

# From Moratorium to a Convention on small arms: a change in politics and practices for the 15 member countries of the Economic Community of West African States (ECOWAS)

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## Introduction

This essay details how civil society and government officials became central agents of change in transforming the Economic Community of the West African States (ECOWAS) Moratorium into a Convention. The ECOWAS Convention is the first, and the only, attempt thus far by a regional body to adopt an agreement of this kind on arms transfers. This essay outlines the dynamic role of government agents and civil society, particularly Oxfam GB, in contributing to this change in politics and practices in West Africa.

## Context

Uncontrolled accumulation and spread of small arms and light weapons (SALW) poses a threat to peace and security and has reduced the prospects for 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. United Nations Panel of Experts on Liberia and Sierra Leone documented arms flows to the sub-region of West Africa.<sup>1</sup>

Recognising that 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 30 October 1998<sup>2</sup>. The Moratorium entered into force on 1 November 1998 for a renewable period of three years; it was renewed successively in 2001 and in 2004.

This unprecedented initiative was the first significant step in directly addressing the problem of illicit small arms proliferation in the sub-region. West Africa has been the only region to impose a Moratorium on arms transfer.

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However, despite this political declaration, continuous weapons proliferation as a result of poor monitoring of the Moratorium and weak government structures undermined effective implementation of the Moratorium. According to the UN Experts' Group Report on Sierra Leone in 2000, rebels still received weapons through interlinked networks of traders, criminals and insurgents moving across borders. 'Arms also travel from one unstable zone to another, and rebel movements or criminal gangs in one country sell their arms to groups they are aligned with elsewhere'.<sup>3</sup> In the late 1990s, the conflict in the Mano River Union threatened to engulf Cote d'Ivoire.<sup>4</sup> Civil war finally broke out in Cote d'Ivoire in late 2002 after a decade of rising political and social tensions.<sup>5</sup> Additionally, the security situations in Cote d'Ivoire, Guinea Bissau and Senegal's Casamance region had serious implications not only for the Mano River Union but also for the whole sub-region.

The big problem for arms control in the sub-region was that, though the Moratorium was a significant political measure, it was not binding or obligatory. The effectiveness of the Moratorium was impaired by its voluntary nature and the lack of enforceable sanctions. The Moratorium also failed to address the role of non-state actors in the proliferation of arms and it had no monitoring mechanisms for effective transparency and confidence-building measures.<sup>6</sup> Although the Moratorium asked for a regional arms registry containing information on import, export, manufacture, seizures and holdings of member states, there was no compulsory information exchange mechanism for weapons procured by the receiving states.

Most governments chose a 'state-centric interpretation of national security rather than the human security expressed by the ECOWAS Moratorium. And this had a negative impact on the implementation of the Moratorium'.<sup>7</sup> Obviously, the ECOWAS Moratorium could not by itself stop the arms flow, unless governments in the sub-region were committed to advancing human security, if necessary by law. Moreover, most West African governments around the late 1990s and early 2000, lacked strong democratic structures that had underpinnings of transparency and accountability. Besides, governments' relationships with civil society - a key neutral partner for monitoring and implementation - was characterised by animosity and mutual suspicion.

## **Agents of Change**

### **Civil society as a central agent of change**

New democratic structures in West Africa in early 2000, allowed for the empowerment of civil society in the sub-region to engage with the local community, the state, the sub-region and the international community. Civil society became a central agent for change in transforming the non-binding ECOWAS Moratorium into a legally binding Convention. Civil society in the sub-region prompted discussions with the ECOWAS Commission and governments in the sub-region on the need to institutionalise an effective legal mechanism for arms control.

Oxfam, IANSA (International Action Network on Small Arms) and Amnesty International had jointly launched a major international campaign under the banner 'Control Arms Campaign' to lobby for a strict control on the transfer of arms through the adoption of an Arms Trade Treaty (ATT) by UN member states in 2003. Three West African governments - Mali, Ghana and Senegal- having been the initiators of the Moratorium and having conducted relevant initiatives to control small arms, accepted the role of 'champion governments' in West Africa for this international process.

Oxfam GB's regional office in West Africa together with IANSA's regional network WAANSA (West Africa Network on Small Arms) joined forces to become the main driving force for change in advocating a stronger mechanism to control arms in West Africa in line with the proposed ATT.<sup>8</sup>

This new role of Oxfam and WAANSA was very significant because the Programme of Coordination and Assistance for Security and Development (PCASED)'s operations in the sub-region had come to

an end and the ECOWAS region had no delegated institution responsible for arms control. Moreover, in 2003/2004 the ECOWAS Commission lacked the human and financial resources to take over the role of PCASED and spearhead small arms control measures in the sub-region.

