

## **CSCAP Working Group on Transnational Crime<sup>3/4</sup> Small Arms Project: An Australian Perspective**

An earlier version of the *CSCAP Working Group on Transnational Crime<sup>3/4</sup> Small Arms Project: An Australian Perspective* was presented at the 4<sup>th</sup> Meeting of the CSCAP Working Group on Transnational Crime, Australian Institute of Police Management, Sydney, 11–13 October 1998.

The following paper provides an overview of the current state of knowledge and is the combination of an updated version of the earlier CSCAP paper and Trends and Issues in Crime and Criminal Justice No. 104 *International Traffic In Small Arms: An Australian Perspective*.

*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 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.*

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*“To control small arms internationally, it will be necessary to control them nationally. It is therefore vital for countries to work together in developing policy recommendations that enable co-operation at a regional and international level”<sup>1</sup>*

### **Objectives**

The objectives of the CSCAP Working Group are to:

- identify the magnitude of small arms proliferation in Australia;
- identify the types of weapons smuggled into Australia;
- identify the major sources of these weapons;
- identify how these weapons are distributed (imported & exported);
- identify the main groups engaged in smuggling these weapons;
- identify International, Regional and National conventions / regulations that attempt to curb the proliferation of small arms.

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<sup>1</sup>G. O’Callaghan, British American Security Information Council/BASIC. Statement to the UN European Regional Workshop on Firearm Regulation. Slovenia, 22/9/97.

The CSCAP Project has established at the outset that certain limitations are inevitable. Firstly, there are no definitive methods for measuring the extent of firearms trafficking. As with other forms of contraband that are smuggled and trafficked (e.g. drugs), a variety of indirect means must be utilised to establish what could only be a general picture.

## Definitions

Broadly speaking, small arms have been defined as weapons designed for personal use, and light weapons designed for use by several persons serving as a crew.<sup>2</sup>

The Customs (Prohibited Imports) Regulations in force under the *Customs Act 1901*, makes the distinction between small arms and weapons of warfare. Small arms refer to any firearm that is .50 calibre (Browning Machine Gun or similar) or less and are classified as “firearms” under the Regulations and controlled under Schedule 6. Anything over .50 calibre are “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”.<sup>3</sup>

Included in the Small Arms category are:

Self-loading rim-fire rifles	Self-loading shotguns
Pump action repeating shotgun	Self-loading centre-fire rifles
Rim-fire rifles	Air rifles
Single shot & repeating centre-fire rifles	Muzzle-loading firearms
Single- & double-barrelled shotguns	Hand guns (pistols & revolvers)
Break action rifle/shotgun combinations	Submachine guns
Repeating shotguns (bolt or lever action)	Machine guns

Parts, accessories, magazines & replicas of the above listed small arms included.

## Identified Avenues of Small Arms Trade

Small arms are traded through a variety of international, regional and national channels:<sup>4</sup>

### Legal

- *Government-to-government transfers (including in the form of aid)*: such transfers may comprise of either the sale of newly manufactured firearms, and/or the transfer of surplus military equipment no longer required by the supplier’s own armed forces.

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<sup>2</sup> United Nations Economic and Social Council, “Report of the Panel of Governmental Experts on Small Arms”, in *Report of the Secretary-General. General and Complete Disarmament: Small Arms*, UN General Assembly Document A/52/298, 27 August 1997.

<sup>3</sup> Customs (Prohibited Imports) Regulations, 1998.

<sup>4</sup> R.T. Naylor, “The structure and operations of the modern arms black market”, in *Lethal Commerce: the Global Trade in Small Arms and Light Weapons*, Committee on International Security Studies, American Academy of Arts and Sciences, Cambridge, Massachusetts, 1995.

- *Commercial sales*: these include legal sales of firearms by private commercial firms in one country to governmental agencies or private dealers in another. These sales are usually regulated by the supplier country, and usually require an end-user certificate to be produced by the buyer, 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***

- *Clandestine military operations*: these are covert transfers of firearms by one government to separatist or insurgent forces operating in another country.
- *Black market sales*: this is the criminalisation of otherwise legal transactions, rather than black marketeering per se. What truly differentiates a black market from a “legitimate” firearms deal is the covert methods of intermediating between supply and demand – firearms moving one way and money back the other. To hide their trail, purveyors of black market firearms will use concealment, mislabeling, 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 the absence of light (transparency).<sup>5</sup>
- *Grey market sales*: the grey market is more obscure than the black market. The grey market resembles the covert nature of the black market, but in reality it is very different. Unlike the black market, grey transactions usually are neither entirely legal nor entirely illegal. The grey market represents not policy writ large, but policy in flux, as 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 the danger and potential embarrassment.<sup>6</sup>

## **1. INTERNATIONAL LEVEL**

### ***International Conventions on Small Arms***

- 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”.

