NIGERIA AND THE ECOWAS CONVENTION ON SMALL ARMS AND LIGHT WEAPONS: A CRITICAL APPRAISAL

BY

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DEPARTMENT OF POLITICAL SCIENCE, UNIVERSITY OF NIGERIA NSUKKA

FEBRUARY, 2010
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SUPERVISOR: PROF. JONAH ONUOHA Ph.D.

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APPROVAL PAGE

Chilaka, Francis Chigozie a postgraduate student in the Department of Political Science with Registration Number PG/MS.c/08/48667 has satisfactorily completed research requirements for the award of Master of Science in Political Science (International Relations). The work embodied in this thesis is original and has not been submitted in part or in full for another degree of this or any other university, to the best of our knowledge:

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Prof. Jonah Onuoha Ph.D       Prof. E. O. Ezeani, Ph.D
(Supervisor)                  (Head of Department)

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External Examiner             Dean
DEDICATION

To Maria Chilaka- A loving mother and to my beloved father Mr. Leonard Chilaka, of happy memory.
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I have encountered many people and places in the course of this study to whom I owe a lot of gratitude. First, to the Almighty God who granted me the opportunity of staying alive to see the completion of this work.

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To the rest of the people whose works I cited and others I cannot mention here. I say may God bless you. I remain responsible for any short falls to the content of this thesis.

Chilaka, Francis Chigozie
University of Nigeria Nsukka
February, 2010.
### ACRONYMS

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<tr>
<td>AIGP</td>
<td>Assistant Inspector General of Police</td>
</tr>
<tr>
<td>ATT</td>
<td>Arms Transfer Treaty</td>
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<tr>
<td>AU</td>
<td>Africa Union</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
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<td>ECOMOG</td>
<td>Economic Community of West African Monitoring Group</td>
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<td>ECOSAP</td>
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<td>IGP</td>
<td>Inspector General of Police</td>
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<td>MRU</td>
<td>Mano River Union</td>
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<td>MEND</td>
<td>Movement for the Emancipation of the Niger Delta</td>
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<tr>
<td>NDPVF</td>
<td>Niger Delta Peoples Volunteer Force</td>
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<td>NIS</td>
<td>Nigerian Immigration Service</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<tr>
<td>PCASED</td>
<td>Programme of Cooperation and Assistance for Security and Development</td>
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<tr>
<td>RPG</td>
<td>Rocket Propelled Grenade</td>
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<tr>
<td>SALW</td>
<td>Small Arms and Light Weapons</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SPDC</td>
<td>Shell Petroleum Development Company</td>
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<td>SAM</td>
<td>Surface to Air Missiles</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNPOA</td>
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ABSTRACT

One of the biggest security challenges facing Africa and Nigeria in particular is the proliferation of small arms and light weapons (SALW). In Nigeria, the trade in illegal SALW has fuelled ethnic clashes and brought about unrest in the Niger Delta region. This development calls for serious attention from states and regional organizations, little wonder the 15 ECOWAS member states on 14th June 2006 adopted a Convention on SALW with the central objective of preventing and combating the excessive and destabilizing accumulation of SALW within the sub-region. The central aim of this study was to critically appraise the extent Nigeria has implemented the ECOWAS Convention on SALW. More importantly, the study was designed to ascertain the extent the Nigerian Firearms Act of 1959 has helped in curbing arms proliferation in Nigeria. The study was guided by two research questions and two hypotheses. To analyse the issues raised, the study was anchored on the regulative capability analytical framework of the General Systems Theory. The Regulative Capability addresses the capacity of the political system to exercise control over individuals and groups throughout the society. The theory x-rays the inability of the Nigerian political system to regulate the activities of its citizens and the proliferation of SALW. Our research design was non-experimental. We made use of both primary and secondary sources of data. The primary sources include arms seizure data from the Nigerian Customs, Nigerian Police Force, and ECOWAS Secretariat among others. We relied heavily on secondary sources such as current textbooks, journals, internet materials, conference and unpublished papers dealing on SALW. To ensure the reliability and validity of instruments, the technique of content analysis was rigorously and systematically applied. After a detailed review of extant literature and analysis of available data, the following findings were made; first, that the fight against excessive and destabilizing accumulation of SALW within ECOWAS sub-region is still a mirage in Nigeria. This is because an estimated three million SALW are in circulation in Nigeria. The study further revealed that since 2006 that the ECOWAS Convention on SALW came into being, Nigeria has organized just one illegal arms collection programme. That is, the recent Amnesty programmes organized by the Yar’Adua administration to pardon militants in the Niger Delta and have them submit their arms. A paltry 2760 arms were surrendered. Organizing just one arms collection programme since 2006, revealed the study is not impressive for a country that records armed violence in torrents. It was further revealed that institutional mechanism put in place in Nigeria as recognized by the Convention to combat proliferation of SALW in Nigeria is handicapped by lack of autonomy and funds. Finally, the study revealed that the penalties for breaching the law as recognized by the Firearms Act of 1959 particularly in relation to fine has become obsolete. The penalty is often insufficient to ensure deterrence and enforcement in the event of breach.
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INTRODUCTION

The proliferation of small arms and light weapons (SALW) has become one of the most urgent security and developmental challenges in Africa today. The uncontrolled proliferation and widespread availability of small arms is a development that is affecting virtually every African country and poses threats to domestic and regional security. The problems posed by small arms proliferation are complex and multidimensional in character. They are entangled with other broad security and societal issues such as conflict prevention and resolution, poverty, gender, cultures of violence, governance issues, criminal activity and links to terrorism. It also has serious implications for human rights and humanitarian activities (Ogaba, 2005: 9-10).

According to Gamba, it is believed that more than 500 million SALW are in existence globally, and these are produced in large numbers in more than 70 countries (www.iss.co.za/pubs/books/govarmsblurd.html). These weapons have fueled dozens of intra-state and local conflicts around the globe; killing, injuring and displacing millions of people primarily women and children. The damage and destruction caused by small arms in Africa is indeed astounding. Armed conflicts, which have been carried out largely with small arms in Africa, have been the most visible manifestation of the devastation caused by arms. According to World Health Organization (WHO), in 2000 alone, about 167,000 Africans died as result of conflicts (http://who.int/violence_injury_prevent:on/violence/world_report/en/).

Over the past several years, the annual production of small arms has averaged between 7 and 8 million weapons with the United States and Russia Federation accounting for about 5 million of the new production. It is estimated that there are in the
region of 650 million small arms in circulation. Out of that an estimated 5 percent of the total, is in sub-Saharan Africa (Ogaba, 2005: 11). The surprising finding however, as reported by the Small Arms Survey: Year Book 2001 is that only about 2 percent of the small arms in Africa (about 600,000) are thought to be in the hands of armed groups or insurgents. Thus, the relatively few number of weapons that have brought devastation and destruction in various parts of Africa highlights the lethal damaging capabilities of small arms weapons.

Besides being a direct cause of deaths, the effects of small arms are far-reaching when consideration is given to its economic cost, social upheavals, resource allocation away from human needs, and the undermining of the legitimacy of the states in Africa. According to the Oxfam International, armed conflict costs Africa around $18 billion per year (www.oxfam.org/en/policy/bp107_africa_missing_billions). There is also a psychological dimension to the damage that is being perpetrated by small arms proliferation and use. Increasingly, across large parts of Africa, there is the growing perception that the well-being and security of individuals and communities can only be guaranteed through the possession of small arms.

In West Africa, the evidence of proliferation is an extreme concern. Out of the 650 million SALW circulating globally, some estimated 7 million are in West Africa, and 77,000 small arms are in the hands of major West African insurgent groups (Small Arms Survey, 2003: 82). In West Africa, small arms are easily obtainable and at low prices. For example, according to military sources in Nigeria, pistols can be obtained for between N3, 000 (about US$25) and N7, 000 (about US$58), depending on the type, seller, and area of purchase. In zones of conflict such as the Mano River Union (MRU), which is
comprised of Guinea-Conakry, Liberia, and Sierra Leone, small arms appear easier to obtain illicitly than in more stable areas, and at considerably cheaper prices, although these can be extremely volatiles due to market conditions (Ebo, 2003).

Proliferation has been facilitated by legal means. During conflict, some states in West Africa have liberalized gun possession laws in order to stimulate civilian arming. Arms were directly distributed to paramilitary groups by governments in order to fight rebel forces during the civil wars in Côte d’Ivoire, Liberia and Sierra Leone, but legislation was also liberalized, and proved a major driver of small arms diffusion. Finally, the fragmentation of the political and economic space in West Africa has shaped the availability and circulation of SALW. The deterioration of many West African states’ capacity to enforce the rule of law has blurred the boundaries between legal and illicit markets, enabling a thriving trade in SALW. Politicians have even been known to acquire weapons from illegal dealers to arm security personnel during election season (Francis, 2008).

There are currently several initiatives in the world towards controlling the trafficking and proliferation of small arms. There is the United Nations Programme of Action on Small Arms (UNPOA). There are also some regional and sub-regional initiatives that have been undertaken under the auspices of the African Union (AU), Economic Community of West African States (ECOWAS), Southern African Development Community (SADC), etc. All geared towards controlling the proliferation and limiting the impacts of SALW.

The purpose of this study is to critically assess the extent the Nigerian state has implemented the ECOWAS Convention on Small Arms and Light Weapons, their
Ammunition and other Related Materials, in order to ascertain the extent it has gone in curbing small arms proliferation in the country. More importantly, the study will critically analyse the extent the 1959 Firearms Act has helped in curbing arms proliferation in Nigeria.

1.1 Statement of Problem

Uncontrolled accumulation and spread of SALW poses a threat to peace and security and has reduced the prospects of sustainable development throughout the sub-region of West Africa. Free cross border activity coupled with relatively weak administrative legislative and regulatory measures on weapons within each country have contributed to the indiscriminate proliferation of SALW from abroad and from within the sub-region. Recognizing the indiscriminate proliferation of weapons fuelling these conflicts had a negative impact on regional development and human security, ECOWAS member states adopted a *Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa* at the 21st Session of the meeting of Heads of State and Government of ECOWAS on 30th October, 1998 for a renewable period of three years; It was renewed successively in 2001 and 2004 (Mohammed, 2008).

On June 14, 2006, the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons was transformed into a convention and became the *ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials*. These are all geared towards curbing the proliferation of SALW within the ECOWAS sub-region.

Despite these efforts, Jennifer (2007) noted that there are an estimated seven to ten million illicit small arms and light weapons in West Africa. She goes further to state
that there are an estimated one million to three million small arms and light weapons in circulation in Nigeria alone. Civilians possess the majority of weapons in the country. Millions of Nigerians have been killed or displaced as a result, and an immeasurable amount of property has been destroyed. SALW have been used to grossly violate human rights, to facilitate the practice of bad governance, to subvert constitutions, to carry out coups d’état and to create and maintain a general state of fear, insecurity and instability. They are also being employed for non-political and non-conflict-related crime and violence.

The oil-rich Delta region of Nigeria has seen conflict since 2003 involving well-armed militia groups motivated in part by economic interest in stolen crude oil. These groups use a range of sophisticated weapons, such as semi- and fully automatic rifles, alongside more traditional weapons to carry out deadly and paralysing attacks on oil and gas installations. They have killed scores of security officials, damaged oil facilities and infrastructure, and shut down oil production. They have also taken foreign oil workers hostage. Hundreds of people have been killed in the violence, which has also resulted in the displacement of thousands and the destruction of hundreds of properties.

In fact, most of the ethno-religious violence in Nigeria has been fuelled by the use of small arms. More appallingly, cases of gun running have been rampant in Nigeria as militant groups openly brag on how they procure their arms.

It is against this background, we raise the following research questions:

1. To what extent has Nigeria implemented the ECOWAS Convention on Small Arms and Light Weapons?
2. To what extent has the Nigerian fire arms law curbed the proliferation of small arms and light weapons in Nigeria?

1.2 Objectives of the Study

The central objective of this study is to critically appraise the ECOWAS Convention on Small arms and Light weapons, their Ammunition and other Related Materials in the West African sub-region since it was implemented. However, the study is guided by the following specific objectives:

1. To ascertain the extent Nigeria has implemented the ECOWAS Convention on Small Arms and Light Weapons.
2. To ascertain the extent the Nigerian Fire Arms law has curbed the proliferation of small arms and light weapons in Nigeria

1.3 Significance of the Study

Existing scholarship on small arms and light weapons concentrated attention on the causes of small arms proliferation, its fatality, and economic consequences and how it has fuelled dozens of war all over the world and Africa in particular. Little attention was paid to how countries mostly in Africa tries to contain the incidence of SALW proliferation. More importantly, the ECOWAS Convention on Small Arms and Light Weapon, their Ammunition and other Related Materials as a policy statement to counter arms proliferation in the West Africa sub-region has not been properly assessed since it was adopted by West African leaders vis a vis arms proliferation in Nigeria.
These unattended issues help us to establish three basic significance of this study. First, by appraising Nigeria’s effort at implementing the ECOWAS Convention on SALW in the West African sub-region, this study is expected to identify the pitfalls inherent in the Convention and how to plug them and influence the choices of the reviewers of the document whenever occasion calls for that.

Secondly, the study promised to x-ray various efforts Nigeria has made to curb the incidence of SALW. Most scholars are wont to argue that Africa, mostly sub-Saharan Africa is not doing enough to curb the incidence of SALW proliferation. Perhaps, this study will focus on efforts made so far in Nigeria to curb arms proliferation.

Finally, this study will be important for scholars interested in strategic studies, particularly in the West African sub-region. Experts in security studies will find this study very useful. This is because the issue of security is central to the study.

1.4 Literature Review

The term “small arms and light weapons” has generated a lot of scholarly debate. To address the issues raised in the statement of the problem, we shall adopt a thematic approach that encompasses the meaning of SALW, the concept of proliferation, etc, in our review of literature. The literature will revolve around the following issue areas:

A. The Concept of Small Arms and Light Weapons
B. The Meaning of Arms Proliferation
C. Factors Militating Against Arms Control in Nigeria.
The Concept of Small Arms and Light Weapons

Scholarship on small arms and light weapons has attracted a great deal of scholarly contributions. Scholars like (Ogaba, 2005; Obasi, 2001, 2003; Ochoche, 2002; Jennifer and Jonas, 2007; Adedeji, 2003; Melina, 2006; Alhaji, 2004; Eric, 2007; Francis, 2008; Mohammed, 2008; Victor and Ufot-Okeke, undated) have contributed considerably on this.

There is no universally accepted definition of SALW. This is because the understanding of what constitutes these categories of weapons has undergone some changes due to the dynamics of technological development, however, good working definitions abound. These tend to describe such arms and weapons either by their configuration, characteristics, size, user perspective or a combination of some of these.

