

SaferAfrica and **Saferworld**

Strengthening small arms controls:

An audit of small arms control legislation in the Great Lakes region
and the Horn of Africa

ERITREA



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Foreword

THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS is one of the greatest humanitarian challenges. To address it a united and holistic approach is required from governments and civil society. Such an approach is embodied in the 'Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa' which was signed in March 2000. Since then progress towards implementing the Declaration has been made and while slower than desired a degree of momentum is now building.

The Nairobi Secretariat, the regional co-ordination body for small arms in the Great Lakes region and the Horn of Africa has been significantly enhanced in 2003. Most signatories to the Nairobi Declaration have established national co-ordination agencies, known as National Focal Points, and other significant progress has been made at the national level in Kenya, Tanzania and Uganda towards the establishment and implementation of National Action Plans for Arms Management and Disarmament.

Many studies of trafficking of small arms for crime or to support conflict show a variety of ways in which legal small arms can be diverted for illegal purposes if there are inadequate legislative controls. International co-operation, the establishment of effective tracing systems and the enforcement of arms embargoes are essential to reduce and combat the illicit trafficking and misuse of small arms.

Strengthening and harmonising legislation on these issues and others is one of the key tasks that states in the sub-region have committed to address in the Nairobi Declaration and other international small arms agreements. A 'Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa' has been developed by the Eastern Africa Police Chiefs Co-operation Committee and was signed by Chiefs of Police in Tanzania in December 2003. It is important that this is now effectively implemented. This will necessitate national and regional reviews of legislation in order to ensure that there are effective common standards of control on small arms in operation across the region.

This comprehensive and accessible study by Saferworld and SaferAfrica will significantly aid states as they address the issue of legislative controls. At the national level the detailed country tables will assist national governments in identifying areas of weakness that must be addressed and existing best practice. While at the regional level, the regional overview and comparative analysis will aid governments to regionally harmonise their national legislation and to develop rigorous and effective minimum standards of control.

Some states have already begun to examine where and how their small arms legislation must be amended while for others this challenge still remains to be tackled. For all countries, however, this report will provide a valuable point of reference for fine-tuning proposed amendments or as a starting point from which to embark on a process of review.

Mr Francis Sang

Co-ordinator

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Introduction

THIS COUNTRY STUDY ON ERITREA forms one chapter of a comprehensive study on small arms legislation in the Great Lakes region (GLR) and Horn of Africa (HoA), conducted by Saferworld and SaferAfrica. The report builds on the methodology developed in a similar study conducted on small arms legislation in Southern Africa by Saferworld and SaferAfrica entitled *The Law of the Gun: An Audit of Firearms Control Legislation in the SADC Region*, published in June 2003. This study is intended as a reference document to assist law-makers and others involved in reviewing national small arms legislation.

The full study contains an introductory chapter providing a regional overview of the small arms legislation in nine countries of the GLR and HoA. Each of the following chapters covers one of these nine countries – Burundi, Djibouti, Eritrea, Kenya, Rwanda, Seychelles, Sudan, Tanzania and Uganda.¹ These country chapters should be read alongside the regional, introductory chapter which identifies examples of best practice in the region and certain issues which states should consider when reviewing their national legislation. Each of these country chapters contains two sections – a national overview of existing legislation and a table containing a break down of the legislation. The analysis is broken down into analytical categories and indicates how far the national legislation meets, or falls short of (the level of conformity to), the commitments contained in key regional and international small arms agreements for the states of the GLR and HoA.

The analytical categories are:

- Definitions
- Controls on civilian possession and use
- Record keeping and marking
- Import, export and transit
- Brokering
- Manufacture
- Trade
- Seizure, disposal and enforcement
- Arms embargoes
- State-owned small arms
- Penalties (treated as a separate category in the national overview only)

¹ To date it has not been possible to complete research in the Democratic Republic of Congo (DRC), Ethiopia and Somalia.

The key regional and international small arms agreements are:

- ‘Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime’ (‘UN Firearms Protocol’);
- ‘United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects’ (‘UN Programme of Action’);
- ‘Bamako Declaration on an African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons’ (‘Bamako Declaration’);
- ‘Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Nairobi Declaration’);
- ‘Co-ordinated Agenda for Action on the Problem of the Proliferation of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Co-ordinated Agenda for Action’);
- ‘Implementation Plan of the Co-ordinated Agenda for Action on the Problem of the Proliferation of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Implementation Plan’);
- ‘Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Protocol for the GLR and HoA’).

Comment on conformity

Throughout this report, where we talk of ‘conformity’, ‘commitments’, ‘requirements’ or similar terms, we do so with regard to the importance of fully implementing the provisions of these agreements and the need to ratify them and hasten their entry into force. By noting the ‘conformity’ or otherwise of existing national legislation we are not indicating a legal commitment to the UN Firearms Protocol or Protocol for the GLR and HoA, before these are ratified and have entered into force. Full conformity with the provisions of these regional and international agreements is, nonetheless, important in laying the foundations for the effective control of small arms across the GLR and HoA.

The reader should also note, however, that while the regional and international agreements are very important guides to the action that states must take with regard to the review of legislation, in many areas they require a great deal of detailed elaboration to ensure the implementation of a truly effective legal control regime. Where we provide an overview of each country’s small arms legislation and note some of the key absences, these absences refer solely to those instances where the legislation falls short of the requirements of the regional and international agreements. Indeed, where we talk of full conformity to certain provisions, this does not necessarily indicate that the provisions are adequate to ensure that a strong legal control regime, free of any loopholes, exists.²

² The comment that we make on conformity also refers solely to the acts that we have been able to obtain and have included in the tabular analysis. The reader should be aware that other pieces of legislation may exist which contain provisions meeting the requirements of the regional and international agreements.

Scope of the study

The scope of this study is limited to the legal controls that are laid out in the primary piece of national legislation on small arms control, usually the firearms or arms and ammunition act. Provisions relating to the control of small arms are also likely to be contained in some other pieces of legislation. For instance, controls relating to the use of small arms by police officers may be contained in a police act or statute. In some cases, where information has been readily available, this study has included some of these other laws. However, this study has focused on the primary act relating to small arms control in each country. The primary reason for this is that those people responsible for small arms control in the governments of the region, whom we contacted for assistance in collecting the relevant legislation, were in most cases able to provide only the primary piece of small arms legislation. This in itself illustrates the importance of undertaking legislative review in order to draw all the national legislation pertaining to small arms together in one Act, of which all relevant actors are aware.