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<sup>5</sup> R. T. Naylor, “The structure and operations of the modern arms black market”, p. 45.

<sup>6</sup> A. Karp, “The rise black and gray markets”, *Annals of the American Academy of Political and Social Scientists*, Sept., 1994, p. 178.

- In April, 1998, the United Nations Economic and Social Council (ECOSOC)'s Commission on Crime Prevention and Criminal Justice, recommended that ECOSOC adopt a resolution on measures to regulate firearms 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 that small arms and light weapons have been the main means of violence in almost every recent conflict, yet there are no international standards or norms to guide efforts to deal with their accumulation. Their recommendation fall into two categories: (a) reduction and (b) prevention of destabilising accumulations of small arms.
- The World Bank is in the process of setting up a small section on post-conflict reconstruction. Among other things, the office 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 (SADC) organisation has established an Inter-state Defence and Security (ISDSC). At a recent meeting of its 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 for the control of the smuggling of weapons and explosives and its linkage to drug trafficking in the Inter-American region. A second OAS initiative is the development of a Convention Against the Illicit Manufacturing and Trafficking of Firearms, 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 to interact with other states and an OAS advisory committee. It also calls for the standardisation of national laws and procedures within the OAS, and ensuring effective control of borders and ports.
- The United Nations 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 the register 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.

- In a bid to ensure the legitimacy of firearms export transactions, End-User Certificates (EUC) were adopted by exporters world wide. The EUC must state export destination and include a signed pledge to resell the firearms only if authorised of 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.<sup>7</sup> 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”.<sup>8</sup>

## 2. REGIONAL LEVEL

### *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. It has been identified that some shipments of firearms were stolen from the factory and have been traced to Darwin.<sup>9</sup>
- The only manufacturer that was still operating in 1998 is the Australian Small Arms Factory, producing Austeyr F88 military rifles.<sup>10</sup>

### *Small Arms Dealers*

- To date, approximately 1581 firearms dealer licences have been issued in Australia.<sup>11</sup> This figure includes commercial and private individual dealer licences and partnerships. The most populous states are NSW with 393 firearms dealer licences issued, Victoria with 300, Queensland with 280, SA with 132, Tasmania with 118, Northern Territory with 44, and the Australian Capital with 14.

### **Firearm Imports September 1993 - June 1998<sup>12</sup>**

Period	Military	Hand guns	Shotguns	Rifles
<b>Sept. 93 – June 94</b>	8439	7613	5985	14807
<b>July 94 – June 95</b>	1061	12138	14331	26710
<b>July 95 – June 96</b>	1660	10563	9656	23075
<b>July 96 – June 97</b>	513	5600	37200	46064
<b>July 97 – June 98</b>	400	9434	9981	13050
<b>Total</b>	12,073	45,348	77,153	123,706

<sup>7</sup> R. T. Naylor, “Loose cannons: Covert commerce and underground finance in the modern arms black market”, *Crime, Law & Social Change*, 22, 1995, p. 13.

<sup>8</sup> R. T. Naylor, “The structure and operations of the modern arms black market”, p. 47

<sup>9</sup> I. Prior, personal communication, 1/9/98.

<sup>10</sup> S. Rana, World-Wide List of Active Small Arms Manufacturers and Manufacturers of Related Equipment and Accessories.

<sup>11</sup> State Police firearms dealers’ records, personal communication, 11/9/98.

<sup>12</sup> Graeme McPherson, Australian Customs Service, personal communication, 23/9/98.

