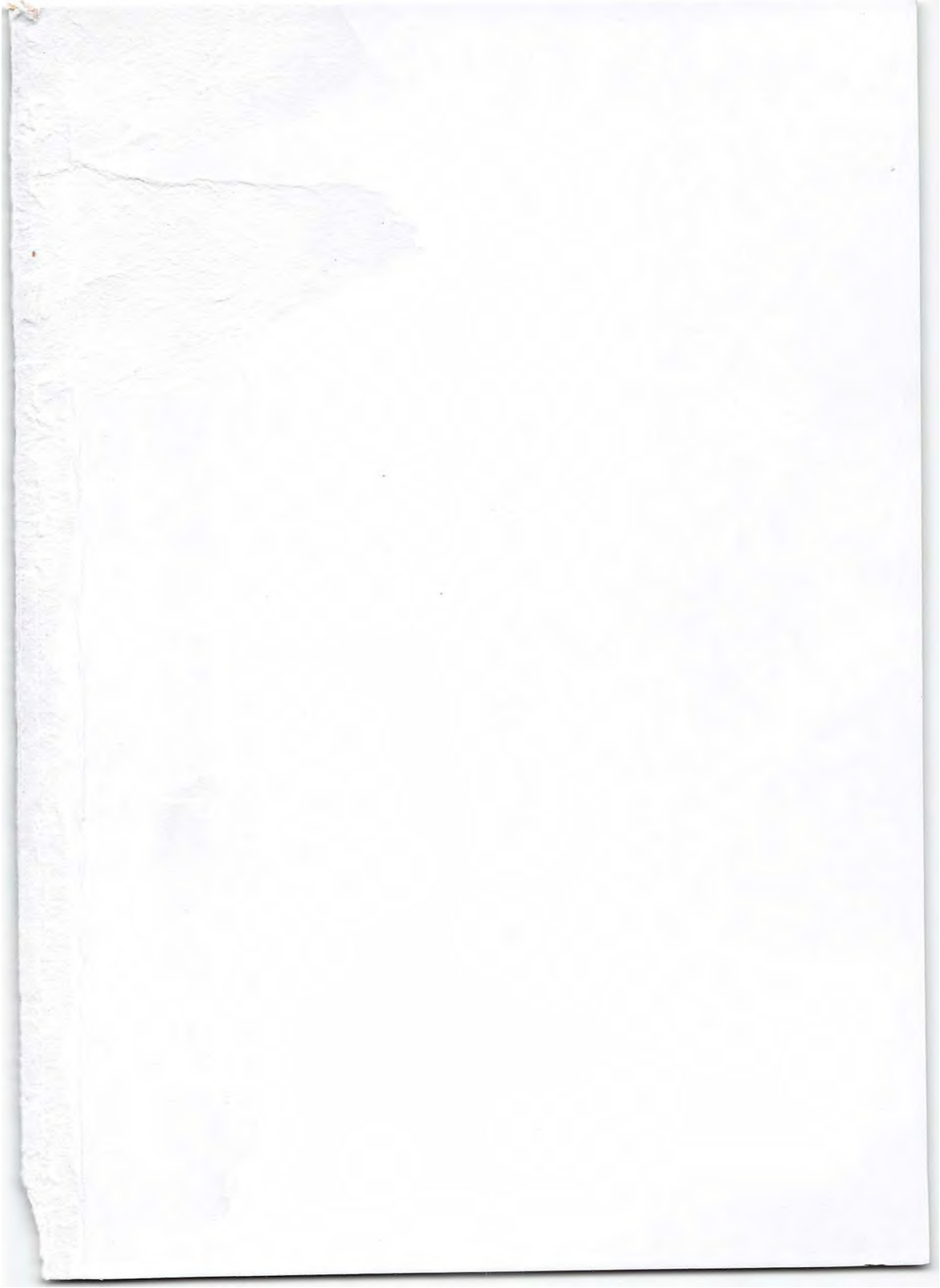




ECOWAS COMMISSION  
COMMISSION DE LA CEDEAO  
COMISSAO DA CEDEAO

**ECOWAS MODEL GUIDE FOR THE IMPLEMENTATION  
OF THE ECOWAS CONVENTION ON SMALL ARMS AND  
LIGHT WEAPONS AND THE ARMS TRADE TREATY**

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THE ECOWAS MODEL GUIDE FOR THE IMPLEMENTATION OF THE  
ECOWAS CONVENTION ON SMALL ARMS AND LIGHT WEAPONS AND  
THE ARMS TRADE TREATY

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## **LIST OF ACRONYMS**

ATT	Arms Trade Treaty.
ECOWAS	Economic Community of West African States.
SALW	Small Arms and Light Weapons.
UNREC	United Nations Regional Centre for Peace and Disarmament in Africa.

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## **UNDERSTANDING THE MODEL FRAMEWORK**

1. The ECOWAS Model Framework seeks to provide guidance to ECOWAS Member States that are States' Parties to both the Arms Trade Treaty (ATT) and the ECOWAS Convention on SALW on how to integrate harmoniously the provisions of both the ATT and the ECOWAS Convention on SALW into their national laws. This is consistent with their treaty obligations under Article 21 of the ECOWAS Convention (on harmonization of legislative provisions with that of the Convention as the minimum standard) and Article 26 of the ATT (on relationship with other international agreements may not be prejudiced in the course of the implementation of the ATT).
2. This framework is structured into five chapters, fourteen sections and five annexures. Each section has an Explanatory Note to facilitate Member States' understanding of the sources and background for each of the recommended provisions (Annex 1). An alternate outline of a Model National Instrument on the implementation of the ATT and ECOWAS Convention on SALW has been provided as Annex 3.
3. To enhance the common understanding of certain key terms introduced by the ATT without clarification though relevant to the eight categories of conventional arms required to be under a national transfer control system, and other key terms introduced by the ECOWAS Convention on SALW, but loosely defined, this Framework provides for a definition section and an alternate clarification of key terms drawn from other relevant international instruments as Annex 5.

## INTRODUCTION TO THE MODEL FRAMEWORK

1. The Arms Trade Treaty (ATT) was adopted on 2 April 2013 and entered into force on 24 December 2014, three months after the deposit of the 50th ratification instrument. The ATT is the first legally binding instrument to provide, at a global level, a comprehensive framework for the regulation of the international transfer of conventional arms, ammunition, parts and components. The objective of the Treaty is to establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms, including their export, import, transit, transshipment and brokering. The Treaty also aims at preventing and eradicating the illicit trade in conventional arms and preventing their diversion. Among the eight categories of conventional arms regulated under the Treaty are Small Arms and Light Weapons (SALW); this leads to the existence of several synergies between the ATT and the ECOWAS Convention. As at 10 December, 2020, 110 United Nations Member States have ratified or acceded to the ATT, including twenty-eight African States. Fourteen out of these twenty-eight States are ECOWAS Member States.

**TABLE 1: STATUS OF ECOWAS ATT RATIFICATION**

	COUNTRY	RATIFICATION
1	Nigeria	12 August, 2013
2	Mali	3 December, 2013
3	Burkina Faso	3 June, 2014
4	Sierra Leone	12 August, 2014



5	Guinea	21 October, 2014
6	Cote D'Ivoire	26 February, 2015
7	Liberia	21 April, 2015
8	Niger	24 July, 2015
9	Senegal	25 September, 2015
10	Togo	8 October, 2015
11	Ghana	22 December, 2015
12	Cape Verde	23 September, 2016
13	Benin	7 November, 2016
14	Guinea Bissau	22 October, 2018
15	Gambia	Yet to join the treaty as a signatory

Source: [theyrmstradetreaty.org](http://theyrmstradetreaty.org) as at 10 December, 2020.

2. The ECOWAS Convention on Small Arms and Light Weapons, their ammunition, and other related materials (ECOWAS Convention) was adopted on 14 June, 2006 and entered into force on 29th September 2009. It was adopted taking into account the 1998 Moratorium on the Importation,

Exportation and Manufacture of Light Weapons in ECOWAS Member States. The ECOWAS Convention contains legally binding provisions relating to the complete life cycle of SALW, ammunition and other related materials, including their manufacture, marking, registration, international transfers, stockpiling, civilian possession and destruction. All the ECOWAS Member States are State Party to the ECOWAS Convention.