The Royal Military College of Science (RMCS) Handbook (1993) on weapons and vehicles defines small arms as:

- Man portable, largely shoulder controlled weapons of up to 12.7mm (0.5”) caliber; such weapons generally have a flat trajectory and an effective operational range of 0-800m, although this varies considerably with caliber and weapon type, certain weapons can also provide neutralizing fire out to 1800m.

The UN Panel of Governmental Experts on Small Arms (1997) considers SALW as those weapons ranging from knives, clubs and machetes to weapons particularly below the caliber of 100mm-small- small arms are those weapons manufactured to military specification and designed for use by one person, whereas light weapons are those used by several persons working as a crew.

The Bureau of Political-Military Affairs (2001) of the US Department of State Describes SALW “as encompassing man-portable firearms and their ammunition
primarily designed for individual use by military forces as lethal weapons.” It further explains that a typical list of small arms would include self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns.

Michael (1994) views small arms as “weapons that can be carried by an individual. This includes everything from revolvers and pistols to machine guns, light anti-tank weapons and shoulder fired surface-to-air missiles.” From a utilitarian perspective, E.J. Laurence views them simply as those weapons that can be carried by an infantry soldier or perhaps a small vehicle or pack animal (http://www.miis.edu/cns.html).

The North Atlantic Treaty Organization (NATO), in 1983, enlarged the original world War II definition of small arms as encompassing “all crew-portable direct fire weapons of a caliber less than 50mm and which include secondary capability to defeat light armour and helicopters.” The NATO definition brings most automatic assault rifles such as Ak-47 series, USM16, the Israeli Uzi rifle, as well as all types of rocket-propelled grenade launchers (RPGs), machine/sub-machine guns, shoulder fired surface-to-air missiles (SAMs) under the category of small arms (NATO quote in Obasi, 2001). It has been argued that the ECOWAS Small Arms Moratorium left out weapons such as knives, axes and clubs in its categorization of small arms although these weapons, which are traditionally made by local blacksmiths, are readily the first set of weapons used in escalating violent conflicts and crimes at the community level. An inclusive definition of SALW should embrace these categories of weapons (Ochoche, 2001).

It is clear from the above that there is a lack of consensus in these definitions of SALW. Indeed, Joao Honwana, Joao and Lamb remark that:
There seems to be a lack of consensus in the literature with respect to identifying a small arm as opposed to a standard conventional weapon. This has led to the formulation of an alternative concept of “light weapons” which emphasizes a more technologically sophisticated category. However, despite the emergence of the light weapons concept, defining small arms still lacks clarity and even the distinction between “small arms” and “light weapons” is a matter of debate. There seems to be a certain amount of uncertainty as to where small arms end and light weapons begin, or whether there is an overlap between the two (http://ccrweb.uct.ac.za/staff papers/index.html.)

Despite the diverse views of scholars, there is a commonality of characteristics that permeates the various definitions. According to Sunday Ochoche, it is from these characteristics that the concept of small arms and light weapons can be better understood. Citing Lodgard Sverre and Richard Ivor Fung, he identifies these common elements in all the definitions as follows:

First, the focus is on lethal equipment, i.e. weapons and their ammunition, generally used by military and paramilitary forces, excluding items such as knives and hunting rifles. Second, the emphasis is on weapons that are man-portable or transportable by light vehicles, i.e. on the weight and size of the equipment. Third, this equipment is easy to maintain, can function without much logistical back-up and requires light training for use. Fourth, to be militarily and politically relevant, the definition comprises weapons that are in frequent use, i.e. “weapons that really kill.

The conceptualization of SALW along these lines elucidates the characteristics that lead to the categorization of these weapons as small and light as well as their lethality.
The Concept of Proliferation

Proliferation is defined as the sudden increase in the number or amount of an entity. Used in various contexts, it implies rapid expansion, abundance or multiplication. When used in relation to SALW, it describes the spread of the weapons, generally, from one country to another or from one group or individual to another. Proliferation of weapons can be defined as their spread from one group of owners or users to another. This can be horizontal, which refers to the acquisition of weapons systems by states not previously possessing them, or vertical, which refers to increases in the arsenals of these states already possessing particular weapons (Obasi, 2001)

Proliferation, as a mode of arms spread or multiplication is facilitated by certain intermediaries in response to both legal and illegal demands. The Graduate Institute of International Studies, Geneva (2001) observes that:

SALW do not proliferate by themselves- They are sold, resold, perhaps stolen, diverted, and maybe legally or illegally transferred several more times-, At each junction in this complex chain of legal and illicit transfer, people-brokers, insurgents, criminals, government officials and /or organized groups – are active participants in the process.

The UN acknowledges that massive acquisition and accumulation of arms by a state could enhance proliferation. It however, qualifies the accumulation with such terms as “excessive” and “destabilizing” under certain conditions. It is noted in the report by the Panel of Government Experts on Small Arms (1997) that:

The mere accumulation of weapons is not a sufficient criterion by which to define an accumulation of weapons as excessive or destabilizing, since large numbers of weapons that are under the strict and effective control of a responsible state do not necessarily lead to violence.
Conversely, a small number of weapons can be destabilizing under certain conditions.

According to Ogaba (2005) proliferation refers to the excessive accumulation and illegal spread of weapons which could have destabilizing effect on states. Those in government armories meant for use by the security forces for the defense of the state and maintenance of security constitute legal holdings. He goes further to state that there are three established and conventional modes of arms transfer. The first involves the legal transfer of arms in conformity with all legal formalities, usually from one state actor to another or their accredited agents. The second involves what has been dubbed “gray channels” of transfer. Gray channels, in the words of Frederic Pearson (1994) are arrangements by which:

Government officials look the other way as their agencies arrange for arms to be sent to foreign groups and countries for profit, strategic calculations or both.

This third mode is that of black market transfers, involving “unlawful transfers by private arms dealers and smugglers.”

The cold War era witnessed a lot of arms build-up, particularly small arms, which were not intended for the direct use of the superpowers, but were generously supplied to their surrogates, particularly in Africa, to fight proxy wars. Covert transfers of arms to foreign insurgent groups and freedom fighters were also a frequent feature of the Cold War era. Writing about weapons proliferation in Afghanistan, for instance, Lora Lumpe observes as follows:

Classified USA government operations to arm various Muhajideen factions fighting in Afghanistan against Soviet invaders began in 1979. Before it
ended in 1991, the CIA had shipped via Pakistan an estimated 400,000 AK-47 assault rifles; an undisclosed quantity of stinger portable anti-aircraft missile launchers and missiles; vast quantities of Italian-made anti-personnel mines; 60,000 archaic rifles; 8,000 light machine guns and over 100,000,000 rounds of ammunition from Turkey; 40-50 Oerlikon Swiss-design anti-aircraft guns; mortars from Egypt; Blowpipe surface – to air missiles from Britain; and 100,000 rifles from India (http://www.nisat.org/publications/curbingthe-proliferationofsma.html).

Some attempts have been made to distinguish between licit and illicit arms. There is however, no universally accepted definition of what is licit and what is illicit in the context of arms transfers, particularly because both analysts and the governments of various nations interpret the relevant aspects of international law differently. While some analysts consider as legal sales, any arms transfers that are authorized by national government authorities, a more appropriate definition advanced by Lora Lumpe is that legal transfer may be defined as “those that fully observe the national laws of the arms exporting, transit and importing countries as well as all applicable international laws.”

Illicit arms, on the other hand, are defined as all arms being procured, transferred or used in violation of national laws of the countries of export, transit and import as well as any applicable international laws or more briefly as “arms transfers that violate either national or international laws.” It can be deduced from the explication above that arms in themselves are, strictly speaking, not inherently licit or illicit and that the determining factor is the compliance of their status, at a particular point in time, with relevant national and international laws. Lora Lumpe observed that:

…the interaction between legal and illegal markets are manifold. Arms that are originally exported
legally but are not properly tracked or secured often fall into illegal circulation – the diversion, theft and capture of state security forces’ arms are major sources of black market supply around the world.  

The complexities arising from these interactions between legal and illegal markets, and the transformation of arms from a licit to an illicit status or vice versa constitute a major difficulty in dealing with the problems associated with the proliferation of SALW.

According to Jennifer and Jonas (2007) given the difficulty in legally owning a gun, the majority of small arms in Nigeria are believed to be held illegally. Their illegality makes it difficult to track flows and possession. Weapons transit into the country across land borders and via sea ports. Sources of small arms include arms dealers, serving and retired military and police officers, returning peacekeepers, armed groups across borders, and other individuals. These weapons transit into the country and into the hands of armed groups, national dealers, political and community leaders, and individuals. Craft production provides a domestic source of small arms. Demand is the key to understanding the trade: as long as insecurity persists, and economic and political opportunities for gain exist through the use of force, demand for small arms will continue.  

While national security connotes the assurance of safety of life and property, and the freedom of citizens from pervasive forms of fear, the proliferation of SALW, on the other hand, has the potential to destroy the lives of citizens and constitute a veritable form of threat to the values that are cherished and protected. In states where appropriate national institutions are either not in place, or are weak, arms proliferation further undermines the authority of the state.
According to Ogaba (2005) while national security connotes the assurance of safety of life and property, and the freedom of citizens from pervasive forms of fear, the proliferation of SALW, on the other hand, has the potential to destroy the lives of citizens and constitute a veritable form of threat to the values that are cherished and protected. In states where appropriate national institutions are either not in place, or are weak, arms proliferation further undermines the authority of the state.

The presence of guns is capable of affecting the behavior and attitudes of individuals and groups in a society. The easy availability and accessibility of arms could increase cases of homicide in a nation. According to Small Arms Survey (2001) availability and firearms-related deaths in industrialized countries shows that in 1998, the USA, with 41 firearms per 1000,000 citizens had 13.47 percent firearms deaths per 100,000 citizens; in contrast Japan, that had 0.30 firearms per 100,000 citizens reported 0.07 percent firearms deaths per 100,000 citizens. The significantly high incidence of the possession of firearms provides a partial explanation why, there are more firearms homicides in the USA in one day than in Japan in one year. The pervasiveness of guns in the USA has had tragic consequences, with almost a million dead from firearms-related injuries alone since the 1960s.

Factors Militating Against Arms and Efforts to Curb SALW Proliferation in Nigeria

Musa (1999) poverty and criminality are the base of SALW proliferation in Nigeria is widespread poverty, despite Nigeria’s status as a major oil exporting country. A sharp contradiction exists between the fact that Nigeria is one of the world’s largest
exporters of crude oil, and the fact that the standard of living of Nigerians is the 36th lowest in the world in terms of human development indicators. The Niger Delta region is a case in point. The situation in the region is symptomatic of what has been referred to as ‘criminal social neglect and ecological degradation’. The consequence of this is that the region of the country which is responsible for some 70% of the country’s income displays a degree of penury and poverty which stands in sharp contradiction to the wealth it produces. This has led to a militarised and militant youth population, which has been known to kidnap oil workers and defy security agencies, using their knowledge of the localities and their access to SALW.

For Agekame (2001) and Alemika (1993) failure of the state and its security agencies to guarantee security has transformed security from a public good provided by the government to a private necessity which individuals and groups have to provide for themselves through various means. This largely explains the proliferation of private security companies, vigilante groups, etc.

Christiane et al (UD); Obasi (2001) trafficking and smuggling are additional factors substantially contributing to the proliferation of SALW in Nigeria. This is facilitated by the country’s long and porous borders with inadequate resources and expertise to effectively patrol and secure them. Nigeria shares a 1,500 kilometres land border with the Republic of Niger and Chad in the North, about 1,000 with Benin Republic in the West, 1,700 with Cameroon in the East and has about 700 kilometres of Atlantic coastline. Each of these entry points, along with the airports, have been used to smuggle arms into the country. The three most notorious entry points for illicit SALW are the South-West (Idi-Iroko and Seme in Ogun state), the port city of Warri in Delta
state, and the north-eastern border with Niger and Cameroon (Adamawa, Borno and Yobe states). There are no available official aggregated data on the number of weapons smuggled into Nigeria. Nigeria Customs Service data confirm illicit weapons and ammunition are routinely seized and that illicit weapons enter the countries through land, air and sea.

They further stated that protracted military rule, corruption adds to SALW proliferation. However, a major dynamic in the proliferation of illicit SALW in Nigeria is the legacy of protracted military rule. Until the return to civilian rule in May 1999, the country had been under military rule during 75% of its existence. This led to the entrenchment of a militarised national psyche and a culture of violence. The widespread use of SALW to take over and maintain a grip on power had its own effects on the attitude and perception of Nigerians regarding the role of violence in society in general, and the use of SALW in particular. Following years of protracted transition programmes and worsening civil-military relations, the military lost control of their monopoly over the means of coercion, as various groups within the society increasingly sought military responses to military oppression. This created the impression that political power flowed from the barrel of the gun. Many civilians sought power either by being allies of the military or by acquiring their own weapons.

Nigeria occupies a strategic position in Africa, accounting for about half of the population of West Africa. Given its size, population, location and oil wealth, Nigeria is a confluence of criminal flows of SALW from the entire African continent. Estimates of illicit SALW range from 1 million to 3 million. Nigeria’s illicit SALW proliferation can
be traced back to the failure of the federal government to implement an arms collection programme after the 1967-1970 civil war, and subsequent numerous internecine violent conflicts which have contributed to the militarisation of Nigerian society (Christiane et al., UD).

According to Lawrence (2003) in July 2001, the Federal Government of Nigeria carried out its first and so far only destruction of arms and ammunition seized by security agencies, which comprised of 428 rifles, 494 imported pistols, 287 locally made pistols and 48 dane guns. It has been unable to conduct further arms destruction programmes due to lack of funds and equipment. In addition, the 2001 arms destruction exercise involved the burial at sea of arms, a destruction method which the government is reluctant to repeat for environmental reasons and which civil society and other stakeholders criticize for its lack of transparency. From January 2002 to June 2003, 1,902 assorted firearms and 13,271 rounds of ammunition have been collected and are now awaiting destruction. However, the National Committee no longer has direct responsibility for the destruction of arms, as this requires technical and specialised expertise. Ideally, a National Commission (rather than a committee) should have overall and singular responsibility for the control of illicit SALW in Nigeria, including the destruction of seized arms. In the short-term however, there is a need to enhance the capacity of the committee responsible for the collection and destruction of illicit and surplus SALW.

According to Musa (2002) there have been some positive developments in terms of arms control and disarmament in Nigeria. For example, in October 1998 the ECOWAS established a moratorium on the import, export and manufacture of SALW. One of its aims was to institute a voluntary freeze on arms trade and eliminate existing illegal stocks
from society. The agreement also calls for the creation of national commission drawn from the state and civil society structures to supervise disarmament within each individual state. In May 2001 the Nigerian government inaugurated a national committee on the ECOWAS moratorium on SALW. The Nigerian government has also established a national committee to investigate and report on the proliferation and illicit trafficking of SALW within as well as into the country. Its members include representatives of the Army, Navy, State Security Services, Nigerian Immigration Service, National Drug Law Enforcement Agency and Ministry of Defence.