- There was a significant increase in the import of rifles and shotguns during the year July 1996– June 1997. The Australian Government 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.
- There is anecdotal evidence to suggest that a number of owners of “prohibited” (Category C) firearms who handed them in used the compensation money to purchase a new “legal” (Category A or B) firearm, and this accounts for the increase in imported firearms during that period.<sup>13</sup>

### *International Small Arms Exporters*

- US firearms exports in 1995 amounted to \$15.6 billion; three times that of the next supplier and 49 per cent of the world’s total firearms exports. Over the 1993-1995 period, US exports went equally to developed and developing countries.
- The six next largest suppliers, together accounting for 42 per cent of the world total, were:<sup>14</sup>

<b>U.K</b>	<b>\$5.2 billion</b>	<b>Germany</b>	<b>1.2</b>
<b>Russia</b>	<b>3.3</b>	<b>Israel</b>	<b>0.8</b>
<b>France</b>	<b>2.2</b>	<b>PRC</b>	<b>0.6</b>

- The Middle East imported over 30 per cent of the total number of firearms in trade over the last twelve years (1984-1995). In 1993-1995, Western Europe became the main importing region with 32 per cent.<sup>15</sup>
- In accordance with Australian Customs figures (1998), Australia exported in 1994-95 \$14 million, in 1995-96 \$13 million, and in 1996-97 \$25 million worth of “arms and ammunition, parts and accessories thereof”.

### **Spread of Firearms Produced in the Period 1945- 1990<sup>16</sup>**

<b>Brand of Assault Rifle</b>	<b>No. of Countries Where Found</b>	<b>No. of Countries Manufacturing</b>	<b>No. of Firearms Manufactured</b>
FN/FAL TYPE	94	15	5–7 million
AK TYPE	78	14+	35–50 million
M-16 TYPE	67	7	8 million
H & K G3 TYPE	64+	18	7 Million

<sup>13</sup> Graeme McPherson, Australian Customs Service, personal communication, 23/9/98.

<sup>14</sup> All figures in \$US.

<sup>15</sup> <http://www.acda.gov/factshee/conwppn/wmeatfs.htm>, September 1997.

<sup>16</sup> United Nations Economic and Social Council, “Report to the Panel of Governmental Experts on Small Arms”, 1997, as cited in G. Davies 1998, “Firearms: A Global Problem from An Australian Perspective”.

## Small Arms Trafficking

### *International*

- The illicit market is of greatest utility to isolated states like Iran, Iraq, North Korea and Serbia that face international restrictions on their armed forces or military industries and can use the illicit market 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 United Nations' embargo on arms transfers to the former Yugoslavia.<sup>17</sup>

The United Nations report has stated that the effects and consequences of small arms trafficking were unique to specific states, regions and sub-regions.<sup>18</sup> The following are examples of identified sources of small arms leakage / proliferation:

- Following the end of the Cold War, the supply 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 various combatants.<sup>19</sup> In addition, security of 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".<sup>20</sup> 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. While Singapore has strict gun control laws, with over 60,000 vessels visiting the Port of Singapore each year, the control of firearms smuggling is difficult to achieve. In 1996, China introduced gun legislation into its parliament, which prohibits the buying, selling and transporting of firearms without official permission, and imposes the death penalty for the illegal sale of firearms.<sup>21</sup>
- Vietnam and Cambodia between them inherited over two million firearms and 150,000 tons of ammunition after the United States withdrawal in 1975. Similarly, when the United States withdrew from Somalia after

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<sup>17</sup> R. T. Naylor, "The structure and operations of the modern arms black market".

<sup>18</sup> United Nations Economic and Social Council, "Report of the Panel of Governmental Experts on Small Arms", p. 20

<sup>19</sup> M. Klare, "The Global Trade in Light Weapons and the International System in the Post-Cold War Era", in *Lethal Commerce: The Global Trade in Small Arms and Light Weapons*, Committee on International Security Studies, Academy of Arts and Sciences, Cambridge, Massachusetts, 1995, p. 36

<sup>20</sup> NTV Moscow, in Russia 1600GMT, 26 November 1997

<sup>21</sup> "UK, China act on gun plague", *Mercury* (Hobart), 13 May 1996; p. 13, as cited in G. Davies 1998, "Firearms: A Global Problem from An Australian Perspective".

“Operation Restore Hope”, as a parting gesture, it donated 5,000 M-16 rifles, and 5,000 handguns to Somali police. Soon after, criminals were seen with new M-16s.<sup>22</sup>

- Reports compiled by the US Bureau of Alcohol, Tobacco and Firearms (BATF) indicate that smuggling firearms out of the United States is not difficult. Often 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 case in 1989, where three Arizona residents purchased 93 assault rifles and 22 handguns for a Mexican narcotics trafficker.<sup>23</sup>
- In March 1997, two Mexico-bound trucks containing thousands of automatic rifles and grenade launchers were seized at a San Diego warehouse. US Customs Service Officials said that the arms cache was one of the largest it had ever uncovered.<sup>24</sup>
- Similarly, interstate gun trafficking in the United States, with guns purchased in “weak law” States for redistribution in “strong law” States, is reportedly a major problem in the Eastern seaboard. In places such as New Jersey, where dealer licensing is strict and handguns are closely regulated as many as 90 per cent of firearms recovered from criminals are attributed to this pattern.<sup>25</sup>