TABLE 2: STATUS OF RATIFICATION OF ECOWAS SALW

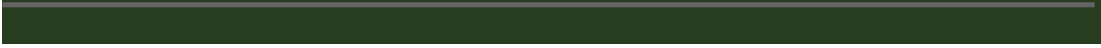
No	COUNTRY	RATIFICATION
1	Niger	9 February 2007
2	Sierra Leone	22 June 2007
3	Burkina Faso	19 October 2007
4	Mali	10 December 2007
5	Senegal	30 April 2008
6	Benin	5 August 2009
7	Togo	12 September 2008
8	Nigeria	27 October 2008
9	Liberia	27 April 2009
10	Cape Verde	20 July 2009
11	Cote D'Ivoire	20 July 2009
12	Ghana	20 July 2009

13	Guinea	20 July 2009
14	Guinea Bissau	20 July 2009
15	Gambia	2 January 2020

Source: - Ladan, M.T(2020) *Complementarities and Synergies between the SALW and ATT: Perspectives and Suggestions on the way forward for ECOWAS region.*


All Member States have signed and ratified the ECOWAS Convention on SALW, with the latest ratification by The Gambia on 2nd January, 2020.

3. As at 10 December, 2020, the majority of the African States Parties to the Arms Trade Treaty (ATT) are Member States of the Economic Community of West African States (ECOWAS). The result of this commendable commitment to this new Treaty that regulates, for the first time at a global level, the international trade in conventional arms, is that all these States face a common challenge: The harmonised implementation of the existing disarmament and arms control instruments.
4. In this light, the collaborative 2015 project between UN Regional centre for Peace and Disarmament in Africa (UNREC) and ECOWAS relating to the synergies and complementarities between ATT, ECOWAS SALW and other relevant instruments, resulted in the 2016 published report which aimed at enhancing the understanding of ECOWAS Member States of the ATT and its link with the SALW and other relevant instruments on arms control and disarmament.
5. The series of ECOWAS Technical Experts' meeting between March 2019 and December 2 of 2020 built on the 2016 project outcome by focusing on the Draft Model Framework on the Harmonized Implementation of ATT and ECOWAS Convention on SALW by Member States in West Africa.



6. The Model framework on the harmonised implementation of the ATT and the ECOWAS Convention in SALW was validated and adopted by Member State by Governmental Experts in September 2021.

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**ECOWAS MODEL FRAMEWORK' FOR THE IMPLEMENTATION OF THE  
ARMS TRADE TREATY AND THE ECOWAS CONVENTION ON SMALL  
ARMS AND LIGHT WEAPONS AT THE NATIONAL LEVEL**

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<sup>1</sup> This Model Framework shall serve as a guideline to Member States in the drafting of national legislation to implement the Arms Trade Treaty and the ECOWAS Convention on Small Arms and Light Weapons.

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## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **SECTION 1: GUIDING PRINCIPLES<sup>2</sup>**

1. This framework is to be interpreted and used as a guide by Member States in accordance with the following Principles:
  - a) Respect for the inherent right of all Member States to individual or collective self-defence as recognized in Article 51 of the United Nations Charter;
  - b) The settlement of international disputes by peaceful means in such a manner that the international peace and security, and justice, are not endangered in accordance with Article 2(3) of the United Nations Charter;
  - c) Refraining in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations in accordance with Article 2(4) of the United Nations Charter;
  - d) Non-intervention in matters which are essentially within the domestic Jurisdiction of any State in accordance with Article 2 (7) of the United Nations Charter;
  - e) Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights;

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<sup>2</sup>The Guiding Principles are consistent with the Preamble to the ECOWAS Convention on SALW, Adopted in Abuja, on 14th June 2006. (see paragraphs 7 to 26 of the Preamble)



- 1) Mindful of Article 58 of the revised ECOWAS Treaty relating to Regional Security which stipulates that Member States undertake to work to safeguard and consolidate relations conducive to the maintenance of peace, stability and security within the region and to establish and strengthen appropriate mechanisms for the timely prevention and resolution of conflicts;
  - g) Also taking into account the Bamako Declaration of 1 December 2000 on the common African position on the proliferation, circulation and illicit trade in small Arms and Light Weapons;
  - h) Equally taking into account other international and regional initiatives aimed at curtailing the proliferation of Small Arms and Light Weapons, and the decision relating to the common African position on the review of the United Nations' programme of action on Small Arms and Light Weapons adopted in Khartoum in January, 2006.
  - i) Consideration that the proliferation of Small Arms and Light Weapons constitutes a major destabilizing factor in ECOWAS member States and poses serious threat to the peace and stability of our people;
  - j) The responsibility of all States, in accordance with their respective international obligations to effectively regulate the International trade in conventional arms, and to prevent their diversion, as well as the primary responsibility of all States in establishing and implementing their respective national control systems;
  - k) The respect for the legitimate interests of states to acquire conventional arms, to exercise their right to self-defence and for peacekeeping operations; and to produce, export, import and transfer conventional arms;
2. As a guide while harmonising in a consistent, objective, non-discriminatory and effective manner for collective security of the ECOWAS region.

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## **SECTION 2: GOAL**

- (1) The goal of this guide is to ensure that Member States harmonise their national laws to realise the following fundamental objectives and purpose set out by Article 1 of ATT and Article 2 of the ECOWAS Convention on SALW:
- a) Take into the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
  - b) Prevent and eradicate the illicit trade and diversion;
  - c) Prevent and control the proliferation and transfer of Small Arms and Light Weapons in the ECOWAS region;
- (2) For the purpose of:
- a) contributing to international and regional peace, security and stability;
  - b) reducing human suffering;
  - c) promoting cooperation, transparency and responsible actions by States' Parties in the international trade in conventional arms, thereby building confidence among Member States;
  - d) guiding ECOWAS Member States on the establishment of national authorities for the harmonized implementation of both the Arms Trade Treaty and the ECOWAS 'convention on Small Arms and Light Weapons.

## **SECTION 3: SCOPE OF APPLICATION**

- (1) The provisions of this guide may apply to all conventional arms, ammunition, components and other related materials within the following eight categories:
- a) Small arms and Light Weapons;
  - b) Battle tanks;
  - c) Armoured combat vehicles;
  - d) Large-calibre artillery systems;
  - e) Combat aircraft;
  - o Attack helicopter;



- 
- g) Warships; and
  - h) Missiles and missile launchers

- (2) It shall also apply to the activities of the international arms trade comprising export, import, transit, trans-shipment and brokering hereafter referred to as "transfer";
- (3) The provisions of this Framework and the footnotes below provide for Member States to decide on whether their national legislation: may NOT apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party's ownership'

#### **SECTION 4: DEFINITIONS**

Member States may add definitions of other relevant terms for the purpose of this guide:

- 1. AMMUNITION:** Devices destined to be shot or projected through the means of firearms including among others: cartridges; projectiles and missiles for light weapons; - mobile containers with missiles or projectiles for anti- craft or anti-tank single action systems.
- 2. ARMoured COMBAT VEHICLES:** Tracked, semi-tracked or wheeled self-propelled vehicles, with armoured protection and cross-country capability, either (a) designed and equipped to transport a squad of four or more infantrymen, or (b) armed with an integral or organic weapon of at least 125 mm calibre or a missile launcher.

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See Article 2 (3) of ATT. This provisions excludes for example, weapons owned by one state and brought to a different country for the use of peacekeepers from that same state. The exemption only applies if the arms remains under that State's ownership. Therefore, if the ownership of the arms is passed, even at a later state, the transaction would constitute a transfer under the ATT. The ECOWAS Convention does not contain such an exemption. On the contrary, it requires the State Parties to establish a regional register of the SALW destined for the use in peacekeeping operations as a means to control the movements of arms and their effective withdrawal see Article 11(1) (a) of the ECOWAS Convention on SALW.

NB: it is at the discretion of Member States to decide, whether the existing national legislation on SALW is to be amended or whether a new legislation is to be adopted, in order to implement this Model Framework.

