



No.104

International Traffic in Small Arms: An Australian Perspective

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Firearms can be important as instruments of crime. Their unauthorised movement across national borders constitutes a crime in its own right. Firearms posing the greatest threat are those that are easily concealable and less detectable, making them attractive for traffickers and criminals alike. In order to regulate the traffic of firearms at an international level, it is necessary to begin by regulating it at both a regional and a national level. This paper highlights international strategies aimed at curbing the proliferation of firearms into Australia. It also examines Australian government initiatives introduced to reduce the number of, and access to, illegal firearms in the community, and consequently to reduce firearm-related violence.

Adam Graycar
Director

Controlling illegal traffic in small arms is important to Australia for two reasons. First, to the extent that these weapons are illegally imported into Australia, they may be used for criminal purposes. Second, the illegal international trade in small arms can contribute to crime and disorder in neighbouring nations, and the eventual destabilising of governments in our region. This paper summarises Australian responses to international small arms traffic.

Definition of Terms

The Customs (Prohibited Imports) Regulations 1998, in force under the *Customs Act 1901*, make the distinction between small arms and weapons of warfare. "Small arms" refers to any firearm that is .50 calibre (Browning machine gun or similar) or less. They are classified as firearms under the Regulations and controlled under Schedule 6. Anything over .50 calibre is referred to as "weapons of warfare".

In accordance with Regulation 4F, "firearm" means "a device designed or adapted to discharge shot, bullets or other projectiles by means of an explosive charge or compressed gas".

Included in the small arms category are:
self-loading rim-fire rifles; self-loading shotguns;
self-loading centre-fire rifles; single shot & repeating
centre-fire rifles; pump action repeating shotguns; rim-fire rifles;
air rifles; muzzle-loading firearms; single- & double-barrelled
shotguns; hand guns (pistols & revolvers); break action
rifle/shotgun combinations; submachine guns; machine guns;
repeating shotguns (bolt or lever action);
and parts, accessories, magazines and replicas of the above.

AUSTRALIAN INSTITUTE
OF CRIMINOLOGY

trends

&

issues

in crime and criminal justice

February 1999

ISSN 0817-8542

ISBN 0 642 24090 6



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For subscription information together with a complete list of the papers in the Trends and Issues in Crime and Criminal Justice series, visit the AIC web site at:

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Avenues of Small Arms Trade

There are no definitive methods for measuring the extent of firearms trafficking. As with other forms of contraband that are smuggled and trafficked (for example, drugs), indirect means must be used to establish what could only be a general picture.

Small arms are traded through the following variety of international, regional and national channels.

Legal trade

Government-to-government transfers (including aid): the sale of new firearms, and/or the transfer of surplus military equipment no longer required by the supplier's own armed forces.

Commercial sales: legal sales of firearms by private firms in one country to government agencies or private dealers in another. Usually, sales are regulated by the supplier country and the exporter is required to produce an end-user certificate testifying to the legitimacy of the transaction.

Private importations: individuals ordering and importing declared firearms.

Private sales: mostly through firearms dealers.

Club armourers: selling or buying of firearms for or on behalf of club members.

Illegal trade

Clandestine military operations: covert transfers of firearms from a government to separatist or insurgent forces operating in another country.

Black market sales: the criminalisation of otherwise legal transactions, rather than black marketeering per se. What truly differentiates a black market from a "legitimate" firearms deal are the covert methods of supply and demand—firearms moving one way and money back the other.

Table 1: Australian firearm imports, September 1993 – June 1998

	Military	Hand Guns	Shotguns	Rifles
Sep. 93 – June 94	8 439	7 613	5 985	14 807
July 94 – June 95	1 061	12 138	14 331	26 710
July 95 – June 96	1 660	10 563	9 656	23 075
July 96 – June 97	513	5 600	37 200	46 064
July 97 – June 98	400	9 434	9 981	13 050
Total	12 073	45 348	77 153	123 706

Source: Australian Customs Service, 1998

To hide their trail, purveyors of black market firearms will use concealment, mislabelling, fake documentation and laundering of payment. Put simply, the essence of a black market transaction can be understood by thinking of black not as a colour, but as the absence of light (transparency).

