food scarcity.

\textsuperscript{22} B Knighton, \textit{The State as Raider among the Karamajong: Where there are no guns, they use the threat of guns}, p. 1, paper presented at the seminar on Historical Ethnography and the Collapse of Karamajong Culture: Premature Reports of Trends, African Studies Seminar, St. Antony's College, University of Oxford, 13 June 2002

\textsuperscript{23} Kenya's Porous Border Lies Open to Arms Smugglers, \textit{international/africa}

\textsuperscript{24} See An analysis in Laban Cheruiyot, \textit{The Role of Civil Society in the control and management of the proliferation of illicit SALW in the Horn of Africa} \textit{M.A Thesis, unpublished}, IDIS, University of Nairobi, 2004. P 10
1.3.5 Control Initiatives

The proliferation and need for control over SALW is impelled by the many negative impacts that uncontrolled proliferations are seen to have on people and societies across the globe. From domestic violence to protracted intra-state conflict, small arms are identified as playing a role in a great many social ills, principally through their multiple means of misuse.

Page et al posit that SALW control agreements and mechanisms have no doubt been devised such as the U.N Firearms protocol (also known as the Vienna Protocol) which was adopted in May 2001 as a supplement to the UN Convention Against Transnational Organised Crime and the UN PoA adopted at the UN Conference on Preventing, Combating, and Eradicating the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in July 2001. The adoption of the PoA, however, was the culmination of several years of efforts to put the devastating effects of SALW and the need to address this issue on the international agenda. The PoA defines some of the norms and principles that guide the work of the international community on SALW issues.

Preparations for the 2001 conference that created the UN PoA allowed for regional positions on small arms control to be further developed and to that end, there have been a significant number of regional agreements that have emerged such as the E.U Joint Action which aims, firstly, to combat, and contribute to ending, the destabilising accumulation and spread of small arms; secondly, to contribute to the reduction of existing accumulations of these weapons and their ammunition to levels consistent with countries' legitimate security needs; and thirdly, to help solve the problems caused by such accumulations, the Bamako Declaration which

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evolved out of the need for a common African approach at the UN Small Arms Conference of 2001 *inter alia*.  

Bergenas  

contends that efforts to combat the small arms proliferation and misuse have also taken effect at the sub-regional levels. In the Great lakes and Horn of Africa region, governments have signed and ratified a control mechanism to stem the SALW proliferation. The Nairobi Protocol was signed by eleven states in April 2004 at The Second Ministerial Review Conference of the Nairobi Declaration. It entered into force in May 2006 after acquiring an additional signature from Somalia and being further ratified by two-thirds of its signatories. Reaffirming the goals of the declaration, the Nairobi Protocol is a detailed legally binding regional agreement that builds on the commitments of the politically binding declaration.

The protocol has been considered the best approach to tackle the problem of SALW since the region has been cumulating the factors conducive to the proliferation of these weapons. The presence of excessive and easily accessible quantities of small arms and light weapons have resulted in devastating violence, displacement of people, human right abuses and a violation of international humanitarian law in the region. The arms fuel wars and sustain conflicts between and within states hence resulting to increased insecurity and instability.

1.3.6 Gap in the Literature

Theory and practice especially in international agreements is an issue that involves discrepancy in most cases. Most efforts are concentrated on drafting and signing procedures, however, effective application of these treaties remains a problem. This can be noted when analyzing the sole purpose of the Nairobi Protocol. Though, it provides for a comprehensive set

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26 Ibid
of measures to deal with the small arms problem and their cooperation at the national and regional level; It still has a long way to go towards achieving a secure and safe region free from SALW proliferation and misuse which by far still a reality.

Its effective application to deter the small arms issue is clearly lacking. The study thus seeks to fill these gaps in a bid to identify the shortcomings in the treaty and provide alternative measures for the progress of the protocol.

1.4 Rationale/Justification of the study

This study is intended to provide useful reference to policy makers in the region and contribute to ongoing debates on the problem of small arms and light weapons proliferation. The study will further contribute to existing body of knowledge, while serving as reference material for other researchers on similar topics.

1.5 Theoretical Framework

For decades long, the Great Lakes region and the Horn of Africa has been confronted by a myriad of security challenges that often have resulted in economic, social and political instability. The issue of small arms proliferation, wide availability and misuse is not a new phenomenon in the region since some of the states in the region have to an extent developed their own arms production industries.²⁸ Somalia is the quintessential failed state that illustrates the cost of small arms and light weapons proliferation and the challenges of recreating the conditions for sustainable development in a heavily armed environment. State fragility and collapse has thus been the norm in the region.

²⁸A number of East African states are also developing their own arms production industries. With Belgian assistance, Kenya built a plant in Eldoret capable of producing 20 million rounds of ammunition a year. Ethiopia, Sudan, Tanzania and Uganda also have limited arms and ammunition production capacities.
The threat posed by the small arms problem to state and human security has necessitated a step towards cooperation between the governments of the region on matters touching on national and regional security. Before contemplating to define what a Regional Security Complex is, one must first of all have a clear idea of what a region is with reference to the concept of security. Buzan\(^{29}\) makes reference to a region as a distinct and significant subsystem of security relations existing among a set of states whose fate is that they have been locked into geographical proximity with each other, in other words, a region has been viewed as an integrated area which has economic, geographic, social and cultural similarity and challenged by the same security problem.

Buzan\(^{30}\) concurs that a security complex refers to a group of states whose primary security concerns link together sufficiently closely that their national securities cannot be realistically considered apart from one another. He further stipulates that the primary factor in a complex definition is a high level of threat or fear which is mutually felt among two or more states.\(^{31}\)

According to Berouka\(^{32}\) security complexes are exposed to four distinct types of threats and their interaction: lingering conflicts that emerge between neighbouring states; intrastate conflicts, which are usually spillovers of internal politics and conflicts that arise from transnational threats caused, for instance by the rise of radical Islam and informal networks, state fragility, demographic explosion, environmental degradation and resource scarcity among


\(^{30}\) Ibid

\(^{31}\) Ibid

\(^{32}\) Mesfin Berouka, *Horn of Africa Security Complex*: Regional security in post cold war Horn of Africa, ed. RobaSharamo and BeroukaMesfin, April 2012
others. Such threats tend to form the basis of unity among feuding regional actors if they significantly threaten regional stability and status quo within the actors.

This is the case in the Great Lakes region and the Horn of Africa where conflicts such as the resource conflicts caused by some key factors such as environmental degradation have been witnessed. Transnational threats such terrorism, drug trafficking, organized criminal gangs, money laundering are also common in the region. Terrorism, especially has presented a great security challenge because of radicalization of youths within the region. The result of which has been the growth and expansion of the Al shabaab, a terrorist group based in Somalia.

The presence and wide availability of small arms and light weapons worsens the security situation in the region. Though there availability can be attributed to the fall or regimes in Ethiopia (1991), Rwanda (1994), Uganda (1979 and 1986) and Somalia (1991), there has also been a steady stream of weapons into the region from numerous arms producers such as Ukraine, Russia, China and the USA. The weapons have become the means to achieve an end such as the recent and the ongoing terrorist attacks in Kenya\textsuperscript{33}, rebel group in Uganda (LRA)\textsuperscript{34} and the attempted coup in South Sudan.

Geographical proximity in a region enables threats to spread more easily than in long distances such as the internally displaced people (IDPs) and refugees fleeing to neighbouring countries who serve as a good way to contextualize what Buzan and Waever\textsuperscript{35} mean by security threats travelling more easily over short distances than over long. This problem is common in the Great lakes region and Horn of Africa where terrorist groups camouflage within refugees.

\textsuperscript{33} Gunmen Kill four in terrorist attack on Kenyan Church . Uk.reuters.com/article/2014/03/23.
\textsuperscript{34} See International Crisis Group . Northern Uganda: Seizing the Opportunity for Peace . 2007
\textsuperscript{35}Buzan and Waever, Region and Powers. (2003). Op cit
The synthesis of the definition of a region and security complex brings us to what is otherwise known as the Regional Security Complex which has the advantage of capturing both the character of the attribute that defines the set (security), and the notion of intense interdependence that distinguishes any particular set from its neighbours.  

36 The theory offers a promising tool for conceptualizing regional security in contemporary international system and makes at least two very significant contributions.

First, it brings out the relative importance of regional security analysis vis-à-vis other, (i.e. national and global) levels of analysis of the international security system.  

37 Secondly, the concept of regional security complex offers the necessary criteria for its self-definition which is rooted within indigenous patterns of security interdependence, rather than general and systemic factors shaping the nature of the international system.

The intense interdependence of national security perceptions featured by the complexes gives an indication that there remains at least the possibility that such interdependence might involve a positive correlation of actor values and lead to cooperative arrangements among some or all actors to manage regional security problems. The main argument held by the theory being that security analysed solely through a national perspective does not make sense since security dynamics are always relational.  

38 The Nairobi protocol being the regional initiative on small arms and light weapons is a reflection of cooperation with regard to security on national and regional level. The threat posed by small arms proliferation has left no state insulated in the region. The relational dynamics of

37 Ibid
38 Ibid
security of security have demonstrated that no nations security is self-contained as the threat impacts negatively on regional peace and security. The initiative also shows united entities perspective on shared interests; to defend their political independence and territorial integrity from the small arms threat. The theory thus forms the basis of analysis and a guide in the research area.

1.6 Research Hypotheses

H₁    Political will boosts regional initiatives efforts in Small Arms Control
H₂    Political will insufficiency undermines regional initiatives efforts in Small Arms Control

1.7 Research Methodology

The research process will be guided by the research design. The methodology will involve data collection instruments and data analysis and interpretation in a manner that aims to combine relevance to the research purpose with economy of procedure.

1.7.1 Research Design

According to Kerlinger⁴⁹, a research design is a plan, structure and strategy of investigation so conceived so as to obtain answers to research questions or problems. The design describes the procedures for conducting the study, including when, from whom and under what conditions data were obtained. Its purpose is to provide the most valid, accurate answers as possible to research questions, to minimize the chance of drawing incorrect causal inferences from data.

A research design may be qualitative or quantitative. A qualitative research design is selected for the purposes of this study because it contains features, which enable the researcher to obtain thick descriptions and to attain depth of information for a better understanding of the phenomenon under investigation. The research question of this study seeks to investigate why the proliferation, wide availability and misuse of small arms and light weapons still a norm in the region?

A qualitative research design was preferred to a quantitative design because the researcher had little control over the events and the study required a contemporary focus within a real life context. The research design laid the basis for the employment of the following data collection techniques; sampling, data collection instruments (both primary and secondary data), ethical considerations and an explanation of the data analysis and interpretation.

1.7.2 Sampling

In research, sampling is undertaken for it gives access to comprehensive study of a part as opposed to whole population. This study adopted purposive sampling method as it is an appropriate way of selecting information rich personnel in situations where one needs to reach a targeted sample quickly. The sampling population for this study constituted practitioners, policy makers, professionals because they are likely to be more knowledgeable and informative about the subject under investigation.