- 
- [REDACTED]**
- 3. ATTACK HELICOPTERS:** Rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface or air- to-air weapons that are equipped with an integrated fire control and aiming system, including versions of these aircraft that perform specialised reconnaissance or electronic warfare missions.
  - 4. BATTLE TANKS:** Tracked or wheeled self-propelled armoured fighting vehicles with high cross-country mobility and a high level of self-protection, weighing at least 16.5 t (metric) unladen weight, with a high muzzle velocity direct fire main gun of at least 75 mm calibre.
  - 5. BROKERING:** Work carried out as an intermediary between any manufacturer, supplier or distributor of small arms and light weapons and any buyer or user; this includes the provision of financial support and the transportation of small arms and light weapons;
  - 6. COMBAT AIRCRAFT:** Fixed-wing or variable-geometry wing aircraft designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of such aircraft that perform specialised electronic warfare, suppression of air defence or reconnaissance missions. The term 'combat aircraft' does not include primary trainer aircraft, unless designed, equipped or modified as described above.
  - 7. EXPORT:** to take ammunition and or licensed or registered firearms out of one country to another country, or cause them to be taken out of a country to another country through any harbour, airport or other place on board any vessel or aircraft, or by any other means of conveyance.
  - 8. FIREARM:** any portable lethal weapon that expels or is designed to expel a shot, bullet or projectile by the action of burning propellant, excluding antique firearms or their replicas that are not subject to authorisation by respective State Parties. A firearm is any device that may be converted readily into a weapon and any small arm.
  - 9. IMPORT:** to bring firearms and/or ammunition, or cause them to be brought, from outside the country into the country, and includes the bringing thereof into the country at any harbour, airport or other place on board any vessel or aircraft, or other means of conveyance, irrespective of whether or not the firearms and/or ammunition are off-loaded from such a

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vessel, aircraft or other means of conveyance for conveyance through the country to any place outside the country or for any other purpose, or are intended to be so offloaded. It can also be defined as bringing or transferring registration and or ownership of conventional weapons and ammunition from a place outside of the territory of the State to the territory of the State.

Another definition is to send or take or transfer registration or ownership of conventional arms from a State to any place outside of the territory of that State

10. **LARGE-CALIBRE ARTILLERY SYSTEMS:** Guns, howitzers, artillery pieces that combine the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems capable of engaging surface targets by delivering primarily indirect fire and having a calibre of 75 mm and above.
11. **LIGHT WEAPONS:** Portable arms designed to be used by several persons working together in a team and which include notably: heavy machine guns; portable grenade launchers, mobile or mounted; - portable anti-aircraft cannons; - portable anti-tank cannons, non-recoil guns;- portable anti-tank missile launchers or rocket launchers; portable anti-aircraft missile launchers; - mortars with a calibre of less than 100 millimetres;
12. **MAN-PORTABLE AIR-DEFENCE SYSTEMS (MANPADS):** surface-to-air missile systems designed to be man-portable and carried and fired by a single individual, as well as other surface-to-air missile systems portable by several individuals and designed to be operated and fired by more than one individual acting as a crew.
13. **MISSILES AND MISSILE LAUNCHERS:** Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 km, and the device designed or modified specifically for launching such missiles or rockets. This subcategory includes remotely piloted vehicles with the missiles characteristics defined above but does not include ground-to-air missiles.
14. **RE-EXPORT:** to send previously imported conventional arms (in the same condition) to another State or territory other than that from which they were originally imported.
15. **SMALL ARMS:** Arms used by one person and which include notably: firearms and other destructive arms or devices such as an exploding bomb, an incendiary bomb or a gas bomb, a

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grenade, a rocket launcher, a missile, a missile system or landmine;- revolvers and pistols with automatic loading; - rifles and carbines; - machine guns; - assault rifles; - light machine guns.

16. **TRANSFER:** Includes import, export, transit, transshipment and transport or any other movement whatsoever of small arms and light weapons, ammunition and other related materials from or through the territory of a State;
17. **TRANSIT:** occurs when conventional arms that have been dispatched from their place of export by the exporting State have not yet been received by the importing State. 'Arms-in-transit' entails arms entering and leaving an intermediary State prior to entering the territory of the recipient State, and typically takes place under the supervision of the intermediate State's customs authority.
18. **TRANSHIPMENT:** the act of trans-shipment entails the transfer of conventional arms from the exporting State to the importing State via other destinations, and it involves a change or changes in transport type during the transfer process. Trans-shipment usually occurs in transport hubs and/or designated customs' areas.
19. **WARSHIPS:** Vessels or submarines armed and equipped for military use with a standard displacement of 500t (metric) or above, and those with a standard displacement of less than 500t (metric) equipped for launching missiles with a range of at least 25km or torpedoes with similar range.

Source: See annexes 4 and 5: UN register on conventional Arms and ECOWAS Convention on SALW.

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## CHAPTER II

### IMPLEMENTATION: - INSTITUTIONAL ARRANGEMENT, TRANSPARENCY AND EXCHANGE OF INFORMATION AND DIVERSION

#### SECTION 5: ESTABLISHMENT OF NATIONAL INSTITUTIONAL MECHANISM

1. Member States may each establish a National Institutional Mechanism on Arms Control<sup>o</sup> that comprises several departments or focal points which coordinate the implementation of the provisions of the Arms Trade Treaty<sup>o</sup> and the ECOWAS Convention<sup>o</sup> on Small Arms and Light Weapons;
2. The National Institutional Mechanism on Arms Control<sup>o</sup> of each Member State may have the following mandate to:
  - a) coordinate the preparation of plans, policies, strategies and activities regarding the control of international arms transfer<sup>o</sup> and to prevent and combat the proliferation of illicit Small Arms and Light Weapons,<sup>o</sup>

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<sup>o</sup> Part of Member State's obligations to protect its citizens is to control the import, export and trans-shipment of materials that may have an impact on the safety and security of its citizens. Member States need to evaluate their country's policies with regards to non- proliferation, disarmament and arms control. These policies will inform the decision-making process during arms transfer evaluation process when consideration is given to whether a transaction should be allowed or not or, more correctly, if the particular State is willing to become part of the arms transfer process.

Referred to in this framework as "the Treaty"

<sup>o</sup> Referred to in this Framework as "the Convention"

<sup>o</sup> Regarding the system of controlling exports, imports, transits and trans-shipments of conventional arms, ammunitions, parts and components governed under the ATT and ECOWAS SALW at national level.

Consistent with Article 24 of the ECOWAS Convention on SALW.

- 
- b) monitor the implementation of this Framework and other relevant legislations and policies relevant to their national and international disarmament and arms control obligations;
  - c) Regulate transfers and apply measures relating to the national transfer control systems required by Article 5 (5) of the Arms Trade Treaty, including the implementation of the transfer prohibitions contained in Article 6 of the Arms Trade Treaty, and the export risk assessment contained in Article 7 of the Treaty;
  - d) Participate, in the case of arms importation, the issuance of End-User Certificate and the Visitors Certificate in accordance with the relevant provision of national laws;
  - e) Ensure, in the case of arms exportation, that an End-User Certificate is obtained and verified before any decision is taken to authorize such an export;
  - f) Ensure the implementation of the measures preventing and addressing the diversion of conventional arms as contained in Article 11 of the Arms Trade Treaty;<sup>9</sup>
  - g) Ensure the provisions of this Framework, guide Member States in the enforcement of national legislations consistent with the implementation of the Treaty" and the Convention;
  - h) Assess the need for assistance and evaluate the capacity to provide assistance in line with the Treaty" and the Convention;"
  - i) Contribute to establishing modalities for close consultation and cooperation with Arms Trade Treaty Secretariat and the ECOWAS Commission.

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<sup>9</sup> Article 11 of ATT

"See Article 14, ATT

" Article 16, ATT

"See Articles 5,10, 11. and 25 ECOWAS Convention.