In the same vein Onuoha (2005) states that the in September 2003, the federal government of Nigeria announced an “arms surrender” policy to recover weapons being used by ethnic militias in the Niger Delta. Although it recorded a modest success, no real long-term strategy for recovering SALW seems to be in place. Conversely, on the the Civil society platform, a coalition of non-governmental organizations in the Niger Delta launched a “mop-up the arms” campaign in June 2003.

In West Africa, the principal sub-regional SALW control measure is the ECOWAS Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa. Since the signing of the ECOWAS Moratorium in Abuja, Nigeria, on 31 October 1998, it has been renewed twice, most recently in the summer of 2004 for a three-year period. Despite criticism about its weak language and scope for misinterpretation, the Moratorium has the support of all 15 ECOWAS member states and, given the overlap in their provisions, it acts as a sub-regional framework for the implementation of the UN Programme of Action to Prevent, Combat and Eradicate the
Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA). (http://www.nepad.org).

However, according to Ogaba (2005) the fulfillment of this role is hindered by its lack of enforceability. There are positive indicators of increased government support of the Moratorium in recent years, particularly with regard to provisions in the Moratorium, echoed in the PoA, such as the requirement to establish a national coordination agency and a national point of contact, as well as regular reporting on the implementation of SALW controls. The Programme of Co-ordination and Assistance for Security and Development (PCASED), developed by United Nations Development Programme, (UNDP) to support the Moratorium, was disbanded at the end of 2004 as a result of the feeling among both civil society groups and donors that PCASED was not performing as intended. PCASED was replaced by a new organization known as ECOSAP (The ECOWAS Small Arms Project), which concentrates on the provision of technical advice on the implementation of small arms controls. It is supported by a new Small Arms Unit based within the ECOWAS Secretariat in Abuja, Nigeria, whose role is to deal with the political aspects of the Moratorium such as the granting of exemptions.

From our review of literature, there is growing body of published and unpublished works on SALW proliferation in Nigeria. Such works consider issues pertaining to small arms proliferation in the entire West African sub-region. Some dealt in detail with the dynamics of small arms trafficking, factors that encourage its proliferation and its implications. They also provide a critical appraisal of the ECOWAS Moratorium on Small Arms over the years and identify the challenges and prospects of sustainable disarmament in the West African sub-region. However, none of these studies have
appraised the ECOWAS Convention on SALW to ascertain the extent that the Nigerian state has complied with the contents of the Convention. It is this gap in literature and knowledge that this study sets out to fill.

1.5 Theoretical Framework

This study adopts the regulative capability analytical framework, which is an aspect of G.A. Almond’s General Systems theory. According to Almond and Powell (1966) the system’s capability framework is an analytical construct designed as a basis for comparing different political systems in terms of their capacities to fulfill certain functional prerequisites necessary to ensure the maintenance, adaptation and survival of the political system. The notion of systems capabilities defines the extent to which the system can as David Easton (1953) has noted that: “Some demands can be challenging to the system and the system has to possess the necessary elements and mechanisms to meet them in order to survival”. Essentially, the Almond and Powell’s systems capability scheme consists of five capabilities-the extractive, the regulative, the distributive, the symbolic, and the responsive; the fulfillment of which are necessary to ensure systems adaptation, change and survival. It is really the “regulative capability” that is our concern here, but it is necessary that we first briefly explain what the others involve.
The extractive capability addresses the issue of the ability of the political system to obtain the relevant resources, both from within and outside the system, to sustain itself.

The symbolic capability addresses the need and ability of the political system to create, develop and maintain relevant and adequate symbols with which to attract to itself and its institutions the support, loyalty and affection of its citizens.

The distributive capability focuses on the ability of the political system to adequately and equitably distribute “values” – goods and services to, and among its citizens both as individuals and as social groups throughout the society.

The responsive capability focuses on the capacity of the political system to respond adequately and vigorously to the demands made upon it both from the domestic and international environment. In short, the responsive capability addresses the issue of the need and ability of the political system to make available to its citizens, both in their individuals, and group capacities, those characteristics of democracy which they desire.

The regulative capability which this study predicates analysis on, addresses the issue of the capacity of the political system to penetrate and exercise control over individuals and groups throughout the society. By its nature, the regulative capability involves the issue of the maintenance and use of its military, police and other security forces to ensure the protection and defence of the society against external aggression and internal insurrection as well as the maintenance of law and order in the society. The regulative capability is so important and crucial function to be adequately fulfilled to guarantee that illicit arms are not acquired by individuals within the state. This is because
it is through it that the political system responds to pressures that are likely to mar and endanger peace and security of a state. This is particularly so in a rentier state like Nigeria were politics is seen as a means of wealth accumulation and becomes a zero sum game. In such societies, as it is the case with Nigeria, the political system is confronted with not only the problem of having to strive to maintain its institutions but more importantly, it has the added problem of how to contain diverse groups that intend to use arms and violence to acquire power resources.

Our foregoing discussion clearly shows that there exist positive relationship between the ability of, and the degree to which, a political system adequately fulfills its regulative capability functions, and the extent to which order is maintained in the state. It therefore, follows that the Nigerian state has not been able to exercise its regulative capability function. As a result of this, arms have circulated illegally among non-state actors who use it to wreck havoc on the polity.

In the main, our decision to adopt this regulative theoretical orientation for this study is predicated on its explanatory capacity as it enables us establish a causal relationship between the ability of the political system to respond to threats and the loyalty it gets from its citizens.

1.6 Hypotheses

The study will be guided by the following hypotheses:

1. Nigeria has not successfully implemented the ECOWAS Convention on SALW since it was signed into law.
2. The Nigerian Firearms law is the main factor hindering effective arms control in Nigeria.

1.7 Method of Data Collection

This section is concerned with attempts to unveil the building blocks of the research edifice. It shows the processes and procedures employed in sifting through mountains of data and choosing a particular set of data; in presenting the data so chosen and the analytical tools utilized to reach conclusions (Agaptus, 2009).

There are two broad methods of generating data for social science research. These are observation method and self-report. While the former entails either observing actions or events as they occur (direct observation) or observing the traces or records of actions or events as well as the reports put down or recorded through direct observation (indirect observation), the latter largely borders on the use of interview and/or questionnaire to elicit information internal in the respondents. For the purpose of generating data to test our hypotheses in this study, we shall use the observation method of documentary sources. By document, we mean any written material (whether hand-written, typed, or printed) that was already in existence, which was produced for some other purpose than the benefit of the investigator (Nwana cited in Obasi, 1999). Hence, documentary method is used in this study to mean a method of gleaning, extracting, examining, analyzing and interpreting information as well as reading meaning into these pieces of information so as to be able to draw inference from the available evidence in order to reach a conclusion (Obasi, 1999).

What the foregoing implies is that documentary method makes the recourse to the secondary sources of data inevitable. By secondary sources of data, we mean data
gathered or authored by another person, usually data from the available data, archives, either in form of document or survey results and books (Ikeagwu, 1998). To this end, this study will be based on documentary analysis of secondary sources of data. These sources of data include institutional and official documents from Nigerian Ministry of Defence, Federal Office of Statistics, Non Governmental Organizations, ECOWAS and Nnamdi Azikiwe Library of the same institution.

Apart from institutional and official documents, this inquiry will extensively source materials in the internet and other secondary sources of data as textbooks, journals, magazines, articles and other written works dealing on the subject matter of this inquiry. To be sure, secondary data sources imply information originally collected for the purpose other than the present one (Asika, 2000). The advantage of secondary data is that it saves time and money through purpose and random selection of recorded materials in order to investigate the problem and test the hypothesis. There is also the possibility of using the work of others to broaden the base from which scientific generalizations can be made.

The use of documents will be complimented by the technique of non-participant observation as the researcher has been a keen observer of arms movement in Nigeria.

**Research Design**

In conducting researches, research designs are indispensable. Igwe (2002) shows the link between research and research design thus:

(Research is) a systematic enquiry to discover phenomena, the laws governing them and the diverse means of the
application of the knowledge to practical situations. On the other hand (research design is) the methodological and related processes employed in research especially with regard to theoretical framework, and the collection and manipulation of data.

Therefore a research design is a plan which guides a researcher and prevents him/her from veering off course in the process of collecting, presenting, analyzing and interpreting data. It is a logical model of proof that allows the researcher to draw inferences concerning causal relations among the variables under investigation. It also defines the domain of generalizability, that is, whether the obtained interpretations can be generalized to a larger population or to different situations (Bailey, 1978; Nnabugwu, 2006).

This research is basically qualitative and non-experimental; thus we are using the observation method of documentary sources; that is, going through documented evidence to discover the various data and information that have made this work scientific. Non-experiments are based on the same logic as experiments and can be designed to determine associations. Thus the study does not use experiment or controlled groups. The adoption of this method becomes inevitable since the study shall depend essentially on the secondary sources of data.
CHAPTER TWO
THE ECOWAS CONVENTION ON SALW AND THE NIGERIAN FIREARMS LAW

The ECOWAS Convention on SALW

To fully understand and appreciate the role of Nigeria vis a vis the ECOWAS Convention on SALW, we need to look at the content of the convention to understand its aims and objectives. The following is the convention:

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, transhipment 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.

**Article 2:**

**Objectives**

The objectives of this Convention are:

1. To prevent and combat the excessive and destabilising accumulation of small arms and light weapons within ECOWAS;

2. To continue the efforts for the control of small arms and light weapons within ECOWAS;

3. To consolidate the gains of the Declaration of the Moratorium on the importation, exportation and manufacture of small arms and its Code of Conduct.
4. To promote trust between the Member States through concerted and transparent action on the control of small arms and light weapons within ECOWAS;

5. To build institutional and operational capacities of the ECOWAS Executive Secretariat and the Member States in the efforts to curb the proliferation of small arms and light weapons, their ammunitions and other related materials;

6. To promote the exchange of information and cooperation among the Member States.

CHAPTER II

TRANSFER OF SMALL ARMS AND LIGHT WEAPONS

Article 3:

Prohibition of transfer of small arms and light weapons

1. Member States shall ban the transfer of small arms and light weapons and their manufacturing materials into their national territory or from/through their national territory.

2. Member State shall ban, without exception, transfers of small arms and light weapons to Non-State Actors that are not explicitly authorized by the importing Member.

3. Small arms and light weapons as defined in this Convention shall not be deemed to be goods for the purpose of Article 45 of ECOWAS Revised Treaty of 1993.

Article 4:

Conditions of Exemption

1. A Member State can request exemption from the provisions of Article 3.1 in order to meet legitimate national defence and security needs, or to participate in peace support or
other operations in accordance with the decisions of the United Nations, African Union, ECOWAS, or other regional or sub-regional body of which it is a member.

2. For the purpose of paragraph 1 of this article, Member States shall establish and maintain an effective system of export and import licensing or authorisation, as well as of measures on international transit, for the transfer of small arms and light weapons.

3. Each Member State shall take such measures as may be necessary to ensure that licensing or authorisation procedures are secure and that the authenticity of licensing or authorisation of the documents can be verified and validated.

**Article 5:**

**Procedures for Exemption**

1. The request for exemption for an arms transfer is transmitted for examination to the ECOWAS Executive Secretariat and must contain information on:

   a) Details of the arms to be transferred- the quantity, exact type and kind of arms using ECOWAS classification system, including all serial numbers and other marks;

   b) Details of the supplier – full details (name of company and representative, address, and full contact details) of all companies and individuals involved, including brokers where relevant;

   c) Details of the supply process – the number and period of shipments, the routes including transit locations, the type of transport to be used, all companies involved in importing, freight forwarding and handling, details of the storage and management of the weapons whilst being transferred, the time period covered by the activity for which the exemption is requested;
d) Details of the final end user – name of individual/company/institution and representative responsible, confirmation from relevant national authority that the end user is authorised to import weapons;
e) Details of the end use.

2. The ECOWAS Executive Secretary shall apply the criteria for Article 6 of this Convention for exemption requests as well as those of paragraph (a) of this Article. Reasoned opinion of the ECOWAS Executive Secretary shall be sent confidentially to the Member State in order to confirm or refuse the opinion given. The final decision of Member States shall be taken by consensus. In the absence of a consensus, the exemption request as well as the reasoned opinion of the Executive Secretary shall be submitted for a final decision to the ECOWAS Mediation and Security Council.

3. The granting of an exemption shall be transmitted to the Member State concerned by the ECOWAS Executive Secretary through the issuing of an exemption certificate. The exemption certificate once issued must accompany the request for an export licence as well as the End-User- Certificate.

4. The ECOWAS Executive Secretary shall forward to the Member States information on exemptions and refusals granted within 90 days. The Executive Secretary shall also compile and publish a comprehensive annual report detailing all international arms transfers granted exemptions, and a list of refusals.

**Article 6:**

**Cases for Refusal of Exemptions for Transfers**

1. A transfer shall not be authorised if:
a) Authorisation on export, import, transit, transhipment or brokering considered as donation has not been provided by all States directly concerned with the transfer;
b) All the required information has not been supplied to the ECOWAS Executive Secretary;
c) The arms have not been marked according to requirements under this Convention.

2. A transfer shall not be authorised if its authorisation violates obligations of the requesting States as well as those of Member States, under international law including:
a) Obligations under the Charter of the United Nations – including:
   i. Binding resolutions of the United Nations Security Council such as those imposing arms embargoes;
   ii. The prohibition on the use or threat of use of force;
   iii. The prohibition on intervention in the internal affairs of another State.
b) Universally accepted principles of international humanitarian law.
c) Any other treaty or decision by which the Member States are bound, including:
   i. Binding decisions, including embargoes, adopted by relevant international, multilateral, regional and sub-regional bodies, such as the African Union Peace and Security Council, to which a State is party;
   ii) Prohibitions of arms transfers that arise in particular treaties which a State is party to, such as OTTAWA Convention on Antipersonnel Mines, the 1980 Convention on Certain Conventional Weapons and its Protocols.