1.7.3 Data Collection Instruments

Primary data was obtained from interviews. Interviews were considered a suitable instrument for this study because the approach centers on the interviewee’s lifeworld, in which one seeks to understand the meaning of phenomena in the participant’s lifeworld. A semi-

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structured interview technique was chosen because it is a basic method of data gathering, the purpose of which is to obtain rich, in-depth information about the subject matter from the respondents.

Secondary data was obtained from sources which included relevant published and unpublished materials on the research area. These include books, journals (electronic and print), periodicals, United Nations reports, magazines, Newspapers, and bulletin and internet sources. The sources are considered to be of great importance in tracing the historical development of the study and very key in guiding the theoretical foundations of the study.

### 1.7.4 Data analysis and Interpretation

As with the number of responses from the interviews is concerned, data obtained from the field was edited to ensure accuracy and consistency. Qualitative data derived from primary and secondary sources of data was evaluated and analysed in a systemic manner in order to determine the adequacy of information and the credibility, usefulness, consistency and validation of the hypothesis.

### 1.7.5 Ethical Considerations

The criterion for a research design involves not only the selection of information rich informants and efficient research strategies but also adherence to research ethics. With this in mind, Sensitivity was extended to ethical principles because of the research topic, which involved face-to-face interactive data collection.
1.8 Operationalisation of Terms

1.8.1 Definition of Terms

The protocol provides definition to some key elements regarded to be very essential in relation to small arms and light weapons proliferation and to the overall achievement of the protocol objectives. They include;

1.8.2 Brokering

Acting to facilitate the transfer, documentation and/or payment in respect of any transaction, relating to the buying or selling of small arms and light weapons for a commission, advantage or cause, whether pecuniary or otherwise.

1.8.3 Broker

Is a person who acts to facilitate the transfer, documentation and/or payment in respect of any transaction, relating to the buying or selling of small arms and light weapons or as an intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient.

1.8.4 Illicit trafficking

The import, export, acquisition, sale, delivery, movement or transfer of small arms and light weapons from or across the territory of one State Party to that of another State Party if any one of the State Parties concerned does not authorise it in accordance with the terms of this Protocol or if the small arms and light weapons are not marked in accordance with Article 7 of this Protocol.
1.8.5 Tracing

The systematic tracking of small arms and light weapons, from manufacturer to purchaser, for the purpose of assisting the competent authorities of State Parties in detecting, investigating and analyzing illicit manufacturing and illicit trafficking.

1.8.6 Ammunition

The complete round or its components, parts or replacement parts of a small arms or light weapon, provided that those components are themselves subject to authorization in the respective State Party.

1.9 Chapter Summary

The section lays the sequence in which the chapters of the whole research project are designed.

Chapter one gives a background to the regional initiative on small arms and light weapons in the Great Lakes Region and the Horn of Africa. It reviews literature on the small arms issue from a global perspective; this gives insights to the genesis of the small arms proliferation. It further endeavours to give illustration of how the Great Lakes region and Horn of Africa sovereignty has been greatly challenged by the mere presence of these weapons and concludes with a brief review of literature on control or policy responses to the small arms and light weapons.

Chapter two provides an extensive review of literature on small arms and light weapons agreements. It analyses the control initiatives from a global perspective from which regional and national stance on the issue have been formulated. This national and regional approaches form the pillars of the global control mechanism. The chapter concludes with literature on the Nairobi
Protocol; the control initiative formed by governments of the region to deal with the issue of small arms and light weapons proliferation in the region.

Chapter three conducts an assessment of the Nairobi protocol as a regional initiative in the Great Lakes region and Horn of Africa. The chapter captures the various strategies the protocol employs to curb both licit and illicit small arms and light weapons proliferation. It further shows the various centers which have been established for the implementation of the protocol regulations at the national and regional levels. The chapter employs both primary and secondary sources of data, a holistic analysis targeting to minimize subjectivity in the research.

Chapter four conducts a critical analysis of the study findings. The chapter critically examines issues emerging from the various chapters. The chapter presents the findings of this study as a result of data analysis. It discusses the data obtained and interprets the findings in relation to the research aim of this study. The chapter further conducts a critical analysis of the hypothesis and study objectives which are analysed to assess whether they have been achieved by the study findings.

Chapter five reflects upon the observations and suggestions made in the study. Its purpose is not to be a definitive final word on this topic; rather it should be used as a platform from which future endeavours into small arms and light weapons control in the region can begin.
CHAPTER TWO
SMALL ARMS AND LIGHT WEAPONS CONTROL INITIATIVES

2.0 Introduction

Chapter one discussed the background of the study, problem statement, study objectives, literature review, theoretical framework, hypothesis, justification of the study, methodology and the chapter summary. This chapter therefore discusses the initiatives undertaken by different regions to curb small arms and light weapons. The complex nature of the small arms and light weapons problem is one that has called for a holistic approach for its proper address. Joint action from the international arena to national levels has been of great emphasis not forgetting the regional level. This is in view of the catastrophic effects of the proliferation, wide availability and misuse of small arms globally which have presented a great challenge to state and human security.

Measures to address the demand for weapons and to better regulate their supply have since been on the rise. Regional arrangements and initiatives are considered important in the development of standards and practices that lay the foundations of international consensus. The analysis hence begins with an assessment of the global initiative on small arms, the UN PoA which gives the basis for regional approaches to strengthen its operational capacity. The Bamako declaration in Africa is also analysed as a regional approach, from which other initiatives at the sub regional levels stem from such as the ECOWAS moratorium, SADC protocol, and Nairobi protocol, among others.

2.1 United Nations Programme of Action (UNPoA)

At the global level, the United Nations of Action provides a broad framework as a control initiative in the field of small arms and light weapons problem. It is an outcome of a United Nations Conference on the illicit trade in small arms and light weapons in all its aspects, held on July 2001 in New York. The conference aimed at developing a framework for comprehensive action at the national, regional and global levels to address the illicit trade in small arms and light weapons in all its aspects. It was representation of the first real attempt to agree to a comprehensive set of measures to address the problem.

At the end of the conference, state parties resolved to mobilize the political will throughout the international community to prevent and combat illicit transfers and manufacturing of small arms and light weapons in all their aspects and cooperate towards these ends by raising awareness of the character and seriousness of the interrelated problems associated with the illicit manufacturing of and trafficking in these weapons.

At the national level, the UNPoA seeks to put in place adequate laws, regulations and administrative procedures where they do not exist to exercise effective control over the production of SALW within their areas of jurisdiction. States are also encouraged to adopt and implement the necessary legislative or other measures to establish as criminal offences under their domestic law, the illegal manufacture, possession, stockpiling and trade of small arms within their jurisdiction. This is aimed at ensuring that those engaged in such activities can be protected under appropriate national penal codes.

States are also encouraged to take appropriate measures, including all legal administrative means against any activity that violates a United Security Council arms embargo in accordance
with the charter of the United Nations.\textsuperscript{42} States are also to ensure, subject to their respective constitutional and legal systems, that the armed forces, police or any other body authorized to hold SALW establishes adequate and detailed standards and procedures relating to the management and security of their stocks of weapons.\textsuperscript{43}

At the regional level, the UNPoA encourages the strengthening and establishing, where appropriate and as agreed by states concerned, of moratoria or similar initiatives in affected regions or sub regions on the transfer and manufacture of small arms and light weapons. It calls for the respect of moratoria, initiatives and programmes to enhance the successful implementation of such programmes. States are further encouraged to establish where appropriate, sub regional or regional mechanisms in particular trans-border custom cooperation and networks for information sharing among law enforcement, border and customs control agencies. These mechanisms are aimed at preventing, combating and eradicating the illicit trade in small arms and light weapons.\textsuperscript{44}

At the global level, the UNPoA encourages states to promote and cooperate with the United Nations system to ensure the effective implementation of arms embargoes decided by the United Nations Security Council in accordance to the charter of the United Nations.\textsuperscript{45} The UNSC is also encouraged to consider on a case by case basis, the inclusion, where applicable of relevant provisions for disarmament, demobilization and reintegration in the mandates and budgets of

\textsuperscript{42} The United Nations Programme of Action Section 11 para 15
\textsuperscript{43} Ibid, Section II para 17
\textsuperscript{44} Ibid Section II para 27
\textsuperscript{45} Ibid , Section II para 32
peacekeeping operations. States are also encouraged to consider ratifying or acceding to international legal instruments against terrorism and transnational organized crime.\textsuperscript{46}

On the implementation of the UNPoA, states and appropriate international and regional organizations in a position to do so, should upon request of the relevant authorities, render assistance both technical and financial to support the implementation of the measures to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects.\textsuperscript{47}

The UNPoA is thus considered important because it provides a set of minimum standards and commitments, which all states should adopt. It encourages further action from all states willing to develop more stringent commitments and comprehensive programmes. The programme contains positive reference to the reduction of surplus stocks of small arms and the disposal of surplus weapons. It establishes clear international norms and encourages programmes to promote stockpile management. It explicitly calls on all states to cooperate with UNSC embargoes and contains a commitment requiring states to authorize exports of SALW on the basis of strict national export criteria that are consistent with state’s existing obligations under international law.\textsuperscript{48}

\textbf{2.2 The Bamako Declaration}

The Bamako declaration provides for a common position adopted by the African continent regarding the problem of the proliferation of illicit SALW. The declaration calls on

\textsuperscript{46} Ibid Section II para 40
\textsuperscript{47} Ibid Section III para 20
\textsuperscript{48} See Coe and Smith, Action Against Small Arms Op cit
member states and suppliers to ensure that their behavior and conduct are not only transparent, but also goes beyond narrow national interests.\textsuperscript{49}

It also adds a comprehensive solution to the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons. Some of the measures proposed include control and reduction of both the supply and demand aspects of small arms and light weapons; coordination and harmonization of the efforts of the member states at the regional, continental and international levels. The declaration also underscores the need for the institutionalization of national and regional programmess of action aimed at preventing, controlling and eradicating the illicit proliferation, circulation and trafficking of SALW in Africa.

At the national level, the Bamako declaration urges states to put in place where they do not exist national coordination agencies or bodies and the appropriate institutional infrastructure responsible for policy guidance, research and monitoring an all aspects of small arms and light weapons prevention. States are called upon to enhance the capacity of national law enforcement and security agencies and officials to deal with all aspects of the small arms and light weapons problem.\textsuperscript{50}

At the regional level, states are encouraged to codify and harmonize the legislation governing the manufacture, trading, brokering, possession and use of small arms and light weapons. Common standards should include but not limited to marking, recording, recordkeeping and control governing imports, exports and the licit trade.\textsuperscript{51} They are also encouraged to strengthen regional and continental cooperation among police, customs and

\textsuperscript{49} The Bamako Declaration Article 2 section I
\textsuperscript{50} Ibid Article 2 sec II
\textsuperscript{51} Ibid
border control services to address the illicit proliferation, circulation and trafficking of small arms and light weapons.