### ***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 are crimes other than dealing in firearms, or small networks of individuals who buy and sell by word of mouth. The main methods of illegal acquisition, for individuals are:

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

Individuals can also acquire firearms illegally through commercial shipments by:

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<sup>22</sup> C. Smith, “Light weapons and the international arms trade”, in *Small arms management and peacekeeping in Southern Africa*, Disarmament and Conflict Resolution Project, United Nations Institute of Disarmament Research, Geneva, 1996, p. 3, as cited in G. Davies 1998, “Firearms: A Global Problem from An Australian Perspective”.

<sup>23</sup> L. Lumpe, “Global Black-Market Arms should be Next Target of NGO’s”, Public Interest Report, *Journal of Federation of American Scientists*, vol. 50, no. 4, July/August 1997, p. 9–10.

<sup>24</sup> H. Lanfranchi, “US guns pouring unto Mexico: arms smugglers evade laws”, *Chicago Sun-Times*, 13 April 1997, p. 30

<sup>25</sup> P. Cook & M. Moore, “Gun control” in Wilson, J. and Petersilia, J. (eds), *Crime*, Institute for Contemporary Studies, San Francisco, CA, p. 236.



- short-orders / false documentation and reporting;
- concealment with other commodities; and
- diversion.<sup>26</sup>

#### *Australia as a transshipment point*

- On May 30 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 contain a shipment of arms.<sup>27</sup>
- Customs have also found .357 magnum and .38 automatic pistols hidden in the door panel of a Pontiac Transam, and other guns in the wing-mounted petrol tanks of light planes and in small yachts.<sup>28</sup>
- A Brisbane gun dealer visited an overseas firearms supplier and requested that he be supplied with “semi-automatic versions of the Type 68 rifle”.<sup>29</sup> 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 and consequently the firearms did not return to the possession of the dealer.
- On March 14 1997, the Australian Customs service web site carried a press release announcing the seizure in Fremantle, Western Australia, of a large cache of munitions. They included hundreds of rounds of ammunition for a range of firearms, including military weapons, shotguns, rim-fire rifles, and pistols, as well as magazines for SLRs (the standard-issue military rifle of the day), .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 reported on an internal report (the Busuttil report) into corrupt activities in the Royal Australian Navy, going back to the 1980s. 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

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<sup>26</sup> As used here, “diversion” means the transfer of firearms in an illicit manner or for an illicit purpose. This term is borrowed from the drug lexicon, where it is used to connote the clandestine redirection of legal chemicals. Gun trafficking would be the commercialised aspect of diversion.

<sup>27</sup> Australian Customs Service, *Annual Report 1987-88*, AGPS, Canberra, 1989, p. 36, as cited in G. Davies 1998, “Firearms: A Global Problem from An Australian Perspective”.

<sup>28</sup> J. MacDonald & T. Cookes, “Thriving Gun Trade Turns to Dead Stock”, *Age*, 17 June 1996, A1.

<sup>29</sup> Type 68 is a semi-automatic version of a military rifle that also has a bayonet.

pistols. Personnel are alleged to have colluded with bikie gangs. A further allegation was that Navy personnel were bringing in firearms, such as Beretta handguns and automatic rifles purchased in Hawaii, on board naval ships.<sup>30</sup> To date, investigations are still continuing and 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. In addition to using the Internet, the *California Trading Post* is also used to order firearm parts. Included in the newspaper is an order form, which allows for firearm parts to be paid for by providing credit card details. If the firearm parts are not declared on the “Parcel Post” package, then it is unlikely that the package will be searched.
- 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 of these magazines was charged with possession of 432 prohibited publications that were seized at a Brisbane gun show in August 1993.<sup>31</sup> The producer was found guilty in March 1997, fined \$1500, and the material forfeited. However, no conviction was recorded.<sup>32</sup>

#### *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 \$1,700 when sold to pistol club shooters can fetch more than \$5,000 on the black market, because criminals place a high value on “easily concealable weapons”.<sup>33</sup>

#### *Australia as a source country*

- Although the Torres Strait region (between Cape York and the southern coast of Papua New Guinea) is subject to regular aerial surveillance, there is a

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<sup>30</sup> B. Martin, “Where there’s smoke: highly sensitive internal investigations threaten to expose the Royal Australian Navy as a hot-bed of graft, corruption, theft, sex scandals, drug running, even arms deals”, *Bulletin*, 14 October 1997, pp. 23-26, as cited in G. Davies 1998, “Firearms: A Global Problem from An Australian Perspective”.