This study has also been limited to the legislation itself and does not touch on the *de facto* practice of small arms control; how the laws are actually implemented or issues concerning the capacity to enforce legal controls. The existence of legislative controls does not necessarily mean that an effective control system is being enforced. Conversely, the absence of sufficient legal controls does not necessarily preclude the operation of an effective control regime on the ground. Neither of these two scenarios is, however, desirable. Effective small arms legislation *and* effective controls on the ground should be the objective of all states.

Eritrea

Overview of existing legislation and conformity to regional and international agreements

Definitions

THERE IS CURRENTLY NO PIECE OF LEGISLATION IN ERITREA devoted exclusively to the issue of small arms. Those provisions that exist in relation to small arms are contained in the transitional penal code (circa 1993).

The transitional penal code does not contain any definitions relating to arms or ammunition. This is a serious impairment to the implementation of the code, since it precludes agreement as to the categories of arms controlled by the code. Those responsible for developing new legislation must address this matter urgently and should introduce definitions compatible with those laid out in the Protocol for the GLR and HoA and UN Firearms Protocol.

Controls on civilian possession and use

The national legislation conforms to some of the provisions of the regional and international agreements:

- Special authorisation is required for the acquisition of small arms. However, there is no explanation of the circumstances under which special authorisation might be granted.
- The carriage and use of small arms is prohibited in certain places and at certain times, although such places and times are not specified.
- There are restrictions on the relinquishing of small arms. Persons who knowingly sell or deliver arms to those not entitled to receive them, in particular infants and young people, are punishable with fine or arrest.

However, fundamental absences include:

- No competency testing or age restriction for licence applicants.
- No restriction on the number of small arms that may be licensed to any one civilian.
- No total prohibition on the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns.
- No restriction on the type of small arm for which a licence may be issued.
- No restriction on the number of weapons for which authorisation might be granted.
- No provision for the safe storage of civilian owned small arms.
- No prohibition on pawning and pledging of small arms.

Record keeping and marking

The national legislation does not conform to any of the provisions of the regional and international agreements on record keeping and marking.

Import, export and transit	<p>The national legislation conforms to some of the provisions of the regional and international agreements:</p> <ul style="list-style-type: none"> ■ Special authorisation is required to import, export or transport small arms. <p>However, fundamental absences include:</p> <ul style="list-style-type: none"> ■ No requirement for the centralised registration of all civilian owned small arms. ■ No system or requirement for the marking of small arms at the time of import or export. ■ No requirement for the keeping of records on civilian owned and manufactured small arms.
Brokering	<p>There are no controls over brokering.</p>
Manufacture	<p>The national legislation conforms to some of the provisions of the regional and international agreements:</p> <ul style="list-style-type: none"> ■ It is an offence to manufacture small arms without special authorisation. However, there are no further provisions regulating the manufacture of small arms and no details are provided as to the conditions under which special authorisation may be granted. <p>Further fundamental absences include:</p> <ul style="list-style-type: none"> ■ No controls relating to the storage of small arms or the premises used for their manufacture. ■ No system or requirement for the marking of small arms at the time of manufacture. ■ No requirement for the keeping of records on the manufacture of small arms.
Trade	<p>The national legislation conforms to some of the provisions of the regional and international agreements:</p> <ul style="list-style-type: none"> ■ It is an offence to trade in small arms without special authorisation. ■ It is an offence to sell or deliver small arms to persons not entitled to receive them. <p>Fundamental absences include:</p> <ul style="list-style-type: none"> ■ No requirement for the keeping of records on the trade in small arms. ■ No controls relating to the premises that can be used for the purpose of trading in small arms. ■ No prohibition on the pawning and pledging of small arms.
Seizure, disposal and enforcement	<p>The national legislation conforms to some of the provisions of the regional and international agreements:</p> <ul style="list-style-type: none"> ■ Provisions exist for the seizure of small arms that have been sold, delivered or handed over to dangerous or suspect persons or that have been manufactured, imported, exported, transported, acquired, stored, hidden, offered for sale or distributed without special authorisation. <p>However, fundamental absences include:</p> <ul style="list-style-type: none"> ■ No provisions for the disposal or destruction of small arms. ■ No controls relating to the re-activation of de-activated small arms. ■ No provisions for the monitoring or auditing of small arms licences and no inspection provisions.
Arms embargoes	<p>There are no controls relating to the enforcement of arms embargoes.</p>

State-owned small arms

The transitional penal code does not contain any provisions relating specifically to state-owned small arms.

Penalties

The transitional penal code specifies that offences are punishable with a fine or arrest. However, no further details are given as to the nature of the fine or the possibility of imprisonment. The process of developing new legislation should include consultations with the governments of other countries in the region so as to ensure the introduction of harmonised, heavy minimum standards, as required by the Protocol for the GLR and HoA.

How to use the tables

Each table provides a detailed overview of the legislative controls contained in the primary piece of small arms legislation in a country. Where available other regulations, acts and statutes have been referenced.

Column one – analytical category

The first column of the table contains the analytical categories. The table is broken down into ten main analytical categories which are then divided into sub-categories and where appropriate further levels of sub-category(s).

For instance: main category ‘Controls on civilian possession and use’; first sub-category ‘Restrictions and conditions for civilian possession’; second sub-category ‘Personal suitability to possess arms’; third sub-category ‘Age restrictions’.

When using the table the reader should first reference the analytical category and any sub-categories as this dictates the content of columns two, three and four; ‘Regional and international agreements’, ‘National legislation’ and ‘Conformity’, respectively.

Column two – regional and international agreements

The second column provides information on the requirements of the regional and international agreements. Here the information included is a summary of the requirements from each agreement relating to a specific category and sub-category(s). The name of the agreement and the article or section which contains the requirement(s) is included. The reader should cross-reference this summary with the full text of the article or section which appears in the ‘Regional and international agreements’ table in the regional and national overview section of this report. For each article or section referenced the summary includes only information from that article that is directly relevant to the analytical category under consideration. Where the requirements of two or more agreements are similar or identical a summary may be included that refers to more than one agreement. Where no summary is provided for a particular category or sub-category(s) this indicates that there are no relevant requirements in any of the regional and international agreements.

Column three – national legislation

The third column reproduces the exact wording of the national legislation that contains controls relevant to the category and sub-category(s) under consideration. The act and article are referenced. In some cases only part of an article may be reproduced where other parts of the article are not directly relevant to the analytical category under consideration. Where no text is reproduced no relevant controls are contained within the legislation being analysed.