At the global level, the declarations strongly appeals to the wider international community and in particular to arms supplier countries to actively engage, support and fund efforts of the African Union member states in addressing the problem of illicit proliferation and trafficking of small arms and light weapons the continent. Supplier nations are urged to enact stringent laws, regulations and administrative procedures to ensure the effective control over the transfer of SALW, including mechanisms with a view to facilitating the identification of illicit arms transfers.

Member states signatory to the Declaration appeal to competent international organization like INTERPOL, the world customs organization (WCO) and the UN regional centre for peace and disarmament in Africa, to play a more important role in the fight against the illicit proliferation, circulation and trafficking of SALW. Overall, member states, the United Nations, Regional organizations, research centers, the civil society and the international community on a wider scale are urged to develop and fund action oriented research aimed at facilitating greater awareness and a better understanding of the problem and providing a basis for advocacy and action on prevention measures.

2.3 The ECOWAS Moratorium

Due to the fact that the proliferations of illicit SALW constitute a destabilizing factor for ECOWAS member states and a threat to peace and security, member states declared a moratorium on the importation, exportation and manufacture of SALW. The moratorium took

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52 Ibid Article 4 sec II
53 Ibid Article 5 sec IV
effect on 1\textsuperscript{st} November 1998 for a renewable period of three years. In order for this moratorium to succeed, ECOWAS member states sought the assistance of the then organization of African Union (OAU), the United Nations and the international community in implementing the Programme for Coordination and Assistance for Security and Development (PCASED).\textsuperscript{54}

The adoption of the ECOWAS Moratorium was considered a significant step in addressing the problem of illicit small arms proliferation and general disarmament in the sub-region. It lays the foundation for the development of a region-wide strategy on arms proliferation in particular, and disarmament in general. The preamble to the Moratorium captured the destabilising effect of small arms, stating that the proliferation of light weapons constitutes a destabilising factor for ECOWAS Member States and a threat to the peace and security of our people.\textsuperscript{55} Consequently, the broad aim of the Moratorium is to create an environment conducive to socio-economic development in the sub-region.

At the national level, the establishment of National commissions (Natcoms) is perhaps the single most important institutional requirement for the effective implementation of the Moratorium. In order to promote and ensure co-ordination of concrete measures for effective implementation of the Moratorium at the national level, Member States shall establish National Commissions, made up of representatives of the relevant authorities and civil society. The ECOWAS Executive Secretariat shall prepare guidelines to assist the Member States in the establishment of their National Commissions.\textsuperscript{56}

\textsuperscript{54} See ECOWAS Declaration of a Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa, 31 October 1998.
\textsuperscript{55} ECOWAS Declaration of a Moratorium, op cit, p 1.
\textsuperscript{56} ECOWAS Code of Conduct, p 3
At the regional level, there is the establishment of the Economic Community of West African States Monitoring Group. It is a multilateral armed force established by the ECOWAS moratorium as a result of the security threats such as conflicts, which have led to the massive flow of refugees and internally displaced persons, both within and outside of the respective borders. The need to combat security threats posed by the large movement of refugees across the region’s porous borders is one of the reasons advanced by the ECOWAS Ceasefire Monitoring Group (ECOMOG) troop-contributing states.\textsuperscript{57}

The West African moratorium was a bold step aimed at reducing the flow of small arms and light weapons in West Africa.

2.4 The Southern African Development Community Protocol (SADC)

The protocol covers fourteen southern African countries. The protocol seeks to prevent, combat and eradicate the illicit manufacturing of firearms, ammunition and other related materials and their excessive and destabilizing accumulation, trafficking and possession and use in the region. This protocol also aims at promoting and facilitating cooperation and exchange of information and experience in the region. The SADC protocol also provides for the enactment, by the member states, of the necessary legislation and other measures to sanction criminally, civilly or administratively under their national laws, the violation of arms embargoes mandated by the Security Council of the United Nations.\textsuperscript{58}

State parties also commit themselves to coordinate national training programmes for the police, customs and border guards, the judiciary and other agencies involved in preventing,

\textsuperscript{57} ECOWAS Declaration of a Moratorium, op cit
\textsuperscript{58} The Southern African Development Community Protocol on the control of firearms, Ammunitions and Related Materials Article 5 sec 2
combating and eradicating the illicit manufacturing of firearms, ammunition and other related materials. Inter-agency working groups shall also be established, involving the police, military customs home affairs and other relevant agencies to improve policy coordination, information sharing and analysis at the national level.59

State parties undertake to consider a coordinated review of national procedure and criteria for issuing and withdrawing of firearm licenses to civilians and establishing and maintaining national electronics databases of licensed firearms, fire arms owners and commercial firearms trader within their territories. On state owned fire arms states parties undertake to inter alia, establish and maintain complete national inventories of firearms, ammunition and other related materials held by security forces and other state bodies and to enhance their capacity to manage and maintain secure storage of state owned firearms.60

Member state further undertake to identify and adopt effective programmes for the collection, safe storage, destruction and responsible disposal of fire arms rendered surplus, redundant or obsolete. The protocol encourages states parties to develop national and regional public education and awareness programs to enhance public involvement and support for efforts to tackle proliferation and illicit trafficking and to encourage responsible ownership of firearms ammunition and other materials.

For effective implementation of the SADC protocol on small arms, state parties shall establish appropriate mechanisms for cooperation among the law enforcement agencies. Some of these mechanisms include inter alia, the establishment of direct communication systems to facilitate free and fast flow of information among the law enforcement agencies in the region and

59 Ibid Article 6(c)
60 Ibid Article 8 (b)
the establishment of infrastructure to enhance law enforcement such as national focal points and inspection facilities at all designed ports of exit and entry.\textsuperscript{61}

The SADC protocol on small arms clearly identifies the problem of illicit small arms and light weapons as a regional problem. The result of which has been uniting governments in the region to address the menace.

\subsection{2.5 The Nairobi Declaration}

State parties signatory to the Nairobi Declaration are: Burundi, Democratic Republic of Congo, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, Tanzania and Somalia. The state parties to the Nairobi Declaration recognize that the problem of the proliferation of small arms and light weapons derives mainly from the past and ongoing armed conflicts in the region as well as from the illicit trade and terrorist activities. They also recognize the fact that the inadequate capacity of states in the region to effectively control as well as mass movement of armed refuges across national borders in certain countries as another contributing factor to this problem.

Member states further acknowledge that the problem of illicit proliferation of SALW in the region has been exacerbated by internal strife and extreme poverty. In the Declaration, states also concur that a comprehensive strategy to arrest and deal with the problem must include putting in place structures and processes to promote democracy, the rule of law, observance of human rights and governance as well as economic recovery and growth. By addressing these underlying causes, the declaration monitors the demand side of the problem of small arms and light weapons in the region.

\textsuperscript{61} Ibid Article 15
The Declaration underscores the point that a sustainable solution to the SALW problem requires active and concerted regional effort, as well as international understanding and support. Recognizing the need for information sharing and cooperation in all matters relating to illicit small arms and light weapons, it promotes research and data collection in the region and encourages the cooperation of governments.\(^62\)

States are also expected to coordinate and publicize their policies, regulations and laws relating to the possession of arms by civilians and to strengthen sub regional cooperation among police, intelligence, customs and border controls officials in combating the illicit trafficking and use of small arms and light weapons. The declaration further calls upon states to strengthen or establish national mechanisms to deal with the problem of illicit small arms as well as to complement the Declaration.

In a bid to have a holistic response to the problem of small arms and light weapons, state parties also appeal for the support of other sub regions in the continent as well as the international community and pledge to implement the relevant decisions of the United Nations, African Union and other regional bodies. The Declaration\(^63\) has stepped up its efforts by encouraging the establishment of a concrete and coordinated agenda for action in the sub region to promote human security and ensure that all states have in place adequate laws, regulations and administrative procedures to exercise effective control over the possession and transfer of small arms and light weapons.

The Coordinated Agenda for Action is also considered crucial in addressing the demand aspect of the problem of SALW and thus state parties are urged to \textit{inter alia}, pursue positive

\(^{62}\)\textit{The Nairobi Declaration} Article III

\(^{63}\)Ibid Article IV
policies and measures to create social, economic and political environments to reduce the resort to arms by individuals and communities.

2.6 The Coordinated Agenda for Action

The Coordinated Agenda for Action came into existence in November 2000, the states parties to the Nairobi declaration came up with the Coordinated Agenda for Action on the problem of SALW in the Great Lakes and Horn of Africa. States then set out to establish National Focal Points to deal with the problem of small arms and light weapons in all its aspects. The NFPs are also mandated to oversee the implementation of this coordinated agenda for action at the national level and at the regional level, the Nairobi Secretariat is mandated to coordinate the implementation of the regional agenda for action.

The Coordinated Agenda for Action seeks to enhance cooperation and exchange of information among NFPs and other relevant agencies and organizations tasked with addressing the problem of illicit proliferation of small arms and light weapons.64 On legislative measures, states undertake to incorporate provisions for seizure, confiscation and forfeiture to the state all small arms and light weapons manufactured conveyed in transit without or in contravention of licenses, permits or written authority.65 States are also called upon to adopt the necessary legislative and other measures to establish as criminal offences under national law, the illicit manufacturing of, trafficking in, and possession and use of SALW, including homemade guns/weapons.

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64 *The Coordinated Agenda for Action*, Article 2 para 5
65 Ibid Article 3. Para 2
On the operational capacity building, the Coordinated Agenda for Action underscores the need to develop and improve national training programmes to enhance the capacity of law enforcement agencies to fulfill their roles in implementing the Agenda for Action. It further encourages regional cooperation for law enforcement and other relevant international agencies to combat cross border crime and enhance human security. Areas of cooperation identified include: capacity building, joint training exercises and agreements for joint operations, extraction, hot pursuit, investigation and recovery.

2.7 The Nairobi Protocol

The police chiefs of the Great Lakes Region and Horn of Africa mandated the Eastern Africa Police Chiefs Committee Organization (EAPCCO) to develop the draft regional protocol for the prevention, control and reduction of small arms and light weapons in the Great Lakes Region and Horn of Africa. This protocol was adopted on the nineteenth December 2003 at an extra ordinary meeting of the Council of Ministers held in Arusha Tanzania. One of the Objectives of the Nairobi Protocol is to promote and facilitate information sharing and cooperation between governments in the sub region as well as between governments, inter governmental organizations and proliferation of small arms and light weapons.

State parties to the Nairobi Protocol commit themselves to introduce programmes to encourage lawful civilian small arms and light weapons holders to voluntarily surrender their small arms and light weapons. The illegal small arms and light weapons and in such a case, the state shall consider granting immunity from prosecution. In order to promote a culture of peace,

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66 Ibid Article 4 para 2
67 Ibid Article 4 para 7
68 The Nairobi Protocol Article 2 (c)
69 Ibid Article 12
state parties undertake to develop local, national and regional community, education and awareness programmes. These programmes are aimed at enhancing the involvement of the public and communities and to also encourage responsible ownership and use of small arms and light weapons.\textsuperscript{70}

\textbf{2.8 Conclusion}

This chapter has dealt with the policy responses to the small arms and light weapons. It traced the control initiatives from the global perspective, the United Nations Programme of Action from which others seem to draw to facilitate the works of the global mechanism to the regional and national levels. The Bamako declaration is highlighted as a case in point of a regional approach in dealing with small arms from which others form at the sub regional levels such as the Nairobi protocol in the Great Lakes region and Horn of Africa to strengthen the capacity of the regional mechanism. These initiatives portray reaction from the immense threat the small arms and light weapons have posed and have otherwise been regarded as weapons of mass possession.