Grey market sales: more obscure than the black market, the grey market resembles its covert nature but in reality it is very different. Unlike those of the black market, grey transactions usually are neither entirely legal nor entirely illegal. The grey market represents policy in flux: exporting and importing governments experiment with new diplomatic links, cloaking possible policy changes in covert transactions. It is through the use of covert channels that officials on both sides can take greater risks, cultivating new relationships while minimising danger and potential embarrassment.

Legal small arms manufacturers in Australia

Australia no longer manufactures automatic firearms for commercial purposes. The Australian Automatic Arms Factory at Kempton, Tasmania, was closed in April 1992. However, some shipments of firearms were stolen from the factory and have since been traced to Darwin.

The only manufacturer that was still operating in 1998 is the Australian Small Arms Factory, producing Austeyr F88 military rifles.

Small arms dealers

At present, approximately 1581 firearms dealer licences have been issued in Australia. This figure includes commercial and private individual dealer licences and partnerships. The licences are distributed as follows: New South Wales with 393, Victoria with 300, Western Australia with 300, Queensland with 280, South Australia with 132, Tasmania with 118, Northern Territory with 44, and the Australian Capital Territory with 14.

Firearms imports

The Australian Government's firearms buyback scheme commenced in late 1996 (the States implemented the buyback at different times during the latter half of 1996) and continued until 30 September 1997.

Table 1 shows that there was a significant increase in the import of rifles and shotguns during the year July 1996 – June 1997. There is anecdotal evidence to suggest that the increase in firearms imports during that period was due to the number of owners of "prohibited" (Category C) firearms who, having handed them in, used the compensation money to purchase a new "legal" (Category A or B) firearm.

International small arms exporters

In 1995 US firearms exports amounted to \$15.6 billion; three times that of the next largest supplier and 49 per cent of the world's total firearms exports. Over the 1993–95 period, US exports were divided equally

between developed and developing countries.

In 1995 the next six largest suppliers, with exports together accounting for 42 per cent of the world total, were (measured in US\$ billion): UK with 5.2, Russia with 3.3, France with 2.2, Germany with 1.2, Israel with 0.8 and the People's Republic of China with 0.6.

According to Australian Customs figures (1998), Australia exported "arms and ammunition, parts and accessories thereof" worth \$14 million in 1994–95; \$13 million in 1995–96; and \$25 million in 1996–97.

Small Arms Trafficking

International

The illicit market is most useful to isolated states like Iran, Iraq, North Korea and Serbia that face international restrictions on their armed forces or military industries and can use it to circumvent embargoes. Its significance is greatest for international renegades—terrorist cells, ethnic insurgents, states fenced off by UN embargoes—and the evidence of this is relatively well publicised. The various militias in Bosnia, for instance, are reportedly spending \$2 billion per year on imported firearms despite the UN embargo on arms transfers to the former Yugoslavia.

A UN report (1997) stated that the effects of small arms trafficking were specific to various states, regions and sub-regions. The following paragraphs each provide an example of identified sources of small arms leakage/proliferation.

Following the end of the Cold War, both the supply of, and demand for, small arms have increased substantially worldwide. Members of the Russian armed forces are reported to be selling their firearms and surplus firearms, illegally and legally, to foreign buyers and to various combatants.

In addition, security at

Russian depots could be described as inadequate: 16 weapons depots in St Petersburg, containing a total of 60 000 tonnes of ammunition, "are virtually unguarded; large quantities enter the criminal world from [these] army stores". There are also large stockpiles of excess arms in Eastern European countries, and presumably in the United States.

Arms trafficking presents significant problems in South-East Asia. Singapore has strict gun control laws, but with over 60 000 vessels visiting the Port of Singapore each year the complete interdiction of firearms smuggling is difficult to achieve.

In 1996, China introduced into its parliament gun legislation that prohibits the buying, selling and transporting of firearms without official permission, and imposes the death penalty for the illegal sale of firearms.

Vietnam and Cambodia between them inherited over two million firearms and 150 000 tons of ammunition after the US withdrawal in 1975.

Similarly, when the US withdrew from Somalia after "Operation Restore Hope", as a parting gesture it donated 5000 M-16 rifles and 5000 hand guns to Somali police. Soon after, criminals were seen with new M-16s.