3. A transfer shall not be authorised if the arms are destined to be used:
a) for the violation of international humanitarian law or infringement of human and peoples’ rights and freedoms, or for the purpose of oppression;
b) for the commission of serious violations of international humanitarian law, genocide or crimes against humanity;

c) to worsen the internal situation in the country of final destination, in terms of provoking or prolonging armed conflicts, or aggravating existing tensions;

d) to carry out terrorist acts or support or encourage terrorism;

e) other than for the legitimate defence and security needs of the beneficiary country;

4. A transfer shall not be authorised if it is destined to:

a) be used for or to facilitate the commission of violent or organized crime;

b) adversely affect regional security; endanger peace, contribute to destabilising or uncontrolled accumulations of arms or military capabilities into a region, or otherwise contribute to regional instability;

c) hinder or obstruct sustainable development and unduly divert human and economic resources to armaments of the states involved in the transfer;

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

5. 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;

6. The Executive Secretary and all Member States shall provide elements of proof to apply the criteria enunciated in paragraphs 1, 2, 3, 4 and 5 of the present article and to indicate the refusal of exemption request made by a Member State.
CHAPTER III
MANUFACTURE OF SMALL ARMS AND LIGHT WEAPONS

Article 7:
Control of the Manufacture of Small Arms and Light Weapons

1. Member States shall undertake to control the manufacture of small arms and light weapons within their national territories;

2. Each Member State shall regulate the activities of local small arms and light weapons manufacturers and shall undertake to adopt strategies and policies to the reduction and/or limitation of the manufacture of small arms and light weapons so as to control the local manufacture as well as their marketing in ECOWAS region.

3. Member States shall undertake to draft an exhaustive list of local manufacturers of small arms and light weapons and the registration of each of them into the national arms registers;

4. Where production and/or assembly capacities of small arms and light weapons exist within the ECOWAS region, Member States shall submit to the Executive Secretary. This data shall include the type of the arms and their quantity on their annual production.

Article 8:
Measures of Control for Small Arms and Light Weapons Manufacture

Without prejudice to the other measures that Member States will undertake to ensure the effective control of the manufacturing of small arms and light weapons on their national territory, a request for the manufacture of small arms and light weapons will not be granted if the requesting person has not given information relating to:
a) Details of the arms to be manufactured – the quantity, exact type and kind of arms using ECOWAS classification system, including all serial numbers and other markings;
b) The procedure for marking; the procedure for entering details of each small arm and light weapon into the national small arms and light weapons register; information on the storage and management of the weapons after manufacture.

CHAPTER IV
TRANSPARENCY AND EXCHANGE OF INFORMATION

Article 9:
National Database and Registers of Small Arms and Light Weapons

1. Member States shall establish where they do not exist already, national computerised registers and database of small arms and light weapons.

2. The following information shall be recorded in the national registry:

a) Description of the product (type or model, calibre) and quantity (if it concerns a batch);
b) the content of the marking;
c) the names and addresses of the former and current owners and, when possible, successive owners;
d) the date of registration;
e) information concerning each transaction including:
   i. the name and address of the shipper, the intermediary (where applicable), the consignee and the user indicated on the enduser- certificate;
   ii. the point of departure, transit and destination, as well as the customs references and the dates of departure, transit and delivery to the end-user.
iii. the export, transit and import licence (quantities and batches corresponding to the same licence as well as the validity of the license);

iv. full details concerning the method of transport and transporter(s);

v. the controlling agency or agencies (at point of departure, transit and entry);

vi. the nature of the transaction (commercial, non-commercial, private or public, conversion, repair);

vii. where applicable, the insurer and/or the financial institution intervening in the transaction.

3. Records shall be permanently kept in the register.

Article 10:

ECOWAS Small Arms and Light Weapons Database and Registers

1. Member States undertake to establish a sub-regional database and register of small arms and light weapons under the ECOWAS Executive Secretary as a way of promoting confidence.

2. The ECOWAS Executive Secretariat shall develop in collaboration with the Member States the procedures for the setting up and management of the database and register as well as the issues to be covered.

3. The Member States shall provide the ECOWAS Executive Secretariat with all the necessary information for the operation of the sub-regional database and register of small arms and light weapons. Member States also undertake to transmit an annual report to the ECOWAS Executive Secretary detailing their orders or purchase of small arms and light weapons.
4. The ECOWAS Executive Secretary shall present an annual report on the workings of the sub-regional database and register of small arms and light weapons at the Summit of Heads of State and Government.

5. Records shall be kept in the register permanently.

Article 11:

Register of Arms for Peace Operations

1. Member States undertake to:
   
a) Establish a register of small arms and light weapons, their ammunition and other related material destined for use in peacekeeping operations both inside and outside the ECOWAS territory under the ECOWAS Executive Secretary as a way of ensuring the control of movements of small arms and light weapons and their effective withdrawal at the end of peace operations in which Member States are participating.

b) Declare in this regard to the ECOWAS Executive Secretariat all small arms and light weapons used in peace operations.

c) Declare to the ECOWAS Executive Secretary all the small arms and light weapons seized, collected and/or destroyed during peace operations on their territory and in the ECOWAS region.

2. The ECOWAS Executive Secretary shall take the necessary measures to ensure the adequate recording of the information transmitted by the Member States participating to peace operations.

3. Records shall be permanently kept in the register.

Article 12:

Dialogue with Manufacturers and Suppliers
1. The ECOWAS Executive Secretary and each Member State shall strengthen cooperation and dialogue with national and international manufacturers and suppliers of arms as well as with the competent international and regional organisations in order to ensure their support, respect for and compliance with the spirit and the letter of this Convention.

2. The ECOWAS Executive Secretary shall take the necessary measures to take advantage of the information available from Member States of the Wassenaar Arrangement, the European Union and other manufacturers and suppliers of arms, in order to strengthen the effective implementation of this Convention.

Article 13:

Prevention of and the Fight Against Corruption

Member States shall institute appropriate and effective measures for cooperation between administrative departments concerned and law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of small arms and light weapons.

CHAPTER V

OPERATIONAL MECHANISM

Article 14:

Control of Possession of Small Arms and Light Weapons by Civilians

1. Member States shall prohibit the possession, use and sale of light weapons by civilians.

2. Member States shall regulate the possession, use and sale of small arms by civilians.

3. Authorisations may be granted to permit individual possession of one or more small arms and their ammunition in line with the legislation of each Member State. Applications for such authorisations shall be processed by relevant national authorities.
All applicants must the relevant national authority in person. The Executive Secretary shall develop and communicate authorisation procedures to the relevant national authority.

4. Member States undertake to implement a strict control regime for civilian possession of the small arms. The authorisation procedure will involve issuing a license from the relevant national authority for each small arm used by a civilian. Member States shall not grant an authorisation if the applicant does not meet the following criteria:

a) The required minimum age;

b) Applicant does not have criminal record and has not been subject to morality investigation;

c) Proof of a legitimate reason to possess, carry or use for each small arms;

d) Proof that the prospective owner has undergone safety training and competency training including training in the relevant laws regarding small arms;

e) Proof that the weapon will be stored in a safe place and separately from its ammunition.

5. Member States shall impose a limit on the number of weapons a licence may cover and require a ‘cooling off’ period of at least 21 days before an authorisation is granted for the possession of each weapon. Member States shall include an expiration date on each licence and authorisations shall be subject to periodic review. Contravention of regulations concerning possession of small arms in private hands will allow the small arms to be seized by the authorities, the licence/authorisation revoked, and adequate sanctions including penalties applied.
6. Member States shall include information regarding the civilian possession of small arms within the national small arm database and register established under Article 9 of the present Convention;

7. Member States undertake to introduce minimum penal sanctions for the illicit possession and use of small arms and light weapons and the carrying of unlicensed small arms.

**Article 15:**

**Visitors’ Certificates**

1. Each Member State shall take the appropriate measures demanding that visitors wanting to import temporarily small arms covered by this Convention for the duration of their temporary stay in the ECOWAS region, prepare in advance an application including information about the purpose, type and marking of small arms to be imported into one of the ECOWAS territories and to declare the arms on their arrival. Such application shall be addressed to the relevant authorities of the Member State concerned for decision.

2. ECOWAS Executive Secretary shall issue guidelines on the procedures to be followed and communicate them to the relevant authority.

3. If the request is agreed, the competent national authorities shall issue to the visitors an entry certificate and an exit declaration at the visitors’ arrival and departure.

4. All certificates shall be recorded by the Member States concerned in the national small arms register referred to in compliance with the above mentioned Article 9.

**Article 16:**

**Management and Security of Stockpiles**
1. Member States shall take the necessary measures to ensure the safe and effective management, storage and security of their national stocks of small arms and light weapons;

2. To this effect, Member States shall establish effective standards and procedures for stockpile management, storage and security. These standards and procedures shall include:
   a) appropriate site;
   b) physical security measures of storage facilities;
   c) inventory management and record keeping;
   d) staff training;
   e) security during manufacture and transportation;
   f) sanctions in case of theft or loss.

3. Member States shall ensure that stockpiles of small arms and light weapons by manufacturers, dealers as well as individuals are securely stored in accordance with the appropriate standards and procedures;

4. Member States shall undertake to regularly review, in accordance with national laws and standards, the storage facilities and conditions of small arms and light weapons held by their armed and security forces and other authorised bodies in order to identify, for disposal, surplus and obsolete stocks;

5. The Executive Secretary shall ensure, in collaboration with Member States, that effective standards and procedures for stockpile management of weapons collected in the context of peace operations are duly observed.

**Article 17:**
Collection and Destruction of Small Arms and Light Weapons

1. Member States shall undertake to collect and/ or destroy:

a) the arms which are surplus to the national needs or have become obsolete;
b) seized weapons;
c) unmarked weapons;
d) illicitly held weapons;
e) arms collected in the implementation of peace accords or programmes for the voluntary handing in of weapons.

2. All weapons so collected must be registered and securely stored and or destroyed.

3. Member States undertake to promote and/ or carry out programme of voluntary handing in of weapons.

Article 18:

Marking

1. For identification purposes, all small arms and light weapons, their ammunition and other materials, considered as essential by the supplier, shall be assigned a unique and specific marking upon manufacture; this marking shall include the following elements:

2. For small arms and light weapons covered under this Convention,
a) “Classic marking” shall include a unique serial number, the manufacturer’s identity, as well as the identification of the country and year of manufacture. Information concerning the purchaser’s identity and the country of destination should also be included if known at the time of manufacture. The markings shall be expressed alphanumerically. They must be legible and should be featured on a maximum number of main parts of the
weapon, and at the very least on the part designated by the manufacturer as essential as well as on one other important part of the arm;
b) A “Security marking” shall be applied to all weapons produced after the entry into force of this Convention. This will permit the identification of the weapons in the event that classic markings have been destroyed or falsified. Security markings must be undertaken on component parts that are not easily manipulated after the weapon’s manufacture, and the falsification of which would render the weapon unusable;
c) Member States that import a small arm that is not marked in accordance with the provisions outlined under paragraph a) and b) above shall:
i Apply a classic marking if the weapons were manufactured before the entry into force of this Convention;
ii Apply a classic marking and a security marking if the weapons were manufactured after the entry into force of this Convention; failing this, the weapons cannot be imported or must be destroyed.
iii. If the importing country and the year of import are not known at the time of manufacture, the acronym of the importing State and the year of importation are marked by a competent institution in the importing country.
3. For ammunition:
a) The markings shall include a unique lot number, the manufacturer’s identity, as well as the country and year of manufacture. Information concerning the purchaser’s identity and the country of destination should also be included if known at the time of manufacture. These details must feature at least once on the jacket (i.e. cartridge) containing the powder or liquid used in the ammunition or explosive.
The markings shall be expressed alphanumerically.

b) The smallest ammunition packaging shall include information outlined under 3(a).

**Article 19:**

**Tracing**

1. Member States shall exchange information on illicit small arms and light weapons and on seized small arms and light weapons, as well as trafficking in weapons that contravene international law or the internal laws of the States in which the operations take place (condemnation of the person or institution implicated, sanctions, disposal, destruction methods, neutralisation).

2. In the case of other small arms and light weapons, Member States shall exchange the following data on a regular basis:
   a) on manufacture (the marking system and techniques used, and authorized manufacturers);
   b) on transfers (exports to and/or imports from all other States, transits, information available concerning national legislation, existing practices and controls, authorised dealers and brokers);
   c) on existing stockpiles (management, inventory, security, surplus, losses, theft, destruction).

3. The Executive Secretary shall receive request for exemption and shall act in accordance with Article 5 of this Convention.
4. A Member State may initiate a tracing request through the ECOWAS Executive Secretary in relation to small arms and light weapons found within its territorial jurisdiction that it considers to be illicit.

5. To ensure smooth and effective cooperation in tracing, requests for assistance in tracing illicit small arms or light weapons will contain sufficient information including, inter alia:
   a) Information describing the illicit nature of the small arm and light weapon, including the legal justification thereof and circumstances under which the small arm and light weapon was found;
   b) Markings, type, calibre and other relevant information;
   c) Intended use of the information being sought.

6. Member States receiving a tracing request shall acknowledge receipt within a reasonable time frame.

7. Member States shall provide reliable responses to tracing requests made by other Member States within one month from the date of receipt of the said request.

8. In responding to a tracing request, the requested Member States shall provide all available information sought by the requesting Member States that is relevant for the purpose of tracing illicit small arms and light weapons.

9. The requested Member States may seek additional information from the requesting Member States where a tracing request does not contain the information required in Paragraph 5 above.

Article 20:
**Brokering**

1. Member States shall register all citizens and all companies incorporated in their territory that are brokering small arms and light weapons, including financial agents and transportation agents on armament and shall make such registration a requirement for their licit operation.

2. Member States shall ensure that all registered small arms and light weapons brokering agents obtain an explicit authorization for each individual transaction in which they are involved irrespective of where the arrangements take place.

3. Member States shall require that all small arms and light weapons brokering license applications for authorisation provide full disclosure of relevant import and export licences or authorisations and associated relevant documents, the names and locations of all brokering and shipping agents involved in the transaction and the transit routes and points of the small arms and light weapons shipments.

4. Member States shall adopt such legislative and other measures to punish and establish as a criminal offence the illicit brokering of small arms and light weapons.

5. Brokering activities may be assessed under Article 1 and 6 of the present Convention.

**Article 21:**

**Harmonization of Legislative Provisions**

1. Member States shall undertake to revise and update national legislation to ensure that the provisions in this Convention are minimum standards for small arms and light weapons control and their ammunition as well as other related materials.

2. Each Member State shall adopt legislative and other necessary measures to establish as a criminal offence in the following cases:
a) any activity carried out in violation of the provisions of this Convention;
b) any activity carried out in violation of an arms embargo imposed by the United
Nations, the African Union or ECOWAS;

3. The Executive Secretary shall elaborate and propose to Member States guidelines for
harmonization of legislative provisions.

**Article 22:**

**Strengthening of Border Controls**

Member States, in collaboration with the ECOWAS Executive Secretary, shall:

a) Strengthen sub-regional cooperation among defence and security forces, intelligence
services, customs and border control officials in combating the illicit circulation of small
arms and light weapons.

b) Enhancing the capacity of national defence and security forces, law enforcement and
security agencies, including appropriate training in investigative procedures, border
control and law enforcement techniques, and upgrading of equipment and resources;

**Article 23:**

**Public Education and Awareness Programmes**

1. In the interest of promoting a culture of peace, Member States shall design
public/community education and awareness programmes at local, national and regional
levels in order to involve the population in the efforts to curb the proliferation of small
arms and light weapons.
2. Member States in this regard shall undertake to develop and/or strengthen their partnership with civil society organisations at local, national and regional level including women, youth and others, for better information and raise public awareness on the dangers of the proliferation of small arms and light weapons.