\textsuperscript{70} Ibid Article 13
CHAPTER THREE

NAIROBI PROTOCOL ON SMALL ARMS CONTROL

3.0 Introduction

The previous chapter captured some of the small arms control initiatives where global control mechanism on proliferation of small arms and light weapons form the basis which other mechanisms branch from. The UN PoA was identified as the global watchdog to the threat of the illicit and licit proliferation of the weapons and on the regional perspective, interest was given to the policy responses in the African continent primarily because it is from that perspective, lays the foundation of the research area. The chapter thus narrows down on the analysis of the Nairobi protocol as a regional initiative on small arms control in the Great Lakes region and the Horn of Africa.

The inherent right of states to individual or collective self-defence as enshrined in the United Nations Charter\textsuperscript{71} forms the basis for the formation of the Nairobi protocol where by states in the region were gravely concerned with the problem of small arms and light weapons and the devastating consequences they have had in sustaining armed conflict and armed crime, degrading the environment, fuelling the illegal exploitation of natural resources and abetting terrorism and other serious crimes in the region.\textsuperscript{72}

Of concern too, was about the supply of small arms and light weapons into the region and conscious of the need for effective controls of arms transfers by suppliers and brokers outside the

\textsuperscript{71} United Nations charter, Article 51
\textsuperscript{72} See The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa
region (including measures against transfer of surplus arms) to prevent the problem of illicit small arms and light weapons.\textsuperscript{73}

Awareness on the urgent need to prevent, combat and eradicate the illicit manufacturing of, excessive and destabilising accumulation of, trafficking in, illicit possession and use of small arms and light weapons, ammunition, and other related materials, owing to the harmful effects of those activities on the security of each state and the sub-region and the danger they pose to the well-being of the population in the sub-region, their social and economic development and their right to live in peace was heightened.

Following this was recognition of the inadequate capacity of states in the region to effectively control and monitor their borders, poor and sometimes opens immigration and customs controls, as well as movement of armed refugees across national borders in certain countries which had greatly contributed to proliferation of illicit small arms and light weapons.\textsuperscript{74}

This therefore, lead to recommending to state parties to consider becoming parties to international instruments relating to the prevention, combating and eradication of illicit manufacturing of, excessive and destabilising accumulation of, trafficking in, illicit possession and use of small arms and light weapons and to implement such instruments within their jurisdiction and an agreement to fulfill their obligations and exercise their rights under the Protocol in a manner consistent with the principles of sovereign equality, territorial integrity of States and non-intervention in the domestic affairs of States Parties. This was in line with the purpose of reaffirming the goals of, and implementing, the Nairobi Declaration and the Coordinating Agenda for Action.\textsuperscript{75}

\textsuperscript{73} Ibid
\textsuperscript{74} Ibid
\textsuperscript{75} Ibid
In specifying actions to be undertaken by member states to address SALW proliferation, the Nairobi Protocol aims to close loopholes and ensure that its signatory states uniformly address and cover all aspects related to the illicit proliferation of SALW. In June 2005, signatories to the Nairobi Protocol agreed to a set of Best Practice Guidelines, which provide detailed policy and practice recommendations to guide states through the implementation of the Nairobi Protocol.\textsuperscript{76}

On its analysis of the Nairobi Protocol, the chapter utilizes primarily data along some of the key areas of implementation outlined in the charter namely; Control of Civilian Possession of Small Arms and Light Weapons, Legislative Measures, Law Enforcement and Operational Capacity, Public Awareness Raising Programmes, Transparency, Information Exchange and Record Keeping, Import, Export, Transfer and Transit of SALW, Corruption, Marking and Tracing. The chapter concludes with an analysis of the Nairobi Secretariat which is also a strategy or key implementation area mandated to implement the protocol at the regional level.

3.1 Control of Civilian Possession of Small Arms and Light Weapons

Under this key implementation area of the protocol, States parties are to consider a co-ordinated review of national procedures and criteria for issuing and withdrawing of small arms and light weapons licenses, and establishing and maintaining national databases of licensed small arms and light weapons, small arms and light weapons owners, and commercial small arms and light weapons traders within their territories.\textsuperscript{77} They are to also register and ensure strict accountability and effective control of all small arms and light weapons owned by private


\textsuperscript{77} The Nairobi protocol Op cit, Article 5, p 6
security companies and prohibit the civilian possession of semi-automatic and automatic rifles and machine guns and all light weapons.\textsuperscript{78}

However, some governments have taken minimal approaches when it comes to the provision requirements and this is justifiable when clarity lacks on which government institution is accountable for arms control in some of state parties and the absence national uniformity. This is according to a key informant who further cites the wide gun ownership among the civilian population especially in the rural areas and some legal holders of arms such as government officials and private security companies not sufficiently being regulated.

In the words of the informant, the lack of an efficient national database among some member states makes the situation critical because some of the weapons are diverted to illegal agendas thus sustaining an illicit circulation of SALW throughout the sub region and with challenges posed by porous borders, corruption among other factors on board, the weapons permeate across other countries with a lot of ease.

3.2 Legislative Measures, Law Enforcement and Operational Capacity

State Parties are to adopt such legislative and other measures as may be necessary to establish as criminal offences under its national law the following conduct, when committed intentionally: Illicit trafficking in small arms and light weapons, Illicit manufacturing of small arms and light weapons, Illicit possession and misuse of small arms and light weapons and falsifying or illicitly obliterating, removing or altering the markings on small arms and light weapons as required by this Protocol.\textsuperscript{79} States Parties are required to adopt the necessary legislative or other measures to sanction criminally, civilly or administratively under their

\textsuperscript{78} Ibid
\textsuperscript{79} Ibid Article 3, pp.4-5
national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.\textsuperscript{80}

States Parties are further urged to strengthen sub-regional co-operation among police, intelligence, customs and border control officials in combating the illicit circulation and trafficking in small arms and light weapons and suppressing criminal activities relating to the use of these weapons\textsuperscript{81} and to also enhance the capacity of national law enforcement and security agencies, including appropriate training on investigative procedures, border control and law enforcement techniques, and upgrading of equipment and resources is also a requirement.\textsuperscript{82}

Establishing and improving national databases, communication systems and acquire equipment for monitoring and controlling small arms and light weapons movements across borders and to develop or improve national training programmes to enhance the capacity of law enforcement agencies to fulfil their roles in the implementation of the agenda for action is also emphasized upon.\textsuperscript{83}

States Parties are to establish appropriate mechanisms for cooperation among law enforcement agencies to promote effective law enforcement including strengthening regional and continental cooperation among police, customs and border control services to address the illicit proliferation, circulation and trafficking of small arms and light weapons.\textsuperscript{84} These efforts should include, but not be limited to, the exchange of information to support common action to contain and reduce illicit small arms and light weapons trafficking across borders, and the conclusion of

\footnotesize{\textsuperscript{80} Ibid
\textsuperscript{81} Ibid Article 4 p.6, see also Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons. pp.39-41
\textsuperscript{82} Ibid
\textsuperscript{83} Ibid
\textsuperscript{84} Ibid Article 15, p.11}
necessary agreements in this regard; establishing direct communication systems to facilitate free and fast flow of information among the law enforcement agencies in the sub-region.

The absence of updated and comprehensive laws governing small arms and light weapons emerge to be a factor crippling this provision. This is problematic because it is at the national level where change must take place if the implementation of the Nairobi Protocol is to be realised. Many member states continue to have in place outdated or obsolete firearms laws and regulations that do not satisfy the requirements of the protocol and despite the existence of Legal Drafting Committees in almost all of the member states to the Protocol, measurable progress in amending or adopting new firearms legislation to cover all aspects outlined in the protocol seems to be a farfetched ideal.\(^{85}\)

It is also apparently clear that there is generally a very low level of awareness among law enforcement bodies, police, customs and the judiciary in particular about the Nairobi Protocol in some member states. The lack of clarity on what the national policy towards small arms and light weapons is a problem affecting law enforcement efforts to curb the proliferation of illicit SALW effectively. The capacity of the Customs Office to curb illegal trafficking of SALW across some of the porous borders of member of states exerts weakness and this has repercussions especially when monitoring the smuggling of small arms and light weapons across border points.\(^{86}\)

The lack of comprehensive laws governing small arms and light weapons by some member states and weakness portrayed in the operational capacity severely curtails current efforts by key governmental and non-governmental stakeholders to tackle the problem of

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\(^{85}\) This was cited in key informant interviews with personnel from law enforcement bodies

\(^{86}\) Ibid
proliferation of small arms and light weapons in the region and thus the implementation of the protocol becomes slow and difficult.\textsuperscript{87}

\section*{3.3 Public Awareness Raising Programmes}

This refers to increasing knowledge and understanding of issues\textsuperscript{88}, often with the goals of developing popular support, promoting dialogue, mobilising political will and commitment to action and building confidence both within a state and amongst States in the region. States Parties undertake to develop local, national and regional public/community education and awareness programmes to enhance the involvement of the public and communities and support for efforts to tackle the proliferation and illicit trafficking of small arms and light weapons, and to encourage responsible ownership and management of small arms and light weapons. These programmes are meant to promote a culture of peace and involve, and cooperate with, all sectors of society.

Public awareness raising is considered instrumental because it assists in changing attitudes and behaviour towards possession and use of small arms among the public, assisting the government a great deal in control efforts.\textsuperscript{89} Consequently, it is also vital in building cultures of peace (for example: through community reconciliation and confidence building). Specific awareness efforts, for example public weapons destructions, can promote transparency and contribute to building cultures of peace.

