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NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION 2014

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS



REPORT OF THE INTERNATIONAL PARLIAMENTARY SEMINAR ON ARMS TRADE TREATY BY THE BRITISH GROUP OF INTER-PARLIAMENTARY UNION, LONDON.

paper laid by Hon. Nkasseny on 3/12/14

CLERK'S CHAMBERS
NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2014

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ACRONYMS & ABBREVIATIONS

ATT	-	Arms Trade Treaty
AMB	-	Ambassador
AU	-	African Union
CBS	-	Chief of the Burning Spear
EAC	-	East African Community
EGH	-	Elder of the Golden Heart
HSC	-	Head of State Commendation
IGAD	-	Intergovernmental Authority on Development
KDF	-	Kenya Defence Forces
M.P	-	Member of Parliament
MBS	-	Moran of the Burning Spear
MGH	-	Moran of the Golden Heart
IPU	-	Inter-Parliamentary Union

INTRODUCTION

The Departmental Committee on Defence and Foreign Relations is established pursuant to the provisions of Standing Order No. 216(5) of the Kenya National Assembly and in line with Article 124 of the Constitution (2010) which provides for the establishment of the Committees by Parliament. The functions of the Committee are, inter alia make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

The Committee is mandated to consider the following issues; Defence, Intelligence, Foreign Relations, Diplomatic and Consular Services, International Boundaries, International Relations, Agreements, Treaties and Conventions.

In executing its mandate, the Committee oversees the operations of the following Ministries/State Departments and or Service:

- I. Ministry of Defence
- II. Ministry of Foreign Affairs and International Trade
- III. National Intelligence Service
- IV. State Department for East African Affairs in the Ministry of East African Affairs, Commerce and Tourism

COMMITTEE MEMBERSHIP

The Departmental Committee on Defence and Foreign Relations comprises the following Members: -

1. Hon. Ndungu Gethenji, M.P. - Chairperson
2. Hon. Elias Bare Shill, M.P. - Vice-Chairperson
3. Hon. Jakoyo Midiwo, MGH, M.P.
4. Hon. Katoo Ole Metito, EGH, MGH, MP
5. Hon. Adan Keynan, CBS, M.P.
6. Hon. Chrisantus Wamwalwa, M.P.
7. Hon. Nyiva Mwendwa, EGH, M.P.
8. Hon. Maj-Gen (Rtd) Joseph Nkaiserry, CBS, MGH, M.P.
9. Hon. Gonzi Rai, MGH, M.P.
10. Hon. Joel Onyancha, MGH, M.P.
11. Hon. Richard Onyonka, M.P.
12. Hon. Wafula Wamunyinyi, M.P.
13. Hon. Joseph Kiuna, M.P.
14. Hon. Joseph Lekuton, M.P.
15. Hon. Yusuf Hassan, M.P.
16. Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
17. Hon. John L. Nakara, M.P.
18. Hon. Roselinda Soipan, M.P.

19. Hon. Anna N. Gathecha, M.P.
20. Hon. David Wafula, M.P.
21. Hon. Elisha Busienei, M.P.
22. Hon. Abass S. Mohamed, M.P.
23. Hon. Joyce Wanjalah Lay, M.P.
24. Hon. Joseph Gitari, M.P.
25. Hon. David Pkosing, M.P.
26. Hon. Ibrahim Sane, M.P.
27. Hon. Dennitah Ghati, M.P.
28. Hon. Beatrice Nyaga, HSC, M.P.
29. Hon. Ken Obura, M.P.

PRELIMINARIES

Honourable Speaker,

A delegation of the Departmental Committee on Defence and Foreign Relations took part in an international parliamentary seminar that brought together parliamentarians from 17 national parliaments to contribute to a three-day conference organized by the British group of Inter-parliamentary Union (BGIPU) on Arms Trade Treaty at the Houses of Parliament Westminster, London from 3rd – 5th November, 2014.

