

CRIMINAL LAW ISSUES

REPORT ON THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS WITHIN THE COMMONWEALTH

Paper by the Commonwealth Secretariat

EXECUTIVE SUMMARY

1. The widespread availability, unregulated transfer and misuse of small arms and light weapons (SALW) gravely undermine key Commonwealth priorities in human rights, development, conflict prevention and strengthening democracy. Many Commonwealth governments are adversely affected by the uncontrolled flow and misuse of these weapons.
2. Concerns about excessive and destabilising accumulation of weapons have been consistently raised by Commonwealth Heads of Government, including in the 2003 Abuja Communiqué where Heads of Government voiced their concern about the “proliferation of small arms, ammunition, and light weapons, which had contributed to the intensity and duration of armed conflicts as well as to international terrorism”.
3. SALW have also been a priority for member states through their participation in the United Nations. In 2001 a Programme of Action (PoA) was adopted with recommendations for action at the national, regional and global levels.
4. While the PoA provides a framework from which member states can take action to control SALW, a number of national, regional and international agreements and initiatives have also been launched to address these problems. From these initiatives, common approaches have emerged including: the need to make changes to domestic criminal laws and other legislation; the need for the development of minimum standards; ensuring harmonisation of legislation in geographic regions; and co-operation among states.
5. The Secretariat is strategically poised to play a significant role in further advancing the progress that has been made and to ensure that states can follow through with the commitments they have made to control the transfer and use of SALW. Law Ministers are invited to consider the role the Secretariat could play in the following areas:
 - assisting with the drafting of model criminal legislative provisions;
 - developing draft model legislative provisions and regulations for marking, tracing and brokering SALW;
 - preparing a summary of the obligations that its member states already possess under international law that apply to transfers and uses of SALW;
 - capacity building to ensure the effective implementation of initiatives;
 - liaising with other organisations to facilitate funds that can be used on a state or regional level in support of the development of programmes focused on capacity building within key public sectors;

- monitoring international developments in the area of SALW controls in order to provide member countries with information and updates on major initiatives of interest and best practices.

REPORT ON THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS WITHIN THE COMMONWEALTH

INTRODUCTION

"Even in societies not beset by civil war, the easy availability of small arms has in many cases contributed to violence and political instability. These, in turn, have damaged development prospects and imperilled human security in every way." – UN Secretary General Koffi Annan

1. Small arms and light weapons (SALW) have been described as the new weapons of mass destruction. It is estimated that the use of SALW causes the death of up to a half million people every year, at least half of them in the context of military conflict, mostly internal conflict and civil war, the rest in other kinds of gun-related violence. Their widespread availability, unregulated transfer and misuse gravely undermine key Commonwealth priorities, including human rights, democracy, people-centred development, and conflict prevention and resolution in many Commonwealth countries. The need to address these impacts and to work towards disarmament and effective arms control has been consistently expressed as a priority for governments of the Commonwealth. As more regional and international initiatives are developed and implemented, the Secretariat is strategically poised to play a significant role in advancing the progress that has been made, to help ensure that states effectively implement their various commitments and to facilitate with the development of common approaches to achieve progress to control the transfer and use of SALW.

2. This paper will provide a brief overview of the concerns raised by SALW and the need to address these concerns as a Commonwealth priority. It will also document the important developments made in recent years to control their transfer and use and recommend ways that the Secretariat can constructively play a role in further advancing the progress that has been made to date.

SMALL ARMS AND LIGHT WEAPONS AS A COMMONWEALTH PRIORITY

3. Illicit trafficking, proliferation and misuse of SALW is now widely recognised to be a major source of insecurity and human suffering across much of the world. Commonwealth Heads of Government have consistently expressed concern at the continued destabilising accumulation and proliferation of small arms, ammunition and light weapons, which contribute to the intensity and duration of armed conflicts as well as to international terrorism. They have also highlighted the fact that many Commonwealth governments are adversely affected by the uncontrolled flow and misuse of these weapons. Concern has been expressed that the spread of small arms threatens national, regional and global security and impedes basic social and economic development. Heads of Government have also noted that the challenges posed by the proliferation of small arms involve security, humanitarian, health and development dimensions.

4. The need to develop effective arms controls has been a longstanding Commonwealth priority. In the 1991 Harare Declaration, Commonwealth countries pledged to "support United Nations and other international institutions in the world's search for peace, disarmament and effective arms control."