The first step by civil society to initiate change was taken in Dakar in 2003. Civil society groups working on arms control organised a consultation alongside the ECOWAS Ministerial Meeting on the Review of the ECOWAS Moratorium in Dakar, Senegal, 27 January 2003. The consultation was designed to provide a civil society contribution to the review process. Civil society presented a communiqué from its consultation and a draft supplementary protocol to the Foreign Ministers.<sup>9</sup> The Ministerial meeting commended the foresight and commitment of civil society in the sub-region and agreed that there was a need for a supplementary protocol. They agreed to discuss the recommendations of the civil society consultation, and requested the ECOWAS Commission to expedite action on the transformation of ECOWAS Moratorium.<sup>10</sup>

Since the ECOWAS commission did not have the resources needed to follow-up immediately on the recommendations from ministerial meeting on the Review of the ECOWAS Moratorium in Dakar, Oxfam GB's regional office in West Africa took a proactive stance to spearhead the process. In July 2004, Oxfam GB, West Africa, organised a meeting with civil society groups and representatives from national commissions on small arms. The objective was to encourage these important agents of change in the sub-region to integrate the promotion of the proposed Arms Trade Treaty (ATT) and to integrate the idea of transforming the ECOWAS Moratorium into a Convention into their strategic planning and thinking on arms control.

As a follow-up to Oxfam's request, WAANSA held a meeting with the theme '*Fast Track the ECOWAS Convention; Fast Track the Arms Trade Treaty*' in Accra, Ghana in January 2005. Following this meeting, WAANSA partners launched public awareness programmes in their respective countries on the limitations of the ECOWAS Moratorium and the need for a legally binding Convention on small arms. This initiative was to encourage governments to endorse the transformation of the Moratorium into a Convention.

In 2005, Oxfam commissioned a team of consultants from civil society, to draft a 'Civil Society Regional Convention on Small Arms' for consideration by the ECOWAS commission and its member states. Oxfam considered this initiative as a civil society contribution to the overstretched ECOWAS Commission in their bid to respond to the proposal from the ECOWAS Ministerial Meeting in Dakar, 2003, to work towards the transformation of the Moratorium to a Convention

### **Government agents as a central instrument of change**

With the moral support of the ECOWAS Commission, particularly the Deputy Executive Secretary in charge of political affairs (Late General Cheick Omar Diarra), Oxfam convened another regional meeting to review 'A Civil Society Draft of the Regional Convention on Small Arms'. Key participants in this meeting were the ECOWAS Commission, National Commissions on Small Arms from the 15 West African countries, the United Nations, international experts, and representatives of West Africa civil society

The validation workshop was well attended and had the moral support of focal points of national commissions on small arms and most importantly the ECOWAS Deputy Executive secretary, late General Diarra who took time out of his busy schedule to actively participate in the validation meeting. Late General Diarra's presence at this meeting gave credibility to the civil society process. His keynote address gave an official character not only to the meeting but also to the draft text. For example, in his speech he emphasised that, 'I need to be present here to assure governments that the ECOWAS Secretariat is behind this process'. This significant declaration generated support from the government delegates present at the meeting.

Support from government delegations and the ECOWAS Commission for this initiative by Oxfam resulted from personal relationships as well as trust and confidence that the Oxfam GB conflict adviser had developed with these key stakeholders during his career before joining Oxfam GB.

During a validation workshop, representatives from states gave their opinion on the content of the draft text and its applicability in the sub-region. Contributions by key government representatives were instrumental in the revision of draft text. The government representatives at this meeting suggested to Oxfam and its civil society partners to officially transmit the civil society draft to the ECOWAS Commission.

## **Key controversial issues raised during discussion of the civil society draft Convention**

Oxfam adopted a clever strategy by inviting key government representatives and the ECOWAS Commission to participate to the validation workshop of the civil society draft of the ECOWAS Convention. This strategy, which consisted of associating government experts together with civil society in this initial phase of drafting the Convention, meant that the support of member states for the Convention could be sought when it came to proposing it to them officially.

This strategy proved successful since government representatives at the validation meeting expressed their concerns and also their satisfaction with some provisions of the draft text. The informal and open nature of the meeting allowed government representatives to be straightforward and sincere in their contributions.