The motivation for public awareness raising related to SALW is to promote the involvement of all sectors of society in efforts to minimise social dependency on arms and improve the understanding of the impact and effect of their proliferation on the safety, security

\textsuperscript{87} Ibid
\textsuperscript{88} Best Practice Guidelines Op cit p.36
\textsuperscript{89} Best Practice Guidelines Op cit p.35-38, See also The Nairobi Protocol Article 13, p.9
and development prospect of communities and the state alike. Examples of public awareness efforts include national awareness campaigns using radio, poster campaigns, leaflets, cultural shows and school awareness programmes. ⁹⁰

Though Public awareness raising is an important means for building confidence amongst governments and communities, it is not well received by some member states who result in passing controversial bills banning or limiting the role of civil societies and carry out public awareness raising through police or other governmental officials in different departments. This further hampers the protocol’s effort which calls for involvement of civil societies in addressing the problem of small arms and light weapons. ⁹¹

### 3.4 Transparency, Information Exchange and Record Keeping

States Parties undertake to establish National Focal Points (NFPs) to, *inter alia*, facilitate the rapid information exchange to combat cross-border small arms and light weapons trafficking; develop and improve transparency in small arms and light weapons accumulations, flows and policies relating to civilian-owned small arms and light weapons, including serious consideration to the development of a sub-regional small arms and light weapons register on civilian possession. ⁹²

State parties are to also establish control and management mechanisms for SALW in legal non-state possession and in state possession, establish national procedures and criteria for management and control, issue and withdrawal of SALW, maintenance of national databases and inventory of SALW, SALW owners, and of commercial SALW dealers within their territory. ⁹³

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⁹⁰ Ibid
⁹¹ A key informant from Saferworld
⁹² Ibid Article 16, p.11
⁹³ Ibid
Member states, through their national legislation, are supposed to institute the Central SALW Register as the institution responsible to the Registrar for the administration and maintenance of the national SALW database, according to the duties and obligations arising under the Protocol and the national legislation. The national data bases are considered crucial for the overall performance of the National Focal Points but currently there are no national databases and communications systems in use to facilitate information exchange and record keeping in some member states thus complicating transparency process which is also a requirement in the protocol.\(^{94}\)

The importance of accurate and maintained records of all SALW is recognised in all protocols and agreements relevant to SALW control, on the International, Regional and Sub-Regional level. State Parties further agreed to ensure maintenance of records of SALW, for at least 10 years, to enable traceability and identification but seemingly, this has not taken effect. Some member states that posses national data bases prove to be inefficient and thus slow the overall agenda of addressing the problem of small arms and light weapons at the national and regional level. Effective and efficient data bases can enable states to link their databases to Interpol's Weapons Electronic Tracing System (IWeTS) database and this serves a step further to addressing in addressing illicit SALW in circulation.\(^{95}\)

\(^{94}\) Interview with Wairagu Francis, Head of Research and Gender at the Regional Center on Small Arms, Nairobi, May 2014.

\(^{95}\) Ibid
3.5 Marking and Tracing

State parties are to undertake marking each small arm or light weapon at the time of manufacture, with a unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number.\textsuperscript{96}

Marking each small arm or light weapon should be at the time of import, with a simple marking permitting identification of the country of import and the year of import, and an individual serial number if the small arm or light weapon does not bear one at the time of import so that the source of the small arm or light weapon can be traced and to ensure the maintenance, for not less than ten years, of information in relation to small arms and light weapons that is necessary to trace and identify those small arms and light weapons which are illicitly manufactured or trafficked and to prevent and detect such activities.\textsuperscript{97}

Success in tracing the origins of illegal SALW forms the critical link, in the current operational initiatives, to achieve reduction and eradication of the illegal pool and criminal use of small arms and light weapons. This implies that State Parties should therefore have and keep records of such SALW, as well as SALW related transactions.\textsuperscript{98} Recordkeeping is considered key to controlling legal SALW and preventing them from becoming illegal and also vital to a successful tracing of the origins of illegal small arms and light weapons.

Marking equipments has however proven to be problematic. Though there exist other analogue methodologies of marking SALW, they are rather labour intensive and time consuming and some even lead to destruction of the weapons during the process. The Nairobi secretariat has purchased digitalized equipment but it cannot serve the whole member states and thus the

\textsuperscript{96} Best practice guidelines Op cit p.14, see also Nairobi protocol I Article 7 p.7
\textsuperscript{97} Ibid
\textsuperscript{98} Ibid p.28
analogue system continues to be in place which also slows down the process of marking which seemingly has complications for the tracing process.\textsuperscript{99}

3.6 Corruption

States Parties are required to institute appropriate and effective measures for cooperation between law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of small arms and light weapons. This clause however continues to be violated. Corruption is rampant especially among the law enforcers, according to a key informant. Prominent personnel in governments conduct this illicit business of trafficking SALW because they are well protected and thus the business continues to thrive in the region. This severely hampers the efforts taken by other members and the Nairobi secretariat in countering the widespread of small arms and light weapons in the region.

3.7 Import, Export, Transfer and Transit of SALW

Before issuing export licences or authorisations for shipments of small arms and light weapons, each State Party is to verify that the importing States have issued import licences or authorizations and that without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked States\textsuperscript{100}. The States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit.

The export and import licence or authorisation and accompanying documentation together should contain information that, at a minimum, include the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a

\textsuperscript{99} Wairagu Francis, personal interview Op cit
\textsuperscript{100} The Nairobi Protocol Op cit, Article 10 (b)
description and the quantity of the small arms and light weapons and, whenever there is transit, the countries of transit. The information contained in the import licence must be provided in advance to the transit States.\textsuperscript{101}

The importing State Party is to inform the exporting State Party of the receipt of the dispatched shipment of small arms and light weapons and each State Party shall, within available means, take such measures as may be necessary to ensure that licensing or authorisation procedures are secure and that the authenticity of licensing or authorisation documents can be verified or validated.

While each state is to develop its own national transfer controls system, in accordance with its international commitments, a single model for transfer control system lacks due to the great diversity in the legal and administrative systems in the different countries thus hindering progress of the provision.\textsuperscript{102}

3.8 The Nairobi Secretariat (RECSA)

Regional Center on Small Arms (RECSA) was established in June 2005 at the Third Ministerial Review Conference of the Nairobi Declaration in Kenya. It is a sub-regional organization with a legal mandate and is comprised of three organs, namely the Council of Ministers, the Technical Advisory Committee, and the Secretariat. The Secretariat coordinates the implementation of the Nairobi protocol within respective member states through their NFP.\textsuperscript{103} Establishment of the organ is in accordance with the Nairobi protocol charter where

\textsuperscript{101} Ibid Article 10 (c)  
\textsuperscript{102} Wairagu Francis, personal Interview Op cit  
\textsuperscript{103} Regional Centre for Small Arms (RECSA), Annual Work Plan and Budget 2008 (unpublished document), Nairobi: RECSA, 2008.
state parties mandate the Nairobi Secretariat to oversee the implementation of this Protocol in the 12 signatory states\textsuperscript{104} that subscribe to its principles, aims and objectives.\textsuperscript{105}

These member states are required, under the protocol, to establish a national focal point (NFP) on SALW. NFPs are comprised of representatives from various ministries or departments that deal with internal security issues, and are tasked with facilitating and coordinating implementation of the protocol at the national level. Each country’s NFP undertakes to implement the protocol by developing a national action plan (NAP), which is based on the set of Best Practice Guidelines.\textsuperscript{106} They are also responsible for providing RECSA with biannual reports on national implementation and for informing RECSA of areas where assistance is required.\textsuperscript{107}

At the regional level, RECSA is mandated to promote and coordinate the joint effort by NFPs in Member States to prevent, combat and eradicate stockpiling and illicit trafficking in small arms and light weapons, ammunition and related material in the Great lakes and Horn of Africa. In order to fulfill this mandate, RECSA is tasked with ensuring that states parties to the protocol put in place adequate laws, regulations and administrative procedure to exercise effective control over the possession and transfer of SALW.\textsuperscript{107}

The Secretariat is thus given responsibility for development and issuance of guidelines and instructions for the implementation of, monitoring the implementation of, the execution of, and the evaluation of this Protocol, in liaison with law enforcement agencies, and ensuring

\textsuperscript{104} The Nairobi Protocol Op cit Article 18, p.12-13
\textsuperscript{105} Johan Bergenæs \textit{The Role of Regional and Sub-regional Organisations in implementing UN Security Council Resolution 1540} Op cit
\textsuperscript{106} Dye, D., 2009, Arms Control in a Rough Neighbourhood: The Case of Great Lakes Region and the Horn of Africa; Institute for Security Studies (ISS), Pretoria. P. 4
\textsuperscript{107} Regional Centre for Small Arms website, 2008, \texttt{. recsasec.org/} [accessed 6 March 2008].
adherence to the standards set out therein informing Ministers on a regular basis of progress thereof and attending to the difficulties experienced in the application of this Protocol.\textsuperscript{108}

Additional functions carried out by the Secretariat include Consulting with regional and international agencies, as well as civil society, on the implementation of the Nairobi Protocol; Preparing surveys, studies, information and guidelines on legal, political, social, cultural and technical matters of common concern and increasing cooperation amongst member states; Conducting and facilitating research and information exchange between member states and assisting NFPs in implementing the protocol.\textsuperscript{109}

RECSA is also capacitated to coordinate, backstop, monitor and evaluate the activities in member states that are geared towards achieving the aspirations of the Nairobi Protocol. In addition, it also assists with fundraising for these activities. RECSA is also mandated to work with and act as a link between various agencies working on SALW issues, including civil society organisations and other international and regional agencies.\textsuperscript{110}

3.9 Conclusion

The chapter, on its analysis of the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa, has provided a detailed review of the various approaches the initiative has sought to deal with the threat posed by small arms and light weapons proliferation in the region and at the same time provided relevant information gathered during field work. Both the primary and secondary data are employed in a bid to provide real data and minimize subjectivity in this research area. The

\textsuperscript{108} Wairagu Francis, personal interview Op cit
\textsuperscript{109} Ibid
\textsuperscript{110} Ibid
chapter concludes with analysis of the regional body mandated to oversee the implementation and act as a coordination center for the states activities at the regional level.
CHAPTER FOUR
A CRITICAL ANALYSIS OF STUDY FINDINGS

4.0 Prologue

The previous chapter captured the analysis of the Nairobi protocol in addressing the proliferation of small arms and light weapons proliferation. It provided a detailed analysis of the various approaches the initiative stipulates, which member states are supposed to undertake to deal with threat posed by proliferation of both licit and illicit Small arms and light weapons which have proven to a security challenge in the region. The chapter explicitly used both the primary and secondary data in its analysis.

This chapter is thus intended to be a synthesis and critical evaluation of the other chapters and to achieve this, the synthesis will consist: Compliance and commitment with regard to treaties; Demand and Supply dynamics surrounding small arms control initiatives. The chapter will also include a critical review of the Hypotheses and Objectives of the research. The critical analysis will constitute an evaluation on the extent to which the objectives have been met and to the extent which the hypothesis have been demonstrated.

4.1 Compliance and Commitment of Treaties

States entering into international agreements is something that is common and has been witnessed over the decades. However, these agreements vary widely along several dimensions.\textsuperscript{111} Entering into an agreement signifies intent to be bound to the agreement, the result of which is labelled a treaty, and if such intent is not demonstrated it s labelled non-binding, or soft law.

\textsuperscript{111} See Koremenos, Lipson, and Snidal, \textit{The Rational Design of International Institutions}, International Organisation vol. 55 no.4 (2001)
The merit of a treaty is the generation of higher levels of compliance and the provision of relatively high level of commitment allowing a state to rely on the promises made by its treaty partner. The credibility provided by a treaty, however, comes at a price in the form of a higher cost associated with breach.\textsuperscript{112}

As noted earlier, International agreements are, at root, an exchange of promises among states and when drafting these agreements, states often make choices - like the choice of soft law or the decision to intentionally omit provisions for dispute resolution or monitoring mechanisms that often serve to weaken the force and credibility of their commitments\textsuperscript{113}. This behavior in international agreements according to Guzman\textsuperscript{114}, is puzzling because of the irony associated with it.