The reader should be aware that any grammatical and typographical errors that may appear in the text of the national legislation are those present in the copies of the legislation obtained by the researchers. In some cases the difficulty in deciphering the legislation caused by such errors is in itself a factor that demands the review and amendment of the legislation.

The text of the Burundi, Djibouti and Rwanda legislation has had to be translated from the original French. There is therefore a risk that mistakes and misinterpretations may have inadvertently occurred. However, our analysis of the legislation has been checked with government experts from each country, so any misinterpretations should not be substantive.

Column four – conformity

The fourth and final column provides a comment on the level of conformity³ of the national legislation (in column three) to the requirements of the regional and international agreements (in column two) for the specific analytical category in question (in column one). A brief outline of how the legislation conforms and does not conform follows this comment on conformity. Comments have only been made for the analytical categories for which there are requirements under the regional and international agreements.

Four levels of conformity have been identified and standard language developed:

- **Level one – language used** ‘The national legislation fully conforms to the regional and international agreements’. The requirements of the regional and international agreements for this category and sub-category(s) are met in full.
- **Level two – language used** ‘The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas’. Here the majority of the requirements of the regional and international agreements are met by the national legislation but a small number are absent (possibly only one).
- **Level three – language used** ‘The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident’. A few (possibly only one) of the requirements of the regional and international agreements will be present but most are not. The existing legislation falls considerably short of full conformity.
- **Level four – language used** ‘The national legislation does not conform to the regional and international agreements’. No provisions relevant to the requirements of the regional and international agreements are present. The reader should note that for a particular analytical category the requirements of the regional and international agreements may only cover some part of that category. Consequently, provisions within the national legislation for the analytical category under consideration may exist, and are thus reproduced in column three, yet these provisions may in no way meet the specific requirements of the regional and international agreement in this area. Hence a comment indicating no conformity will be used despite some provisions within the particular analytical category being present in the national legislation.

³ Please refer to the explanation contained under ‘Use of terms’ in the regional and national overview section of this report.

Definitions in Eritrea's small arms legislation⁴

Analytical category	Nairobi Declaration	Protocol for the GLR and HoA	UN Firearms Protocol	National Legislation
Firearms		<p>Article 1 "firearms", means</p> <p>(a) any portable barreled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;</p> <p>(b) any other weapon or destructive device such as an explosive bomb, incendiary bomb or gas bomb, grenade, rocket launcher, missile, missile system or mine</p>	<p>Article 3</p> <p>(a) "Firearm" shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;</p>	
Ammunition		<p>Article 1</p> <p>"ammunition" means the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a small arm or light weapon, provided that those components are themselves subject to authorisation in the respective State Party;</p>	<p>Article 3</p> <p>(c) "Ammunition" shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective State Party;</p>	
Light Weapons/Arms of War		<p>Article 1</p> <p>"light weapons" shall include the following portable weapons designed for use by several persons as a crew: heavy machine guns, automatic canons, howitzers, mortars of less than 100 mm calibre, grenade launchers, anti-tank weapons and launchers, recoilless guns, shoulder-fired rockets, anti-tank weapons and launchers, and air defense weapons.</p>		
Small Arms		<p>Article 1</p> <p>"small arms" are weapons designed for personal use and shall include: light machine guns, sub-machine guns, including machine pistols, fully automatic rifles and assault rifles, and semi-automatic rifles.</p>		

⁴ Please refer to the explanation contained under 'Use of terms' in the regional and national overview section of this report.

Definitions *continued*

Analytical category	Nairobi Declaration	Protocol for the GLR and HoA	UN Firearms Protocol	National Legislation
		<p>"small arms" shall also include:</p> <ul style="list-style-type: none"> – "firearms" , "ammunition" and "other related materials". 		
Other Related Materials/Parts and Components		<p>Article 1</p> <p>"other related materials" means any components, parts or replacement parts of a small arm or light weapon, that are essential to its operation.</p>	<p>Article 3</p> <p>(b) "Parts and components" shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;</p>	

Breakdown of Eritrea's small arms legislation

Controls on civilian possession and use⁵

Licensing

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of licensing process – how small arms licence is obtained	<p>Nairobi Declaration Art. iv and Implementation Plan Art. 3.1, 3.2.1, 3.3</p> <p>Require laws, regulations, standards and prohibitions governing the civilian possession of small arms and light weapons, including home made weapons.</p> <p>Protocol for the GLR and HoA Art. 3</p> <p>(a) Requires the establishment as criminal offences the</p> <p>(iii) illicit possession and misuse of small arms and light weapons</p> <p>(c) (i) Requires the prohibition of unrestricted civilian possession of small arms</p> <p>Bamako Declaration Art. 3 A (iii)</p> <p>Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p> <p>UN Programme of Action II Art. 3</p> <p>Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p>	<p>Transitional Penal Code Art. 475</p> <p>Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(a) apart from offenses against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorization or contrary to law, weapons or munitions of any kind; or</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p> <p>2. Occasional violation of police regulations, and carrying or use of prohibited weapons are subject to the penalties for petty offenses (Art. 763 and 764).</p> <p>Art. 763</p> <p>Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas.</p> <p>The possession, acquisition and use of small arms appear to be prohibited except with special authorisation.</p> <p>There is, however, no explanation of the circumstances, and any controls and conditions, under which such special authorisation may be granted.</p>

⁵ The copies of Act No. 62-621 dated June 1962 and Decree No 64-407, 5 May 1964 obtained by the research team contain some passages of text where words could not easily be identified. In the tables, '[sic]' has been used to indicate those passages where words are missing or illegible.