### **Concerns raised about the civil society draft Convention**

Government representatives were sceptical about a legally binding instrument. Sovereign states need small arms and light weapons for law enforcement and national security and opposed outright any obstacles to their sovereign rights. They were also sceptical about the aims and effectiveness of such a proposed legal instrument and did not accept the fact that their sovereignty was to be hijacked by a regional body (the ECOWAS Commission).

West Africa is still at risk of medium- and low-level conflict; some countries are still threatened by insurgency. States want to have the capacity to swiftly respond to such threats through actions that include the means to import quickly any needed weapons for national security without going through the unnecessary bureaucratic procedures of obtaining an ECOWAS exemption. States reflected on some of the difficulties and concerns they had with the ECOWAS Moratorium, which required all states to obtain an exemption certificate from the ECOWAS Commission before importing weapons. This process sometimes delayed weapons imports during times of emergency.

In addition, some states also maintained that arms brokers were legal state agents and participated on national commissions. Since arms brokers are important actors used by states to buy weapons on the competitive international market, they regarded any strong regulation on brokering as an impediment to national security.

Another controversial issue that was raised was the suggestion of a ban on manufacture, and the requirement for an ECOWAS exemption to authorise manufacturing. Since Nigeria has an existing arms industry in the sub-region, it is impossible to maintain such an argument.

Government delegates also argued that it is unreasonable to require states to seek an exemption for craft production. Local craft production has proliferated across the region over the years. For example, Ghana has over 2500 artisan producing weapons. Most artisans (blacksmiths) have resorted to craft production because of the demand and marketability of the product, as well as the economic benefits compared with the traditional products they produce. (For example, in Ghana a single barrel gun has

a market price of \$100 compared to a traditional tool like a hoe at \$1). In Mali, Ghana, Burkina Faso and Nigeria, for example, the expertise to manufacture a gun is still predominantly the pride of families who claim to have been working iron and producing guns for generations for hunters and, most importantly, for royalty. This means that financial benefits are not the only driving force behind the trade. It is also an issue of social values and norms of the people. Consequently, any mechanism put in place to address the problem of local craft production has to consider the social aspects of the programme.

## **The official drafting of the ECOWAS Convention on Small Arms**

As advised by the government delegates at the civil society validation workshop of March 2005, Oxfam presented the civil society draft of the ECOWAS Convention to the ECOWAS Commission through WAANSA.

The ECOWAS commissioned international experts to draft the new ECOWAS Convention using the civil society draft as the point of reference. The international experts employed were Dr. Sola Ogunbanwo, a leading consultant (Nigerian and long-time supporter of civil society actions) and Illan Berkol (a leading researcher with Belgium Group for Research and Information on Peace and Security (GRIP)). Besides using the civil society draft as a point of reference, the lead consultant was further advised by Oxfam experts such as Debbie Hillier.

Interestingly, the head of the new ECOWAS Small Arms Unit was Cyriaque Agnekhetom who had been one of the consultants commissioned by Oxfam to draft the civil society draft Convention. As the head of the new Small Arms Unit, Cyriaque became instrumental in getting the issue of the proposed small arms Convention to the top of the ECOWAS Commission's agenda. As one of the key drafters of the civil society draft, Cyriaque believed that the proposed legal document would make a difference to illicit proliferation of small arms in the sub-region. This conviction encouraged him to work closely with governments to get the Convention adopted.

Before the official submission of the draft Convention to the ECOWAS Heads of State Summit, Oxfam supported its civil society partner members of WAANSA to carry out awareness-raising activities, as well, as to advocate and directly lobby the decision-makers of the Member States and, more specifically, those responsible for security issues, to support the adoption of the ECOWAS Convention. In addition, civil society lobbied governments to include civil society experts as part of the official delegations to the ECOWAS Heads of State Summit.

Further to this, the ECOWAS Commission collaborated with Oxfam and its civil society partners throughout the formal drafting of the Convention. Oxfam and its partners participated in the ECOWAS experts meeting for the drafting and validation of the ECOWAS Convention.