3. Member States shall encourage civil society organisations to play a leading role in creating awareness and education of the population.

CHAPTER VI
INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

Article 24:
Member States

1. Within the framework of the implementation of this Convention, the States Parties which have not yet done so, shall establish through regulation or legislation a National Commission in accordance with Article 51 of the Protocol on mechanisms for prevention, management, resolution of conflict and keeping peace and security and with the enforcement of the decision of the Conference of Heads of State and Government on December 10th, 1999 on the establishment of National Commissions for the fight against the illicit proliferation and circulation of light weapons.

2. The National Commissions shall be established according to the existing ECOWAS guidelines contained in the National Manual prepared by ECOWAS.

3. Member States shall allocate a budget line to ensure effective functioning of National Commissions

4. The Member States shall elaborate their National Action Plans on Small Arms and Light Weapons.
5. Such action plans shall be developed through a national information gathering process involving all relevant national stakeholders including civil society, and the convening of a national forum of all stakeholders to deliberate on the elements to be included in the National Action Plan.

**Article 25:**

**The ECOWAS Executive Secretary**

1. The ECOWAS Executive Secretary is responsible for supporting and supervising the application of the provisions of this Convention. To this end the ECOWAS Executive Secretary shall:
   a) define and carry out the policy for mobilising the necessary resources for the implementation of this Convention;
   b) provide the Member States with the necessary financial and technical support for the realisation of their activities;
   c) ensure the monitoring and implementation of this Convention;
   d) present an annual Report to the Summit of Heads of State and Government on the status of implementation of the Convention.
   e) if ECOWAS Executive Secretary deems it necessary, refer a specific urgent and/or serious question regarding the application of this Convention to the ECOWAS Mediation and Security Council.

2. The Executive Secretary shall develop a Plan of action for the implementation of this Convention and submit it to the appreciation of the Member States for adoption. Such a plan shall outline key activities that need to be implemented (such as Capacity Building, harmonization of national legislation, border control, public awareness raising,
information exchange among National Commissions, strengthening the capacity of civil society, organisations, etc).

3. Member States shall take the necessary measures to endow the ECOWAS Executive Secretariat with the institutional and operational capacities appropriate to the responsibilities given to the Executive Secretary by this Convention.

**Article 26:**

**Cooperation Within and Among States**

1. Member States undertake to promote intra and inter-state cooperation in the implementation of this Convention. To this effect: a) the ECOWAS Executive Secretary shall prepare procedures for interstate cooperation between security forces, the services in charge of border controls and all other services concerned, in the spirit of this Convention.

b) The ECOWAS Executive Secretary shall facilitate and seek assistance for the training of officials in intra- and interstate cooperation.

**Article 27:**

**Complaint Procedure Concerning Violation of this Convention**

1. All concerns relating to the violation of this Convention shall be brought to the attention of the ECOWAS Executive Secretary who would then submit such a complaint to the ECOWAS Mediation and Security Council;

2. If the ECOWAS Mediation and Security Council considers that there is a breach of the obligations under this convention, it shall decide on the appropriate measures to be taken such as sanctions, inquiry, study or refer the matter to the ECOWAS Court of Justice;
3. This review procedure of complaints shall not mean the impossibility for a State or an individual to refer to the ECOWAS Court of Justice if it notes a failure in the application of this Convention.

**Article 28:**

**Monitoring the Implementation of this Convention**

1. In order to ensure the monitoring of and compliance with the provisions of this Convention, the Executive Secretary shall appoint a Group of Independent Experts who supports him. The Group of Independent Experts shall submit a report to the Executive Secretary.

2. Member States, upon the request of the Executive Secretary, shall provide the Group of Independent Experts with all information at their disposal on exemption request.

3. The Group of Independent Experts may seek any other information it shall deem useful for its work in relation with Member States and through cooperation with Member States of the Wassenaar Arrangements, the European Union and suppliers of arms.

4. Each Member State shall submit an annual report to the ECOWAS Executive Secretary on its activities related to small arms and light weapons as well as other matters in relation with this Convention, in accordance with the format of report developed by the Executive Secretary.

5. A Conference of all Parties to the Convention shall be convened by the Depositary as soon as possible after the entry into force of this Convention. The Conference of Heads of State and Government of member States shall review the implementation of this Convention and shall have further mandates as decided by Member States. Other Conferences of Member States shall be held as needed.
CHAPTER VII
GENERAL AND FINAL PROVISIONS

Article 29:
Interpretation and Dispute Settlement

1. Any dispute arising out of the interpretation and/or the implementation of the Convention shall be settled by way of negotiation or by recourse to the ECOWAS Mediation and Security Council.

2. In the absence of a negotiated settlement, the dispute shall be brought before the ECOWAS Court of Justice.

Article 30:
Special Provisions

The undertakings ensuing from the provisions of this Convention shall not be interpreted as being in contradiction to the spirit and letter of the Conventions or Accords linking a Member State with a Third State as long as these Conventions and Accords are not in contradiction with the spirit and letter of this Convention.

Article 31:
Sanctions

Sanctions mentioned in Article 77 of the ECOWAS Revised Treaty are applicable to all Member States whom the ECOWAS Court of Justice would have found to be in violation of this Convention.

Article 32:
Final Provisions

(a) Signature, Ratification, Accession and Entry into Force
1. This Convention shall be open for signature to ECOWAS Member States. It shall be subject to ratification.

2. It shall enter into force on the date of deposit of the ninth instrument of ratification.

3. For a signatory that ratifies this Convention after the date of the deposit of the ninth instrument of ratification, it shall enter into force for that signatory on the date of deposit of its instrument of ratification.

4. Any ECOWAS Member State that has not signed this Convention shall be able to accede to it. In this case, this Convention shall enter into force for that State upon the date of the deposit of the instrument of accession.

(b) Amendments

1. Any amendment to this Convention proposed by a Member State shall be submitted to the ECOWAS Executive Secretary who shall notify the Member States.

2. Decision on the adoption of such an amendment shall be taken by the Conference of Heads of State and Government by a two-thirds majority of the Member States.

3. An amendment so adopted shall enter into force for all Member States who are party to this Convention after receipt by the Depository of the instrument of ratification by the majority of Member States.

(c) Withdrawal

1. Each Member State shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events related to the subject-matter of this Convention, have jeopardised its supreme interests.

2. Withdrawal shall be effected by a Member State giving notice, which includes a statement of the extraordinary events it regards as having jeopardised its supreme
interest, twelve months in advance to the Depositary. The Depositary shall circulate such notice to all other Member States.

3. During the period of twelve months referred to in the preceding paragraph, such Member State shall nevertheless continue to observe the provisions of this Convention.

(d) Depositary Authority

1. This Convention shall be deposited with the Executive Secretary of ECOWAS, who is hereby designated as the Depositary of the Convention.

2. The Depositary shall:

a) Receive instruments of ratification;

b) Register this Convention with the African Union, the United Nations, as well as any other organisation as may be decided by the ECOWAS Mediation and Security Council;

c) Transmit authentic copies of this Convention to all States in the ECOWAS region, and shall notify them of signatures and ratifications and accession of this Convention.

A Brief Overview of Nigeria Fire Arms Law

The Firearms Act (1959) is the main legal instrument governing the production, use, import, and export of SALW in Nigeria. Section 23 of the Firearms Act states that: It also prohibits dealing in firearms except by registered dealers as well as the import and export of firearms and ammunition into Nigeria by sea or by air. In addition, the Act imposes a minimum sentence of 10 years for the importation, exportation, manufacture and repair of firearms. An amendment to the 1959 Act was adopted in 1966, which increased the punishment for firearms related offences. Hitherto, the punishment was N400 fine or 12 months imprisonment, or both. However, it is the 1984 Robbery and
Firearms Decree which considerably expanded gun-related offences and sanctions. Under this decree, illegal possession of firearms attracts a fine of N20,000 or a minimum of ten years imprisonment, or both. The Act also specifies that armed robberies are punishable by death (hanging or firing squad), and that offenders charged with attempted robbery involving the use of firearms face life imprisonment/sentence. (See: Nigeria Firearms Act, 1959).

**Sources of Illegal Small Arms in Nigeria**

This section descends to the domestic level and focuses on the problem of SALW proliferation in Nigeria. The weapons in circulation in Nigeria come from both internal and external sources. Internal sources include local fabrication, the residue of guns that were used during the Nigeria Civil War (1967-1970), and arms theft from government armories. External sources include smuggling from neighboring countries, the activities of dishonest government-accredited importers, returnees from international peacekeeping operations, insurgents and dissidents from neighboring countries, and some of the multinational oil corporations operating in the Niger Delta. We will therefore examine some of these sources.

**Local Fabrication:** Local blacksmiths account for some of the SALW in circulation in Nigeria. In the southern part of Nigeria, where the local crafting of weapons is very well developed and widespread, the case of Awka in Anambra State is a typical example. Academic Associates Peace Works (2005) Nigeria reports that Awka was the center of the Biafran secessionist arms industry during the Nigerian civil war of 1967-
1970, and that since the end of the war, its blacksmiths have become more advanced and sophisticated in the local crafting of weapons.

Locally produced small arms, or craft weapons, are widely available in Nigeria. They are inexpensive and easy to acquire compared to more expensive and sophisticated models of factory-made small arms, which must be imported or bought through the black market. Locally produced small arms include mainly revolvers and shotguns. Craft weapons are used for hunting, community policing, and self-defence. As such, hunters, cattle herders, businessmen, politicians, elites, and vigilante groups are among those purchasing such weapons. There are a number of well-known craft production markets in Nigeria, including Katsina, Kaduna, and Calabar. One primary centre for craft production is Awka in Anambra state. Awka has been a centre for craft production since the Nigerian-Biafran civil war in the late 1960s, when Awka produced explosives. Since this time, the expertise for local production has remained a family business, with knowledge of fabrication techniques passed down through generations. According to Hanzen and Horner (2007) a group of Ghanaian craft producers had visited Awka in 2003 to provide additional training to Nigerian producers. However, it is clear that the trade preceded this by several decades. The predominance of Awka in the production of craft weapons is evidenced through the common reference to craft weapons as ‘Awka-made’ or more simply ‘Awka’. Production techniques remain rudimentary. No machines are used in the production process. Vices, steel saws, manual drills, and files are employed in the fabrication process, with small makeshift furnaces used to heat the metals. Fabrication of craft weapons usually takes place in producers’ homes or backyards.
### Table 2.1 CRAFT-PRODUCED SMALL ARMS IN AWKA

<table>
<thead>
<tr>
<th>Weapon</th>
<th>Features</th>
<th>Ammunition</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pocket single-shot handgun</td>
<td>Approximately 13 cm long; steel muzzle to wooden stock; extremely rudimentary hammer requiring cocking; effective only at a distance of 1-2m; uses single shotgun cartridge</td>
<td>Various calibers of shotgun cartridge</td>
<td>NGN4,000/USD32</td>
</tr>
<tr>
<td>Four-shot revolver</td>
<td>Available in manual and automatic configurations</td>
<td>9mm, 7.5mm, or 8.5mm</td>
<td>NCN8,000/USD64</td>
</tr>
<tr>
<td>Eight-shot revolver</td>
<td>Available in manual and automatic configurations</td>
<td>9mm, 7.5mm, or 8.5mm</td>
<td>NCN12,000/USD96</td>
</tr>
<tr>
<td>Single-barrel shotgun</td>
<td>Breech-loading safety cocking mechanism</td>
<td>Various calibers of shotgun cartridge</td>
<td>NCN 10,000-11,000/USD 80-88</td>
</tr>
<tr>
<td>Horizontal double barrel shotgun</td>
<td>Breech-leading; one trigger for each barrel; safety cooking mechanism</td>
<td>Various calibers of shotgun cartridge</td>
<td>NGN25,000-30,000/USD 200-240</td>
</tr>
<tr>
<td>Vertical double-barrel shotgun</td>
<td>Automatic configuration firing both rounds without need for cocking breech-loading</td>
<td>Various calibers of shotgun cartridge</td>
<td>NCN45,000/USD360</td>
</tr>
</tbody>
</table>

**Source:** Nigerian Customs Service, Enforcement and Drugs Statistics Section, Abuja

**Civil War Residue:** The spillover from the Nigerian civil war was another source of SALW proliferation in the country. At the end of the war the Nigerian government undertook the programme of “Rehabilitation, Resettlement and Reconstruction”. However, this program was not accompanied by any comprehensive disarmament exercise thereby leaving a lot of illegal arms in circulation.
Smuggling: Most of the arms in circulation are the result of steadily increasing smuggling activities through the nation’s borders. The Nigerian Immigration Services (NIS) stated that gun running has become the second, most lucrative organized crime in the country, surpassed only by the multi-million dollar trade in hard drugs (Obasi, 2001). These smuggling activities are carried out through land borders in the southwest and northeastern zones of the country and also through the creeks of the Niger Delta.

Returnee Soldiers: It has been reported that Nigeria’s involvement in the wars in Liberia and Sierra Leone provided the Nigerian black market with a ready source of SALW. Returnee ECOMOG soldiers from peacekeeping duties in Liberia, Sierra Leone have been alleged to have facilitated the illegal inflow of arms into the country and other places (Christane et al, 2004). A summary of some of the smuggled but intercepted SALW between 1993-2003 is presented in the table below.