Controls on civilian possession and use: *Restrictions and conditions*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Personal suitability to possess arms ■ General conditions			
■ Age restrictions		Transitional Penal Code Art. 763 Control of Arms and Ammunition Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475): (b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.	
■ Competency test	Protocol for the GLR and HoA Art. 3 (c) (viii) Requires provisions for the competency testing of prospective small arms owners.		The national legislation does not conform to the Protocol for the GLR and HoA.
Quantity of weapons	Protocol for the GLR and HoA Art. 3 (c) (ix) Requires a restriction on the number of small arms that may be owned.		The national legislation does not conform to the Protocol for the GLR and HoA.
■ Licensing required for each arm possessed			
Quantity of ammunition			
Type of weapon	Protocol for the GLR and HoA Art. 3 (c) (ii) and Art. 5 (b) (iii) Requires the total prohibition of the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns.		The national legislation does not conform to the Protocol for the GLR and HoA.
Duration of licence and renewal procedure			
Withholding information or misrepresentation	Protocol for the GLR and HoA Art. 3 Prohibits the misrepresentation or withholding of any information given with a view to obtaining any licence or permit.		The national legislation does not conform to the Protocol for the GLR and HoA.
Exemptions			

Controls on civilian possession and use: *Possession and use*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Restrictions on application/use of small arm – when, where, how? Some potential cases include: ■ resisting arrest ■ injure/endanger person or property ■ handle small arm under influence of drugs/alcohol ■ negligent discharge/use ■ point gun without good cause	Nairobi Declaration Art. iv and Implementation Plan Art. 3.1, 3.2.1, 3.3 Require laws, regulations, standards and prohibitions governing the civilian possession of small arms and light weapons, including home made weapons. Protocol for the GLR and HoA Art. 3 (a) Requires the establishment as criminal offences the (iii) illicit possession and misuse of small arms and light weapons (c) (i) Requires the prohibition of unrestricted civilian possession of small arms	Transitional Penal Code Art. 764 Carrying and use of prohibited Arms Whosoever is found carrying in a public place an arm which he was not authorized to carry, or makes use of an arm, even though authorized, at a time when or in a place where such use is prohibited, is punishable with a fine not exceeding one hundred dollars or arrest not exceeding eight days.	The national legislation fully conforms to the regional and international agreements. Controls are placed upon where and when a person with special authorisation may carry a small arm.

Controls on civilian possession and use: Possession and use *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<ul style="list-style-type: none"> ■ restrictions on carriage of small arm (when, where (public place), how (holster, concealed etc)) 	<p>Bamako Declaration Art. 3 A (iii) Recommends establishing as a criminal offence the illegal possession and use of small arms and light weapons.</p> <p>UN Programme of Action II Art. 3 Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p>		
Storage and safekeeping conditions	<p>Protocol for the GLR and HoA Art. 3 (c) (viii) Requires provisions for the effective control of small arms and light weapons including the storage thereof.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.
<p>Restrictions on/ conditions of relinquishing and regaining possession of small arms</p> <ul style="list-style-type: none"> ■ to whom (authorised person, dealer, licence holder, relations) ■ deposit in and retrieval of arms from warehouses 	<p>Protocol for the GLR and HoA Art. 3 (c) (viii) Requires restrictions on owners' rights to relinquish control, use and possession of small arms.</p>	<p>Transitional Penal Code Art. 763 Control of Arms and Ammunition Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>Civilian possession of all arms is prohibited unless special authorisation is granted.</p> <p>The sale and delivery of arms is allowed only to those entitled to receive them.</p>
<ul style="list-style-type: none"> ■ leasing/lending 			
<ul style="list-style-type: none"> ■ pawning/pledging 	<p>Protocol for the GLR and HoA Art. 3 (c) (x) Requires provisions prohibiting the pawning and pledging of small arms and light weapons.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.
<ul style="list-style-type: none"> ■ inheritance/death 			
<ul style="list-style-type: none"> ■ other conditions restrictions on/conditions of relinquishing and regaining possession of small arms 			
Notifying authorities of altered circumstances (death, loss, theft, change of address, weapon to gunsmith, disposal, destruction etc)			
<p>Other restrictions on possession and use of small arms including:</p> <ul style="list-style-type: none"> ■ carry licence while in possession ■ civilian maintenance, repair, loading 			

Controls on civilian possession and use: *Offences/penalties*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 5 (b) (i)</p> <p>Requires the introduction of harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons.</p>	<p>Transitional Penal Code Art. 763</p> <p>Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p> <p>Art. 764</p> <p>Carrying and use of prohibited Arms</p> <p>Whosoever is found carrying in a public place an arm which he was not authorized to carry, or makes use of an arm, even though authorized, at a time when or in a place where such use is prohibited, is punishable with a fine not exceeding one hundred dollars or arrest not exceeding eight days.</p>	<p>Implementation of Article 5 (b) (i) will require consultation and agreement on what constitute heavy minimum sentences.</p> <p>Fines and arrest are applicable for the illicit possession and use of small arms but the potential severity of these penalties is not stated.</p> <p>For the offence of carrying an unauthorised arm in public, penalties of a fine of \$100 or 8 days in prison are very weak.</p>

Record keeping and marking

Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
When? (import/export/transit/manufacture etc)	<p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends establishing at the national level the responsible management of licit arms.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (vi)</p> <p>Requires provisions ensuring the standardised marking and identification of small arms and light weapons at the time of manufacture, import or export.</p> <p>UN Programme of Action Section II Art. 16</p> <p>Requires the marking and registering of all confiscated, seized or collected small arms prior to their destruction or disposal.</p> <p>UN Firearms Protocol Art. 9</p> <p>(c) Requires the marking of deactivated firearms with a clearly visible mark attesting to its deactivation.</p>		The national legislation does not conform to the regional and international agreements.
How? ■ stamping/engraving?			
■ where on weapon?	<p>Protocol for the GLR and HoA Art. 7</p> <p>Requires that the marking should be on the barrel, frame and, where applicable, the slide.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.
■ with what? (unique alpha-numeric symbol/identifying country and manufacturer?)	<p>Protocol for the GLR and HoA Art. 7</p> <p>(a) Requires the marking 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.</p>		The national legislation does not conform to the regional and international agreements.