Honourable Speaker,

This was in response to a correspondence received in April from the British Group of Inter-parliamentary Union advising the committee to consider nominating two of its members with adequate knowledge on Small Arms and Light Weapons to deliberate on the Arms trade treaty Seminar. The committee thereof during one of its Sitting in April 2014 unanimously nominated Hon. Gen.(Rtd) Joseph Nkaisserry and Hon. Col.(Rtd) Dido Rasso to participate and take part in the Arms trade treaty seminar which was scheduled to take place in November 2014 at the Houses of Parliament in London.

The programme of the seminar focused on the role of parliamentarians in all aspects of the Treaty; from promoting ratification and universalisation of the ATT, to monitoring and reporting mechanisms, parliamentary oversight and cooperation with civil society and industry actors.

The seminar sought to build upon existing momentum surrounding the treaty as it approaches entry into force, and aimed to increase the knowledge and understanding at parliamentary level on Arms trade Treaty issues ahead of the establishment of the first conference of state parties expected to be held in Mexico in 2015.

The BGIPU and parliamentarians present from around the globe along with representations of the civil society including leading arms control experts acknowledged and drew reference from previous parliamentary activity on the ATT, including but not limited to inter-parliamentary Union, the work of the parliamentary forum on Small arms and light weapons, control arms, parliamentarian for global action and other stake holders.

Honorable Speaker,

In their preparation for this particular seminar, the members of the delegation familiarized themselves with the documents on Arms trade treaty. The committee sought views of the ministry of Ministry of Foreign affairs, the Attorney General and the Ministry of Defence with regard to the benefits and challenges that may come with the signing and ratification of the Arms trade treaty.

In their submissions; the Ministry of Foreign affairs outlined the following regional benefits in signing and ratifying the treaty:

- I. Through international cooperation, states will work together in combating extremist groups within regions and curb illicit arms trading. Groups such as Al-shabab, Al-Qaeda networks in East Africa have taken advantage of this gap to cause instability across borders. Through cooperation, states will be able to reduce insecurity and terrorism activities in the region.
- II. Implementation of the ATT will enable states to share information on imports and exports of weapons and thus, it will enhance transparency and accountability.
- III. The treaty has the potential to fill a major gap in the global security architecture and in turn cascade into regional mechanisms. The treaty should prompt East Africa to embark on an exercise geared towards building capacity for the countries in dealing with individuals involved in the illicit arms trade.
- IV. The treaty will build a capacity for East Africa to deal with illicit arms trade through provision of legislative assistance, institutional capacity building and technical materials or financial assistance.

The committee was however concerned with how to overcome the challenges that will come with the signing and ratification as outlined herein below:-

- I. The lack of financial and human resources in countries impede the implementation process due to competition for scarce resources to address other priorities including; health, education and provision of basic socio-economic needs. The flipside of this scenario is that the easy availability of arms in turn hinders progress and development.
- II. Most countries lack adequate records keeping which is key in the implementation of the ATT at a regional level. The treaty required States to produce historical records which should be ten years or older to proceed with legal proceedings against persons involved in illicit arms trade.
- III. Lack of strong national institutions to oversee the implementation is a challenge. To ensure an effective implementation, states must put in place strong national

authorities to undertake centralized decision and coordination activities. To facilitate national level implementation effort and to ensure the linkages between national and international processes, it would be prudent to consider the establishment of national focal point of the ATT.

- IV. Globalization is a major challenge in implementing the treaty since arms exports are often a source of economic growth for developing nations. Globalization has also managed to make trading across borders more efficient which makes it harder for states to control the free movement of illicit small arms. The treaty requires states to cooperate irrespective of security interests and national laws for effective implementation.

Honorable Speaker,

Article 21 (4) of the Constitution states that:

"The State shall enact and implement legislation to fulfill its international obligations in respect of human rights and fundamental freedoms".

The ATT is the first international Treaty aimed at reducing humanitarian suffering by bringing the arms trade under control and sets an important basis for concrete action. It creates a new global norm against which states practice will be measured, by other states and by international civil society. The adoption of the treaty was a clear victory for multilateralism.