Reports compiled by the US Bureau of Alcohol, Tobacco and Firearms (BATF) indicate that smuggling firearms out of the United States is not difficult. A "straw purchaser", an American resident who is legally eligible to acquire arms, buys a few pistols from dealers in the American border towns and hands them on to a trafficker, who smuggles them across the border, either on foot or in the boot of a car.

In 1991, a BATF report cited a 1989 case where three Arizona residents purchased 93 assault rifles and 22 hand guns for a Mexican narcotics trafficker.

In March 1997, US Customs Service officials seized two Mexico-bound trucks containing thousands of automatic rifles and grenade launchers at a San Diego

warehouse; one of the largest shipments it had ever uncovered.

Similarly, interstate gun trafficking in the US, with guns purchased in "weak law" states for redistribution in "strong law" states, is a major problem on the eastern seaboard. In New Jersey, where dealer licensing is strict and hand guns are closely regulated, as many as 90 per cent of firearms recovered from criminals were acquired in more permissive jurisdictions.

National

The existing black market in Australia, according to police and other sources, is not an organised underworld. It is mostly divided into criminal gangs whose main focus is crimes other than dealing in firearms, or into small networks of individuals who buy and sell by word of mouth. The main methods of illegal acquisition by individuals are:

- mail/telephone order (mostly internationally);
- theft from gun dealers, owners or others;
- domestic manufacture/assembly of restricted and prohibited firearms from imported parts.

Individuals can also acquire firearms illegally through commercial shipments by:

- short orders/false documentation and reporting;
- concealment with other commodities; and
- diversion (the redistribution of firearms in an illicit manner or for an illicit purpose).

Australia as a transshipment point. On 30 May 1988, Customs officers in Sydney found irregularities in shipping documents relating to the transshipment of a 12-tonne container, docked at Darling Harbour, of "used machinery" from North Yemen to Fiji. The container was found to hold a shipment of arms.

Customs has also detected .357 magnum and .38 automatic

pistols in a car door panel of a Pontiac Transam; and other guns in the wing-mounted petrol tanks of light planes and in small yachts.

A Brisbane gun dealer visited an overseas firearms supplier and requested that he be supplied with “semi-automatic versions of the Type 68 rifle” (a semi-automatic version of a military rifle that also has a bayonet). The firearms were imported, but were later seized by Customs because their importation without ministerial permission was prohibited under Regulation 4 of the Customs (Prohibited Imports) Regulations. However, when the case came before the court, the trial judge ordered that the firearms be returned to the dealer and stated that Customs had erred in seizing the firearms. On appeal to the Federal Court, the decision was reversed.

On 14 March 1997 the Australian Customs Service web site carried a press release announcing the seizure in Fremantle, WA, of a large cache of munitions. It included hundreds of rounds of ammunition for a range of firearms—military weapons, shotguns, rim-fire rifles and pistols—as well as magazines for SLRs (the standard issue military rifle of the day) and .303s, and machine gun belts. A New Zealander resident in Australia was arrested and a gun and firearms parts were seized from his home.

Internal corruption. In October 1997, the *Bulletin* magazine referred to an internal report (the Busuttill Report) into corrupt activities going back to the 1980s in the Royal Australian Navy.

The report alleges that corrupt Navy personnel, who altered inventory records to conceal the theft, were stealing firearms from Navy stores. The firearms included SLRs and Browning 9mm automatic pistols. A further allegation was that Navy personnel were bringing in firearms, such as Beretta hand guns and automatic rifles purchased in Hawaii, on board naval ships. Investigations are continu-

ing and, to date, no charges have been laid.

Mail order. While the black market is not usually suited to shipping large quantities of firearms, it is ideal for transferring inconspicuous components.

The greater percentage of firearms that are smuggled into Australia are imported as parts. The Internet is used to order parts by mail from America; the incoming package marked “plumbing parts” or “sprinkler parts”. Part by part, the customer is eventually sent a fully operating firearm. If a part has been intercepted by Customs, the Internet gun dealer will ship a replacement elsewhere. The *California Trading Post* also includes an order form for firearm parts, with payment by credit card.

Routine postal searches for the period January 1997 – June 1998 uncovered 38 firearms and firearm parts and accessories. However, if the firearm parts are not declared on the “Parcel Post” package, it is unlikely that the package will be searched.