Record keeping and marking: *Marking* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>(b) Requires the marking at the time of import with a simple marking identifying the country an year of import and an individual serial number if it does not have one.</p> <p>(c) Requires the marking of small arms and light weapons in possession of the state with a unique mark.</p> <p>UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7</p> <p>Require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of manufacture or import. Such information must permit identification of country of manufacture and manufacturer.</p>		

Record keeping and marking: *Record keeping*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of record keeping specifications:</p> <ul style="list-style-type: none"> ■ what records should be kept? ■ where? ■ how? ■ by whom? ■ for how long? ■ when must authorities be provided with information? 	<p>Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7</p> <p>Require the maintenance of records of markings for not less than ten years of firearms, ammunition and components that are necessary to trace illicitly manufactured or trafficked arms.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (iii)</p> <p>Requires the regulation and centralised registration of all civilian-owned small arms.</p> <p>Art. 7 (d)</p> <p>Requires information held to include appropriate markings and specific details of international transactions of small arms and light weapons.</p> <p>UN Programme of Action Section II Art. 9</p> <p>Requires ensuring comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons. Records should be well maintained and organised to facilitate accurate and prompt information retrieval.</p> <p>Art. 10</p> <p>Requires provision to ensure responsibility for weapons held and issued by the state and effective measures for tracing such weapons.</p> <p>Art. 17</p> <p>Requires all bodies authorised to hold small arms to ensure standards and procedures are established regarding: inventory management; and accounting control; and accounting of small arms held or transported by operational units or authorized personnel.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends establishing at the national level the responsible management of licit arms.</p>		<p>The national legislation does not conform to the regional and international agreements.</p>

Record keeping and marking: Record keeping *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Co-ordinated Agenda for Action Art. 5.3</p> <p>Ensure strict accountability and the effective tracing of all weapons owned by the state</p> <p>Art. 5.4</p> <p>Ensure strict accountability and effective control of all weapons owned by private security companies and dealers.</p>		

Record keeping and marking: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (1) (c) and Protocol for the GLR and HoA Art. 3 (a) (iv)</p> <p>Require provisions that explicitly make it an offence to illegally falsify, obliterate or remove or alter the markings on a firearm.</p> <p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires provisions relating to interfering with markings for firearms and those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p>		The national legislation does not conform to the regional and international agreements.

Import, export and transit**Licensing**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ licensing/ registration of persons and transactions? ■ competency test of those licensed to import, export or transit arms? ■ duration of licences? ■ offence withhold information? ■ distinction between civilian and commercial transfers? ■ specifications of licence – information to be included on licence? ■ required documentation – end-user certificates etc?) 	<p>Nairobi Declaration Art. iv and Co-ordinated Agenda for Action Preamble</p> <p>Urge states to have in place adequate laws, regulations and administrative procedures to exercise effective control over the transfer of small arms and light weapons.</p> <p>Co-ordinated Agenda for Action Art. 3.1, 3.2.2 and Implementation Plan Art. 3.1, 3.2.2</p> <p>Require regulations and standards to govern the import of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (v)</p> <p>Requires standards regarding the import of small arms and light weapons.</p> <p>Art. 10 (a) and (c)</p> <p>Requires an effective system of export and import licensing or authorisation and specifies the specific information that must be included on import and export licences and documentation.</p> <p>UN Firearms Protocol Art. 5 (1) (b) Art. 10 (1), (2) and (3)</p> <p>Requires state parties to adopt legislative measures making the illicit trafficking in firearms illegal.</p> <p>Requires provisions catering for the international transit of firearms.</p>	<p>Transitional Penal Code Art. 475 Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(a) apart from offenses against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorization or contrary to law, weapons or munitions of any kind; or</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p> <p>2. Occasional violation of police regulations, and carrying or use of prohibited weapons are subject to the penalties for petty offenses (Art. 763 and 764).</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>The import, export and transport of arms is only allowed with special authorisation.</p> <p>There are, however, no provisions detailing the regulations and administrative procedures under which the import or export of arms with special authorisation may occur. Furthermore there requirement for the use of end-user certification, of specific transit controls or of procedures for the auditing and monitoring of licences, and no requirement that export applications are assessed in a manner consistent with existing responsibilities under international law.</p>

Import, export and transit: Licensing *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Requires provisions for verifying the issuance of import licences and authority for transit.</p> <p>UN Firearms Protocol Art 5 (1) (b) Art 10 (1), (2) and (3) and Protocol for the GLR and HoA Art. 10 (b)</p> <p>Require provisions outlining the specific detailed information to be included on export and import licences. These should include a minimum of:</p> <ul style="list-style-type: none"> ■ Place and date of issuance ■ Date of expiration ■ Country of export ■ Country of import ■ Final recipient ■ Description and quantity of goods ■ Country of transit, where appropriate. <p>UN Programme of Action Section II Art. 2, Art. 11 and Art. 12</p> <p>Requires provisions catering for the international transit of small arms, including the use of authenticated end-user certificates, and requires that export applications are assessed in a manner consistent with existing responsibilities under international law.</p> <p>Bamako Declaration Art. 3 A (iii) (vii)</p> <p>Recommends establishing as a criminal offence the illegal trafficking of small arms and light weapons.</p> <p>Requires that states take appropriate measures to control arms transfers by manufacturers, suppliers, traders, brokers, shipping and transit agents</p>		

Import, export and transit: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?	<p>Protocol for the GLR and HoA Art. 3 (c) (vi) and Art. 7 (b)</p> <p>Requires the standardised marking and identification of small arms and light weapons at the time of import, with information that permits the identification of the country and year of import and with an individual serial number if the small arms or light weapon does not bear one at the time of import.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends establishing at the national level the responsible management of licit arms.</p> <p>UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7 and Art. 8</p> <p>Require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of import. Such information must permit identification of country of manufacture and manufacturer.</p> <p>Require provision making it illegal to stockpile, transfer or possess unmarked weapons.</p>		The national legislation does not conform to the regional and international agreements.

Import, export and transit: Restrictions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Where can arms be imported/exported (specified points of entry)? How (conditions of carriage)? What arms can be imported/exported/transited?			

Import, export and transit: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What records should be kept? What records must be submitted to authorities, and when?	<p>Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7</p> <p>Require the maintenance of records of information on small arms and light weapons for not less than ten years necessary to trace illicitly manufactured or trafficked arms.</p> <p>Protocol for the GLR and HoA Art. 7 (d)</p> <p>Requires information held to include appropriate markings and specific details of international transactions of small arms and light weapons.</p> <p>UN Programme of Action Section II Art. 9</p> <p>Requires ensuring comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons. Records should be well maintained and organised to facilitate accurate and prompt information retrieval.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

Import, export and transit: Special conditions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Temporary import/export conditions? Conditions for dignitaries, diplomats, tourists or other categories of person?	<p>Protocol for the GLR and HoA Art. 10 (f)</p> <p>Allows states to adopt simplified procedures for the temporary import and export and the transit of small arms for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.</p>		The national legislation does not contain any such simplified procedures and therefore applies in full in these instances.