Honorable Speaker,

Article 132 of the Constitution states that:

- i. 132 (1) (c) (iii) The President shall once every year submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.
- ii. 132 (5) The President shall ensure that the international obligations of the Republic are fulfilled through the actions of the relevant Cabinet Secretaries.

Indeed, In his address to this house earlier in the year. The report recommended that an inter-ministerial standing committee be established by the executive to take note and speed up treaty making and ratification processes.

Honorable Speaker,

The Committee held Sittings during which Members considered the draft report on the seminar on Arms Trade Treaty in accordance with the Standing Orders and the Constitution. The minutes of these Sittings are appended to this report.

I would like to point out that the Committee was in agreement with the general observations and recommendations of the seminar communiqué. However, the Committee proposed further recommendations as contained in the Committee report.

ACKNOWLEDGEMENT

In appreciation, the Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. I also wish to express my appreciation to the Honorable Members of the Committee who travelled to the seminar and represented the committee in the deliberations and preparations of this report.

I also wish to thank the various stakeholders who have participated in the realization of the Arms trade treaty, the Ministry of Defence, Ministry of Foreign Affairs and International Trade, the Ministry Interior and national Coordination.

ADOPTION OF THE REPORT

The Report was adopted unanimously by all Members present. The Committee also resolved to submit the Report in the House.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Defence and Foreign Relations, to table the report of the international parliamentary seminar on arms trade treaty by the British group of inter-parliamentary union, London.

SIGNED.....



HON. NDUNGU GETHENJI, M.P.

(CHAIRPERSON)

DATE.....11th November, 2014.....

THE HISTORY OF THE ARMS TRADE TREATY

In 1995, Dr. Oscar Arias (former President of Costa Rica and Nobel Peace Laureate) called upon fellow Nobel Laureates to promote an international agreement to regulate the trade in conventional arms. In 1997, the arms trade initiative was officially launched in New York which endorsed an arms trade code of conduct to lay foundation for a future arms treaty.

In 2006, the UN General Assembly passed Resolution 61/89 that instructed the Secretary-General to explore a future arms trade treaty. Consequently, in 2007, the secretary General appointed a group of government experts to examine the feasibility, scope and draft parameters for a comprehensive, legally binding instrument for the import, export and transfer of conventional arms.

In 2008, the general Assembly Resolution 63/240 endorsed the report of the experts and convened an open-ended working group (OEWG) to provide a public forum for further discussion. In 2009, the General assembly adopted Resolution 64/48 establishing a treaty negotiating conference to be held in 2012 to draft the text of a legally binding arms trade treaty.

From 2nd – 27th, July 2012, the ATT negotiating conference convened in New York by the participants failed to reach consensus on a final text. In November 2012, the General Assembly passed a resolution mandating that a second ATT negotiating conference be held on 18th -28th March 2013.

On 3rd April, 2013 the General Assembly adopted the Arms Trade Treaty by a vote of 153-3, with 22 abstentions. The treaty was opened for signature on the 3rd of June 2013. Sixty seven countries signed the treaty on the first opening day.

THE ARMS TRADE TREATY

The Arms Trade treaty (ATT) is a multilateral treaty that regulates the International trade in conventional weapons. Once the treaty enters into force it will inter alia; require:

- I. State parties to adopt basic regulations and approval processes for the flow of weapons across international borders, establish common international standards that must be met before arms exports are authorized and submit annual reporting of imports and exports to a treaty secretariat.
- II. States establish and maintain a national control system including a national control list and designate competent national authorities in order to have effective and transparent national control systems regulating the transfer of conventional arms.
- III. State prohibit arms transfer authorizations to states if they transfer would violate obligations under measures adopted by the united nations Security Council acting under chapter VII of the charter of the United Nations, in particular arms embargoes.

- IV. States to assess the potential that the arms exported would contribute to or undermine peace and security or could be used to commit or facilitate serious violations of international humanitarian or human rights law, acts of terrorism or transnational organized crimes.