Table 2.2 Selected cases of seizures of Arms and Ammunition being smuggled into Nigeria, 1999-2006

<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
<th>No. of arms seized</th>
<th>No. of rounds of ammunition/cartridges seized</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>5 Feb.</td>
<td>1</td>
<td>1,200</td>
<td>Lagos</td>
</tr>
<tr>
<td></td>
<td>20 July</td>
<td>0</td>
<td>2,900</td>
<td>Lagos</td>
</tr>
<tr>
<td></td>
<td>23 July</td>
<td>1</td>
<td>0</td>
<td>Port Harcourt</td>
</tr>
<tr>
<td>2000</td>
<td>n.d.</td>
<td>0</td>
<td>1,075</td>
<td>Lagos</td>
</tr>
<tr>
<td>2001</td>
<td>27 April</td>
<td>2</td>
<td>0</td>
<td>Abuja</td>
</tr>
<tr>
<td></td>
<td>10 Feb.</td>
<td>0</td>
<td>1,290</td>
<td>Seme/Badagry</td>
</tr>
<tr>
<td></td>
<td>12 June</td>
<td>0</td>
<td>1,712</td>
<td>Seme/Badagry</td>
</tr>
<tr>
<td>2002</td>
<td>15 Dec</td>
<td>0</td>
<td>5,924</td>
<td>Seme/Badagry</td>
</tr>
<tr>
<td></td>
<td>n.d.</td>
<td>2</td>
<td>20</td>
<td>Lagos</td>
</tr>
<tr>
<td>2003</td>
<td>21 April</td>
<td>1</td>
<td>6</td>
<td>Lagos</td>
</tr>
<tr>
<td></td>
<td>15 Jan</td>
<td>8</td>
<td>0</td>
<td>Lagos</td>
</tr>
<tr>
<td></td>
<td>22 Jan</td>
<td>0</td>
<td>1,250</td>
<td>Minna (Niger state)</td>
</tr>
<tr>
<td></td>
<td>7 Feb</td>
<td>4</td>
<td>15,000</td>
<td>Seme/Badagry</td>
</tr>
<tr>
<td></td>
<td>1 April</td>
<td>1</td>
<td>0</td>
<td>Port Harcourt</td>
</tr>
</tbody>
</table>
Foreign and Multination Corporation: Another source of SALW proliferation has come through the activities of foreigners and multinational corporations in the Niger Delta. It has been known, for some years, that foreign sailors are trading in small quantities of SALW at various ports in the Niger Delta. Indeed, a leader of one of the armed groups in Rivers State openly stated that “arms are available at sea, and are brought in by vessels just off the coast of Rivers State, and can be purchased by anybody that can afford to.” (Christaine, et al, 2007). Multinational corporations, particularly oil companies that have been embroiled in conflicts with communities in the Niger Delta since the 1980s, have been mentioned as a source of SALW proliferation. It is widely believed, among communities in the region, that the companies, especially Shell Petroleum Development Company (SPDC) of Nigeria, may have been responsible for
importing the arms used, not only by the various security agencies, but by warring factions within communities in the area.

**Theft and Sabotage:** Theft from and sabotage of the inventories of military, police and other security agencies, arising either from raids and seizures by criminal elements or by illegal sales by state agents constitute another source of the SALW in circulation around the country. Both the military and police authorities have, on several occasions, condemned the involvement of unscrupulous elements within their organizations for their involvement in such nefarious activities. The recent conviction of military officers who sold arms to Movement for the Emancipation of the Niger Delta (MEND) is still fresh in our memories.

**Small Arms Entry Points and Routes in Nigeria**

Since Nigeria has lengthy and porous borders, a number of airports, and numerous ports along the southern coast, smuggling and cross-border trade are difficult to detect and monitor. Limited staff, vehicles, and resources make the job of customs officials, the police, and the navy all the more difficult. While many are certain that small arms and light weapons are coming into the country, as evidenced by the presence of foreign-made weapons in circulation, the exact entrance routes of these weapons are less clear. A number of transit countries are often mentioned. These include the neighbouring countries of Benin, Cameroon, Chad, and Niger, as well as Gabon and Guinea-Bissau (Ikelegbe, 2005; Ojudu, 2007). Other reported sources include Côte d’Ivoire, Liberia, South Africa, Turkey, and Ukraine, as well as Bulgaria, Kosovo, and Serbia.26
While source countries are often named, the flows of small arms from source and transit countries are not well documented. The police have impounded a large quantity of arms and ammunition smuggled through neighbouring countries, with many coming from the Tudu arms market in Ghana and making their way to Nigeria through Togo and Benin (Olori, 2004). This suggests that there are important entry points for small arms into Nigeria. Reportedly, the three most notorious arms smuggling frontiers in Nigeria are in the south-west (Idi-Iroko in Ogun state and Seme in Lagos state), in the south (the port city of Warri in Delta state), and in the north-east at the border with Niger and Cameroon (Adamawa, Borno, and Yobe states) (Agboton- Johnson, Ebo, and Mazal, 2004,). Warri has been referred to as the ‘hub of the gun trade’ in the Niger Delta (Ojudu, 2007; Peel, 2005, ), and its location in the Delta, as well as the demand for small arms in that area of the country, make this a logical place for the reception of shipments. However, relatively little concrete evidence of small arms transfers is available, making it difficult to assess
trafficking routes, transit countries, and sources. A number of towns are known for the availability of weapons, including Asaba, Benin City, Warri, Aba, Onitsha, Enugu, Owerri, Awka, and Port Harcourt (Small Arms Survey, 2007). Arms that come into the country through the southern ports may be distributed in this southern region, or they move further north to primary distribution points, and then on to secondary distribution points (see Map). Some of these weapons will move farther north, but the north appears to have additional sources of small arms through the borders with Niger and Chad in the north-east. Entry points here include Maigatari, Nguru, and Mallam Falori (Adejo, 2005: 93). The Map below shows small arms entry and fabrication points in Nigeria.

Source: Hazen and Norner, (2007)
CHAPTER THREE
ANALYSIS AND APPRAISAL OF THE ECOWAS CONVENTION

3.1 Analysis of the ECOWAS Convention on SALW

The ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, adopted on 14 June 2006 resulted from the transformation of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons into a legally-binding convention. The Moratorium is limited in time and represents a political engagement. Moreover, the fact that it lacked a detailed text made it difficult to implement in practice. An evaluation report carried out in 2002 by independent experts revealed a number of weaknesses that led to the breach by certain States of the Moratorium, and in certain cases to grave negligence on the part of some. The voluntary nature of the Moratorium was the principal reason for the lack of sanctions and measures attached to it, not to mention capacity to implement it effectively. Furthermore, the lack of an effective strategy for ensuring communication between ECOWAS member states and harmonisation of verification mechanisms also led to the poor implication of governmental actors and civil society in implementing the Moratorium. Indeed, many people ignore the existence of the Moratorium to this day.
The devastating consequences of small arms and light weapons (SALW) proliferation continue to pose a threat to stability and security in the sub-region. With a view to consolidate and further promote peace building and reconciliation, ECOWAS Heads of State and Government decided at their Summit in Dakar on 30 January 2003 to transform the Moratorium into a legally-binding Convention. The full text of the Convention is available at: [http://www.grip.org/research/ECOWAS_convention_ENG.pdf](http://www.grip.org/research/ECOWAS_convention_ENG.pdf).

The Moratorium was adopted in 1998 and renewed in 2001. While the Moratorium's Code of Conduct, adopted on 10 December 1999 set out to tackle for the first time several aspects of the small arms problem, it quickly proved to be ineffective in practice. The Moratorium's transformation into a legally-binding Convention was the result of an integrated process that depended on the contribution of several actors, in particular the European Union (EU), Canada and Switzerland. West African civil society also played an active role in the process, submitting a proposal for a protocol in Bamako in March 2005. The latter served as a basis, along with a draft convention drawn up by the Programme for Coordination and Assistance for Security and Development (PCASED), for the development of a draft convention text by two consultants selected by the ECOWAS Secretariat in December 2005 for this purpose. The project drawn up by the consultants was examined at two meetings of independent experts and government officials in March and May 2006, respectively, before being submitted for approval by Heads of State and Government at their Summit in Abuja, in June 2006 (Ilhan, 2007).

The Convention consists of a preamble and seven chapters, which contain a total of 32 Articles.

**PREAMBLE**
The preamble refers to a series of fundamental texts and stresses a number of key principles, in particular States’ rights to self-defence, non-interference in the internal affairs of another State, and the prohibition to use or threaten to use force against another State. It also points to certain legal instruments within ECOWAS, in particular the ECOWAS Protocol relating to Conflict Prevention, Management and Resolution, Peace-keeping and Security, which provides the basis for ECOWAS policy in the fields of defence, security and peace building. In this section, ECOWAS member states also express their concern regarding the effects of SALW proliferation, which is perceived as a direct threat to human security, a universal concept which extends beyond the concepts of state security or commercial safety. They also underscore their determination to consolidate the gains of the Moratorium through a legally-binding convention, and to increase the capacity of the Executive Secretariat to combat illicit SALW. The latter point is very important because practically all the chapters of the Convention refer to the tasks incumbent on the ECOWAS Secretariat in order to ensure the effective implementation of the Convention.

CHAPTER I – DEFINITIONS AND OBJECTIVES

In order to ensure the uniform interpretation of the Convention, this chapter defines a number of key terms according to internationally agreed/validated definitions. Among these are:
- **Small arms and light weapons**, with a distinction being made between the former which are designed for individual use, and the latter which are designed to be used by group of persons;

- **Ammunition**, which are excluded from all existing international instruments. Their inclusion here is a novelty as the Convention considers them as a weapon as such and therefore subject to all its provisions. ECOWAS member states understood the importance of ammunition since, on the one hand weapons cannot function without them, and on the other their surveillance can lead to illicit weapons;

- **Other related material**, such as necessary components and spare parts should also be subject to controls, which is also a novelty;

- **Transfers**, which are defined for the first time in an international instrument. The definition takes into account any movement of arms and not only exports, as is usually the case. Other transfers, such as transport, transit, import and use of arms are also included.

- **Non-state actors**, who are also considered for the first time in an instrument of this kind. As such, the sub-Saharan region has taken an important and innovative initiative that has still not been defined at the international level.

This section of the Convention also lays down the objectives, which are to consolidate, improve and adapt the gains of the Moratorium. The Convention is proactive, and the concept of prevention permeates the text. This is another novel aspect of the Convention, because in general the existing instruments target weapons that are seized in illegal situation, which means that it is necessary to wait before a tracing operation can begin.
Under the ECOWAS Convention, weapons are checked from the beginning of the transfer and any suspicion of deviation will quickly give rise to tracing. The proactive controls that ECOWAS member states have accepted under this Convention have already been refused on political-commercial grounds by several states during debates in the United Nations.

CHAPTER II – TRANSFERS OF SALW

While retaining the spirit of the Moratorium, the Convention integrates the principle of the ban while allowing for possible exemptions, which operate through the broader concept of arms transfers and includes equipment needed for their manufacture. A clause banning unconditionally all SALW transfers to non state actors that have not been explicitly authorised by an importing member state is included. Finally, as SALW are merchandise unlike regular merchandise, they are not subject to Article 45 of the ECOWAS Revised Treaty, which aims at the free movement of goods in the region. Articles 4, 5 and 6 of the Convention stipulate the conditions, procedures and criteria for exemptions. The objective is to offer member states the possibility to be granted exemption from the ban principle under certain specific conditions, by granting the Executive Secretary the capacity to analyse exemption requests. Moreover, member states are required to develop strict systems to regulate transfers, while the Secretariat is obliged to justify any notified exemption refusals and publish a detailed annual report on authorisations granted.

Decision-making
The Executive Secretariat provides a first reasoned opinion on the request and transmits it to the Member States, which must decide by consensus. This form of collegial decision-making will build mutual confidence between the states by eliminating any arbitrary behaviour. Indeed, any unjustified refusal on the part of one State would risk putting it in the opposite situation come its turn to request an exemption. In the absence of consensus, the ECOWAS Mediation and Security Council must decide. Article 6 sets out the exemption criteria that authorise the transfer. These criteria were inspired by the various existing documents at the international level, such as the European Code of Conduct and the draft Arms Transfers Treaty (ATT). All the conditions to ensure respect for human rights, application of international humanitarian law, embargoes, the UN Charter and all other treaties or decisions to which member states are bound are all brought together under this Article.

CHAPTER III – MANUFACTURE OF SALW

Articles 7 and 8 set out the principle of strict controls on the manufacture of SALW:

- By regulating the activities of local manufacturers in light of an overall policy of arms reduction and limitation
- By compiling information on industrial manufacture where it exists
- By subjecting arms manufacturing activities to certain requirements related to the provision of precise information to the ECOWAS Executive Secretariat

The Moratorium prohibits local manufacture. However, it became evident that in practice this prohibition was impossible to check, especially in certain States where local manufacture is anchored in the culture of the country. The interdiction therefore risked
pushing local manufacturers in total clandestinity. By subjecting the activity to State control, a number of manufacturers would become known and it would be possible to follow their activities in accordance with the requirements stipulated in the Convention (Article 8). Data is to be collected at the national level and transmitted to the ECOWAS Executive Secretariat.

CHAPTER IV – TRANSPARENCY AND EXCHANGE OF INFORMATION

The convention sets out a number of means and instruments likely to promote transparency and build confidence between member states by:

• institutionalising databases and arms registries (Articles 9-11);

• establishing a dialogue with manufacturers and suppliers of SALW (Article 12) to promote their support for the Convention;

• combating corruption through preventive and effective measures (Article 13).

Databases and registries are computerised and centralised both at the national level and at regional level within the ECOWAS Executive Secretariat, and contain all the details about arms transfers. The data is preserved indefinitely. These measures to ensure transparency between states will further build mutual confidence by eliminating the scope for suspicion and mistrust, which often lie at the root of conflicts.

Article 11 foresees for the first time an arms registry for peacekeeping operations, rendering compulsory the registration of any weapon introduced into the sub-region for this purpose. This raised an important problem relating to the management of these weapons, as no country taking part in peacekeeping operations in the sub-region had hitherto wanted to agree to an inventory of the weapons held by their soldiers. As a result,
a number of these weapons remained in the ECOWAS territory even after the departure of the peacekeepers, resulting in an important source of proliferation that was particularly difficult to control. With the new measures introduced under the Convention, weapons held by peacekeeping forces can be traced from the time of their entry into the region until their effective withdrawal at the end of the peacekeeping operation. This chapter demonstrates the important role played by the Executive Secretariat, since it will be responsible for taking the appropriate measures concerning arms registration and for following up with member states. The Secretariat will also have responsibility for providing information and for ensuring follow-up at the international level in order to make the requirements of the Convention known.

CHAPTER V – OPERATIONAL MECHANISM

This chapter sets out the various activities required to ensure that the fight against SALW proliferation is effective.

Civilian possession

Article 14 imposes controls on the possession of SALW by civilians:

• Prohibition on the possession of light weapons by civilians;

• Member state responsibility for the regulation of possession, use and sale of small arms by civilians;

• The ECOWAS Executive Secretary develops the authorisation procedures and communicates them to the competent national authorities;
• Licenses are granted only when there is proof of a legitimate reason for possession, and this following a 'cooling off' period of at least 21 days;

• The incorporation into legislation of criminal sanctions for illicit SALW possession and use.

Management and security of stockpiles

This article foresees for the first time in an international, legally-binding instrument the control of military weapons. To this end, member states undertake to:

• Define effective standards and procedures for the management and storage of national stockpiles, including those of manufacturers and sellers as well as private individuals;

• States undertake to regularly review their facilities and the conditions of storage of SALW held by their armed forces and security personnel, and other authorised organisations with a view to identifying surplus and obsolete stocks for destruction;

• Identical measures will be taken for the management of weapons collected in the scope of peacekeeping operations, under the supervision of the Executive Secretariat.

