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UNITED NATIONS REPORT ON FIREARMS REGULATION

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INTRODUCTION

There have been several recent international initiatives to focus attention on the current situation regarding small arms. Some have focused on military-style weapons and others on civilian-owned firearms. The United Nations Panel of Experts on Small Arms, which is addressing the former, will release its report this autumn. The Commission on Crime Prevention and Criminal Justice, also a United Nations body, has just released its first report on civilian-owned firearms.

While each approaches the issue from a different angle, both are concerned with the same issue: the growing and often seemingly uncontrolled prevalence of firearms in modern society. Be they assault weapons used for fomenting political unrest or handguns carried for personal protection, there has been an increase in the visibility of these weapons. This rise has in part prompted the two initiatives. Each tries in some way to gain further insight into the issue and put forward recommendations for action. Presented below is a summary of the report on firearms regulation of the Commission on Crime Prevention and Criminal Justice. The first part of this paper will review the findings of the report regarding firearms regulation. The second will discuss information provided on the trafficking and smuggling of firearms, while the third will review the conclusions and recommendations of the Commission. The final section will suggest policy options for South Africa based on the information presented in the report.

The Commission's report presents information collected from governments on civilian-owned firearms.¹ It is the first study which has compiled and analysed information on a wide range of issues related to firearms, including legislation, regulation, use, trade and manufacturing, trafficking, policy and public education initiatives.² The decision was made by the Commission to focus the report on four main topics: criminal cases, accidents and suicides in which firearms are involved; the situation concerning transnational trafficking of firearms; national legislation and regulations regarding firearms; and relevant initiatives for firearms regulation at the regional level.³

Forty-nine countries, representing almost 3,9 billion people, participated in the report.⁴ South Africa was one of seven African countries which responded, together with countries from Europe, Asia, Latin America and the Caribbean, North America and Oceania. Countries were requested to complete a questionnaire on the above mentioned topics. Specific questions were asked on the use of firearms in deaths (including accidents, homicides and suicides), in thefts, in sexual assault, cases of lost or stolen weapons, and trafficking and smuggling of firearms.

MEASURES TO REGULATE FIREARMS

As noted above, the Commission's report provides information on civilian-owned firearms regulation. Countries provided information in either aggregate form (i.e. answering questions as 'certain', 'some', 'few', etc.) or provided statistics. Some answers were also provided in

narrative form (i.e. descriptions of illicit trafficking in weapons). Some information was not supplied being 'not available' or 'not reasonably available'. South Africa's submission was compiled by the South African Police Service.

The report allows for a unique opportunity to compare actions taken by various countries in terms of firearms regulation and initiatives for co-operation. South Africa's reported data shows the country to be following global trends regarding the licensing of, restrictions on, and possession of firearms. The majority of the reporting countries, including South Africa, have restrictions on the ownership of all firearms (handguns and long guns)⁵ and prohibitions on the ownership of certain types of handguns and long guns (for example on assault or fully automatic weapons). Firearm ownership is generally restricted based on age, criminal record, mental illness and in 32 countries, including South Africa, for domestic violence.

The report compiled additional information on requirements for purchasing firearms. The most common are: training certification, the payment of fees, a background check of the applicant and self-identification. South Africa, while requiring self-identification, does not require that a photograph be provided.

The report also allows for comparison of rates of firearm ownership based on licenses issued. South Africa reported an estimated 84 firearms per 1 000 people (20 per cent of all households have weapons), compared to 411 firearms per 1 000 people in Finland as a high and 3,28 firearms per 1 000 people for Japan as a lower figure. The United States reported that 41 per cent of its households contained weapons, a figure that has recently been revised to 35 per cent with the release of a new study on firearm ownership.⁶

South Africa is one of eleven countries which did not report currently having regulations on circumstances under which firearms must be unloaded when not in use or the storage of ammunition. It also reported as unavailable statistics on the use of firearms in sexual assaults, suicides, or firearm accidents resulting in death. South Africa is not alone in not collecting these statistics – of the forty-six reporting countries, only half were able to supply this data.

Another area which was surveyed, was the relationship between victim and offender and victim gender. Few countries were able to provide such specific data, but among the countries which did, the percentage of homicides involving firearms in which the offender and victim were related ranged from 0 to 80 per cent.