PARLIAMENTARY PERSPECTIVES ON THE ARMS TRADE TREATY

Over the course of discussions the parliamentarians present at the BGIPU seminar on the Arms trade Treaty highlighted the following key perspectives;

Participants reaffirmed their strong support for and commitment to an effective ATT, as representatives of citizens across the globe, for those who have seen their lives lost, or irreparably changed by the irresponsible use of arms.

The Arms Trade Treaty came about through the joint effort and commitment of governments, industry, civil society and parliaments and it is through this continued cooperation and effort that the ATT will continue to be a strong, accountable and effective response to the scourge of the irresponsible use of the arms trade moving forward.

Those present also reaffirmed the parliamentary perspective on the Arms Trade Treaty that upon Entry into force that the Treaty will serve the following purposes;

- It will save lives.
- It will promote sustainable development. It will reduce human suffering by preventing arms being used in serious violations of human rights and international humanitarian law.
- It will help to combat terrorism and crime by steadily reducing the unfettered proliferation of weapons.
- It will protect the legitimate arms trade, allowing states to access and acquire weaponry to lawfully defend themselves, but it will also ensure that this process is not circumvented, abused or exploited.

Delegates also undertook to return to their national parliaments with a resolve to advance the ATT. – be it in terms of encouraging national ratification or more effective implementation or through taking concrete action to raise awareness and understanding of the ATT, its provisions and objectives among parliamentary colleagues.

THE ROLE OF PARLIAMENTARIANS IN LEGISLATING FOR THE ATT

In enacting legislation at a national level for the ATT, Parliamentarians are encouraged to bear in mind the object and purpose of the Treaty and ensure that these principles are upheld in all relevant national legislation.

Parliamentarians are urged to play an active role in encouraging national governments to

sign and ratify the ATT; this could be through exercising the right to initiate legislation without government action, encouraging national governments to initiate new legislation and overseeing government implementation.

Parliamentarians may share experience and best practice with regard to legislating for ATT ratification through sharing model legislation, model provisions or harmonization guidelines with parliamentary peers nationally and internationally through bilateral exchanges, regional mechanisms or international parliamentary fora such as the IPU.

ROLE OF PARLIAMENTARIANS IN PROMOTING THE UNIVERSALISATION OF THE ATT

In addition to their role as legislators, Parliamentarians have a key role to play as active advocates of the ATT.

In States where the ATT has not yet been signed or ratified, parliamentarians may promote and encourage the swift and efficient passage of any necessary national legislation within their national parliament.

Parliamentarians can also encourage national governments to implement the ATT to the highest possible level, going beyond basic obligations and embracing the ambitious aims of the Treaty.

Parliamentarians are encouraged to reach out beyond the parliament in order to foster broad understanding and support for the ATT at a national level.

ROLE OF PARLIAMENTARIANS IN PROMOTING EFFECTIVE IMPLEMENTATION OF ATT

Parliamentarians have a vital role to play in ensuring the robust application of the ATT going forward through ensuring effective oversight of national governments actions, consistent with the obligations, object and purpose of the ATT with particular emphasis upon the humanitarian goal of reducing human suffering and ensuring the protection of civilians.

Whilst many parliaments may have different methods of ensuring oversight, the principle of parliamentary consultation or approval with regards to import, export and transfer of conventional arms covered by the ATT is a common one. Parliamentarians should seek to ensure that these consultations are thorough and uphold the commitments of the ATT.

Parliamentarians also have a crucial role in calling for government decisions with regard to arms transfers to be reassessed where any relevant information comes to light, and should exercise all functions available to them, such as holding hearings or committee sessions, in

order to feel satisfied that the obligations of the ATT are being upheld.

PARLIAMENTARY PERSPECTIVES ON THE FIRST CONFERENCE OF STATES PARTIES

Parliamentary participants reaffirm their commitment to ensuring the universalisation of the ATT, and will encourage states wherever possible to ratify the ATT without delay and encourage states to maintain their commitment to a universal ATT in the preparations ahead of and during the Conference of States Parties.

Those present encourage States Parties and all those involved in the preparatory process to remain committed to the object and purposes of the Treaty in any and all decisions made at the first Conference of States Parties.