International law has routinely fallen to criticisms for being too weak and failing to offer effective enforcement mechanisms. And being indeed a shortcoming, it is thus expected that states would seek out ways to strengthen and enhance credibility of the commitments. After all, states enter into international agreements as a way of exchanging promises about future conduct and these agreements have value only if the promises exchanged serve to bind the parties.

It is therefore logic that if international law is weak, states are expected to do everything in their power to increase the strength, credibility and compliance pull of their agreements but in essence little is done to address the loophole. It is from this point of view that Guzman expresses this grave concern. The concern is also of interest to the legal and political science

\textsuperscript{112} Guzman, A., \textit{The Design of International Agreements}, The European Journal of International Law Vol. 16 no.4 (2005)

\textsuperscript{113} A soft law agreement reduces the credibility of the commitment relative to a treaty because it represents a lower level of commitment.

\textsuperscript{114} Guzman, A., \textit{The Design of International Agreements}, Op cit p.580
scholars who have so far not provided a theory to explain why states are reluctant to use these credibility-enhancing strategies.115

Literature on monitoring and review mechanisms is scarce and virtually the same concerning discussions of why these mechanisms exist in some agreements and not in others. There does not appear to be any available explanation of why states do not use monitoring mechanisms more often to increase the credibility of their promises and why the mechanisms used are often weak or non-existent in others.

States that prefer the soft law embrace less binding terms on them and, therefore, give them greater room for flexibility. This flexibility is said to be desirable for a variety of reasons, including helping states deal with an uncertain world, to reduce the costs of termination or abandonment, or to make renegotiation easier.116 Soft law agreements differ from treaties in that they do not require formal ratification and therefore can be implemented more quickly. The difference between these instruments, treaty and soft law agreements, is that the treaty is more likely to induce compliance and this is why treaties are considered the most effective instrument of cooperation.117

Guzman118 further contends that states entering into agreements that contain quite limited enforcement mechanisms is usually not a reflection that they are disingenuous about the commitments being made. It may instead mean that they are reluctant to accept the joint loss that would be triggered by a violation and thus the lack of enthusiasm about including credibility-enhancing devices in their agreements. This explicitly shows why parties entering an agreement

115 See, e.g., Raustiala, Form and Substance in International Agreements, mimeo (2002) (stating that international lawyers have produced few theories of why states chose to use or avoid legality)
116 See Guzman, A., The Design of International Agreements Op cit p. 597
117 Ibid
118 Ibid
in which they expect to yield a high level of compliance are more likely to find credibility-enhancing devices worthwhile than parties entering into an agreement where the expected level of compliance is low.

From the review of literature, small arms and light weapons have no doubt proven to threaten the fabric of the state and in response; there has been worldwide recognition of the problem due to its dynamism. Control initiatives formulated to deal with the problem have trickled down to the sub regional level, being termed as a holistic approach to deal with the challenge. However, though states have entered into binding agreements, the problem of small arms and light weapons proliferation persist and its effects are being felt by weak states that are confronted by intra-state wars.

Failure to effectively and efficiently deal with the challenge is rooted in the treaties meant to address the problem. During the drafting of agreements as noted above, states intentionally omit some provisions which often serve to weaken the force and credibility of their commitments. This is followed by the absence of a theory and little literature existing to offer an explanation to the shortcoming. The Nairobi protocol, the regional initiative instituted to address the problem of small arms and light weapons in the Great Lakes and Horn of Africa region falls prey to the problem that has all along been a challenge to most treaties and the same thing can be said about the main treaty, UN PoA from which other treaties to deal with the same challenge branch from.

The Nairobi protocol in this perspective, having had formal ratification from member states signifies compliance and thus should be implemented with minimal challenges on board. However, credibility enhancing strategies it provides for are very weak. In Article nineteen of the
treaty, it provides for a settlement of disputes arising out of the interpretation or application of this Protocol but there seem to be an intentional omission for monitoring mechanisms.

With the omission of the monitoring strategies coupled with the existence of weak enforcement mechanisms, the charter continues to be subject to violation. This slows and makes it difficult to address the problem small arms and light weapons in the region due to the low level of compliance and commitment witnessed among member states.

4.2 Supply and Demand Dynamics

Controlling the flow, the easy availability and misuse of SALW is usually not a straightforward task. This is plagued by the nature of SALW having many legitimate military and civilian uses, and their production being highly decentralised almost 1,250 companies operating in at least 92 countries having the capability to produce weapons, weapons parts or ammunition.\(^\text{119}\) The Small arms and light weapons agenda has surfaced on the global policy-making radar as recently as 2001 though there has been formal negotiations since the mid 1990s at the United Nations about SALW control, however, the negotiations have been dominated by Supply aspects, with focus on shrinking the availability\(^\text{120}\) of the weapons themselves.

Weiss\(^\text{121}\) contends that one of the reasons these convenient weapons circulate so widely and so easily is that there is a demand for them. In both developed and developing countries, people and armies provide a thriving market for both legal and illegal suppliers. And where there is a lack of human security, real or perceived, there is inevitably a surplus of guns in the hands of

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\(^{119}\) See The \textit{Small Arms Survey 2011}

\(^{120}\) Availability can be defined as the supply and transfer of weapons (e.g. production, ownership, trade, brokering, etc). Godnick \textit{et al} 2005, Section 2, p 17.

people who feel safer armed with the ability to protect themselves (whether they can successfully do so or not). Suppliers are thus eager to make a profit, and as long as there is a market they will do good business, no matter how regulated or monitored that market is.

4.2.1 SALW Supply Factors

There lay many factors that have been argued to be influencing the supply of small arms and light weapons but reference or documentation of brokers, misuse by government military or police forces and arming of civilians or militias by governments have quite enjoyed prevalence in literature and thus viewed as key factors sustaining the SALW supply network.

Kathi\textsuperscript{122} argues that brokers especially the private arms brokers play a particularly negative role in supplying weapons to areas of actual or potential conflict. He categorises arms brokers to include negotiators, financiers, exporters, importers, and transport agents who are used to arrange every aspect of an arms deal between the supplier and an intended client. The arms brokers seldom own or even possess the arms supplies outright, and typically live neither in the country where the weapons are supplied nor the one in which they are received.

Kathi\textsuperscript{123} further contends that another factor that allows the arms brokers to continue operating include deficits in the national capacity of many countries to control and monitor their airspace. Air cargo firms especially, play an essential role in arranging the actual delivery of arms shipments, particularly in Africa, where the size of the continent and lack of road and rail infrastructure make air transport more convenient. Research has indicated that some air transport


\textsuperscript{123} Ibid
agents even have expertise in the falsification of documentation and circumvention of inspection to conceal cargoes.\textsuperscript{124}

Governments too are cited to contribute to the supply of small arms and light weapons especially when they result to provide arms to groups loyal to them in order to help fight another armed group. For example, in South Sudan, the Lou Nuer ethnic group received weapons from both the Sudan Armed Forces via the South Sudan Defence Forces and the Sudan People’s Liberation Army (SPLA) at different times during the civil war. Some sectors in government also stand accused of facilitating the supply of SALW to individuals/civilians and thus the possibility of their misuse becomes inevitable.\textsuperscript{125}

Sinister government officials also stand accused of facilitating illegal arms brokering, especially at points of entry and exit and a lack of border control. This situation also makes it possible for certain governments to use brokers in order to conceal their small arms exports or procurement if they wish to do so.\textsuperscript{126}

Within this control framework dominated by supply aspects, policy-makers only address the need to curb the availability and use of small arms from the perspective of regulating manufacture and controlling supply and thus form only part of the solution to the small arms and light problem. Also, the broad range of socio-economic impacts of small arms cannot be solely be dealt with in a framework that focuses exclusively on weapons reduction because small arms

\textsuperscript{124} E.g. Two UN Panels of Experts on Sierra Leone and Liberia that examined illegal arms transfer to the respective countries, identified a number of ways in which the brokers managed to obtain, ship and deliver weapons despite international sanctions. These included using false aircraft registration certificates, false flight plans and using end-user certificates that indicate Nigeria as the final recipient of the arms shipment while the arms were going to Liberia instead and Nigeria had no knowledge of the transaction

\textsuperscript{125} See Human Rights Watch, 2001, p 5. The report also makes reference to Aceh, a province in Indonesia where members of the Indonesian military at times actually sold weapons to gain income on the side. The Indonesian security forces represented the largest source of weapons for rebel forces.

\textsuperscript{126} Ibid
play a key role in undermining development gains in conflict-affected, post-conflict, and stable societies.

4.2.2 SALW Demand Factors

While SALW supply and regulations regarding the proliferation have been discussed for many years, the demand side of SALW has only recently gained momentum. This is upon the realisation that successful and sustainable disarmament needs to address underlying causes for weapons acquisition.

The demand for small arms can be viewed to be shaped by a combination of motivations and means. Motivations in this case being the political, economic, social and cultural reasons for needing to be armed and for preferring different types of firearms. These motivations are dynamic and wide-ranging from a need for personal or collective self-defence to a culture of hunting and sport shooting, the pursuit of social status, or predatory behavior while means including the price (and ease) of obtaining firearms and the relative resources and assets available to purchase, rent, steal or borrow them.

Muggah posits that those seeking to acquire arms are thus often depicted to have complex and overlapping motivations for seeking particular weapons, and a constantly shifting set of means that constrain or facilitate the acquisition of these weapons.

Job contends that of the many underlying factors leading to the demand of small arms and light weapons, State-level security failure is a major distinct cause. Where states are

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incapable of managing internal socio-political change, the line between war and criminal activity becomes blurred. Structural weakness notable in weak states results to insecurity dilemma and with this; the states are confronted by both internal and external threats due to the increased globalization which has opened markets and borders to a different kind of conflict.

State failure according to job, either by weakness, neglect, or active fomenting of existing tensions to consolidate political power, insecurity drives competing groups demands to acquire and use weapons. In the absence of a governing body and the rule of law that protects citizens from the tyranny of a powerful few and the manipulation of scarce resources for political gain, the concept of development deteriorates into mere survival. Survival now becomes the domain of those with access to guns, which in turn buy access to food.

Fragile states which possess weak security sectors also form part as drivers of demand for SALW. Weak, unaccountable security sectors are often regarded to cause the emergence of privatised security arrangements such as body guards and security firms. According to IANSA, private security companies, when authorised by the state, increase demand for legal SALW but can also increase the supply of the illicit market if stockpile management is weak or there is internal corruption.