Moreover, explicit manuals detailing how to convert guns to fully automatic firing are available for sale by mail order. In one instance, the producer of one magazine was charged with possession of 432 prohibited publications that were seized at a Brisbane gun show in August 1993. The producer was found guilty in March 1997, fined \$1500, and the material forfeited. However, no conviction was recorded.

Stolen firearms. More often than not, professional thieves target gun shops and steal pistols, which are then sold on the black market. Firearms that are worth between \$900 and \$1700 when sold to pistol club shooters can fetch more than \$5000 on the black market because criminals place a high value on “easily concealable weapons”.

Australia as a source country. Although the Torres Strait region between Cape York and the southern coast of Papua New Guinea (PNG) is subject to regular aerial surveillance, there is a small

but continuing level of trafficking of PNG cannabis into Australia, and of firearms and other commodities into PNG. (As a result of recent Commonwealth government initiatives, additional marine patrol resources and aerial surveillance will be made available. Also, an Australian Federal Police presence has been established on Thursday Island.)

In addition to this periodic trafficking in firearms into PNG from Australia, there is evidence that the anti-Indonesian *Organisasi Papua Merdeka* (OPM: Free Papua Movement) is continuing its attempts to acquire weapons from Australia through PNG, possibly in return for cannabis cultivated in West Irian. A number of West Irianese have been charged or convicted in connection with this type of activity.

International Level Regulation

Australia is a signatory to the Hague Convention Respecting the Laws and Customs of War on Land, 1907: “it is especially forbidden to employ arms, projectiles or materials calculated to cause unnecessary suffering”.

In April 1998 the Commission on Crime Prevention and Criminal Justice of the United Nations Economic and Social Council (ECOSOC) recommended that ECOSOC adopt a resolution on measures to regulate methods of identifying and tracing firearms at the international level, for the purpose of combating illicit trafficking. The resolution calls for experts to recommend a series of measures on this issue.

The 16-member panel (now Group) of Governmental Experts on Small Arms was appointed by the UN Secretary-General. In their report (United Nations Economic and Social Council 1997) the experts noted that small arms and light weapons have been the main means of violence in almost every recent conflict, yet there are no international norms or standards to guide efforts to deal with their

accumulation. Their recommendations fall into two categories: (a) reduction and (b) prevention of destabilising accumulations of small arms.

The UN Register of Conventional Arms, to which Australia submits relevant information annually, is designed to promote transparency in arms holdings at the global level. This register does not currently include small arms, and it is undecided whether it should be expanded to include such weapons. Nor has it been determined whether a separate register should be created, or if regional and national registers are the best fora to address small arms issues.

The World Bank is in the process of setting up a section on post-conflict reconstruction. Among other things, the section will deal with the collection and destruction of weapons surplus to the security needs of the governments and societies involved.

The Southern Africa Development Cooperation Organisation has established the Inter-state Defence and Security Council. At a recent meeting of the council's Public Security Sub-Committee, it recognised that "firearms and drug trafficking cause the most serious threat to communities in the region, particularly the smuggling of firearms...". The committee went on to recommend computerised registration of firearms, a regional database for all stolen firearms, and special operations where illegal firearms could be retrieved.

The Organisation of American States (OAS) has begun to address the problem of arms and conflict from two different perspectives. First, the Inter-American Drug Abuse and Control Commission of the OAS is developing model regulations to control the smuggling of weapons and explosives. This will have the added effect of reducing drug trafficking in the region.

A second OAS initiative is the development of the Convention Against the Illicit Manufacturing and Trafficking of Fire-

arms, Ammunition, Explosives and Other Related Materials, signed in November 1997. The convention requires each OAS state to establish a national firearms control system and a register of manufacturers, traders, importers and exporters of these commodities. It also calls for: the establishment of a national body in each of the member states, to interact with other states and an OAS advisory committee; and the standardisation of both national laws and OAS procedures, ensuring effective control of borders and ports.

In a bid to ensure the legitimacy of firearms export transactions, End-User Certificates (EUC) were adopted by exporters worldwide. The EUC must state export destination and include a signed pledge to resell the firearms only if authorised by the original supplier—state or country. Only on presentation of a properly completed EUC should a state or country issue an export licence to the would-be seller. However, it has been noted that "obtaining an end-user certificate today is trivially easy...the regulatory apparatus which was generalised in the 1980s, has become increasingly irrelevant in the nineties".