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## SECTION 6: TRANSPARENCY AND EXCHANGE OF INFORMATION

1. The National Institutional Mechanism on Arms Control of each Member State may have the responsibilities to:
  - a) Establish and share the national control lists with the Arms Trade Treaty Secretariat" and the ECOWAS Commission:"
  - b) Compile, share or request information for the export risk assessment:"
  - c) Request or share information concerning any pending or actual export authorization:"
  - d) Establish and maintain the national records on international transfers pursuant to Article 12 of the Arms Trade Treaty;
  - e) Request and compile information, and submit to the ATT Secretariat, Initial Reports on steps taken to Implement the ATT and subsequent updates, and Annual Reports on imports and exports of conventional arms, and effective measures to address diversion in line with Article 13 of the ATT;
  - f) Exchange information and cooperate with the other State Parties to the Arms Trade Treaty and the ECOWAS Convention on Small Arms and Light Weapons;
  - g) Carry out such activities that may be necessary to fully implement its mandate and responsibilities.
2. As appropriate, the National Institutional Mechanism on Arms Control may, in consultation with relevant authorities, designate focal points, whose membership, responsibilities and powers may be determined by the national Implementing legislation.

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"Article 5 (2) ATT

"See Articles 5, 10, 11 and 25, ECOWAS Convention

"See Article 8 (1), ATT

"Article 8 (3), ATT

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## **SECTION 7: DIVERSION**

1. Member States may:
  - a) Adopt legislative and administrative procedures providing measures to prevent the diversion of weapons and ammunition;
  - b) Mandate the appropriate national authority to include an assessment of the risk of diversion of all categories of weapons and ammunition as part of the national level risk assessment before granting import and export authorization.
  - c) Mandate appropriate national authorities, coordinated by respective National Institutional Mechanism on Arms Control, to cooperate and exchange information on weapons and ammunition transfers relating to, among other things, illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch or destinations used by organized groups engaged in diversion, as well as information on effective measures to address diversion;
  - d) Mandate appropriate national authorities overseen by National Institutional Mechanism on Arms Control to take early and decisive action to address suspected diversion. Measures to include:
    - i. alerting potentially affected States' Parties;
    - ii. examining diverted shipments; and
    - iii. taking follow up measures through investigation and law enforcement.
2. Each Member State may report to the other States' Parties, through the ATT Secretariat and the ECOWAS Commission, information on measures taken that have proven to be effective in addressing the diversion of weapons and ammunition being imported as well as those already within national borders.



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## **CHAPTER III**

### **ESTABLISHMENT OF NATIONAL DATABASE AND RECORD KEEPING**

#### **SECTION 8: ESTABLISHMENT OF THE NATIONAL DATA BASE**

Each Member State may establish and maintain a national database containing the following:

- a. Type of information on conventional arms including: calibre, quantity, head-stamp marking, batch/lot numbers/serial numbers, date of manufacture, name of manufacturer and contact details, and details of export license such as date of issue, license number, country of export, port of export, port of import, country of import, end-user certificate and route of transfer;
- b. Type of information maintained on parts and components of conventional arms: Description of part or component, serial number of part or component, if available date of manufacture, name of manufacturer and contact details, and details of export license.

#### **SECTION 9: RECORD KEEPING**

1. Each Member State may maintain national records, pursuant to its national laws and regulations:
  - a) of its issuance of export authorizations or its actual exports of the arms;
  - b) of arms that are transferred to its territory as the final destination or that are authorized to transit or trans-ship territory under its jurisdiction;
  - c) of the quantity, value, model/type, authorized international transfers of arms, arms actually transferred, details of exporting State(s), importing States(s), transit and trans-shipment State(s), and end users, as appropriate.
2. Records on SALW may be kept permanently, while records on the other seven conventional weapons listed under ATT be kept for a minimum period of ten years.



## **CHAPTER IV**

### **PROHIBITIONS, TRANSFER OF CONVENTIONAL ARMS: EXPORT, IMPORT, TRANSIT, TRANS-SHIPMENT, AND BROKERING**

#### **SECTION 10: PROHIBITIONS, TRANSFER AND RISK ASSESSMENT**

1. Each Member State, may not, through appropriate national legislation, authorise any transfer of all the eight categories of conventional arms and items covered under Articles 2-4 of ATT and Articles 3 and 6 of ECOWAS Convention, if the transfer would violate its relevant international or treaty obligations, especially on measures relating to arms embargoes, the transfer and illicit trafficking in conventional arms , or would be used to commit genocide, crimes against humanity or war crimes as defined by international agreements to which it is a State Party.
2. If the export is not prohibited, each exporting State may, prior to authorization of the export of conventional arms within the scope of this Law, in an objective and non -discriminatory manner, taking into account relevant factors, including information provided by the importing State, assess the risk that the conventional arms or items:
  - (a) would undermine peace and security including by:
    - (i). provoking or prolonging armed conflicts;
    - (ii) aggravating existing tensions;
    - (Hi) contributing to the destabilising or uncontrolled accumulation of arms or military capabilities; or
    - (iv) otherwise contribute to regional instability;
  - (b) could be used:
    - (i) to commit or facilitate a serious violation of international humanitarian law;

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(ii) to commit or facilitate a serious violation of international human rights law;

(iii) to commit, or to facilitate the commission of, terrorist acts or to support or encourage terrorism;

(iv) to commit, or to facilitate the commission of, violent or organized crime;

(v) to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children;

(c) would:

(i) contribute to the hindrance or obstruction of sustainable development and the undue diversion of human and economic resources to armaments on the part of the states involved in the transfer;

(ii) involve corrupt practices at any stage- from the supplier, through any middlemen or brokers, to the recipient;

(iii) be diverted, within the transit or importing country, or be re-exported to unauthorized uses or users or into the illicit market

(iv) be used other than for the legitimate defence and security needs of the beneficiary country.

3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is a significant risk of any of the negative consequences above, the exporting State Party may not authorize the export.
4. If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State

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**SECTION 11: MEASURES TO REGULATE EXPORT AND IMPORT OF ARMS  
INCLUDING WEAPONS, AMMUNITIONS AND OTHER RELATED MATERIALS**

1. Member States should designate and mandate competent authorities to:
  - a) Compile and provide appropriate and relevant information, upon request, to an exporting state, to assist the exporting state in conducting its national export assessment;
  - b) Request information relevant to an export risk assessment from the importing state;
  - c) Confirm to the exporting state the receipt of the dispatched shipment;
  - d) Request information from the exporting state concerning any pending or actual export authorization where the importing state is the country of final destination;
  - e) Provide information to the importing state party concerning any pending or actual export authorization where the importing state is the country of final destination.
2. Member States may take measures to regulate, where necessary, imports, under national jurisdiction, of conventional arms.
3. Member States may take appropriate measures to regulate, where necessary, the transit or trans-shipment, under national jurisdiction, of conventional arms.

**SECTION 12: BROKERING**

1. Member States may adopt national legislations and administrative procedures that regulate brokering in the eight categories of conventional arms listed in section 3 of this framework;
2. Each Member State may designate and mandate a focal point to collect aggregated data on brokers, brokering authorizations related to conventional arms and actual brokering activities in the national register, independent from an individual transfer.
3. Each Member State may develop and share with the ATT Secretariat and ECOWAS Commission a national control list that indicates arms and items that are subject to the brokering regulations and contains definitions thereof.
4. Member States may ensure the enforcement of appropriate legislations and administrative procedures regulating brokers and their activities.

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## **CHAPTER V**

### **MISCELLANEOUS PROVISIONS**

#### **SECTION 13: OFFENCES, PENALTIES AND ENFORCEMENT**

1. Member States may clearly define as offences, specific violations of the provisions of the ATT and the ECOWAS Convention in their implementing legislations;
2. Member States may adopt measures, including the criminalization of certain behaviours and the creation of conditions that allow proper and effective investigation and prosecution of defaulters based on Section 14 (1) above.

#### **SECTION 14: INTERNATIONAL COOPERATION AND ASSISTANCE**

Member States may adopt appropriate mechanisms that allow for, and institutionalize, cooperation in the implementation of the ATT and the ECOWAS Convention on SALW, including the exchange of information relating to illicit activities and practices, mutual assistance in conducting investigations, prosecutions and other Judicial proceedings, and the sharing of lessons learned from any aspect of implementation of the ATT and the ECOWAS Convention.