These Poorly trained private security guards become responsible for SALW misuse and in some cases have been implicated in criminal activity and human rights violations. It thus

131 Ibid
131 E.g. Somalia is an example of total state failure: after 30 years of Somali state rule, from independence in 1960 to the final breakdown of national institutions in 1991, there is still no internationally recognised, centralised state structure (although there are locally functioning governing bodies).
132 International Action Network on Small Arms (IANSA), Implications of illicit proliferation and misuse of SALW in Reviewing Action on Small Arms, Chapter 8, (IANSA, 2006) p 231.
makes it difficult for government authorities to regulate, and internationally, control over private security stockpile management, particularly in the practical application of policy.\textsuperscript{133}

Buchanan and Atwood\textsuperscript{134} posit civil conflict as another factor instrumental in driving the demand for small arms. Civil conflict, they contend, often stems from state policies that fail to protect people and recognise their basic rights, leading citizens to seek power or liberation through weapons. The demand is not limited to armed groups: wherever there are internal conflicts or groups engaged in violent conflict, there will be a growing demand for SALW among civilians, due to fears of continuing or resurgent conflict.\textsuperscript{135}

Culture, attitudes and tradition associated with some communities especially in the developing world are also viewed by Buchanan and Atwood\textsuperscript{136} as drivers for the demand of SALW. In some cultures, the display of weapons is seen as important. This is often referred to as a “gun culture”. And with the cultural norms prevailing, the armed male has a symbolic value as a source of status and security. The Women also play an instrumental role in motivating and encouraging young men to perpetrate acts with weapons, for example, to go out on cattle raids.\textsuperscript{137}

\begin{itemize}
\item \textsuperscript{133} Ibid
\item \textsuperscript{134} Buchanan C and D Atwood, Curbing the demand for small arms: focus on Southeast Asia. A summary report from the workshop held on 26 31 May 2002, Phnom Penh, Cambodia, (Centre for Humanitarian Dialogue and Quaker United Nations Office 2002), pp 35 36.
\item \textsuperscript{135} E.g. In the case of Marsabit, Kenya, it is estimated that there are at least 12,000 illegally held small arms. The presence of small arms in the region increased drastically to feed conflicts in Ethiopia, Eritrea, Somalia, and Sudan, and the lack of resources for law enforcement and border control has made proliferation difficult to control. Members of the Marsabit community acquired these guns for their own protection against attacks from neighbouring communities with no helpful intervention from government or police. Cut off from government structures and support and faced with a competitive situation with regard to natural resources, the proliferation of small arms seems the only option for isolated communities like those in Marsabit. Where there is security sector involvement, it often involves corruption and arms trading that perpetuate the conflict rather than dampening it.
\item \textsuperscript{136} Buchanan and Atwood 2002, Op cit p.35 36
\item \textsuperscript{137} E.g. Women in many pastoralist or semi-pastoralist areas, such as in South Sudan, compose songs to shame those who have not yet gone raiding or who have come back empty-handed. This behaviour increases the pressure on young men to secure the necessary heads of cattle for a dowry.
\end{itemize}
Weiss\textsuperscript{138} also weighs on economic factors as leading to the demand for small arms as a means of survival. Poverty, unequal access to resources, large youth populations with no access to education or jobs, and other socio-political factors are seen to contribute to instability, but it is the presence of guns that enables conflict to escalate into the type of violence that is beyond state control or mediation. The presence of guns in this scenario she argues, create another self-perpetuating cycle (an internal arms race).

4.2.3 Existing Small Arms Instruments

It is vividly clear that most of the approaches to deal with small arms and light weapons proliferation have explicitly been dominated by supply measures and little attention accorded to the demand side. Even so, the measures stressed on the supply side have not quite been satisfactory since the supply of SALW continues to thrive thus indicating weakness in some of them.

The Nairobi protocol, the regional initiative on small arms with a composition of member states from the Great Lakes region and Horn of Africa is not an exception when illustrating the dominance of supply-side interventions in other small arms control instruments. This is so because the Bamako Declaration and SADC protocol formed the basis on which the Nairobi protocol was founded. This gives insights as to why the protocol has been unsuccessful in dealing with small arms and light weapons proliferation in the sub region due to its one sided approach which too has been unveiled to possess weakness.\textsuperscript{139}

\textsuperscript{131} Taya Weiss, *A Demand Side Approach To Fighting Small Arms Proliferation* op cit

\textsuperscript{139} The Nairobi Protocol requires both the registration of SALW brokers and the licencing of individual transactions. However, despite these agreements, many national legal systems still do not prohibit or clearly regulate the activities of arms brokers or when they have measures in place, do not enforce these effectively. This leaves a lot of opportunity for brokers to exploit the gaps and continue with their activities.
From a demand perspective, weapons (and the crises they contribute to) cease to be the focus of intervention. Instead, the focus turns to gun-users and seeks to influence the buyers in the market, in addition to regulating suppliers and enforcing relevant laws. By bringing demand-reduction measures to the fore, the problem of small arms proliferation are now be debated in new fora.

This brings gun-fuelled, conflict-related problems out of traditional defence and foreign affairs areas and brings them under the lens of traditionally humanitarian policies. But the mere lack of addressing the factors culminating the demand for the small arms and light weapons in the sub region continues to slow its agenda and makes it hard to achieve its objectives.

4.3 Hypotheses Testing

This research was based on two working hypotheses, all of which be validated. The first hypothesis was Political will boosts regional initiatives efforts in Small Arms Control. The second Hypothesis was Political will insufficiency undermines regional initiatives efforts in Small Arms Control.

4.3.1 Political will boosts regional initiatives efforts in Small Arms Control

Political will is very essential in many international agreements because it determines an entity’s commitment to abide by provisions set forth. In this regard, small arms control agenda almost entirely relies on political will of the member states to make and enforce laws that regulate the small arms problem which has since become a global phenomenon. This can be traced backed to the post cold war era to date where the United States of America and Russia Federation (former Soviet Union) were and are still engaged in arms control treaties which solely
relies on political will of the Duo. Many of which they have set credibility enhancing mechanisms in order to yield a high level of compliance and commitment.

The global watchdog, the United Nations has also set a Department for the Disarmament Affairs (UNDDA) all in the name of small arms control and numerous programmes that support this agenda. Signatory and non -signatory states are urged to oblige to provisions set forth and sanctions and isolation has been extended to states violating its objectives.

At the state level, parliamentarians especially are crucial to overseeing the implementation of national laws and regulations and are also responsible for promoting and adopting legislation that sets clear rules for the entire life cycle of arms: Members of parliamentary security and defence committees are in an ideal position to exercise oversight over small arms issues.

In the Great lakes and Horn of Africa, members of Parliament passionately supported these international agreements, the ratification of which completely hinges on the legislators commitment and consent. Many Parliamentarians set to make huge headway towards harmonizing their countries laws against illicit small arms trade, making it much more difficult for illicit traders to find a safe haven in a region that has been hard hit by the damaging effects of indiscriminate use of small arms. And there being a mechanism formed and ratified by members of the region is an indication of a strong commitment among them. However, the Nairobi protocol tasked with the small arms control agenda has faced setbacks and its progress has been slow. Political will among signatory states has since declined.
4.3.2 Political will insufficiency undermines regional initiatives efforts in Small Arms Control.

From the onset of things, the protocol’s charter outlines provisions which are regarded to offer a solution to the problem of small arms and light weapons proliferation in the sub region which range from controlling of civilian possession of SALW to public awareness programmes. It is thus expected that any problem emerging from the interpretation of the protocol or affecting its implementation should be dealt with. Also the drafting of the agreement was done with expertise from the East Africa Police Chiefs Cooperation Organisation (EAPCCO) and thus omission of some provisions can be concluded to be intentional. This is with regard to concrete credibility enhancing mechanisms that the Nairobi protocol does not offer.

Of the many challenges confronting the regional initiatives objectives, its progress has been hindered by those with something sinister to gain. Also worth noting is the wide range of challenges confronting the governments of the region hence issues concerning small arms and light weapons may not be a high priority for a particular government and this makes any advancement of the process difficult.

From the literature above, it has been indicated that parties an agreement in which they expect to yield a high level of compliance are more likely to find credibility enhancing strategies worthwhile than parties entering into an agreement where the expected level of compliance is low. It can then be deduced that the lack of credibility enhancing strategies in the protocol has resulted into insufficient political will among the member states and thus downplayed efforts to stem down the shortcomings slowing its progress. This holds true when some National Focal Points don’t receive sufficient political back up they require keeping up with the task of
facilitating and coordinating implementation of the protocol and this severely hampers their effectiveness. It is on this basis that this hypothesis is validated.

4.4 Assessment of the Objectives

This study has five objectives four of which have been satisfied and the fifth will be dealt with in the next chapter. The first objective was to identify the existing policy responses to the problem of proliferation of small arms and light weapons. In chapter two, the following policy responses were identified and discussed: The United Nations Programme of Action (UN PoA); the Bamako Declaration; the Economic Community of West African States (ECOWAS) Moratorium; the Southern African Development Cooperation (SADC) protocol; the Nairobi Declaration (ND); the Coordinated Agenda for Action and lastly on the Nairobi protocol (NP).

The second objective was to conduct an analysis of the Nairobi Protocol as a regional initiative to curb the proliferation of small arms and light weapons in the Great Lakes region and the Horn of Africa. The chapter dealt on the various interventions the regional initiative has sought as the best strategies to combat the problem. In this analysis, both primary and secondary sources of data are used exhaustively on eight key implementation areas of the initiative, namely: Control of civilian possession of SALW Legislative measures, Law enforcement and Operational capacity; Transparency, Information exchange and Record keeping; Marking and Tracing; Corruption; Import, Export, Transfer and Transit of SALW; Public awareness programmes; and concludes with an analysis of the Nairobi Secretariat mandated to implement the initiative's functions at the regional level.
The third objective was to conduct a critical assessment of the issues emerging from the previous chapters. The chapter critically analysed Compliance and Commitment with regard to treaties whose aim was to expose the hypocrisy involved in many international agreements and the Nairobi protocol, the regional initiative of the sub region too was not an exception as it was explicitly concluded to fall in the same category. A critical analysis was also done on Demand and Supply dynamics prevailing in the arms control agreements. The assessment was vital in exposing the lack of holistic approaches in many arms control agreements. The chapter also involved hypothesis testing and an assessment of the study objectives, whether they were captured in the same chapter and for validation.

The fifth objective was to make some policy recommendations. This objective is handled in the next chapter. The objectives of the research have all been met and the hypothesis validated.

4.5 Conclusion

The chapter exposes the gap in many small arms control agreements, the Nairobi protocol been no exception through literature on Compliance and Commitment of Treaties and on the Demand and Supply dynamics. The chapter also critically examines the implementation of the protocol on eight key implementation areas as indicated above. Consequently, the chapter critically examines the hypothesis and study objectives to fully determine they were realized in the end.
CHAPTER FIVE
SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

The previous chapter dealt with a critical analysis of study findings emerging from the research and also included a critical review of the Hypotheses and Objectives of the study. This chapter presents the summary, conclusion based on the findings and recommendations there to. The chapter makes a brief summary of the research project, where findings from the review of the literature and the subsequent chapters are presented. It also makes a conclusion by recommending on areas of further studies concerning the subject under investigation.