5. Concern about the excessive and destabilising accumulation of weapons and the need for urgent action was expressed in the 1999 Durban Communiqué. Again, in 2003, Heads of Government voiced their concern in the Abuja Communiqué about the "proliferation of small arms, ammunition, and light weapons, which had contributed to the intensity and duration of armed conflicts as well as to international terrorism", and noted that many member state governments were

adversely affected by the uncontrolled flows of these weapons. Member countries were urged to support initiatives at the global and regional level to curb and prevent their illicit production, trafficking and misuse. At that same meeting, the *Aso Rock Commonwealth Declaration on Development and Democracy: Partnership for Peace and Prosperity* committed members to support “efforts to curb the illicit trade in small arms and light weapons”.

6. The need to take action on SALW also remains high on the global agenda. The United Nations General Assembly regularly focuses on the impacts of SALW and has passed numerous resolutions on the issue. For example, in 2004, the General Assembly reaffirmed “the importance of ongoing efforts at the regional and sub-regional levels...and invite[d] all Member States that have not yet done so to examine the possibility of developing and adopting regional and sub-regional measures, as appropriate, to combat the illicit trade in small arms and light weapons in all its aspects”.¹

7. In 2003 the General Assembly invited “all member States ...to enact or improve national legislation, regulations and procedures to exercise effective control over the transfer of arms, military equipment and dual-use goods and technology, while ensuring that such legislation, regulations and procedures are consistent with the obligations of States parties under international treaties.”²

8. The United Nations Security Council has also made SALW a priority area, expressing grave concern at the negative impacts of SALW, for example on civilians in situations of armed conflict, particularly on vulnerable groups such as women and children.³ In the most recent Presidential statement on small arms, the Security Council encouraged “the arms-exporting countries to exercise the highest degree of responsibility in small arms and light weapons transactions according to their existing responsibilities under relevant international law” and urged Member States “to establish the necessary legislative or other measures, including the use of authenticated end-user certificates, to ensure effective control over the export and transit of small arms and light weapons”.⁴

9. As a final example, the *Agenda for Humanitarian Action* adopted by the 191 States Parties to the 1949 Geneva Conventions at the 28th International Conference of the Red Cross and Red Crescent placed the reduction of human suffering resulting from the uncontrolled availability and misuse of weapons as one of its key goals, highlighting the need for States to respect international humanitarian law as a means of strengthening the controls on the availability of weapons.⁵

UNITED NATIONS PROGRAMME OF ACTION

10. SALW have also been a priority for Commonwealth members through their participation in the United Nations. The issue was taken up in a United Nations conference in 2001 and in biennial review meetings in 2003 and 2005. In 2001 a Programme of Action⁶ (PoA) was adopted with recommendations for action at the national, regional and global levels. In practice, the UN PoA establishes an international programme of relatively comprehensive scope. It contains substantial agreed norms, standards and programmes on a number of issues, including:

¹ General Assembly Resolution 59/86 (10 December 2004).

² General Assembly Resolution 58/42 (17 December 2003).

³ See, for example, Resolutions 1296 (2000) of 19 April 2000, 1314 (2000) of 11 August 2000, 1379 (2001) of 20 November 2001, and the statement of its President of 7 May 2002 (S/PRST/2002/12).

⁴ S/PRST/2005/7 (17 February 2005).

⁵ 28th International Conference of the Red Cross and Red Crescent (2-6 December 2003), *Agenda for Humanitarian Action*, General Objective 2 – Weapons, Final Goal 2.3.

⁶ United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons, UN Document A/CONF.192/15 (2001).

- (a) strengthening or developing agreed norms and measures at the global, regional and national levels that would reinforce and further co-ordinate efforts to prevent the illicit trade in SALW;
- (b) preventing and combating illicit SALW production and trafficking;
- (c) placing particular emphasis on post-conflict situations to deal with excessive and destabilising accumulation of SALW;
- (d) mobilising the political will throughout the international community to adopt effective measures;
- (e) promoting responsible action by States with a view to preventing the illicit export, import, transit and retransfer of small arms and light weapons;
- (f) ensuring all exports of SALW are made in accordance with States' existing obligations under international law.