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## **ANNEXURES 1 TO 5**

### **ANNEX 1: EXPLANATORY NOTE**

#### **EXPLANATORY NOTE ON SECTION 1: - GUIDING PRINCIPLES**

1. Unlike the ECOWAS Convention on SALW (which has 26 preambular paragraphs without specific guiding principles), the ATT provides for 8 specific principles (in addition to the preambular paragraphs) for State Parties to act in accordance with the Implementation of the treaty.
2. Hence the need to guide Member States to appropriately integrate in their national legislations a set of guiding principles that are consistent with both the ATT and the ECOWAS Convention Preambles.

#### **EXPLANATORY NOTE ON SECTION 2: - OBJECTIVES AND PURPOSE**

3. While both the ATT and ECOWAS Convention on SALW clearly set out some fundamental objectives for the purpose of contributing to international and regional peace, security and stability, Article 2 of the ECOWAS Convention is restricted to regulating only SALW, while Article 1 of the ATT aims at improving the regulation of eight categories of conventional arms including SALW. Hence the proposed integrated provisions for consideration by Member States in their effort to implement both treaties.

#### **EXPLANATORY NOTE ON SECTION 3: - SCOPE OF APPLICATION**

4. Unlike the provision of Article 2 of the ATT on scope of application, the ECOWAS Convention does not have any explicit or specific provision or subtitle on scope. Nevertheless, both the ATT and the ECOWAS Convention govern SALW, their ammunition, parts and components. Both treaties, however, do not use all the terms in the same way and not all the provisions contained in the two treaties apply to all the governed arms and items. The ATT governs seven additional categories of conventional arms, as well as their ammunitions, parts and components (Articles 2, 3 and 4 of ATT).

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5. Unlike the ECOWAS Convention, the ATT generally only requires the establishment of a system controlling the transfer of ammunitions, parts and components, when they are being exported (Articles 3-4 of ATT). The regulation of the import, transit, trans-shipment and brokering of such items is not required.
  6. The ATT does not apply to the international movement of conventional arms by or on behalf of a State Party for its use provided that the conventional arms remain under the State Party's ownership (Article 2(3) of ATT). This excludes for example weapons owned by one State and brought to a different country for the use of peacekeepers from that same State.

NB: - The exemption only applies if the arms remain under the State's ownership. Therefore, if ownership of the arms is passed, even at a later stage, the transaction would constitute a transfer under the ATT. NB: - The ECOWAS Convention does not contain such an exemption. On the contrary, it requires the States' Parties to establish a regional register of the SALW destined for the use in peacekeeping operations as a means to control the movements of arms and their effective withdrawal (Article 11 (a) of the ECOWAS Convention). Hence the proposed integrated provisions for consideration by Member States.

#### **EXPLANATORY NOTE ON SECTION 4: - DEFINITIONS**

7. Generally, definitions of key terms facilitate understanding and harmonized implementation of the legal instruments. They help both the States' Parties and practitioners to share a common understanding of the key concepts of the instruments/treaties and to use harmonized and appropriate terminologies in their domestic implementation efforts.
8. On the one hand, the ECOWAS Convention provides definitions of SALW and ammunition, components and other related materials, among others, under Article 1.
9. On the other hand, the ATT contains the following key terms among others:- SALW, battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircrafts, attack helicopters, warships, missiles and missile launchers (Article 2.1 (a-h) of ATT) without defining them further.

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NB: - The ATT however gives State Parties a limited discretion in developing national definitions of covered arms and items, subject to a minimum threshold stipulated by Article 5 (3) on General Implementation: -

"That national definitions of any of the categories covered under Article 2(1) (a-g) may not cover less than the description used in the UN Register of Conventional Arms and for the category covered under Article 2(1) (h), national definitions may not cover less than the description used in relevant UN instruments".

10. The ECOWAS Convention was the first disarmament instrument to provide a definition of "Transfer" of SALW. The definition under Article 1(9) is very broad comprising "import, export, transit, trans-shipment and transport or any other movement whatsoever of SALW, from or through the territory of a State". In contrast to the ATT, the ECOWAS Convention regulates "Brokering" separately (Article 20). On the other hand, the ATT considers export, import, transit, trans-shipment and brokering as "Transfer" under Article 2(2). Hence the proposed integrated provisions for consideration by Member States.

NB: - An alternate set of defined relevant terms drawn largely from other international instruments are provided for an informed choice by Member States as Annex 2.

**EXPLANATORY NOTE ON SECTION 5: - GENERAL IMPLEMENTATION RELATING TO ESTABLISHMENT OF A NATIONAL ARMS CONTROL AUTHORITY**

11. Elements of the ATT and ECOWAS Convention are based on national transfer control systems of arms including their exports, imports, transits and transshipment of conventional arms, ammunition, parts and components governed under both the ATT and the ECOWAS Convention at a national level (Article 5.2, 5.5, 5.6 and 5.4 of AU and Articles 7-10 of ECOWAS Convention). The ECOWAS Member States are obligated to designate competent national authorities that apply this system. The national control system should include, at a minimum, a legal basis, transfer policies, a decision-making mechanism and an enforcement mechanism. Hence the



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proposed integrated provisions for Member States to consider in the implementation of their treaty obligations under both ATT and ECOWAS Convention.

#### **EXPLANATORY NOTE ON SECTION 6: - TRANSPARENCY AND EXCHANGE OF INFORMATION**

12. Both the ECOWAS Convention (Article 6) and the ATT (Article 6 also) differ with regard to the requirements relating to the level of risk in authorizing or not the transfer of arms. While the ECOWAS Convention stipulates under Article 6(3-4) that the transfer may not be authorized if it is destined to be used to commit one of the listed risks, the ATT under Article 6(13) requires the States to deny arms exports if there is an overriding risk of any of the negative consequences. In other words, the ECOWAS Convention requires the knowledge that the arms and items are transferred to serve a specific purpose, while the ATT requires the States to deny arms exports if there is a certain degree of risk that the items, even if not clearly destined for the specific use, will be used for any of the negative consequences stated in Article 6(1-3) of ATT.
13. Similar to the level of application of transfer prohibitions, it should be noted that the ATT requires the exporting States to conduct a case-by-case risk assessment at a national level. The risk assessment as inscribed in the ECOWAS Convention provides for the assessment of risks at both national and regional levels.
14. In general, the ATT sets a focus on fostering communication and transparency between the States participating in a transfer by providing the rights and obligations of the parties concerning the exchange of information related to transfer authorizations and measures to prevent diversion.
15. The ATT requires the importing State to provide, upon request and pursuant to its national laws, appropriate and relevant information to the exporting State that helps the latter to conduct the export risk assessment (Article 8.1 of ATT). This obligation implies the reporting State's right to request appropriate and relevant information.
16. Unlike the ECOWAS Convention, the ATT imposes an obligation on the importing State towards the exporting State to provide, upon request, appropriate and relevant information to assist the

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exporting State in conducting its national export assessment under Article 7 (as required by Article 8(1) ATT).

NB: - For the ECOWAS Member States which are predominantly on the importing side of the arms transfer, this obligation is of particular importance. In order to comprehend what information is relevant and appropriate, the importing States Parties to the ATT have to familiarize themselves with the export control system under Article 7 of the ATT.

NB: - The ATT refers to the sharing of end use and end user documentation as potential measures for regulating arms transfer (Article 8.1 of ATT). Other information that could be shared includes the following: -

- Information on the security situation in the country of import;
- Information on the measures in place to prevent and address the violation of international human rights and humanitarian laws in the country of import;
- Information on measures in place to prevent terrorism and transnational organized crime;
- Information relating to the system and capacity of the importing State to control the imported arms.

Hence the proposed integrated provisions for consideration by Member States.