Import, export and transit: Re-export provisions

Analytical category	International and regional agreements	Current national legislative controls	Conformity

Import, export and transit: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Co-ordinated Agenda for Action Art. 3.3 and Implementation Plan Art. 3.3</p> <p>Require the establishment as criminal offences under the national law the illicit trafficking in small arms and light weapons, including home made weapons.</p>		<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>The import, export and transport of arms without special authorisation is an offence.</p>

Import, export and transit: Offences/penalties *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires a provisions relating to the illicit trafficking in firearms and for those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 3 (a) (i)</p> <p>Requires the establishment as a criminal offence the illicit trafficking of small arms and light weapons.</p>		Organising, aiding, abetting, facilitating and counselling the commission of offences are not, however, stipulated as offences.

Brokering**Description of brokering controls**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Co-ordinated Agenda for Action Art. 3.2.3 and Implementation Plan Art. 3.2.3</p> <p>Require regulations for the effective control of brokers, financiers and transporters of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>"broker" is a person who acts:</p> <p>(a) for a commission, advantage or cause, whether pecuniary or otherwise;</p> <p>(b) 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</p> <p>(c) as an intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.</p> <p>"brokering" means acting:</p> <p>(a) for a commission, advantage or cause, whether pecuniary or otherwise;</p> <p>(b) 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</p> <p>(c) thereby acting as intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.</p> <p>Art. 3 (c) (xii)</p> <p>Requires provisions regulating brokering in the individual State Parties.</p> <p>Art. 11</p> <p>Requires a national system for regulating dealers and brokers of small arms and light weapons, which includes:</p> <p>(ii) registering all brokers operating within their territory;</p>		The national legislation does not conform to the regional and international agreements.

Brokering: Description of brokering controls *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>(iii) ensuring all registered brokers seek and obtain authorisation for each individual transaction taking place;</p> <p>(iv) ensuring that all brokering transactions provide full disclosure on import and export licences or authorisation and accompanying documents of the names and locations of all brokers involved in the transaction;</p> <p>(v) licensing, registering and checking regularly and randomly all independent manufacturers, dealers, traders and brokers.</p> <p>Bamako Declaration Art. 3 A (vii) B (iv) UN Firearms Protocol Art. 15 UN Programme of Action Section II Art. 14</p> <p>Require provisions for the control of brokers, including shipping and transit agents.</p> <p>UN Firearms Protocol Art. 5 (2) (a) and (b) and Art. 14</p> <p>Requires provisions relating to the illicit trafficking in firearms and those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Requires adequate legislation regulating the activities of those who engage in small arms and light weapons brokering.</p>		

Brokering: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity

Manufacture**Licensing**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ competency testing of manufacturers? ■ duration of licences? ■ offence to withhold information? ■ specifications of licence – information to be included on licence? ■ distinction made between small arm and ammunition manufacturing? ■ limits on quantities produced? ■ restrictions on types of arms/ ammunition produced? 	<p>Co-ordinated Agenda for Action Art. 3.1, 3.2.2, 3.2.3 and Implementation Plan Art. 3.1, 3.2.2, 3.2.3</p> <p>Require minimum standards to govern and regulations regarding the manufacture of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>“illicit manufacturing” shall mean the manufacturing or assembly of small arms and light weapons:</p> <p>(b) without a licence or authorisation from a competent authority of the State Party where the manufacture or assembly takes place; or</p> <p>Art. 3 (a) (ii) and (c) (iv)</p> <p>Require establishing as a criminal offence illicit manufacturing of small arms and light weapons and establishing controls over the manufacturing of small arms and light weapons.</p>	<p>Transitional Penal Code Art. 475</p> <p>Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(a) apart from offenses against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorization or contrary to law, weapons or munitions of any kind; or</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p> <p>2. Occasional violation of police regulations, and carrying or use of prohibited weapons are subject to the penalties for petty offenses (Art. 763 and 764).</p> <p>Art. 763</p> <p>Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>Making arms or ammunition without special authorisation is prohibited.</p> <p>However, no provisions exist stipulating standards to govern the manufacture of small arms.</p>

Manufacture: Licensing *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Bamako Declaration Art. 3 A (iii) Recommends establishing as a criminal offence the illicit manufacturing of small arms and light weapons.</p> <p>UN Firearms Protocol Art. 3 (d) "Illicit manufacturing" shall mean the manufacturing or assembly of firearms, their parts and components or ammunition:</p> <p>Art. 5 (1) (a) Requires state parties to adopt legislation making the illicit manufacturing of firearms and ammunition a criminal offence.</p> <p>UN Programme of Action II Art. 2 Requires establishing adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms</p> <p>Art. 3 Recommends establishing as a criminal offence the illegal manufacture of small arms and light weapons.</p>	<p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; is punishable with fine or arrest.</p>	

Manufacture: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?	<p>Protocol for the GLR and HoA Art. 1 <i>Definitions</i> "illicit manufacturing" shall mean the manufacturing or assembly of small arms and light weapons: (c) without marking the small arms and light weapons at the time of manufacture, in accordance with Article 7 of this Protocol.</p> <p>Art. 3 (c) (vi) Requires the standardized marking and identification of small arms and light weapons at the time of manufacture.</p> <p>Art. 7 (a) Requires the marking of each small arm and light weapon at the time of manufacture, with a unique marking providing the name of the manufacturer, the country of place of manufacture and the serial number. The marking should be on the barrel, frame and, where applicable, the slide.</p> <p>Bamako Declaration Art. 3 A (iv) Recommends establishing at the national level the responsible management of licit arms.</p>		The national legislation does not conform to the regional and international agreements.

Manufacture: Marking *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 7 (a), UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7</p> <p>The agreements require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of manufacture or import. Such information must permit identification of country of manufacture and manufacturer.</p>		

Manufacture: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>What records should be kept?</p> <p>What records should be submitted to authorities, and when?</p>	<p>Protocol for the GLR and HoA Art. 7 (d)</p> <p>Requires 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 and to prevent and detect such activities.</p> <p>UN Programme of Action Section II Art. 9</p> <p>Requires ensuring that accurate records are kept for as long as possible on the manufacture of small arms and light weapons. Records should be maintained and organised to ensure accurate and prompt retrieval of information.</p>		<p>The national legislation does not conform to the regional and international agreements.</p>

Manufacture: Premises

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Registration of premises?</p> <p>Conditions of storage?</p> <p>Restrictions on type of premises and location?</p>	<p>UN Firearms Protocol Art. 11</p> <p>Requires state parties to take appropriate measures to ensure the security of firearms, their parts and components and ammunition to prevent theft, loss and diversion.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires provisions for effective control of small arms and light weapons including storage.</p>		<p>The national legislation does not conform to the regional and international agreements.</p>