Information was also collected on import and export regulations. South Africa is among twelve countries which do not impose restrictions on all types of handgun imports. South Africa reported the third highest estimated firearm homicide rate, following Brazil and the US⁷ and reported that it estimates that handguns are used in 68 per cent of all homicides committed with a firearm. South Africa also recorded the highest number of law enforcement officers killed while on duty, reporting 212. The mean number of law enforcement officers killed on duty was 17.⁸

In responding on sentencing for firearm offences, South Africa reported among the most stringent penalties for people in unlawful possession of a firearm, ranging from a fine of up to R12 000 to 25 years imprisonment for unlawful possession of an automatic rifle or machine gun. South Africa noted that it sentences smuggling or trafficking offenders as unlawful possessors, as there are no separate penalties for those crimes.⁹ It also mentioned that it is reviewing the introduction of stricter penalties for firearm-related offences.¹⁰

SMUGGLING AND TRAFFICKING IN FIREARMS

South Africa reported the highest number of lost or stolen firearms, followed by Argentina and Brazil. This, combined with South Africa's acknowledgement that there were frequent illegal imports of firearms, clearly indicates a source for the many illegal firearms currently circulating in the country. South Africa reported a lesser problem with the export of illegal firearms, which, as the report noted, can be partially explained by the fact that this data is more difficult to obtain as it requires either the checking of outbound vehicles and containers, or discovery by the recipient country which must then notify the country of export.¹¹

The Commission asked that countries provide descriptions of recorded uses of illicit firearms. The responses included the use of illegally imported arms for organised crime, drug trafficking, armed robbery, tribal fights and rebellion.¹² Reported methods of importing illegal firearms included cases of smuggling of individual firearms at airports or borders to highly sophisticated, well-organised networks that transferred large numbers of weapons. South Africa noted that it is prone to both types of trafficking and reported on measures taken to curb such flows, including bilateral agreements, the tightening of border controls and the creation of the Firearms Investigation Unit within the South African Police Service.

The general consensus among the countries which provided information on the illicit smuggling or trafficking of weapons was that these firearms would be sold to and/or utilised by criminals or organised criminal groups.¹³

South Africa is among nine countries which reported existing bilateral agreements to regulate or prevent the illicit trade in firearms. As noted by the Commission's report, firearms and their trade or smuggling are rarely themselves the subject of agreements, but are rather components of trade and customs agreements.¹⁴

Countries supplied information on existing or pending initiatives for bilateral or regional co-operation on firearms. For example, members of the Central American Security Commission have drafted a regional agreement which calls for mutual assistance in the exchange of information, preparation of expert reports and inspections and other related areas. Once ratified, this agreement will be deposited with the Organization of American States.

The Netherlands has also recently announced an initiative to enhance co-operation on co-ordinating the tracking of international movements of light weapons and ammunition by increasing co-operation among national customs authorities and developing a shared European database on illicit trafficking for use by national police, customs and border officials within the European Union. The initiative is seen as a first step towards combating illegal weapons exports in the region.¹⁵

Another area in which South Africa and other countries are active is using the International Criminal Police Organization (Interpol) to assist in the tracing of firearms through its regional offices, including the one in Harare, Zimbabwe.

CONCLUSIONS AND RECOMMENDATIONS OF THE REPORT

The report draws several conclusions from the reported data, which include that:

- *"the absence of effective firearm regulation in one Member State can undermine not only the regulatory efforts but also the effective governance of other Member States;*
- *import and export controls on firearms are not sufficient by themselves to prevent illicit trafficking in firearms;*
- *effective domestic regulation of firearms requires co-operation between all levels of government, law enforcement agencies, business, the media and citizens to promote crime prevention, public health and the safety and security of individuals; and,*
- *transnational illicit trafficking in firearms is a serious concern of Member States contributing to unacceptable levels of homicide, other violent crime, suicide and accidents involving the use of firearms..."¹⁶*

The report of the Commission also makes recommendations on the civilian use of firearms, many of which are applicable to South Africa and its neighbours. These include:

- regulations to improve the safe storage and use of firearms;
- appropriate penalties for serious offences involving the misuse of firearms;
- amnesty or similar programmes to encourage citizens to surrender illegal, unsafe or unnecessary firearms;
- a recordkeeping system for firearms, including a requirement for appropriate marking of firearms at manufacture and at import to assist criminal investigations, discourage theft and ensure the accountability of owners; and
- the active tracing of illegal firearms recovered by States.¹⁷

POLICY OPTIONS FOR SOUTH AFRICA

The conclusions of the Commission's report place particular emphasis on the need for greater interagency and intergovernmental co-operation and co-ordination in addressing both licit and illicit firearm issues. This emphasis underlines the importance of recognising that the issue of illicit firearms cannot be addressed by one country in isolation from its neighbours, but must be addressed on a regional basis and with a regional focus. Likewise, it emphasises the need for greater co-ordination between government departments in addressing firearm issues (both licit and illicit), not only at the national level, but also at the local level.