#### **EXPLANATORY NOTE ON SECTIONS 7-8: - ESTABLISHMENT OF NATIONAL DATA BASE AND RECORD KEEPING**

17. Both the ECOWAS Convention and the ATT require the maintenance of national records of exported arms. In contrast to the ECOWAS Convention, the ATT does not contain a legally binding obligation on the keeping of records of imports, transit and trans-shipments but explicitly encourages States to do so.
18. The ECOWAS Convention requires States to keep a national database and register of SALW. Besides the information on all weapons such as the type or model, calibre, making and date of registration, the States are required to enter detailed data on every transaction involving arms,

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ammunition and other related materials (Article 9 of ECOWAS Convention). The ATT requires the States to maintain national records on the issuance of export authorizations or actual exports of conventional arms. The requirement does not apply to ammunition, parts and components or other kinds of transfers of conventional arms. However, the ATT explicitly encourages States to keep records on other types of transfers (Article 12.2, ATT). The ATT does not set the scope of information to be kept in the records in a legally binding way. It encourages the States to include information on the quality, value, model/type, authorized transfers, arms actually transferred, details of the involved States (exporting, importing, transit and trans shipment States) as well as end users - Article 12(3) of ATT.

NB: - of this suggested scope of information, only the details on the value of transfer is not listed in the information to be kept under Article 9 of ECOWAS Convention.

On the period and level of record keeping, the ECOWAS Convention requires that records be kept permanently (Article 9(3)). The ATT on the other hand, requires the States to keep records for a minimum of ten years under Article 12(4).

In addition to the requirement to keep national registers and databases, Articles 10 and 11 of ECOWAS Convention require the keeping of a regional register and the database on SALW and on arms for peace operations, for the purpose of promoting confidence among the States Parties (according to Article 10.1 of ECOWAS Convention).

Hence the proposed integrated provisions to guide Member States.

#### **EXPLANATORY NOTE ON SECTIONS 9-12: - PROHIBITIONS OF TRANSFER OF CONVENTIONAL ARMS: - THEIR EXPORT, IMPORT, TRANSIT, TRANS-SHIPMENT AND BROKERING**

19. The ATT requires States to establish and maintain a national control system, including a national control list (Article 5.2 of ATT) At the centre of the control system are certain prohibitions (Article 6 of ATT). The specific parameters of the control system are detailed for the export of arms, ammunition, parts and components (Article 7 of ATT). The determination of the

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nature and features of the system controlling other kinds of transfer are mostly the prerogative of the State Party.

NB: - The need to regulate transit and trans-shipment of arms and items is acknowledged in the ATT and the ECOWAS Convention. However, they don't specify what measures the transit or trans-shipment States have to adopt (Article 9 of ATT and Article 3-4 of ECOWAS Convention).

NB: - A strict application of the ECOWAS Convention requires the submission of an exemption request for any transfer of SALW, including their ammunition, parts and components (Article 3.1 and 4.1 of ECOWAS Convention).

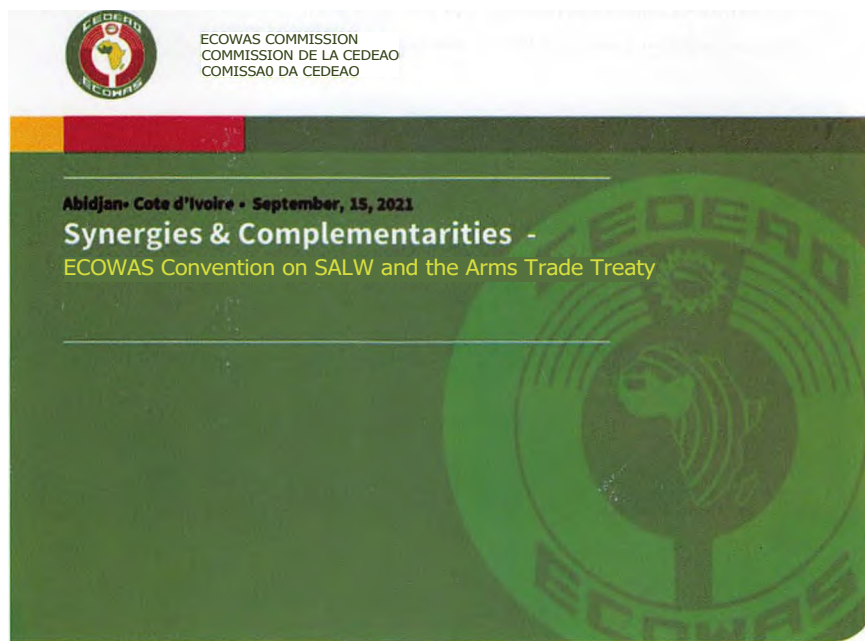
Accordingly, ECOWAS Member States should engage in inter and intra-governmental discussions on the question of whether the exemption procedure as inscribed in Article 5 of the ECOWAS Convention which is a major tool to enhance transparency between the Member States, should also apply to the ADDITIONAL seven categories of conventional arms, beyond SALW, governed under Article 2(1) (a) -(h) of the ATT. Hence the justification for the proposed integrated provisions to guide Member States in discharging their treaty obligations under both ATT and ECOWAS Convention.

20. The ATT and the ECOWAS Convention address the issue of brokering and request the States' Parties to regulate brokers and their transactions. However, with the exception of certain brokering prohibitions (Article 6 of ATT), only the ECOWAS Convention provides specific measures that are legally binding. It requires the registration of all brokers, issuance of an authorization for each individual brokering activity, full disclosure of the relevant import and export licenses, and other associated documents and information. It also criminalizes illicit brokering activities (Article 20 of ECOWAS Convention).
21. Both the ATT and the ECOWAS Convention refer to certain cases in which brokering activities may be prohibited. The ECOWAS Convention refers to the criteria listed in its Article 6. Under the ATT, brokering constitutes a type of activity related to the international trade in arms; therefore, the prohibitions contained in Article 6 of ATT apply.

Hence, the proposed integrated provisions on brokering for consideration by Member States.

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**ANNEX 2: TABULAR REPRESENTATION OF THE SYNERGIES AND  
COMPLEMENTARITIES BETWEEN THE ECOWAS CONVENTION ON  
SALW AND THE ATT**



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The ECOWAS Convention on SALW and the ATT:  
 Complementarities and Synergies

1. Scope of Application	
<p><b>-Objective:</b> SALW. Including their ammunition and other related materials.</p> <p>-Transfer of SALW: import, export, transit, transshipment;</p> <p>-Manufacture of SALW</p> <p>-Operational mechanism</p>	<p><b>-Objective:</b> All conventional arms - Including SALW, parts and components</p> <p>-Transfer export, import, transit, trans-shipment and brokering</p> <p>National control system</p>
2. Import, export, transit and transshipment	
<p><b>Article</b> Prohibition of transfer of SALW and their manufacturing materials throughout national territories</p> <p><b>Article 4:</b> Condition for Exemption 11 The fulfilment of the procedures for Exemption Certificate</p> <p>2J Member States shall establish and maintain effective system of export and import licensing or authorization for the transfer of SALW</p>	<p><b>Article 6:</b> General Implementation 11 State Party to implement Treaty on its discretionary objectivity bearing in mind principles of Treaty</p> <p>21 State Party to establish/maintain national control system/national control list to implement the Treaty</p> <p><b>Article 8</b> Prohibitions State Party not to authorize transfer of conventional arms - if the transfer would violate relevant international obligations e.g arms embargoes, commission of genocide, etc</p> <p><b>Article 7:</b> Export/Export Assessment Pursuant to its national control system, State Party to assess if transfer will not contribute to certain infractions e.g gender-based violence</p>

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The ECOWAS Convention on SALW and the ATT:  
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ECOWAS Convention on SALW	The Arms Trade Treaty
<b>2. Import, export, transit and trans-shipment</b>	
<p>Member State to ensure that licensing or authorization procedures are secure</p> <p><b>Article 5:</b> Procedures for Exemption</p> <p><b>Article 4:</b> Cases for Refusal</p>	<p><b>Article 0</b> Import: Importing State Party to ensure that appropriate and relevant information to assist the exporting State Party in conducting its national export assessment</p>
<b>3. Brokering</b>	
<p><b>Article 20:</b> Member States to register citizens/companies brokering SALW</p> <p>Authorization to be obtained for each transaction</p> <p>Legislative/other measures to be adopted to criminalize illicit brokering</p>	<p><b>Article 10:</b> Each State Party to take measures to regulate brokering under its jurisdiction for conventional arms. E.g requiring brokers for authorization before engaging in brokering</p>
<b>3. Diversion</b>	
<p><b>Article 6 (SI):</b> Cases for Refusal of Exemptions for Transfers A transfer shall not be authorised if it is likely to be diverted, within the transit or importing country or be re-exported, to unauthorized uses or users or into the illicit trade</p>	<p><b>Article 11:</b> 1] Each State Party involved in transfer to prevent their diversion. 2] Exporting State to prevent diversion through national control system, assess the risk of diversion of export, joint confidence building measures by exporting and importing states; 3] importing, transit, trans-shipment and exporting States to cooperate and exchange information to mitigate risks of diversion. 4] States to report on diversion prevention measures taken</p>

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## The ECOWAS Convention on SALW and the ATT: Complementarities and Synergies (contd.)