Manufacture: Restrictions on sale/transfer

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>To whom can manufacturer transfer arms?</p> <p>What arms can manufacturer transfer? Conditions to be met in transferring arms?</p> <p>What documentation and reporting of transfers is required?</p>	<p>Bamako Declaration Art. 3 A. (vii)</p> <p>Requires that states take appropriate measures to control arms transfers by manufacturers.</p>	<p>Transitional Penal Code Art. 763 Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation fully conforms to the Bamako Declaration.</p> <p>The sale and delivery of arms to persons not entitled to receive them is an offence.</p>

Manufacture: Quality control/standards

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Conditions relating to quality of arms/ammunition produced			

Manufacture: Gunsmiths

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Conditions/controls relating to repair and modification			

Manufacture: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Stipulates including provisions relating to the illicit manufacturing of firearms and for those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>"illicit manufacturing" shall mean the manufacturing or assembly of small arms and light weapons:</p> <p>(a) from parts and components illicitly trafficked;</p> <p>(b) without a licence or authorisation from a competent authority of the State Party where the manufacture or assembly takes place; or</p> <p>(c) without marking the small arms and light weapons at the time of manufacture, in accordance with Article 7 of this Protocol.</p> <p>Art. 3 (a) (ii)</p> <p>Requires establishing as a criminal offence illicit manufacturing of small arms and light weapons.</p>	<p>Transitional Penal Code Art. 763</p> <p>Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>Making arms and ammunition without special authorisation is an offence.</p> <p>However, the legislation does not stipulate as specific offences the organising, aiding, abetting, facilitating, counselling or commissioning of offences.</p>

Trade**Licensing**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ competency testing of those licensed to trade? ■ duration of licences? ■ offence to withhold information? ■ specifications of licence – information to be included on licence? ■ limits on quantities traded? 	<p>Nairobi Declaration Art. iv</p> <p>Urges states to monitor and effectively control all transactions relating to small arms and light weapons to licensed entities.</p> <p>Co-ordinated Agenda for Action Art. 3.1, 3.2.2 and Implementation Plan Art 3.1, 3.2.3</p> <p>Promote minimum standards and regulations for the governing and control of the transfer of small arms and light weapons.</p> <p>Co-ordinated Agenda for Action 3.2.3</p> <p>Requires regulations for the effective control of traders small arms and light weapons.</p>	<p>Transitional Penal Code Art. 475</p> <p>Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(a) apart from offenses against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorization or contrary to law, weapons or munitions of any kind; or</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p> <p>2. Occasional violation of police regulations, and carrying or use of prohibited weapons are subject to the penalties for petty offenses (Art. 763 and 764).</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas.</p> <p>Offering arms and ammunition for sale without special authorisation is prohibited.</p> <p>However, where special authorisation is granted the national legislation does not specify the standards, conditions, regulations and</p>

Trade: Licensing *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Draft EAPPCO Small Arms Protocol Art. 3 (a) (i)</p> <p>Requires establishing as a criminal offence the illicit trafficking in small arms and light weapons.</p> <p>(c) (v) Requires minimum standards regarding the control and transfer of small arms and light weapons.</p> <p>Bamako Declaration Art. 3 A (vii)</p> <p>Recommends that Member States should take appropriate measures to control arms transfers by traders.</p> <p>UN Programme of Action II Art. 3</p> <p>Recommends establishing as a criminal offence the illegal trade in small arms and light weapons.</p>	<p>Art. 763 Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; is punishable with fine or arrest.</p>	<p>monitoring mechanisms by which the trade in small arms is then controlled.</p>

Trade: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?			

Trade: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>What records should be kept?</p> <p>What records should be submitted to authorities?</p>	<p>Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7</p> <p>Require the maintenance of records for not less than ten years of firearms, ammunition and components that are necessary to trace illicitly trafficked arms.</p>		<p>The national legislation does not conform to the Protocol for the GLR and HoA.</p>

Trade: Premises

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Registration of premises?</p> <p>Conditions of storage?</p> <p>Restrictions on type of premises and location?</p>	<p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires provisions for effective control of small arms and light weapons including storage.</p>		<p>The national legislation does not conform to the Protocol for the GLR and HoA.</p>

Trade: Restrictions on sale/transfer

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>To whom can a licensed trader transfer arms?</p> <p>What arms can a licensed trader transfer?</p> <p>Conditions to be met in transferring arms?</p> <p>What documentation and reporting of transfers is required?</p>	<p>Bamako Declaration Art. 3 A. (vii)</p> <p>Requires that states take appropriate measures to control arms transfers by traders.</p>	<p>Transitional Penal Code Art. 763 Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation fully conforms to the Bamako Declaration. The sale and delivery of small arms to persons not entitled to receive them is an offence.</p>

Trade: Quality control/standards

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Conditions relating to quality of arms/ammunition produced			

Trade: Pawning/pledging restrictions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 3 (c) (x)</p> <p>Requires provisions prohibiting the pawning and pledging of small arms and light weapons.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

Trade: Transfer and possession restrictions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Restrictions/special conditions for traders for business purposes? <ul style="list-style-type: none"> Eg possessing/transferring arms without a licence in the course of business 			

Trade: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires provisions relating to the illicit trafficking and for those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 3 (a) (i)</p> <p>Requires the establishment as a criminal offence the illicit trafficking of small arms and light weapons.</p>	<p>Art. 763 Control of Arms and Ammunition</p> <p>Whosoever, apart from the cases of traffic punishable under the Penal Code (Art 475):</p> <p>(a) Contravenes the rules and regulation concerning the making and declaration, the trade in, possession or delivery, control or use of firearms or other weapons, and ammunition; or</p> <p>(b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms and ammunition or allows them to dispose of them without supervision, is punishable with fine or arrest.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>Trafficking in arms and ammunition without special authorisation is an offence.</p> <p>The legislation does not, however, stipulate as specific offences the organising, aiding, abetting, facilitating, counselling or commissioning of offences.</p>

Seizure, disposal and enforcement**Seizure, confiscation, forfeiture**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Co-ordinated Agenda for Action Art. 3.2.4 and Implementation Plan Art. 3 and Protocol for the GLR and HoA Art. 3 (c) (vii)</p> <p>Require provisions for the seizure, confiscation and forfeiture to the State of all small arms manufactured or conveyed in transit and transport without or in contravention of licences, permits or written authority.</p>	<p>Transitional Penal Code Art. 475 Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p>	<p>The national legislation conforms in part to the regional and international agreements.</p> <p>Provisions exist in some areas but a number of gaps are evident.</p> <p>Provisions exist for the seizure of arms sold, delivered or handed over to suspect or dangerous persons.</p>

Seizure, disposal and enforcement: *Seizure, confiscation, forfeiture* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 9 (a) and UN Firearms Protocol Art. 6 (1)</p> <p>Require measures to enable the confiscation of small arms and light weapons that have been illicitly manufactured or trafficked.</p>		No specific provisions exist, however, for the seizure, confiscation and forfeiture of small arms and light weapons illicitly manufactured or conveyed in transit.