Marking

Article 18 envisages the appropriate marking of all SALW, including their ammunition and other related equipment:

• A "classic marking" that includes a unique serial number, the manufacturer's identify and identification of the country of manufacture;

• A "security marking" applied to every weapon manufactured after the entry into force of the Convention;
• Marking upon import;
• Marking of ammunition with batch numbers, which must also be applied to their smallest packaging

**Tracing**

Article 19 envisages a tracing mechanism based on the obligatory exchange of data on SALW between member states. It was inspired by the best practices of the existing international instruments, and in particular the UN instrument on SALW traceability. However, the latter is a politically (rather than legally) binding instrument that envisages a voluntary system in which States reserve the right to refuse to cooperate in tracing requests, under certain conditions. Under the ECOWAS Convention such cooperation is compulsory. Moreover, the Executive Secretariat coordinates the exchange of data between member states as well as the tracing requests themselves. A member state can therefore initiate a tracing request to the Executive Secretariat if it considers weapons to be illicit, and provides it with the necessary information. Member states subject to a tracing request must respond in a reliable way within one month of receiving the request.

**Brokering**

Article 20 aims to regulate brokering activities by imposing:

• The registration of brokers, financial agents and agents transporting arms;
• The obtaining of an authorisation for each individual transaction;
• Information on transit points and routes, as well as the brokers and transporters involved in the transaction;
• The criminalisation of illicit broking of SALW.
This constitutes a novelty in the region in the sense that the majority of member states hitherto considered that no arms brokers were operating in their territories, and that arms transfers were largely the prerogative of the State. Certain government experts expressed concerns that the introduction of an Article on brokering in the Convention would accord a certain degree of legitimacy to private brokers who could also deal on the illicit arms market. Others considered that on the contrary, the lack of regulation of brokering activities would constitute a missed opportunity to oversee transfers via brokers and, if necessary, sanction illicit activities. Indeed, majority of arms suppliers work through representatives, even if they are not established in the importing country. It was finally decided by the majority of experts to include brokering in the Convention.

Other measures

States commit to update and harmonise their legislation and strengthen cross-border controls. Any activity that constitutes a violation of the Convention will be sanctioned as a criminal infringement. The ECOWAS Executive Secretariat will play an active role in the establishment and implementation of these measures with a view to strengthening sub-regional cooperation. Public awareness-raising programmes will be developed in collaboration with civil society

CHAPTER VI – INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

This chapter sets out a number of institutional procedures and implementation and evaluation mechanisms required under the Convention. Some of these provisions directly concern member states and attribute to them the principal responsibility for the implementation of the Convention. This includes the establishment of National
Commissions and National Action Plans, the reinforcement of state security forces, and promotion of sub-regional cooperation and partnership with civil society.

**National Commissions**

- Where they do not already exist, National Commissions must be established in accordance with the guidelines contained in the ECOVAS Manual of operational procedures for National Commissions;
- Existing National Commissions must be reinforced in accordance with the requirements of the Convention;
- National Commissions must be granted an independent budget line to guarantee their effective operation;
- National SALW Action Plans must be developed with the participation of all stakeholders, including in particular civil society.

The National Commissions have a leading role in the implementation of the Convention.

**ECOWAS Executive Secretary**

Article 25 underscores the vital role of the ECOWAS Executive Secretariat in the implementation of the Convention. The Executive Secretariat must:

- Develop a Plan of Action for the implementation of the Convention and submitting it to the member states for adoption;
- Secure the resources needed to carry out its tasks;
- Assist member states and ensure effective cooperation between and within them;
- Supervise the proper implementation of the Convention;
Draw up an annual report on the implementation of the Convention and collaborate with the ECOWAS Mediation and Security Council on specific questions. Member states must take necessary measures to endow the Secretariat with the institutional and operational capacity required to carry out its tasks. This is a particularly sensitive yet crucial issue.

**Monitoring and implementation of the Convention**

The provisions involving the ECOWAS Executive Secretariat in the monitoring and evaluation of compliance with the Convention envisage the establishment of a Group of independent experts appointed by the ECOWAS Executive Secretary. This is yet another innovative feature of the Convention: to carry out its tasks, the group of independent experts will have access to sources of credible information, including member states and arms suppliers, and will submit an annual evaluation report to the Executive Secretariat. Each State must submit an annual report to the Executive Secretary on its activities related to SALW, and a Review Conference is to be convened as soon as possible after the entry into force of this Convention.

**CHAPTER VII – GENERAL AND FINAL PROVISIONS**

**Complaints and sanctions**

In the event of a violation of the Convention, disputes may be lodged with the Executive Secretary, who in turn brings the case before the ECOWAS Mediation and Security Council, which takes the necessary measures. As a last resort, a case may be brought before the ECOWAS Court of Justice (in application of article 77 of the Revised ECOWAS Treaty, which provides for the possibility of imposing sanctions in case of violation of the rules laid down in the Treaty).
Final provisions

The Convention enters into force following the deposit of the 9th instrument of ratification. The depository is the ECOWAS Executive Secretary.

West Africa has the particularity of having a long-standing institution, ECOWAS, at its disposal, which is endowed with a structure that will allow the coordination of an instrument such as the SALW Convention. This constitutes a major advantage compared to other regions of Africa, which suffer from the lack of such an organisation. With the transformation of the ECOWAS Executive Secretariat into a Commission in January 2007, it is possible to proceed immediately with the implementation of the Convention.

However, the Small Arms Unit established recently within the ECOWAS Department of Political Affairs and Defence and charged with overseeing the implementation of the Convention is a new entity that must have at its disposal the means necessary to carry out the tasks conferred on it by the Convention. Indeed, the Secretariat plays an active role in almost every Article of the Convention, including coordination, evaluation, and monitoring, none of which can be achieved with the means currently at its disposal. The problems in implementing the Moratorium did not arise solely from the fact that the instrument was not legally binding, but also from the lack of a specialised cell within ECOWAS responsible exclusively for the implementation of the Moratorium and endowed with sufficient means to do so. One of the first actions of the ECOWAS member states should therefore be to strengthen the Small Arms Unit.
3.2 ECOWAS Convention on SALW: An Appraisal

For us to appreciate an appraisal of the ECOWAS Convention on SALW, we need to first understand the central objectives of the convention which we alluded to in chapter two. The Convention is guided by central objectives which are:

1. To prevent and combat the excessive and destabilising accumulation of small arms and light weapons within ECOWAS;

2. To continue the efforts for the control of small arms and light weapons within ECOWAS;

3. To consolidate the gains of the Declaration of the Moratorium on the importation, exportation and manufacture of small arms and its Code of Conduct.

4. To promote trust between the Member States through concerted and transparent action on the control of small arms and light weapons within ECOWAS;

5. To build institutional and operational capacities of the ECOWAS Executive Secretariat and the Member States in the efforts to curb the proliferation of small arms and light weapons, their ammunitions and other related materials;

6. To promote the exchange of information and cooperation among the Member States.

From these objectives, the central aim of the Convention is to curb the proliferation of SALW in West Africa. The question is to what extent has Nigeria observed this? In response to the emergency of a gun culture in Nigeria and in realization of the adverse implications of this development for national security, there have been several initiatives, over the years, aimed at controlling and collecting weapons from
Unauthorized individuals and groups. Some of the most notable efforts in this regard are reviewed below.

3.2.1 The Babangida Administration’s Order of 1989

Following a bloody inter-ethnic clash in the northern city of Kaduna in 1989, in which small arms were used by the belligerent sides freely and with devastating effects, the federal government sought to curb the availability of firearms in the country. It therefore, revised the regulations governing gun ownership, making them more stringent. Under this initiative the Babangida administration recalled the licenses that had been granted to all arms dealers and owners in the country and enacted laws that made the restoration licenses difficult (Obasi, 2001). The new rules stipulated the categories of guns that could be owned by citizens, “which included double-barrel shotguns for game-hunting and sports”. It also stipulated that “these must be licensed by the commissioner of police of a state, with the requirement that the applicant must be 18 years of age and above, of good address and a verifiable source on income”.

3.2.2 Delta State Weapons Collection Programme, 1999

Following the transition from military to civilian rule in May 1999, a major conflict broke out between the Ijaw, Urhobo and Itsekiri ethnic groups in Warri that led to the deaths of hundreds of people and the destruction of property worth billions of Naira. On 16 June 1999, the Delta State Governor, James Ibori, announced a peace plan which would include the mopping up of arms in exchange for cash and job opportunities in Warri city. Laudable as the plan was, many in the Niger Delta, where the plan was to be implemented, were from the outset skeptical of the government’s
sincerity and its readiness to provide the wherewithal to implement the gun collection programme. As it turned out, no concrete action was ever taken to ensure the implementation of the weapons collection from the warring groups.

3.2.3 Plateau State Weapons Collection Programme, 2004

In May 2004, following persistent settler-indigene and Christian-Muslim conflicts in parts of Plateau State, the federal government declared six months of emergency rule in the state and appointed Major-General Chris Alli (rtd) as the Sole Administrator of the state. Although that action brought an almost immediate end to hostilities in the state, the Sole Administrator was worried that the retention of firearms in private hands could lead to a relapse into violence in the near future. On 21 May 2004, therefore, he ordered that all firearms in private hands be submitted to the government under a “Guns for Cash” programme.

Under this programme, the government directed all individuals and groups in possession of firearms to come forward and surrender them at designated centers for cash rewards. Whoever surrendered a rifle was to be paid 100,000 Naira while locally made weapons would attract 25,000 Naira each. The government also directed that any person that had useful information on the whereabouts of hidden firearms could also come forward with such information to the nearest designated center for a cash reward of not less then 20,000 Naira. It added that anyone who voluntarily provided information leading to the recovery of firearms would be protected against police action or prosecution, while his identity would not be disclosed. The date of 7 June was fixed as the deadline for the voluntary surrender of the illegal arms. The public response to the programme, however, was very poor. As cooperation was not forthcoming from the
people, the closing date for the voluntary surrender of the arms was extended by two weeks. During this period, and with strong assurances of amnesty and confidentiality by the sole administrator, some of the people voluntarily surrendered weapons and were issued receipts. They were, however, afraid of coming forward to collect their rewards openly. The open payment arrangement therefore had to be cancelled in favour of secret payment. In all, less than 300 weapons were voluntarily handed over to the security agencies. Thereafter, combined teams, of the army and the police embarked on “cordon and search” operations in communities that were suspected to be harboring guns. However, there was no official record at the end of the exercise regarding the number of guns that were recovered.

3.2.4 Inspector General of Police Order, 2004

On 5 February 2004, the inspector-General of Police (IGP) directed that all illegally acquired, prohibited and offensive weapons should be surrendered to the police within one month. He offered a “handsome reward” (later specified at 10,000 Naira) to any citizen who would volunteer information about persons in possession of offensive weapons and assured that all information received by the police would be treated with “utmost confidentiality.” He, however, warned that after the expiration of a one month deadline, the force would commence raids on illegal owners of offensive weapons.

Following the expiration of the one month deadline, the IGP ordered the force to commence a mop-up operation of illegal weapons all over the country. On 14 March, 2004, he inaugurated a 60-man task force on the recovery of illegal firearms nationwide.

For the conduct of its task, the following operational mode was outlined for the task force as follows:
(a) Seek and obtain information of places where firearms are kept, sold or manufactured.

(b) Obtain search warrants from courts of competent jurisdiction to search and identify premises where illegal firearms are kept, manufactured or sold and confiscate the.

(c) Collate and forward returns of recoveries to force Headquarters, Abuja, for further action when necessary.

(d) Collaborate with other sister organizations in all their operations.

(e) Seek and obtain information on points of entry (land, sea or air).

(f) Approach its assignment closely throughout the 12 zones of operation of the police, which must be closely monitored by the zonal Assistant Inspectors-General of Police (AIGPs).

The achievements made in the recovery of firearms up till the end of June 2004 are shown in the table below.

Table 3.1 Statistics on Recovery of Illegal Firearms by Nigerian Police Force, 14 March-30 June 2004

<table>
<thead>
<tr>
<th>S/No</th>
<th>Item</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>(b) (c)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Weapons Recovered</td>
<td>972</td>
</tr>
<tr>
<td>2</td>
<td>Ammunition Recovered</td>
<td>111,585</td>
</tr>
<tr>
<td>3</td>
<td>Persons Arrested</td>
<td>190</td>
</tr>
<tr>
<td>4</td>
<td>Suspected Killed in Operation</td>
<td>73</td>
</tr>
<tr>
<td>5</td>
<td>Policemen Injured/Killed</td>
<td>19/12 Respectively</td>
</tr>
</tbody>
</table>

Source: Press Briefing held by Inspector-General of Police on Wednesday, 30 June 2004; available on the internet at http://www.nigeriapolice.org
3.2.5  **Cash for Arms Programme, Rivers State, 2004**

In June 2004, violent conflict broke out in Rivers State between two major armed groups, namely the Niger Delta Peoples Volunteer Force (NDPVF) and the Niger Delta Vigilantes (NDV). In reaction to this development, President Olusegun Obasanjo invited the leaders of the two groups to a peace meeting in Abuja. At the meeting between officials of the federal government and the leaders of the two warring groups, held in Abuja on 1 October, 2004, the two leaders agreed to disband their militia groups and to totally disarm. They further agreed to an immediate ceasefire and undertook a commitment to maintain peace and to be law abiding.

After a second meeting with the militia leaders, the President established a committee chaired by the Chief of Staff at the Presidency, major-General Abdullahi Mohammed (rtd), to follow up on the decisions that were made during the peace talks which included, among others, the disarmament of the militia groups. Two sub-committees were thereafter formed, namely the Disarmament Sub-Committee, chaired by the Governor of Rivers State, Dr. Peter Odili, and a community Sub-committee headed by the Deputy Governor of Bayelsa State, Dr. Goodluck Jonathan. In accordance with the agreement reached on October 1 at Abuja, weapons were collected from the various militia groups. By 30 November 2004, the disarmament sub-committee had collected close to 1,000 guns form the two factions and also from associated groups. Although the disarmament programme had its limitations, it undoubtedly brought about more peace and much happiness in Rivers State, when compared with the pre-disarmament period (Ogaba, 2005).
3.3 Nigeria’s Initiatives on SALW within the Framework of the UN Programme of Action (PoA).

Nigeria government-led initiatives that support SALW control in consonance with the UN PoA to date include:

- Promoting improved police/community relations coupled with a proposed community-policing project in some states of the federation
- The federal government’s plan to create jobs through the National Directorate of Employment in order to provide a path out of criminality for disaffected youth
- The police gun recovery drive across the country
- On-going “anti-graft” (anti-corruption) campaigns which will promote public support and trust for the police service in providing public security.