11. The PoA now stands as the central global agreement on preventing and reducing the trafficking and proliferation of SALW. Of particular importance, the PoA has been endorsed by Commonwealth Heads of Government. In the 2003 Abuja Communiqué, Commonwealth Heads of Government "supported the adoption of the United Nations Programme of Action on the Illicit Trade in Small Arms and Light Weapons in all its Aspects that emerged from the 2001 UN Conference on Small Arms." They urged member states to support "further implementation of the programme [of action] at the international, state and regional levels to curb and prevent their illicit production, trafficking and misuse."

RECENT INITIATIVES AND DEVELOPMENTS

12. While the PoA provides a comprehensive framework from which states can take action on controlling SALW, in recent years a number of national, regional and international agreements and initiatives have also been launched to address these problems. Some of these initiatives were in place prior to the adoption of the PoA and others have been developed subsequently, as part of ongoing efforts to fulfil commitments made in the PoA. Since its adoption, the PoA has provided an important focal point from which to build on initiatives regionally. As is evident, Commonwealth members are involved in each of the initiatives that have emerged. Some of the key developments in controlling SALW in its various aspects include the following.

- In 1997, the **Organisation of American States (OAS)** concluded the *Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials* (Inter-American Convention). The purpose of the Convention is to "prevent, fight and eradicate the problem of the illicit manufacturing and trafficking of firearms, ammunition, explosives and the related materials because of their connection with terrorism, drug trafficking, organised crime, and related felonies". The Convention sets basic standards for the control of the import, export and transit of arms and promotes further co-operation among States. It also established the world's first international system for tracing light weapons. The OAS has also adopted *Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition*. The regulations, agreed upon by all OAS members, encourage the regulation and licensing of firearm transfers between OAS members. Model Brokering Regulations have also been adopted.
- In October 1998, the 16 nations of the **Economic Community of West African States (ECOWAS)** declared a voluntary three-year *Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons*. The Moratorium was intended to serve as a co-

ordinated and sustainable regional approach to controlling the illicit proliferation of small arms in West Africa. The Moratorium was extended in October 2001 for another three years. Most recently, commitment has been expressed by ECOWAS members to turn the Moratorium into a legally binding document.

- The *Nadi Framework*, which was adopted by the 16 member states of the **Pacific Islands Forum** in March 2000, is a Framework for a Common Approach to Weapons Control. This Framework sees legislative measures being put in place to establish criminal offences for illicit manufacturing, trafficking, sale and possession of firearms, ammunition and other related materials.
- In November 2000, the **Organisation of African Unity** (now the African Union) states signed the *Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons*. The Declaration recommends that states take appropriate measures to control arms transfers by manufacturers, suppliers, traders and brokers. It also encourages the codification and harmonisation of legislation governing the manufacture, trading, brokering, possession and use of small arms and ammunition. As a political statement, it creates no binding obligations. However, it is the only document that commits all the states in Africa to a common set of principles on small arms.
- The 2001 the **Southern African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials** reaffirmed the priority to be given to controls of firearms because of their links with, *inter alia*, terrorism, transnational organised crime, mercenary and other violent criminal activities. The Protocol requires SADC member states who have ratified it to enact national legal instruments to ensure proper controls over the manufacturing, possession and use of firearms and ammunition. Priority areas for legislative change include, *inter alia*, the prohibition of unrestricted possession of small arms by civilians, a total prohibition on civilian use of light weapons, and provisions ensuring standardised marking of firearms at the time of manufacture, import or export. The SADC Protocol entered into force in 2004.
- Signed in 2004, the *Nairobi Protocol for the prevention, control and reduction of small arms and light weapons in the Great Lakes Region and the Horn of Africa* is the legal expression of principles expressed not only in the Bamako Declaration, but also the 2000 Nairobi Declaration, which committed states to fight the flow of illicit weapons into the sub-region. The Declaration elucidated the intention of states of the Great Lakes and Horn of Africa to "carry out a concrete and co-ordinated agenda for action that promotes human security and ensures that all States have in place adequate laws, regulations and administrative procedures to exercise effective control over the possession and transfer of small arms." There are 11 signatory states from East and the Horn of Africa. The Protocol is legally binding and entered into force in April 2005.
- The **Association of Southeast Asian Nations (ASEAN)** countries have focused on arms through its *Plan of Action to Combat Transnational Crime*. A Work Programme on Terrorism developed in 2002 commits ASEAN to work towards the harmonisation of marking systems for ammunition, arms, their parts and their components in line with the international system developed by the *Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunitions* (UN Firearms Protocol). In the *Plan of Action*, ASEAN also recognises the need for members to have comprehensive legislation against illicit arms trafficking.
- Focusing on transparency and voluntary restraint in transfers, the **European Union (EU)** states established a *Code of Conduct on Arms Exports* in 1988. The adoption of the Code marked a