ECOWAS Convention on SALW	Arms Trade Treaty
<b>5. Record Keeping</b>	
<p><b>Article 9:</b> 1] National Database and Registers of SALW: 1) to be established by Member States: 2] Specificity of information to be recorded</p> <p><b>Article 10:</b> Regional Database and Registers</p> <p><b>Article 11:</b> Register of Arms for Peace Operations</p> <p>-Records to permanently be kept in the register.</p>	<p><b>Article 12:</b> State Party to maintain national records, pursuant to its national laws a) issuance of export authorizations or its actual exports b) transfers to Its territory as final destination or to transit or trans-ship under its jurisdiction.</p> <p>-Details of Information to be recorded          -Records to be kept for minimum of 10 years</p>
<b>6. Reporting</b>	
<p><b>Article 5:</b> President of ECOWAS Commission to produce annual reports on Exemption Process</p> <p>-ECOWAS Commission President to produce annual report on the workings of the regional SALW database</p> <p>-ECOWAS Commission President to produce annual report on the status of implementation of the Convention</p> <p>-Member States to submit annual report on the SALW Control activities and convention implement</p>	<p><b>Article 11:</b> States to report to other States through the ATT Secretariat on measures taken to prevent diversion.</p> <p><b>Article 13:</b> 1] States to report to ATT Secretariat on measures taken to implement the Treaty. States to report on measures taken that :have proven effective to prevent diversion. 3) State to submit annually report concerning authorized or actual exports and imports of</p>

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The ECOWAS Convention on SALW and the ATT:  
Complementarities and Synergies (contd.)

431	1. Arms Trade Treat
<b>7. International Cooperation and Exchange of Information</b>	
<p><b>Article 12:</b> 1] Strengthen dialogue and cooperation with manufacturers, suppliers, competent organization to ensure support, respect for and compliance with the Convention.</p> <p><b>Article 19: Tracing</b> 11 Member States shall exchange Information on illicit SALW, on seized SALW, as well as trafficking in weapons. 21 Member States shall exchange the following data on a regular basis: a) on manufacture, b) on transfers, c) authorised dealers and brokers, d) on existing stockpiles</p> <p><b>Article 22:</b> Strengthening of Border Control: 1) Member States, in collaboration with ECOWAS Commission to strengthen cooperation among border security officials</p> <p><b>Article 24:</b> ECOWAS Commission to promote and facilitate cooperation among agencies relevant to SALW Control within and among States</p>	<p><b>Article 11:</b> Importing, transit, transshipment and exporting States to cooperate and exchange information to mitigate the risk of diversion</p> <p><b>Article 1</b> 11 States Parties to cooperate with each other, consistent with their respective security interests and national laws, to effectively implement the Treaty.</p> <p>21 States Parties to facilitate international cooperation, including exchanging information on matters of mutual interest regarding the Treaty implementation</p> <p>31 States Parties shall, where jointly agreed afford one another the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty</p>

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The ECOWAS Convention on SALW and the ATT:  
Complementarities and Synergies (contd.)

<b>8. International Assistance</b>	
<p><b>Article 25:</b> ECOWAS Commission to facilitate and seek assistance for the implementation of the Convention</p>	<p><b>Article 16:</b> 1] In implementing the Treaty, each State Party may seek assistance. Each State Party in a position to do so shall provide such assistance, upon request. 2] State Parties may request, offer or receive assistance through, inter alia, the United Nations, international or regional organizations</p> <p>3] A voluntary trust fund established to assist requesting States Parties requiring international assistance</p>
<b>9. Institutional Arrangements</b>	
<p><b>Article 24:</b> Member States to establish National Commission on SALW based on <b>wasting ECOWAS Guideline</b></p> <p><b>Article 25:</b> The ECOWAS Commission is responsible for supporting and supervising the implementation of the Convention</p>	<p><b>Article 18:</b> The Treaty establishes a Secretariat to assist <b>States Parties in the effective implementation of the Treaty by performing administrative functions</b></p> <p><b>Article 5:</b> 1] States Parties to designate competent national authorities in order to have an effective and transparent national control system regulating transfer of arms. 2] State Party to designate one or more national points of contact to exchange information on matters related to the implementation of the Treaty</p>

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Provision/Scope	ECOWAS Convention on SALW	ATT
1 Manufacture		
2 Marking		
3 Corruption		
4 Record Keeping		X
5 Civilian Possession		
6 Brokering		X
7 Stockpile Management		-
8 Identification of Surplus		
9 Border Control	X	
10 DDR Programs		
11 Public Awareness		
12 Information Exchange		-
13 Collection, Seizure, Confiscation and Destruction		
14 International Transfer		
15 Sanctions		
16 Assess Risk of Diversion		
IN67 End User Certificate		
18 National Focal Authority		
19 International Cooperation		
20 International Assistance		X
21 Disposal of Surplus		
22 Tracing		
23 Criminalization		

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Harmonized ECOWAS Convention on SALW and  
ATT Practical Implementation: **Identified Challenges**

1-111111v

**Inadequate sensitization of the Parliamentary**

**Inadequate knowledge on the synergies and complementarities of th  
ECOWAS Convention on SALW and the ATT**

**disparity between decision makers and operational national agenci  
evident in creation of parallel agencies**

**communication, collaboration, cooperation and coordination gap  
among national agencies related to arms control**

**inadequate resources deployed towards the arms control  
Implementation**

**inadequate capacity of national implementing agencies**

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## **ANNEX 3: OUTLINE OF A MODEL NATIONAL INSTRUMENT ON THE IMPLEMENTATION OF THE ARMS TRADE TREATY AND THE ECOWAS CONVENTION ON SALW AND OTHER RELATED MATERIALS.**

### **CHAPTER ONE**

1. DEFINITIONS: - For the underlisted key terms and their definitions, guidance may be sought from annexes 2 and 3 below.

- Ammunition or munition
- Armoured combat vehicle
  - Attack helicopter
  - Battle tank
- Combat aircraft
- Conventional arms
- Large-calibre artillery system
- Light weapons
- Minister
- Missile and missile launcher
  - Parts and components
  - Secretariat
- Small arm
- Transfer

### 2. PURPOSE OF THE ACT

Establish common international standards for regulating or improving international trade in conventional weapons 116 Arms Trade Treaty - Ratification and Implementation Guide for African States

- Prevent and eradicate the illicit trade in conventional arms
  - Prevent the diversion of conventional arms

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### 3. SCOPE OF THE ACT

- Applies to all conventional arms
- Does not apply to the following conventional arms.