On 14 June 2006, the fifteen Heads of State from the sub-region signed the ECOWAS Convention on small arms, which replaces the 1998 ECOWAS Moratorium.<sup>11</sup>

The Convention covers the following key areas, among others:

- A ban on international small arms transfers except those for legitimate self-defence and security needs, or for peace supporting operations. Exemption requests are submitted to the ECOWAS Executive Secretary by Member states for approval.
- A ban on transfers of small arms to non-state actors.<sup>12</sup>
- Regulation of artisan (or local) arms manufacturers. The Convention requires member states to create an inventory of the arms made by these local manufacturers.
- Member states are required to establish national databases or registries of all small arms in their jurisdiction.
- Encourages dialogue between the sub-region and arms suppliers.

- Regulation of small arms possession.
- Management and security of stockpiles.

Once the Convention is ratified by at least 9 of the 15 ECOWAS Member States, it will be applicable in its entirety, which will make West Africa, the only region in the world with a very restrictive law for combating small arms. More importantly, the Convention will make the acquisition of arms in West Africa more difficult and will contribute to strengthening the capacity of governments to control the illegal flow of small arms, and so improve security.

The signature to the Convention has given a real boost to the 'Control Arms Campaign' in West Africa, particularly since the ECOWAS countries reaffirmed their support for the Arms Trade Treaty and encouraged the ECOWAS Member States to respond to the request by the United Nations Secretariat on the feasibility, scope and parameters of the proposed ATT (ECOWAS Heads of States Summit: Report of the Mediation and Security Council of June 2007).

The key institutions that were instrumental to this change were Oxfam GB, the West African Network on Small Arms (WAANSA), the ECOWAS Commission through its Small Arms Unit and national commissions on small arms.

## **What difference does an ECOWAS Convention make?**

It is difficult to measure or indicate any immediate impact of a Convention signed only a year ago (June 2006). The difference the ECOWAS Convention makes as compared with the ECOWAS Moratorium is the fact that the Moratorium had no input from civil society while the civil society draft formed the very foundation for the final official draft of the Convention.

The ECOWAS Convention is legally binding and establishes a new dynamic of cooperation on small arms in the sub-region, in the sense that governments will observe a unique regulation on small arms transfers based on human rights and international humanitarian law.

The ECOWAS Convention is different from the ECOWAS Moratorium in the sense that it has the consent of the key legislative bodies of each country. Since it is a legally binding instrument, before it is ratified by a state, it has to be debated and adopted by the Council of State or parliament as a government bill or an act of parliament. Thereafter, the State cabinet or Office of the President must endorse it. This process puts the provisions of the ECOWAS Convention into state law, which has to be disseminated to law enforcement, judiciary, other implementing bodies and the population in general. As a state law, with penalties and a monitoring system, non-compliance is punishable by law. Since the ECOWAS Convention is the central point of reference, the law together with its enforcement and monitoring mechanism is harmonised across the sub-region. In this sense arms traders are obliged to respect the provisions of the Convention.

The Moratorium on the other hand was a political declaration, which did not have the approval of the legislative bodies of the state. Besides, the general public, law enforcement and other implementing bodies were not aware of the declaration. The Moratorium as a political declaration also did not have any monitoring mechanism and this allowed for unscrupulous arms dealers to defy it with impunity.

Recognising that the proposed Arms Trade Treaty (ATT) would complement the achievement of the ECOWAS Convention on Small Arms and Light Weapons, their Ammunitions and other Related Materials, as an effective legally-binding treaty on the international trade in conventional weapons based upon existing commitment under international law, all ECOWAS Member States either co-sponsored or voted in favour of an Arms Trade Treaty (ATT) in UN General Assembly Resolution 61/89 in December 2006.

In their submissions to the United Nations Secretary General on their views on an Arms Trade Treaty (ATT), they proposed the ECOWAS Convention as a good model that could be emulated by the international community. Most of the key provisions of the ECOWAS Convention are replicated in the provisions proposed by the Arms Trade Treaty. West Africa as a region has therefore demonstrated that an Arms Trade Treaty could be feasible.

Thus far, Niger and Mali have ratified the ECOWAS Convention. Ghana, Togo, Sierra Leone, Burkina Faso and Senegal are in the process of formalising their ratification of the Convention with the ECOWAS Commission.

## Conclusions and way forward

In light of the foregoing analysis, West Africa's new security structure – epitomised by the ECOWAS Convention – demonstrates the key role civil society can play in enforcing human security.

The draft Convention submitted by civil society was innovative in the sense that it included for the first time in a regional agreement the principles of an arms trade treaty. More encouraging was the fact that ECOWAS did not alter the articles dealing with the principles of the Arms Trade Treaty recommended by the civil society draft of the ECOWAS Convention.