qualitatively new stage in the EU's development of a common approach to arms exports as an important element of the Common Foreign and Security Policy. Under this code all member states have pledged to observe eight common criteria – i.e. criterion 2: “the respect of human rights in the country of final destination - when determining whether arms export licences should be granted or refused. The Code of Conduct also aims to improve the sharing of information between member states and to increase mutual understanding of their export control policies.

- The **EU Common Position on Brokering** was agreed on 23 June 2003. This requires all EU member states to establish a clear legal framework for lawful brokering activities. On 19 June 2003 the European Parliament adopted a *Resolution on Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all Its Aspects* calling upon the Council of the EU and member states to reaffirm their commitment to the PoA and to the development of legally binding international instruments on marking, tracing and brokering of SALW.
- On 24 November 2000, the **Organization for Security and Co-operation in Europe (OSCE)** adopted the Document on Small Arms and Light Weapons. The OSCE participating states agreed to co-operate to address the problems associated with SALW in a comprehensive way by developing norms, principles and measures covering all aspects of the issue. In 2003 a Handbook of Best Practices on Small Arms and Light Weapons was adopted as a means of enhancing OSCE members' implementation of their commitments.
- Also of significance, the *United Nations Convention against Transnational Organised Crime* was agreed in December 2000, and in Spring 2001, a Firearms Protocol⁷ to the Convention dealing with illicit firearms manufacturing and trafficking was adopted. The UN Firearms Protocol is the first binding instrument on small arms to be agreed at the global level. It is focused particularly on illicit firearms used in crime, particularly transnational crime, and primarily adopts a crime prevention and law enforcement approach to the small arms problem. The Protocol has not yet entered into force.
- On 24 January 2005, a United Nations Open Ended Working Group on **Marking and Tracing** began negotiations on a draft international instrument for the timely and reliable identification and tracing of illicit small arms and light weapons.
- In 2003, a UN General Assembly Resolution⁸ requested the Secretary-General to begin consultations on further steps that should be taken to address illicit arms brokering activities.

STATES' EXISTING OBLIGATIONS UNDER INTERNATIONAL LAW

13. In addition to these specific agreements, both politically and legally binding, all states have already made commitments in international law to abide by certain principles when transferring or using arms within their jurisdictions. The commitment to international law standards was reiterated in Part II, Paragraph 11 of the UN PoA where Parties agreed “[T]o assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law...”. The PoA does not elucidate what those specific international legal obligations are under international law. One of the challenges for states is therefore to identify with sufficient clarity and precision the content of their existing legal responsibilities and then to consider ways in

⁷ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. The Protocol was adopted by General Assembly Resolution 55/255.

⁸ General Assembly Resolution 58/241 (December 2003).

which these responsibilities can be effectively applied to assist the prevention, combat and eradication of the illicit trade in small arms and light weapons.

14. Some of the key existing obligations under international law pertaining to the transfer and use of SALW include:

- obligations to abide by UN Security Council arms embargoes and embargoes imposed by other regional organisations of which a state is a member;
- obligations under specific treaties such the 1997 Landmines Convention⁹ which provides *inter alia* that States Parties shall never under any circumstances “transfer to anyone, directly or indirectly, anti-personnel mines” (Article 1(b));
- long-established and widely accepted principles of international humanitarian law which prohibit the use of weapons that are of a nature to cause superfluous injury or unnecessary suffering or that are incapable of distinguishing between combatants or civilians;
- human rights obligations under the International Covenant on Civil and Political Rights such as the right to life that obligates States to ensure that weapons, security equipment and training are not used by military, security or police forces for human rights abuses.

15. In advancing any programme to control SALW, it is important that states are mindful of the scope of their international commitments and incorporate these when determining how best to implement the various initiatives.