5.2 Summary

The purpose of this research project was to probe why the proliferation, wide availability and misuse of small arms and light weapons is rampant in the Great Lakes region and the Horn of Africa while a small arms control instrument has been in force since May 2006. This nature of violence and militarization of the society co-existing in the sub region triggered an empirical investigation on the factors hindering the progress of Nairobi protocol, the small arms control instrument of the area.

The empirical research was limited to organizations concerned with small arms and light weapons proliferation. The collection of qualitative data involved semi-structured interviews with information rich personnel ranging from constituted practitioners, policy makers, professionals who were deemed knowledgeable and informative about the subject under investigation.
Chapter one was mainly concerned with the purpose of the research study. It introduced the proposed study by stating and describing the problem being investigated. With regard to this, a background to the regional initiative on small arms and light weapons in the Great Lakes Region and the Horn of Africa was taken while also reviewing literature on the small arms issue from a global perspective which was considered crucial step to knowing the genesis of the small arms proliferation. What followed was a clarification of some concepts as they are applicable to the study together with the description of the methodology and design of the research project.

Chapter two focused on the analysis of small arms control initiatives from a global perspective from which regional and national stance on the issue was formulated. These national and regional approaches were sighted to be pillars of the global control mechanism. In its conclusion, the chapter made a review of literature on the Nairobi Protocol; the control initiative formed by governments of the sub region to deal with the threat of small arms and light weapons proliferation.

Chapter three dwelt on the Nairobi protocol on small arms control. On its analysis of the Nairobi Protocol, primarily data was utilised along some of the key areas of implementation outlined in the charter namely; Control of Civilian Possession of Small Arms and Light Weapons, Legislative Measures, Law Enforcement and Operational Capacity, Public Awareness Raising Programmes, Transparency, Information Exchange and Record Keeping, Import, Export, Transfer and Transit of SALW, Corruption, Marking and Tracing. It made a conclusion with an analysis of the Nairobi Secretariat which is considered a strategy or key implementation area mandated to implement the protocol at the regional level.
Chapter four was dedicated to the critical analysis of study findings. The chapter was intended to be a synthesis and critical evaluation of the other chapters and to achieve this, the synthesis consisted: Compliance and commitment with regard to treaties; Demand and Supply dynamics surrounding small arms control initiatives. In its conclusion, the chapter made a critical review of the Hypotheses and Objectives of the research study.

Having discussed the foregoing, the consequent section will focus on the conclusions drawn from the research study.

5.3 Conclusion

While the end of the Cold War heralded an era of seamless international cooperation and increased global economic productivity, this era, was in the Great Lakes region and the Horn of Africa sub region characterized by a surge in tragic armed violence. The devastating violence inflicted on the sub region is evident in its present state of economic and social despondency. Due to the plight of the sub region, many observers and policy makers seeking measures for resolving conflicts and also preventing future ones, significant attention has shifted to the Small arms and light weapons proliferation as key to sustaining conflicts.

In answering the primary question of this research being: why the proliferation, wide availability and misuse of small arms and light weapons still a norm in the Great lakes region and the Horn of Africa even after the formation of the Nairobi protocol, the small arms control instrument of the sub region, the study analysed other small arms control agreements and key implementation areas of the Nairobi protocol in its efforts to curb the proliferation.
This analysis revealed that most if not all small arms control instruments lacked credibility-enhancing devices. The lack of these devices has made the compliance and commitment to this small arms control instruments challenging and this explains why the small arms proliferation is still a global problem. As was noted earlier, during the drafting of the agreements, states intentionally omit some provisions which have often served to weaken the force and credibility of their commitments. The problem being common to most instruments, the Nairobi protocol the regional initiative instituted to address the problem of small arms and light weapons in the Great Lakes and Horn of Africa region was also implicated of the same.

With the omission of the monitoring strategies coupled with the existence of weak enforcement mechanism, the protocol was identified to continue experiencing slow progress and difficulty in its implementation due to the low level of compliance and commitment witnessed among member states.

Comprehensively, the study also identified the causes of small arms proliferation in the sub region to span around the supply and demand dynamics. Principally, most of the small arms control instruments ranging from the global level to the regional level have been identified to be dominated by control efforts targeted to the supply side. One of the reasons these convenient weapons circulate so widely and so easily is that there is a demand for them and the narrow supply side approaches are only part of the solution. Nor can the broad social and economic impacts of small arms be dealt with in a framework that focuses exclusively on weapons reduction. Many regional and international arms control initiatives have focused largely on the legal and political aspects of demand reduction.

The proliferation of small arms in the realm of demand needs also to be included in the control measures which will provide a wide scale from which to curb them. Most of the adhoc
approaches to reduce the demand of these weapons have involved forceful disarmament through the special military operations and other law enforcement agencies. The strategy has only rendered those facing the forceful action vulnerable to attack and thus not solving the insecurity equation culminating these areas which also results to armament due to the nature of the porous borders in the sub region.

It is not surprising that states are focusing on arms control as a means to reduce conflicts as opposed to addressing the reasons for the demand for SALW, as it is often far less daunting to attempt to control the use and circulation of SALW than to address the origins of conflict in a particular state. It is far easier for states to reduce the number of SALW within their borders than it is to address the socio-economic and political issues that give rise to conflicts.

The proliferation of SALW does not cause conflicts; rather, it increases their lethality. The tendency of states to concentrate on controlling and preventing the proliferation of arms has diverted attention from the real need to assess why people are arming themselves in the first instance. The Nairobi Protocol for example acknowledges that the problem of small arms and light weapons in the region has been exacerbated by, terrorist activities, extreme poverty and political strife but makes no mention of addressing the demand for these weapons or the root causes of the conflicts, which largely result from result of socio-economic factors. And this can be said for many other regional and international agreements aimed at addressing the proliferation of SALW.

In light with the hypothesis, the impediment to countering the small arms proliferation has persisted due to the insufficient political will from member states and this has had a negative effect on the small control agreements from the global to the regional level. This can be attributed to the self interested nature of states in the Hobessian world and thus states are
unwilling to be entrenched in matters concerning their own welfare. It s thus evident that the supply of SALW from the state and non-state actors through licit and illicit networks will thrive while the weak states, entangled in ongoing conflicts, will provide a ready market for them.

A major concern to the entire sub region of the Great Lakes region and the Horn of Africa is the propensity of SALW to extend their destructive traits across international boundaries thus weakening the objectives of the Nairobi Protocol, the regional initiative of the area. Hopefully the recommendations of this research will manage to remove the gap and assist in providing guidelines to synchronise the ideal with reality.

5.4 Recommendations

On the basis of data analyses, the following recommendations were made to assist in bridging the gap that slows the progress of the Nairobi protocol and other factors to facilitate its progress.

5.4.1 Political Willingness

The study acknowledges the role states have taken to curb the proliferation of small arms and light weapons in their sub region but it however, attributes its slow progress to achieve its mandated since coming into force to their insufficient political willingness. Political will has been identified as very key to success of international agreements because it s a sure way of indicating strong commitment and compliance to abide by set forth obligations. A state that violates an international commitment signals to other states that it does not take its international promises seriously and that it is willing to ignore its obligations.

The case with states in the Great lakes region and the Horn of Africa is that they have acknowledged that small arms and light weapons proliferation represents a threat to both the state and human security and to that effect, they have formed a legally binding instrument, the Nairobi Protocol to address this problem and to backup the Bamako Declaration to tackle the
threat of the SALW proliferation in the African continent. However, a major problem befalls the Nairobi protocol.

Even with the existence of a fairly active regional support and facilitation structure, the Nairobi secretariat, National implementation of the Nairobi Protocol has been protracted. The lack of enough funds, technical expertise, ongoing conflicts within many states, insufficient support for improving controls over small arms and light weapons at the national level, among other obstacles have persisted due to lack of sufficient political support from member states. Political will behind key implementation processes at the national level garner very poor results and this has had a negative aspect on the cooperation and coordination at the regional and national level ranging from legislative measures to technical capabilities.

It is therefore recommended that member states extend their political willingness to improving controls over small arms such as the credibility enhancing devices and having phased intervention (demand and supply) in countering the proliferation. The credibility enhancing mechanisms will be vital in improving the efficiency of the treaty, making it more binding while the phased interventions will serve to ensure that underlying sources of insecurity are addressed before disarmament. This will be successful in ensuring cooperation and commitment in the region. Building bridges between local realities and policy-level measures to curb SALW proliferation is the only way to ensure that both the supply and demand side of the problem is being dealt with.

5.4.2 The Role of Inter-State Cooperation

From the literature survey, control over SALW in the Great Lakes region and the Horn of Africa has predominately been categorized supply measures advocated for in the Nairobi Protocol’s charter, which serve as one approach of dealing with the threat. However, since this
strategy is insufficient, mistrust impels the accumulation of small arms and light weapons in the region long neglected by governments and communities are unwilling to disarm unless their neighbours do the same.

It is therefore recommended that the need to strengthen inter-state cooperation in the sub-region in a bid to curb the proliferation of small arms and light weapons be embraced. The Proximity of national borders of states in the region makes the issue of small arms all the more intractable. States in the sub-region should recognize that the factors that cause a rise in the demand for small arms are due to enhancing the ways of living.

5.4.3 State and Civil Society Cooperation

Partnerships between civil society and government are a key factor in curbing the proliferation of Small arms and light weapons for the realization of a constructive change. An example of this cooperation between the two is demonstrated by the composition of National Focal Points by states in the Great lakes and Horn of Africa Sub-region, which have incorporated between two to five civil society organizations into respective National focal Points.

The Kenya National Focal Points works in close cooperation and partnership with the civil society in implementing the Coordinated Agenda for Action. This is in line with international and regional agreements and protocols, which recognize the role of NGOs in fighting the global menace of illicit SALW. Some of these civil society organizations include: Oxfam, Safer World, APFO, UNDP, and SRIC which cooperate with states on almost all areas related to small arms control.

However, the thinking prevailing at the circles of states that security is a preserve of the state and that the civil society has no business meddling in it is still thriving in the sub region. Interviews with key informants revealed that some member states pass controversial bills
banning or limiting the role of civil societies and carry out public awareness raising through police or other governmental officials in different departments. This hampers the small arms control efforts, especially when the Nairobi protocol calls for involvement of civil societies in addressing the problem of small arms and light weapons. It therefore recommended that states be cognizant of the vital role of civil societies and work towards attaining the same end.

5.5 Further Research

The following recommendation is suggested for further research:

The sub region has been characterized with violent conflicts which provide a thriving market for SALW thus contributing to the insecurity equation and due to the nature of porous borders, no one state has been shielded from the others one insecurity. However, amidst the pervasive state of insecurity in the sub region, The Republic of Tanzania appears to have defied all theories and logic to the Great Lakes region and the Horn of Africa security dilemma. With the widespread of SALW across the sub region representing a threat to both state and human security, the state has remained intact. It is therefore recommended that additional studies be carried out in this area to investigate probable factors responsible for its enduring stability in midst of insecurity culminating from the SALW proliferation.