Seizure, disposal and enforcement: *Disposal/destruction*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Protocol for the GLR and HoA Art. 8</p> <p>(a) Requires effective programmes for the collection, safe-storage, destruction and responsible disposal of small arms and light weapons rendered surplus, redundant or obsolete, in accordance with domestic laws.</p> <p>(b) requires that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or re-organisation of armed forces and/or other state bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint.</p> <p>UN Programme of Action Section II Art. 16 and UN Firearms Protocol Art. 6 (2)</p> <p>Specify the need for provisions to ensure the destruction of confiscated, seized or collected firearms where no other form of disposition or use has been officially sanctioned.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends that Member States should develop and implement programmes for the identification and destruction of surplus, obsolete and seized stocks.</p>		The national legislation does not conform to the regional and international agreements.

Seizure, disposal and enforcement: *Deactivation*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>UN Firearms Protocol Art. 9</p> <p>Specifies the need for provisions relating to: deactivated firearms; making it an offence to re-activate deactivated firearms; issuing a certificate of deactivation; and stamping deactivated firearms with stamps to that effect.</p>		The national legislation does not conform to the UN Firearms Protocol.

Seizure, disposal and enforcement: *Inspection/enforcement*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Protocol for the GLR and HoA Art. 3 (c) (ix)</p> <p>Requires provisions for the monitoring and auditing of licences.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

Seizure, disposal and enforcement: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity

Arms embargoes**Overview**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Relevant provisions	<p>Co-ordinated Agenda for Action Art. 3.4 and Implementation Plan Art. 3.4</p> <p>Require measures to enforce adherence to international sanctions that prohibit the export of weapons to conflict zones and/or countries.</p> <p>Protocol for the GLR and HoA Art. 3 (b)</p> <p>Requires measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.</p> <p>Bamako Declaration Art. 3 A (vi) and UN Programme of Action Section II Art. 15</p> <p>Require provisions to prevent the breaching of UN Security Council arms embargoes.</p>		The national legislation does not conform to the regional and international agreements.

Arms embargoes: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 3 (b)</p> <p>Requires measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

State-owned small arms**Overview**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
General provisions		<p>Transitional Penal Code Art. 475 Prohibited Traffic of Arms</p> <p>1. Whosoever:</p> <p>(a) apart from offenses against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorization or contrary to law, weapons or munitions of any kind; or</p> <p>(b) without indulging in trafficking, knowingly sells, delivers or hand over to suspect or dangerous persons, is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of such activities, and to confiscation of material seized.</p> <p>2. Occasional violation of police regulations, and carrying or use of prohibited weapons are subject to the penalties for petty offenses (Art. 763 and 764).</p>	

State-owned small arms: Possession and use by state employees

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Licensing requirements? Special conditions? Controls?	<p>Protocol for the GLR and HoA Art. 3</p> <p>(a) Requires the establishment as criminal offences the</p> <p>(iii) illicit possession and misuse of small arms and light weapons</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

State-owned small arms: Record keeping and marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 6 (a) and (b)</p> <p>Requires the establishment and maintenance of complete national inventories of small arms and light weapons held by security forces and other state bodies and strict national accountability of all small arms and light weapons owned and distributed by the state.</p> <p>UN Programme of Action Section II Art. 10</p> <p>Requires provision to ensure responsibility for weapons held and issued by the state and effective measures for tracing such weapons. Protocol for the GLR and HoA Art. 7 (a)</p> <p>Requires all small arms and light weapons in the possession of the state to be marked with a unique mark.</p>		The national legislation does not conform to the regional and international agreements.

State-owned small arms: Storage

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Stockpile Management	<p>Protocol for the GLR and HoA Art. 6</p> <p>Stipulates that States Parties must maintain secure storage of state-owned small arms and light weapons.</p> <p>UN Programme of Action Section II Art. 17 and 18</p> <p>Requires controls relating to the management and security of state stocks including:</p> <ul style="list-style-type: none"> ■ Appropriate locations for stockpiles ■ Physical security measures ■ Control of access to stocks ■ Inventory management and accounting control ■ Staff training ■ Security accounting and control of firearms relating to operation units ■ Controls on theft and loss <p>Art. 29</p> <p>Encourage States to promote safe, effective stockpile management and security, in particular physical security measures, for small arms and to implement, regional and subregional mechanisms in this regard.</p> <p>Co-ordinated Agenda for Action Art. 5.2 and 5.3</p> <p>Requires the safe storage of arms in possession of the state and strict accountability and the effective tracing of all weapons owned by the state.</p>		The national legislation does not conform to the regional and international agreements.

State-owned small arms: *Import, export, transfer, transit*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Documentation required? Licensing/authorisation?	UN Firearms Protocol Art. 8 (c) Requires provision for the unique marking of firearms when transferred from government stocks to permanent civilian use.		The national legislation does not conform to the UN Firearms Protocol.

State-owned small arms: *Disposal/destruction*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
General conditions Provisions relating to surplus stocks of arms and ammunition?	Protocol for the GLR and HoA Art. 8 (a) Requires effective programmes for the collection, safe-storage, destruction and responsible disposal of small arms and light weapons rendered surplus, redundant or obsolete, in accordance with domestic laws. (b) requires that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or re-organisation of armed forces and/ or other state bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint. UN Programme of Action Section II Art. 16 and 18 Requires that all confiscated, seized or collected SALW are destroyed subject to any legal constraints. Stipulates the need for provisions to regularly review state held stocks, to identify surpluses and have procedures in place for the responsible disposal, preferably through destruction of such surpluses.		The national legislation does not conform to the regional and international agreements.

State-owned small arms: *Offences/penalties*

Analytical category	International and regional agreements	Current national legislative controls	Conformity

SaferAfrica is a not-for-profit organisation that assists governments and civil society to implement agreed policy on peace and security.

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