For South Africa, and indeed many other countries, the third conclusion of the report is also particularly relevant as no agency has within its mandate complete jurisdiction over firearms *per se*. Rather, many agencies deal with parts of the issue or the effects of firearms. For example, while the National Conventional Arms Control Committee (NCACC) does not have within its mandate the review of commercial export requests of firearms, which are the purview of the South African Police Service, the NCACC does review those requests which include significant amounts of weaponry and those that are to be sold to a third country which may not meet South Africa's criteria for military arms sales.

Additional areas where South Africa might improve its firearm statistics are made apparent through those areas on which South Africa has not been able to provide information. These include:

- the collection of data on firearm-related injuries and deaths. Such information is collected in other countries by using hospitals to report on the types of injuries of patients and from medical examiners on whether or not firearm injuries were the cause of death (i.e. for accidental deaths and suicides); and,
- the collection of data on victim gender and victim-offender relationships. Information such as this could be important in identifying risk groups and communities.

There are also other firearm regulations and national and regional initiatives that South Africa might consider reviewing in light of the findings of the report and the comparison with other countries' actions. These could include:

- the review of restrictions on handgun imports;
- the review of legislation on the storage of ammunition and circumstances under which a firearm is to be stored unloaded;
- the continued use of an amnesty period to collect unlicensed firearms; and
- further development of bilateral and regional arrangements on the movement of firearms and information sharing with neighbouring countries, especially on the trafficking of weapons. A regional agreement would institutionalise many current informal initiatives (and strengthen existing bilateral accords) and could be adopted by either the Southern African Development Community's (SADC) Organ for Politics, Defence and Security or the Organisation of African Unity. A first step has been suggested as part of the SADC Organ's activities in combating cross-border crime.¹⁸

The Crime Commission's report represents the first time that a broad range of information on firearm regulation has been made available in a comparative format. As an exercise to make national information regarding firearms transparent, it has succeeded at a level that few would have predicted. South Africa should be commended for participating in the exercise and should continue to support the work of the Commission in this area. But as importantly, it should not miss the opportunity to use this information to learn from its global partners.

ENDNOTES

1. United Nations, Criminal Justice Reform and Strengthening of Legal Institutions: Measures to Regulate Firearms, Economic and Social Council, United Nations, Vienna, 7 March 1997 (hereafter referred to as E/CN.15/1997/4).
2. Supplementary information was also compiled by the group of experts from the World Health Organization, World Customs Organization, and the International Criminal Police Organization (Interpol). This information will be published in a later version of the report.
3. E/CN.15/1997/4, *op. cit.*, p. 11.
4. While forty-nine countries have responded by 25 April 1997, the information supplied in the Commission's report tabulates responses for forty-six countries. The three

additional submissions will be reflected in the final report scheduled to be released by the end of 1997.

5. The report used the following definitions: a handgun is "*any firearm that has a short stock and is designed to be held and fired by the use of a single hand; any combination of parts from which a handgun can be assembled.*" "The term long gun includes the following: (a) Rifle: a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. (b) Shotgun: a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each single pull of the trigger." E/CN.15/1997/4, *op. cit.*, p. 13 footnotes.
6. P Cook and J Ludwig, *Guns in America: National Survey on Private Ownership and Use of Firearms*, National Institute of Justice Research in Brief, US Department of Justice, Washington, DC, May 1997, p. 1.
7. Note that comparisons are provided for general reference only. Accurate comparisons cannot be made as submitted data does not indicate the year it represents.
8. E/CN.15/1197/4, *op. cit.*, p. 90.
9. E/CN.15/1997/CRP.6, *op. cit.*, p. 73.
10. *Ibid.*, p. 112.
11. One such situation was the discovery by Japan in 1995 of approximately 800 firearms smuggled into Japan from South Africa.
12. E/CN.15/1197/4, *op. cit.*, p. 20.
13. *Ibid.*
14. E/CN.15/1197/4, *op. cit.*, p. 19.
15. *EU Targets Illegal Arms*, Defense News, 5-11 May 1997, p. 24.
16. E/CN.15/1197/4, *op. cit.*, Annex 1.
17. *Ibid.*, p. 9
18. M Malan and J Cilliers, *The Future Development of the SADC Organ on Politics, Defence and Security*, [ISS Papers, 19](#), March 1997, p. 3.

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