National Level Regulation

In response to the shooting of 35 people at Port Arthur in May 1996, the Australian Government convened a Special Meeting of the Australasian Police Ministers' Council (APMC) and presented a proposal for a uniform system of firearms control throughout Australia. As a result of this and subsequent meetings the State and Territory Governments agreed on ten resolutions to effectively promote nationwide control of firearms. The Police Ministers' Council also recommended the establishment and implementation of the Australian Firearms Buyback and Amnesty.

The amnesty was put in place across Australia to allow people to hand in any firearms or

ammunition without prosecution. In total, 643 726 firearms were collected during the gun buyback (figure correct as at 31 August 1998) and \$378 249 883 was paid in compensation (figure correct as at 5 January 1999).

A key objective of the effective nationwide control of firearms is to achieve a reduction in the total firearms inventory. However, it is difficult to ascertain the extent and level of compliance because the size of the pre-buyback inventory is unknown. Nor is it possible to determine with any certainty the extent to which the current inventory is increased by illicit imports. As the gun buyback was aimed primarily at law abiding citizens who would surrender their illegal firearms, it is not known what effect, if any, it had on the firearms traffickers.

Licence categories

The APMC resolutions also established the following firearms licence categories. For the most part, the jurisdictions adhere to these classifications, although some States have expanded their licence categories as detailed.

Licence Category A:

- air rifles;
- rim-fire rifles (excluding self-loading);
- single- and double-barrelled shotguns.

Licence Category B:

- muzzle-loading firearms;
- single shot, double-barrelled and repeating action centre-fire rifles;
- break action rifle/shotgun combinations.

Licence Category C:

- semi-automatic rim-fire rifles with a magazine capacity no greater than 10 rounds;
- semi-automatic shotguns with a magazine capacity no greater than 5 rounds;
- pump action shotguns with a magazine capacity no greater than 5 rounds.

Licence Category D:

- self-loading centre-fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance;
- non-military style self-loading centre-fire rifles with either an integral or detachable magazine, and pump action shotguns with a capacity of more than 5 rounds;
- self-loading rim-fire rifles with a magazine capacity greater than 10 rounds.

Licence Category H:

- all hand guns, including pistols.

In addition to the five categories outlined, Queensland has added **Category E** (bulletproof vests and telescopic batons) and **Category R**, which includes machine guns and submachine guns and firearms capable of firing 50 calibre cartridge ammunition.

Western Australia has added a **Category E** that includes cannons, captive bolts, line throws and any other odd type of firearm that does not fall within the previous categories.

Victoria has no **Category H**, but a hand gun licence is available (s.15, for certain occupational purposes) and “hand gun” is defined in s.3 of the *Firearms Act 1996* (Vic.). Victoria has also added **Category E** that includes machine guns, cannons, bazookas and so on.

Importation of small arms

In 1991, the Australian Government banned importation of military-style automatic and semi-automatic firearms, and centre-fire self-loaders. Significantly though, in defining “prohibited weapon” under the Customs (Prohibited Imports) Regulations, the word “prohibited” actually means “restricted”, rather than the more usually understood “banned”.

Various grades of “prohibited” weapons and ammunition may be imported if the importer complies with one or more of the following tests outlined under Schedule 6, Regulation 4F:

- Official Purposes Test
- Specified Purposes Test
- Specified Person Test
- Police Authorisation Test
- Sports Shooter Test
- International Sports Shooter Test
- Dealer Test

Conclusion

The Australian Government is sensitive to issues relating to the illegal traffic of firearms. It has been instrumental in introducing initiatives such as the implementation of uniform firearms legislation, the gun buyback scheme and the tightening of restrictions on the import of firearms. These initiatives have two major aims in common:

- reduction in the number of the most lethal weapons; and
- to ensure that only responsible Australians have access to firearms.

Preliminary evidence suggests that the importation of illegal (Category C) firearms has substantially decreased. Does this mean that the decreased availability of firearms will result in the reduction of firearm-related violence? Or will there be a “displacement effect”, where criminals turn to alternative methods to commit violence? It is the role of the Australian Institute of Criminology to monitor the effect of these firearm controls and their impact on the level of violence in Australia.

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Note: An expanded version of this paper, with full notes and references, is available at the AIC web site at: <http://www.aic.gov.au>

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