The key achievement for Oxfam and its partners within the new Convention is the strict provisions on civilian possession of small arms, criteria for authorisation of arms transfers and a ban on arms transfers for non-state actors.

Finally, the establishment of a legally binding ECOWAS Convention should not encourage governments in the sub-region to become too complacent. Learning the lessons from the ECOWAS Moratorium, which worked well on paper but was poorly implemented, ECOWAS and its member states should not be too focused on the 'larger picture', that is, the politics of arms control. Reaching and surpassing this present milestone has been a major achievement, particularly because of the difficult and diverse societal hurdles that had to be overcome to sustain regional cooperation on this matter. ECOWAS should now be proactive in operationalising the established mechanisms on regional security and seek to build partnerships with civil society to address emerging threats that may undermine ongoing initiatives.

The West Africa component of Oxfam's global conflict reduction programme - Oxfam West Africa Regional Arms Control Programme - seeks to reduce conflict, armed violence and insecurity in West Africa primarily through supporting activities of civil society partners. Oxfam is committed, through its regional Arms Control Campaign, to build the capacity of partners at the community, national and regional levels to sensitise governments to ratify the ECOWAS Convention, and most importantly to understand the benefits of arms control to socio-economic development. In addition, for purposes of ensuring the effective implementation of the ECOWAS Convention, Oxfam's Control Arms Campaign is engaging and building the capacity of the ECOWAS Commission, national commissions on small arms, WAANSA, community-based civil society groups, and media agencies. Oxfam West Africa Regional Arms Control Programme has implemented a number of projects including:

- the establishment of WAANSA's executive committee and strategic plan of action
- advocacy with populations of affected communities and community leaders
- development of peace management committees in local communities.

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## Notes

1 Liberia: Security Council Resolution 788 (1992), Security Council Resolution (1995); Sierra Leone: Security Council Resolution 1132 (1997), Security Council Resolution 1171 (1998)

2 ECOWAS Convention on Small Arms and Light Weapons, *Their Ammunition and Other Related Materials*, 14 June 2006; available at, <http://www.iansa.org/regions/wafrica/documents/CONVENTION-CEDEAO-ENGLISH.PDF>

3 Report of the Panel of Experts appointed pursuant to UN Security Council Resolution 1306 (2000), paragraph 19. In relation to Sierra Leone December 2000, para 170

4 Manor River Union (MRU) is an informal body set up three decades ago to promote trade and border security between the three countries Guinea, Liberia and Sierra Leone.

5 Inevitably, the violence in Cote d'Ivoire attracted armed groups from Liberia and Sierra Leone. Guinea is feared to be vulnerable at the moment. See Alex Vines, *International Affairs* 81, 2 (2005) pp. 341- 60

6. In 2002, the ECOWAS Executive Secretary commissioned Dr. Sola Ogunbanwo to conduct an evaluation of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms & Light Weapons adopted in October, 1998. See Dr. Sola Ogunbanwo, *Evaluation study on the ECOWAS Moratorium on Importation, Exportation and Manufacture of Small Arms in West Africa*, October, 2002 (unpublished)

7 Abdel-Fatau Musah, *The ECOWAS Moratorium: on Light Weapons: Pitching Political Will against Reality*, FOSDA Monograph, No. 9, 2004, p. 11

8 Since the establishment of the ECOWAS Moratorium in 1998, civil society organizations in the sub-region have campaigned for the need for gun-free societies and transparency in military expenditure. Moreover, the rapid development of the concept of human security, advancement of democratic governance and freedom of expression in the sub-region and moral support from the international community has accelerated the development of civil society groups in the sub-region in the last decade.

9 *Communiqué of the Civil Society Consultation on the review of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa*, 28 January 2003

10 *Summary Report, Civil Society Consultation on the Review of the ECOWAS Moratorium on the Exportation, Importation, and Manufacture of Small Arms*, held at Hotel Residence Ndiambour, Dakar, Senegal, 27 January 2003, [http://www.cdd.org.uk/resources/workingpapers/ecowas/ecowas\\_civilsociety\\_communique.htm](http://www.cdd.org.uk/resources/workingpapers/ecowas/ecowas_civilsociety_communique.htm)

11 The whole process of drafting the ECOWAS Convention received financial sponsorship from the European Commission, Canada and Switzerland.

12 This provision of the Convention is unique, and not found in any other international agreement on small arms.