Aware of the Treaty articles pertaining to the first Conference of States Parties, Parliamentarians encourage States Parties to take decisions which will lead to a robust and effective Treaty, supported by a capable Secretariat, effective rules of procedure and financing rules.

Parliamentarians encourage the Conference of States Parties to take decisions upon how Articles 15 & 16 on international cooperation will work in practice. In particular, the needs of parliaments to legislate and oversee the ATT should be considered in the establishment of cooperative mechanisms.

The Conference of States Parties should consider how parliaments are provided with the necessary capabilities and resources to contribute to upholding the principles and obligations of the ATT, clarify what funding and resources are available and how parliaments can gain access to these.

Parliamentarians stand ready to assist States Parties and other stakeholders in this and any further process to strengthen the ATT's effective and full implementation, and would therefore encourage States Parties to include parliamentarians in their national delegations to the Conference of States Parties wherever possible.

RATIFICATION AND ENTRY INTO FORCE

The treaty was voted for at the UN General assembly by 153 states in favour, while three were against whereas 22 abstained. Africa has 35 signatories. In Eastern Africa, 3 states namely Burundi, Rwanda and Tanzania have signed the treaty. Among the five permanent members of the UN Security Council namely China, Russia, France, United Kingdom and the United States of America, only the first two have not signed the treaty. The treaty will enter into force on the 90th day after it has been ratified by 50 states which is on the 24th December 2014.

The treaty has been signed by 122 states and 54 ratifications as shown below:-

Continent	Signed	Ratified
Africa	35	6
Asia/ Pacific	16	2
Eastern Europe	19	11
Latin America	28	15
West America and Caribbean	24	20
TOTAL	122	54

COMMITTEE OBSERVATIONS

1. Kenya played a pivotal role in the treaty negotiations and was one of the original seven co-authors of the text. Others co-authors were Argentina, Australia, Costa-Rica, Finland, Japan and the United Kingdom. However, Kenya was unable to sign the treaty on the 3rd of June 2013 in New York due to legal and administrative procedures for treaty making that had not been fulfilled by June 2013.
2. The treaty making and ratification Act 2012 gives effect to the provisions of Article 2(6) of the Constitution and provides the procedure for the making and ratification of treaties and connected purposes. The Act applies to multilateral treaties such as ATT and requires that the initiation of the treaty-making process fulfils conditions listed in section 5 (2) of the Act. The national executive or the relevant state department then records whether the conditions are met and thereafter presents a proposal to commence the treaty making for approval by the cabinet and endorsement by parliament. Kenya postponed signing of the ATT pending completion of this process.
3. Following the March, 2013 Final UN conference on the ATT in New York, the Kenyan delegation met under the chairmanship of the Ministry of Interior and coordination of National Government to map the way forward. The inter-ministerial meetings were held on 15th and 26th April 2013 and attended by the key participants of the negotiating conference had indicated that a report of the ATT conference would be forwarded to the National security Advisory committee for guidance before the matter is sent to the cabinet for approval.
4. Consequently, the Ministry of Interior and Coordination of National Government through the Kenya National Focal Point on Small Arms and Light Weapons (KNFP/SALW) has developed a draft cabinet memorandum which has been communicated to the attorney General for comments. It is the understanding of the Ministry that the draft is still in the Office of the Attorney General. Once comments are received, the draft shall be submitted to the cabinet for approval after which it will be presented to the stakeholders for read-through and finally brought to Parliament for endorsement.