Further Nigerian government SALW initiatives include the establishment of a presidential committee on the destruction of Illegal Firearms and of a National Disarmament committee. The presidential committee on the Destruction of Illegal Firearms has publicly destroyed (through open air burning) arms and ammunition recovered from various groups and locations in four successful exercises nationwide. By the end of 2004, a total of 3,058 firearms and 3,790 rounds of small arms and ammunition were destroyed by the committee. On March 22nd 2005, a further 695 assorted arms and rounds of ammunition were destroyed in Abuja. Civil society action on SALW in Nigeria has also strengthened significantly over the past few years, and has involved increasing co-operation with the government.

3.4 The Federal Government Amnesty, 4th August to 4th October, 2010
Another arms collection programme that has been carried out in Nigeria is the recent amnesty that the Yar’Adua administration initiated. The exercise took place in seven states- Balyelsa, Delta, Rivers, Ondo, Edo, Akwa Ibom, and, Cross River with about 8,299 ex-militants been disarmed. Delta State has 1,061, Rivers 1,047, Ondo 750, Edo 250, Akwa Ibom 162 and Cross River 160 registered ex-militants. According to AVM Aralile (the Chief Co-ordinator of the Federal Government Inter-Agency Coordinating Committee on Amnesty) revealed that 2,760 arms of "different classes and caliber" and 287,445 various types of ammunition were surrendered besides, 3,155 magazines, 1090 dynamite caps, 763 explosives and dynamites, and 18 gun boats were surrendered. The highest cache of ammunitions (130,877) was recovered from Bayelsa followed by Rivers State (82,406) and Delta State (52,958). The committee has also collected over 4,235 assorted accessories and equipment. All the arms according to the committee will be moved to the Enugu ammo dump.

There can be no doubt that taking 18 gunboats out of commission is a significant achievement but how significant is the rest of the haul of illegal arms? In August 2007 one shipment of illegal arms from the Ukraine bound for Nigeria contained 950 AK assault rifles, 150 under-barrel grenade launchers to suit AK-47, 1 million rounds of 7.62 mm ammunition, 475,000 rounds of 4.45 mm ammunition, 500 pistols, 300,000 rounds of ammunition for the pistols, 8,000 hand grenades, 200 RPG launchers, 1,000 RPG projectiles, 500kg of TNT, plus various mortars and mines. This one consignment had 1.5 million rounds of ammunition in comparison to 28,745 rounds of ammunition achieved in the current amnesty. One illegal shipment had 60 times more ammunition than that surrendered in this amnesty.
Further comparison makes the weapons haul from the current surrender look rather thin. This is compounded when one considers that there have been other significant illegal shipments over several years contributing to the large estimates of the number of illegal arms in Nigeria (http://234next.com/esplcms/sites/Next/Home/5468486-146/Arms_Arms_and_More_Arms.asp).

It is clear from the foregoing that since the ECOWAS Convention on SALW came into being in 2006, the Nigerian state apart from the 2010 Amnesty granted to militant in the Niger Delta and subsequent collection of their weapons, have not made any other conscious effort to mop up arms in the country. In fact, recent events show that the Amnesty which the Yar’A dua’s government claimed was a success is a mirage. This is because the militants they claimed to have surrendered on Monday, March 15th 2010 blasted a car that was parked with bomb.
CHAPTER FOUR
NIGERIA FIRE ARMS LAW AND SMALL ARMS AND LIGHT WEAPONS
PROLIFERATION IN NIGERIA

4.1 Nigerian Laws and Regulations

The Firearms Act (1959) is the main legal instrument governing the production, use, import, and export of SALW in Nigeria. Section 23 of the Firearms Act states that: subject to the provisions of sections 24 to 26 of this Act, (...) no person shall manufacture, assemble, or repair any firearms or ammunition except at a public armoury or at arsenals established for the purposes of the armed forces with the consent of the President, acting in his discretion. It also prohibits dealing in firearms except by registered dealers as well as the import and export of firearms and ammunition into Nigeria by sea or by air. In addition, the Act imposes a minimum sentence of 10 years for the importation, exportation, manufacture and repair of firearms. An amendment to the 1959 Act was adopted in 1966, which increased the punishment for firearms related offences. Hitherto, the punishment was N400 fine or 12 months imprisonment, or both. However, it is the 1984 Robbery and Firearms Decree which considerably expanded gun-related offences and sanctions. Under this decree, illegal possession of firearms attracts a fine of N20,000 or a minimum of ten years imprisonment, or both. The Act also specifies that armed robberies are punishable by death (hanging or firing squad), and that offenders charged with attempted robbery involving the use of firearms face life imprisonment/sentence. Given the widespread proliferation of illicit SALW, civil society groups and the Police have argued for a review of the law which would not give an
option of fine to anyone found guilty of illegal possession of firearms (Nigerian Firearms Act of 1959).

4.2 Implementation and Enforcement Challenges

Although the provisions of the law are comprehensive in that they clearly spell out what amounts to legal and illegal possession and use of SALW, the penalties for breaching the law have, particularly in relation to fines, become obsolete, while the enforcement of the law has been constrained by corruption and inadequacy of institutional capacity on the part of the law enforcement agents. Consequently, even though the law can be considered adequate in terms of the production, import, and export of SALW, the penalty is often insufficient to ensure deterrence and enforcement in the event of a breach. The Chairman of the National Committee concedes that penalties for SALW-related offences are not strong enough, especially as the accused can easily obtain bail. In addition; the National Committee acknowledges the fact that the current legislation is obsolete and is not adequate for the current situation. The laws and regulations governing SALW were proposed for revision after the agreement of the UNPoA. In a memo dated 21 September 2001, the Nigerian President requested the drafting of a bill setting out more stringent penalties for contravention of firearms laws. He proposed a 10-year jail term, without an option of fine, for illegal possession of firearms and further proposed a cash reward for information that leads to the arrest and prosecution of anyone in illegal possession of firearms. However, no draft firearms law has yet been presented to the National Assembly (Vanguard, October 12, 2001).
4.3 Implementation of Small Arms Control: The Nigerian National Committee

The Federal Government of Nigeria inaugurated the National Committee on the ECOWAS Moratorium in 2001. The Committee, as of August 2003, is composed of representatives of the Ministries of Defence, Internal Affairs and Integration and Cooperation in Africa (MICA), DICON, the National Orientation Agency, the Immigration Service, and various security and customs agencies such as the Police, the State Security Services and the National Drug Law Enforcement Agency. However, despite having a wide representation, the National Committee does not satisfy the PCASED guidelines on the composition of National Commissions. Neither the Ministry of Justice nor the Ministry of Foreign Affairs are represented on it. Four civil society organisations are represented on the Commission: the Africa Leadership Forum, the Quench Crisis Initiative, the Nigerian Council of Women Societies and the Shehu Shagari Institute for Peace and Good Government (Christiane Aghoton et al, 2004). The Committee’s mandate is to:

- Control the import and manufacture of all SALW;
- Register and control the movement and use of legitimate arms stock;
- Detect and destroy all illicit and surplus weapons; and
- Permit exemptions to the Moratorium only in accordance with strict criteria.

The Committee has devised a ‘Framework for the Implementation of the ECOWAS Moratorium’ which contains several priority areas, based on PCASED’s Plan of Action. Establishing a culture of peace, enhancing border controls, training, collecting and destroying surplus and illegal weapons are some of the priorities set out by the National Committee. Based on its mandate, the National Committee articulated its
first workplan in 2003, which represents a viable basis on which an assessment of the National Committee’s operations since inception can be based (Nigeria NatCom Work Plan, 2003) The specific activities geared towards achieving this objective include awareness-raising campaigns involving a variety of organisations such as women’s organisations, religious bodies, community groups and business associations. This aspect of the National Committee’s programme comprises confidence-building measures which would de-emphasise violence and underscore the peaceful alternatives of resolving issues. It hosted in November 2002 a PCASED-sponsored national workshop on Modern Methods and Techniques of Illicit Small Arms Control through the Promotion of a Culture of Peace. It was broadly agreed that a necessary condition for the reduction of the circulation of illicit SALW is the national determination to tackle the various socio-economic and political issues responsible for widespread social discord and upsurge in crime. Furthermore, it was agreed that the educational curriculum should be revised to incorporate a ‘peace module’ teaching the benefits of a culture of peace to society at all levels. The introduction of a viable social security mechanism was also highlighted as a potential way of reducing armed criminality. The workshop called for a firearms registry, cross-border collaboration among security officials, and adequate equipment and training for border security officials. During the April 2003 elections, PCASED supported the National Commission to place sensitization advertisements on gun-free elections in local newspapers. (Guardian, April 12, 2003; Punch, April 13, 2003; Thisday, April 17, 2003) However, the present capacity of the National Committee is insufficient to carry out the required awareness-raising activities in Nigeria on SALW issues. The National Committee’s staff and budget is grossly inadequate to cope with the need to draft a
‘peace curriculum’ for all levels of the education cadre, and to set up, train, and equip advocacy outposts in the 36 states of Nigeria.

In July 2001, the Federal Government of Nigeria carried out its first destruction of arms and ammunition seized by security agencies, which comprised of 428 rifles, 494 imported pistols, 287 locally made pistols and 48 dane guns. It has been unable to conduct further arms destruction programmes due to lack of funds and equipment. In addition, the 2001 arms destruction exercise involved the burial at sea of arms, a destruction method which the government is reluctant to repeat for environmental reasons and which civil society and other stakeholders criticise for its lack of transparency. From January 2002 to June 2003, 1,902 assorted firearms and 13,271 rounds of ammunition have been collected and are now awaiting destruction. However, the National Committee no longer has direct responsibility for the destruction of arms, as this requires technical and specialised expertise.

Ideally, a National Commission (rather than a committee) should have overall and singular responsibility for the control of illicit SALW in Nigeria, including the destruction of seized arms. In the short-term however, there is a need to enhance the capacity of the committee responsible for the collection and destruction of illicit and surplus SALW. The National Commission lacks the information infrastructure on SALW flows and the capacity to serve as a SALW documentation unit. However, the research activities on the themes identified by the National Committee have yet to witness implementation, due in particular to the lack of financial capacities and technical expertise of the National Committee’s staff. As presently conceptualised, the Arms registry is envisaged to be a databank for legally registered arms, surplus stock (outdated
and out of use), and local manufacturing capacity. A series of on-going consultations have begun between the National Committee and the Canadian Mission in Nigeria focusing on financial and technical assistance in the arms registry and sensitisation programmes.

4.4 Implementation challenges

The fundamental challenge facing the National Committee is its seeming lack of autonomy and funds, which severely hampers its implementation capacities. The following needs have been identified by the National Committee:

- Equipment for destruction of illicit/recovered arms;
- Equipment for arms register and Databank;
- Resources to execute arms for development projects;
- Training of Secretariat staff on arms registration; and
- Institutional support to border operatives to enhance surveillance and detection of SALW trafficking at the border post.

The National Commission displays considerable lack of institutional capacity relative to both the level of illicit SALW proliferation and its planned activities. The plan to transform the National Committee into a National Commission through legislation has not witnessed any tangible action, due to the lack of political will and the lengthy process of adopting new legislation. The significance of this transformation is that while a Committee is relatively ad hoc, and an instrument of administrative exigency, a Commission is set-up by a law which ensures it is allocated a budget by the National Assembly, providing it with institutional and financial autonomy.
Presently, the Department of Collective Defence and Security of the MICA serves as the Secretariat of the National Committee, which comprises of five staff members. Therefore, the National Committee’s planned activity of setting up observation bureaux in the 36 states of Nigeria remains stillborn and the National Committee has been unable to pursue its plan to establish an ‘Inventory and Registration of Local Arms Producers’. The National Committee’s financial constraints are such that it is presently unable to pay transportation and sitting costs of its members. It is estimated that a minimum of N50 million would be needed to implement its work plan annually (Thisday, August 10, 2003). In terms of funding, the National Committee is seeking alternative sources, in particular at the local level. It has for example submitted to the Nigerian National Petroleum Corporation a proposal on a youth project in the Niger Delta area. The major challenges of illicit SALW control in Nigeria reside in addressing the conditions leading to the demand for illicit SALW, and in enhancing the National Committee’s capacity to collect, document, destroy, and campaign against SALW proliferation. Adequate financing, staffing, and training of both National Committee and security officials are of particular relevance to this matter.
CHAPTER FIVE
SUMMARY AND CONCLUSION

5.1 Summary

This study was designed to achieve two important objectives, namely (a) To critically ascertain the extent Nigeria has implemented the ECOWAS Convention on SALW, (b) To ascertain the extent the Nigerian firearms law has curbed the proliferation of SALW in Nigeria. After a critical analysis of available data the study revealed as follows:

1. That the objective of the ECOWAS Convention which seeks to combat the excessive and destabilizing accumulation of SALW within ECOWAS is still a mirage in Nigeria. This is because there are an estimated seven to ten million illicit small arms and light weapons in West Africa and an estimated one million to three million small arms and light weapons in circulation in Nigeria alone. And this has fuelled countless armed violence in Nigeria.

2. It was further revealed that since 2006, that the ECOWAS Convention came into being, Nigeria has organized just one arms collection programme. That is, the recent Amnesty programmes organized by the Yar’A dua administration to pardon “militants” in the Niger Delta and have them submit their arms and ammunitions. Organizing just one arms collection programme since 2006 revealed the study, is not impressive for a country that records armed violence in torrents.

3. The study shows that institutional mechanism (in the form of Committee) to curb SALW proliferation as recognized by the ECOWAS Convention has been poorly implemented in Nigeria even though a National Committee was set up in 2001.
The National Committee as revealed by the study lacks autonomy and funds. In fact, the following needs were identified by the National Committee: Equipment for destruction of illicit/recovered arms; Equipment for arms register and Databank; resources to execute arms for development projects; training of Secretariat staff on arms registration; and institutional support to border operatives to enhance surveillance and detection of SALW trafficking at the border post.

4. It was further revealed that although the provisions of the law are comprehensive in that they clearly spell out what amounts to legal and illegal possession and use of SALW, the penalties for breaching the law have, particularly in relation to fines, become obsolete, while the enforcement of the law has been constrained by corruption and inadequacy of institutional capacity on the part of the law enforcement agents. Consequently, even though the law can be considered adequate in terms of the production, import, and export of SALW, the penalty is often insufficient to ensure deterrence and enforcement in the event of a breach. Illegal possession of firearms attracts a fine of N20,000 or a minimum of ten years imprisonment, or both in Nigeria.

In summary, Nigeria’s signatory to the ECOWAS Convention on SALW is a step in the right direction and shows that the political leadership in Nigeria understands that illegal possession of arms in possess a great danger to the peaceful coexistence of the country. What remains is the political will to tackle the incidence of arms proliferation in the country.
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