COMMON APPROACHES TO ADDRESSING SALW PROBLEMS

16. The problems associated with SALW are complex and cut across many spheres of international and public policy-making, including peace and security, arms control and disarmament, crime prevention and control, humanitarian assistance, human rights protection, post-conflict reconstruction and peace building, and development. To be effective, international responses to prevent and reduce illicit trafficking, proliferation and misuse of SALW need to be comprehensive in scope and involve all stakeholders at a combination of local, national, regional and international levels. From the brief overview of the initiatives that have emerged in recent years to address various aspects of issues with SALW, it is clear that there is an emerging consensus on how the PoA goals and other commitments are to be addressed and implemented. It is felt that the Commonwealth, with its strategic advantage of a largely common law based juridical system should be strategically poised to assist in the ongoing initiatives which include:

- **strengthening of criminal law:** many of the regional initiatives include the requirement to adopt legislative measures to establish criminal offences for the illicit possession, trafficking and misuse of small arms and light weapons, and for violations of Security Council and other regional organisations arms embargoes.¹⁰ The Protocols, for example, set out in great detail the particular activities to be incorporated into criminal legislation such as civilian possession of machine guns. In addition to establishing criminal offences, the regional protocols and

⁹ 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

¹⁰ For example, the Nairobi Protocol states “[E]ach State Party shall adopt such legislative and other measures ... to establish as criminal offences under its national law the following conduct, when committed intentionally: i. Illicit trafficking in small arms and light weapons; ii. Illicit manufacturing of small arms and light weapons; iii. Illicit possession and misuse of small arms and light weapons. ... State Parties ... shall adopt the necessary legislative or other measures to sanction criminally ... the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations” (Article 3.a.i – iii and 3.b). Similar provisions exist in the SADC Protocol (Article 5.1 and 5.2), the Nadi Framework (Article 2.1) and the Inter-American Convention (Article IV).

conventions emphasise the need for legal uniformity in the sphere of sentencing between states at the regional level;¹¹

- **comprehensive legislative change:** detailed provisions to be incorporated into national law are also a key component of the initiatives that have been developed. For example, both the Nairobi and SADC Protocols require legislation ensuring proper controls over the manufacturing of SALW,¹² while others set out the requirement to establish clear legal frameworks for regulating dealers and brokers of SALW¹³ or for marking of firearms;¹⁴
- **minimum standards and legal uniformity:** there is a recognition that if these regional initiatives are to be successful, there needs to be both the adoption of minimum standards and legal uniformity, particularly with respect to the manufacture, control, possession, import, export, re-export, transit, transport and transfer of SALW;¹⁵
- **harmonisation of legislation in geographic regions:** creating sub-regional systems to harmonise legislation, documentation and certification is a key component of the various initiatives. In some instances states are required to develop harmonised systems for import, export and transfer documents and end-user certificates.¹⁶ ASEAN members have committed to working towards harmonisation of marking systems for ammunition, arms, their parts and their components in line with the UN Firearms Protocol;¹⁷
- **improved operational capacity:** in recognition of the fact that problems associated with SALW cut across many spheres of public policy, the protocols and conventions require State Parties to improve the capacity of police, customs, border guards, the military, the judiciary and other relevant agencies to fulfil their roles in implementation of the initiatives. The need for national training programmes for police, customs and border guards is given priority;¹⁸
- **co-operation amongst states:** the various regional initiatives represent an extremely ambitious set of guidelines. It is not surprising then that they put a heavy emphasis on co-operation between states. Although legislation needs to be country-specific, because the small arms problem is transnational, any solution demands that states work more effectively together. As long as there is a disparity in the laws between countries, arms dealers will move from country to country looking for less stringent rules, and small arms will continue to destabilise the regions. The documents are replete with commitments by states to set up and maintain joint enforcement mechanisms, share data and expertise, and above all to co-operate at the bilateral, regional and international levels.¹⁹

¹¹ For example, the SADC Protocol requires States Parties to “introduce harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons” (Article 5.b.ii).

¹² For example, Article 3.c.iv of the Nairobi Protocol and Article 5.3.e of the SADC Protocol.

¹³ For example, Article 11.i of the Nairobi Protocol, Article 2.2 of the EU Common Position on Brokering.

¹⁴ For example, Article VI of the Inter-American Convention, Article 4.0 of the Nadi Framework and Article 7 of the Nairobi Protocol.

¹⁵ For example, Article 3.c.vi of the Nairobi Protocol, Article 5.3.f of the SADC Protocol and Article 6.1.a of the Nadi Framework.

¹⁶ For example, Article 16.f of the Nairobi Protocol.