5. It is imperative that Parliament get a sense of direction on the matter of the Arms trade treaty since the signing ceremony in New York, there has been no further communication on the issue from the line Ministry of Interior and coordination of National government. The views of the Ministry of Interior and coordination of the National Government, the Ministry of Defence and the Attorney General are vital in moving the process forward.
6. Kenya should view the ATT in the context of the practical benefit to her national security; A International Fund has been established to support smaller states' capacity to implement the treaty.
7. The ATT is also the first legally binding instrument ever negotiated in the United Nations to establish common standards for the international transfer of conventional weapons. Such weapons range from warships and combat aircraft, to small arms and light weapons, and to ammunition, parts and components. The treaty will make it harder for weapons to be diverted into illicit market, to reach war Lords, pirates, terrorists and criminals. The ATT has the potential to make a real difference and its implementation is important.
8. Taking cognizance of the key role Kenya has played in the process leading up to the adoption of the ATT, many countries and the UN are concerned at the slow pace of signing the treaty by Kenya. Failure to sign the treaty raises issues regarding Kenya's political commitment to multilateralism.

COMMITTEE RECOMMENDATIONS

Honorable Speaker,

1. It is imperative that Kenya expedites the process leading to signing and thereafter ratifies the instrument, in view of the growing threats to Kenya's national security posed by the proliferation of small arms and light weapons and easy availability of the arms by Al-Qaeda linked terrorist.
2. The executive to form an inter-ministerial standing committee comprising of the Ministries of Foreign Affairs and International Trade, the State Law Office and relevant Ministries for a specific treaty to spearhead the process of treaty making and ratification.

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MINUTES OF THE 90TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD IN THE NEW MEMBERS' LOUNGE, PARLIAMENT BUILDINGS ON TUESDAY, 11TH NOVEMBER, 2014 AT 10:30 A.M.

PRESENT

1. Hon. Ndungu Gethenji, M.P. – Chairperson
2. Hon. Elias Bare Shill, M.P. - Vice Chairperson
3. Hon. Katoo Ole Metito, EGH, MGH, M.P.
4. Hon. Jakoyo Midiwo, MGH, M.P.
5. Hon. Maj-General (Rtd) Joseph Nkaisserry, MBS, MGH, M.P.
6. Hon. Gonzi Rai, MGH, M.P.
7. Hon. Col. (Rtd) Ali Dido Rasso, MBS, M.P.
8. Hon. Joel Onyancha, MGH, M.P.
9. Hon. Wafula Wamunyinyi, M.P.
10. Hon. Joseph Kiuna, M.P.
11. Hon. Yusuf Hassan, M.P.
12. Hon. Lekuton Joseph, M.P.
13. Hon. Joyce Wanjalay Lay, M.P.
14. Hon. David Wafula, M.P.
15. Hon. Roselinda Soipan, M.P.
16. Hon. Beatrice Nyaga, M.P.
17. Hon. Abass S. Mohammed, M.P.

APOLOGY

1. Hon. Adan Keynan, CBS, M.P.
2. Hon. Nyiva Mwendwa, EGH, M.P.
3. Hon. Joseph Gitari, M.P.

ABSENT

1. Hon. Christantus Wamalwa, M.P.
2. Hon. Richard Onyonka, M.P.
3. Hon. John Lodepe Nakara, M.P.
4. Hon. Elisha Busienei, M.P.
5. Hon. Annah N. Gathecha, M.P.
6. Hon. Dennitah Ghati, M.P.
7. Hon. David Pkosing, M.P.
8. Hon. Ibrahim Sane, M.P.
9. Hon. Ken Obura, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Third Clerk Assistant

- | | | |
|-----------------------|---|-----------------------|
| 2. Ms. Halima Hussein | - | Third Clerk Assistant |
| 3. Ms. Fiona Musili | - | Research Officer III |
| 4. Ms. Emma Essendi | - | Legal Counsel |

MIN. NO.313/2014: PRELIMINARIES

The sitting's proceedings commenced with a word of prayer by Hon. Elias Bare Shill and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 314/2014: CONFIRMATION OF THE PREVIOUS SITTINGS

Minutes of the 89th Sitting was confirmed as true records of the proceedings.

MIN.NO. 315/2014: CONSIDERATION AND ADOPTION OF THE REPORT ON ARMS TRADE TREATY SEMINAR HELD IN LONDON, UNITED KINGDOM.

The report on Arms Trade Treaty Seminar held in London was considered and proposed for adoption by Hon. Maj-General Joseph Nkaissery and seconded by Hon. Col. Ali Dido Rasso.