## **CHAPTER TWO**

### 4. ESTABLISHMENT OF NATIONAL CONTROL SYSTEM

Establish a data base containing following information on:

- i. Ammunition or munitions discharged by conventional arms
- ii. Parts and components of conventional arms
- iii. Conventional arms

Type of information maintained on ammunition or munition:

- i. Calibre
- ii. Quantity
- iii. Head-stamp marking
- iv. Batch numbers/serial numbers
- v. Date of manufacture
- vi. Name of manufacturer and contact details
- vii. Details of export license:
  1. Date of issue
  2. License number
  3. Country of export
  4. Port of export
  5. Port of import
  6. Country of import
  7. End-user certificate
  8. Route of transfer

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Type of information maintained on parts and components:

- i. Description of part or component
- ii. Serial number of part or component, if available
- iii. Date of manufacture
- iv. Name of manufacturer and contact details
- v. Details of export license:
  - 1. Date of issue
  - 2. License number
  - 3. Country of export
  - 4. Port of export
  - 5. Port of import
  - 6. Country of import
  - 7. End-user certificate
  - 8. Route of transfer

Type of information maintained on conventional arms -

- i. Description of part or component
- ii. Serial number of part or component, if available
- iii. Date of manufacture
- iv. Name of manufacturer and contact details
- v. Details of export license:
  - 1. Date of issue
  - 2. License number
  - 3. Country of export
  - 4. Port of export
  - 5. Port of import
  - 6. Country of import
  - 7. End user certificate
  - 8. Route of transfer



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## CHAPTER THREE

### 5. PROHIBITIONS ON THE EXPORT OF CONVENTIONAL WEAPONS

- Not to authorise transfer in contravention of UN measures or embargoes
- Not to authorise transfer in contravention of a country's obligations under international agreements
- Not to authorise transfer if it has knowledge the arms will be used to commit acts of genocide, crimes against humanity etc.

### 6. PRIOR EXPORT ASSESSMENT

- The undermining of peace and security
- Arms and/or ammunitions could be used to-
  - i. Commit or facilitate a serious violation of international humanitarian law
  - ii. Commit or facilitate a serious violation of international human rights law
  - iii. Commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism
  - iv. Commit or facilitate an act constituting an offence under international conventions or protocols relating to organised crime.
  - vii. 118 Arms Trade Treaty - Ratification and Implementation Guide for African States
  - viii. Commit or facilitate acts of violence against children or gender-based violenceMitigate risks in above items
- The balancing of risk
- Export authorisations are detailed and issued prior to export
- Revoking of authorisations already issued if new information becomes available.

### 7. IMPORTS

- Issue of end-user certificate
- Record of imported conventional arms

- 
- Information request

#### 8. TRANSIT OR TRANS-SHIPMENT

Application for trans-shipment permit or license -

- i. Details of exporter
- ii. Details of importer
- iii. Details of shipment
- iv. Details of route
- v. Copy of end-user certificate
- vi. Copy of export license
- vii. Copy of import license

#### 9. BROKERING

- Registration of broker
  - Permit for each transaction
- Extra-territorial jurisdiction  
Penalties

#### 10. PREVENTION OF DIVERSION

Develop programmes on managing conventional arms

Exchange of information

Address instances of diversion -

- i. Notify affected parties
- ii. Investigate diversion
- iii. Apply penalties

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## **CHAPTER FOUR**

### 11. RECORD KEEPING

- Maintain records of information under sections 4, 5, 6 7, 8, 9 and 10
- Records maintained for at least 10 years

### 12. REGULATIONS

- [Develop as needed to supplement and clarify legislation]

### 13. REPORTING

Report on:

- i. National laws
- ii. National control lists
- iii. Other regulations
- iv. Administrative measures
- v. Measures to address diversion
- vi. Annual report to Secretariat by 31 May

## **CHAPTER FIVE**

### 14. MISCELLANEOUS PROVISIONS

### 15. OFFENCES AND PENALTIES

- Contraventions of the provisions of this Act
- Penalties

### 16. JURISDICTION OF THE COURT

- Jurisdiction of lower courts

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17. ACT BINDS THE STATE

18. REPEAL OF LAWS

19. SHORT TITLE AND COMMENCEMENT

# ANNEX 4: REOWAS CONVENTION ON SMALL ARMS AND LIGHT WEAPONS, THEIR AMMUNITION AND OTHER RELATED MATERIALS

## CHAPTER I: DEFINITIONS AND OBJECTIVES

### Article 1: Definitions

For the purpose of this Convention:

1. **LIGHT WEAPONS:** Portable arms designed to be used by several persons working together in a team and which include notably:
  - heavy machine guns;
  - portable grenade launchers, mobile or mounted;
  - portable anti-aircraft cannons;
  - portable anti-tank cannons, non-recoil guns;
  - portable anti-tank missile launchers or rocket launchers;
  - portable anti-aircraft missile launchers;
  - mortars with a calibre of less than 100 millimetres;
2. **SMALL ARMS:** Arms used by one person and which include notably:
  - firearms and other destructive arms or devices such as an exploding bomb, an incendiary bomb
  - or a gas bomb, a grenade, a rocket launcher, a missile, a missile system or landmine;
  - revolvers and pistols with automatic loading;
  - rifles and carbines;
  - machine guns;
  - assault rifles;
  - light machine guns.
3. **AMMUNITION:** Devices destined to be shot or projected through the means of firearms including among others:
  - cartridges;



projectiles and missiles for light weapons;

mobile containers with missiles or projectiles for anti-aircraft or antitank single action systems;

4. OTHER RELATED MATERIALS: All components, parts or spare parts for small arms or light weapons or ammunition necessary for its functioning; or any chemical substance serving as active material used as propelling or explosive agent;
5. ILLICIT: Covers all that is carried out in violation of this Convention;
6. MARKING: Inscriptions permitting the identification of arms covered by this Convention;
7. TRACING: Indicates the systematic monitoring of the movements of small arms and light weapons and their ammunition and other related materials, from the manufacturer until the end user, with a view to helping member States competent authorities to detect illicit manufacture and trading;
8. BROKERING: Work carried out as an intermediary between any manufacturer, supplier or distributor of small arms and light weapons and any buyer or user; this includes the provision of financial support and the transportation of small arms and light weapons;
9. TRANSFER: Includes import, export, transit, transshipment and transport or any other movement whatsoever of small arms and light weapons, ammunition and other related materials from or through the territory of a State;
10. NON-STATE ACTORS: Such as any actor other than State Actors, mercenaries, armed militias, armed rebel groups and private security companies.
11. SMALL ARMS AND LIGHT WEAPONS: In this Convention this shall be deemed to include ammunition and other related materials.

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## **ANNEX 5: DEFINITIONS OF THE UNITED NATIONS REGISTER ON CONVENTIONAL ARMS**

Paragraph 2 (a) of the annex to General Assembly resolution 46/36 L identifies the following seven categories of equipment on which Member States are requested to supply data to the Register: battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles or missile systems. Based on the reports of the Groups of Experts convened in 1994, 1997, 2000, 2003 and 2006, the categories and their definitions to be used for reporting to the Register are as follows:(31)

### **I. Battle tanks**

Tracked or wheeled self-propelled armoured fighting vehicles with high cross-country mobility and a high-level of self-protection, weighing 16.5 metric tons unladen weight, with a high muzzle velocity direct fire main gun of at least 75 millimetres calibre.

### **II. Armoured combat vehicles**

Tracked, semi-tracked or wheeled self-propelled vehicles, with armoured protection and cross-country capability, either: (a) designed and equipped to transport a squad of four or more infantrymen, or (b) armed with an integral or organic weapon of at least 12.5 millimetres calibre or a missile launcher.

### **Large-calibre artillery systems**

Guns, howitzers, artillery pieces combining the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems, capable of engaging surface targets by delivering primarily indirect fire, with a calibre of 75 mm and above.

### **IV. Combat aircrafts**

Fixed-wing or variable-geometry wing aircraft designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defence or reconnaissance missions. The term "combat aircraft" does not include primary trainer aircraft, unless designed, equipped or modified as described above.

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**V. Attack helicopters**

Rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons, including versions of these aircraft which perform specialized reconnaissance or electronic warfare missions.

**VI. Warships**

Vessels or submarines armed and equipped for military use with a standard displacement of 500 metric tons or above, and those with a standard displacement of less than 500 metric tons, equipped for launching missiles with a range of at least 25 kilometres or torpedoes with similar range.

**VII. Missiles and missile launchers**

- a) Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometres, and means designed or modified specifically for launching such missiles or rockets, if not covered by categories I through VI. For the purposes of the Register, this sub-category includes remotely piloted vehicles with the characteristics for missiles as defined above but does not include ground-to-air missiles.
- b) Man-Portable Air-Defence Systems (MANPADS).



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