¹⁷ Article 4.2 ASEAN Work Programme on Terrorism to Implement the ASEAN Plan of Action to combat Transnational Crime.

¹⁸ For example, Article 6 of the SADC Protocol, Article 4 of the Nairobi Protocol, and Articles XV and XVI of the Inter-American Convention.

¹⁹ For example, Articles XIII and XIV of the Inter-American Convention and Article 16 of the Nairobi Protocol.

CONSIDERING THE ROLE OF THE COMMONWEALTH SECRETARIAT

17. Progress is being made at national, regional and global levels to address the harm caused by the unregulated transfer, proliferation and widespread availability of SALW. At the regional level, there are a number of comprehensive agreements in place, outlining ambitious sets of guidelines and goals. Member states are active participants in each of these regional initiatives. Further, given their commitment to promote human rights, member states are in a position to help further focus the debate internationally on what governments can do to halt and prevent the misuse of small arms.

18. Given this, the Secretariat can play a significant role in further advancing the progress that has been made and to ensure, through concrete areas of action, that states can follow through with the commitments they have made to control the transfer of weapons. In particular, while the last few years might best be described as the era of conceptualising how to address the issues, it is clear that states have moved into an era of implementation. Commitments and obligations that have been made must now be put into place through comprehensive and effective mechanisms. The development of common standards, significant legislative change, harmonisation and co-operation amongst states are all crucial.

19. Further, the PoA Review Conference will be held in 2006. It is unclear at this stage which goals or activities might be agreed within a continuing PoA framework. Regardless, the initiatives that have already been developed will continue to be implemented. The Secretariat could play an important institutional role in supporting those initiatives and providing a focal point from which initiatives can continue to progress, particularly if a UN PoA-driven process finishes in 2006.

Action by Law Ministers

20. Law Ministers are invited to consider the role of the Secretariat in a number of overarching key areas, including:

- assisting with strengthening the capacity of developing countries to bring their domestic legislation in line with international norms and standards;
- interacting with members so as to promote the further development of long-term strategies to halt the illicit proliferation of SALW both within the framework of ongoing international and regional efforts and in the context of the PoA;
- disseminating best practices, and keeping members up-to-date on developments as they transpire around the globe.

21. Many of the initiatives require states to either update or implement new legislation, both in the area of criminal and civil law. The Key Areas above can be deconstructed into more particular areas on which attention might be focused. Emphasis could be placed on assisting with the development of draft legislative provisions that create criminal offences for illicit trafficking, illicit manufacturing, illicit possession and misuse of SALW and falsifying, obliterating or altering the marking on small arms and light weapons. Law Ministers are invited to consider the role of the Secretariat in the following specific areas:

- assisting with the drafting of model legislative provisions. This could include model draft legislative provisions for the implementation of SALW provisions within member states. Priority could be given to the development of model criminal law legislation and uniform sentencing guidelines. Marking and tracing of SALW and the need for tighter controls on brokering are two areas where the international community is currently focusing its

attention. They are also the two areas, specifically identified in the PoA and the various initiatives, as requiring legislation or the development of agreed systems of controls;

- assisting Commonwealth member states to develop model legislative provisions and regulations in marking, tracing and brokering. As discussed, states also need to consider how best the content of the existing legal responsibilities of states can be identified with a clarity and precision that will assist states in fulfilling their commitments under the various initiatives and conventions. A detailed study of the range of applicable law would help to ensure that a comprehensive and uniform approach is taken and that member states are aware of the full scope of international law applicable to their transfers and the use of SALW;
- preparing a summary of the obligations that its members already possess under international law that have application to transfers and uses of SALW;
- capacity building through training programmes, inter-agency working groups, and joint training exercises. This is fundamental to ensuring the effective implementation of the various initiatives. In particular, the police, military, border and customs officials and the judiciary are seen as key agencies where training should be focused;
- liaising with other international and regional organisations and bodies, as well as financial institutions, to facilitate funds that can be used on a state or regional level in support of the development of programmes focused on capacity building within key public sectors. There is a significant amount of activity globally, regionally and nationally as members implement their commitments made in the PoA and the various initiatives. Exchange of experience and information and the promotion of progress and new strategies are important and necessary to the development of best practices and further long-term strategies to deal with the problems associated with SALW;
- monitoring international developments in the area of SALW controls in order to provide member countries with information and updates on major initiatives of interest.