In considering the report; the Hon. Maj-General (Rtd) Joseph Nkaissery and Hon. Col. (Rtd) Ali Dido Rasso who represented the Committee in Seminar took the members present through the draft report and highlighted the following observations;

1. Kenya played a pivotal role in the treaty negotiations and was one of the original seven co-authors of the text. Others co-authors were Argentina, Australia, Costa-Rica, Finland, Japan and the United Kingdom. However, Kenya was unable to sign the treaty on the 3rd of June 2013 in New York due to legal and administrative procedures for treaty making that had not been fulfilled by June 2013.
2. The treaty making and ratification Act 2012 gives effect to the provisions of Article 2(6) of the constitution and provides the procedure for the making and ratification of treaties and connected purposes. The Act applies to multilateral treaties such as ATT and requires that the initiation of the treaty-making process fulfils conditions listed in articles 4(2) of the Act. The national executive or the relevant state department then records whether the conditions are met and thereafter presents a proposal to commence the treaty making for approval by the cabinet and endorsement by parliament. Kenya postponed signing of the ATT pending completion of this process.
3. Following the March, 2013 Final UN conference on the ATT in New York, the Kenyan delegation met under the chairmanship of the Ministry of Interior and

coordination of National Government to map the way forward. The inter-ministerial meetings were held on 15th and 26th April 2013 and attended by the key participants of the negotiating conference had indicated that a report of the ATT conference would be forwarded to the National security Advisory committee for guidance before the matter is sent to the cabinet for approval.

4. Consequently, the Ministry of Interior and Coordination of National Government through the Kenya National Focal Point on Small Arms and Light Weapons (KNFP/SALW) has developed a draft cabinet memorandum which has been communicated to the attorney General for comments. It is the understanding of the Ministry that the draft is still in the Office of the Attorney General. Once comments are received, the draft shall be submitted to the cabinet for approval after which it will be presented to the stakeholders for read-through and finally brought to Parliament for endorsement.
5. It is imperative that parliament get a sense of direction on the matter of the Arms trade treaty since the signing ceremony in New York, there has been no further communication on the issue from the line Ministry of Interior and coordination of National government. The views of the Ministry of Interior and coordination of the National Government, the Ministry of Defence and the Attorney General are vital in moving the process forward.
6. Kenya should view the ATT in the context of the practical benefit to her national security; A International Fund has been established to support smaller states' capacity to implement the treaty.
7. The ATT is also the first legally binding instrument ever negotiated in the United Nations to establish common standards for the international transfer of conventional weapons. Such weapons range from warships and combat aircraft, to small arms and light weapons, and to ammunition, parts and components. The treaty will make it harder for weapons to be diverted into illicit market, to reach war Lords, pirates, terrorists and criminals. The ATT has the potential to make a real difference. Its implementation is what really matters.

The committee members therefore recommended the following:

1. That Kenya expedites the process leading to signing and thereafter ratifies the instrument, in view of the growing threats to Kenya's national security posed by the proliferation of small arms and light weapons and easy availability of the arms by Al-Qaeda linked terrorist.
2. The executive to form an inter-ministerial standing committee comprising of the Ministries of Foreign Affairs and International Trade, the State Law Office and

relevant Ministries for a specific treaty to spearhead the process of treaty making and ratification particularly those that Kenya may get into.

The committee further resolved to engage with the Ministry of Foreign Affairs and International Trade, the Ministry of Defence, the Ministry of Internal Security and the State Law Office to ascertain the position of the Arms Trade Treaty signing and ratification.

MIN.NO. 316/2014: AOB

The Chair informed the meeting that the Chairman for the Foreign Relations Committee for the House of Commons- UK plans to meet the Committee on Thursday, 13th, November, 2014, at 11:00am.

The Chair further informed the meeting that the Committee would host dinner for the newly appointed Ambassadors.

MIN.NO. 317/2014: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at twelve O'clock.

SIGNED.....


(CHAIRPERSON)

DATE.....