<sup>31</sup> M. Mottram, “Creating mayhem by mail order”, *Sunday Age*, 2 June 1996; p. 4.

<sup>32</sup> N. Lawson, Commissioner for Consumer Affairs, Qld, personal communication, 3/9/96.

<sup>33</sup> G. Bearup, “Scramble in underworld raises price of pistols”, *Sydney Morning Herald*, 3 July 1996; p. 4.

small, but continuing level of trafficking of PNG cannabis to Australia and firearms<sup>34</sup> and other commodities into PNG across the Torres Strait.<sup>35</sup>

- In addition to the 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.

### 3. NATIONAL LEVEL

#### **Australasian Police Ministers Council**

Before the 28 April, 1996 incident at Port Arthur, Tasmania, in which 35 people were killed by a lone gunman, there was little uniformity in the gun laws of Australia's six States and two Territories. Some had very restrictive laws governing ownership and use of firearms, with well-developed registration and licencing systems. Some had more relaxed laws and no registration.

Following Port Arthur, in May 1996, the Commonwealth 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 the Police Ministers' Council Meetings of 10 May, 17 July and 15 November 1996, the State and Territory Governments agreed upon ten resolutions to effectively promote nationwide control of firearms.

#### ***APMC resolutions***

Since 10 May 1996 legislative changes in each State and Territory have seen:

1. bans on specific types of firearms (self-loading rifles, self-loading and pump action shotguns, subject to specific purpose tests);
2. the introduction of comprehensive registration and licencing systems for all firearms and firearms users in Australia, with established links to National Exchange of Police Information and other State and Territory registration systems;
3. the introduction of the requirement for a genuine reason to own, possess or use a firearm;
4. the implementation of the requirement that a permit be obtained for acquisition of each firearm and the introduction of a 28-day waiting period;
5. a requirement that all first-time applicants for a firearm licence undertake safety training;
6. the introduction of agreed grounds for refusal or cancellation of firearms licences;

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<sup>34</sup> These firearms have included some Chinese SKS semi-automatic rifles, Lee Enfield .303 rifles. .22 calibre rifles, shotguns and handguns.

<sup>35</sup> As a result of recent Commonwealth Government initiatives, additional marine patrol resources and hours allocated to aerial surveillance will be made available. Also, an Australian Federal Police presence has been established on Thursday Island and the cross border communications network are being upgraded.

7. the requirement of a permit to purchase for each firearm;
8. the introduction of minimum standards for the security and storage of firearms;
9. recording of sales; and
10. the regulation of mail order and transport of firearms.

### ***Licence Categories***

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

#### **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 centre-fire rifles;
- break action shotguns/rifle 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 air pistols.

In addition to the five categories outlined, Queensland has added **Category E** (bullet proof 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.

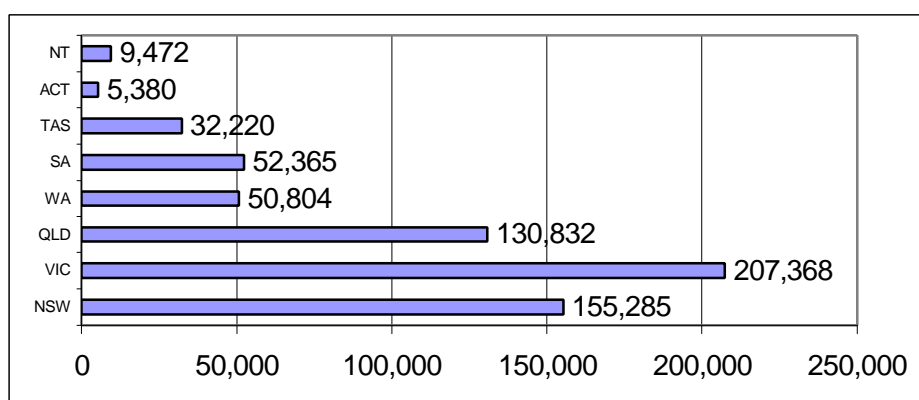
Victoria has no Category H, but a hand gun licence is available (s.15, for certain occupational purposes) and “hand gun” is defined in s.3 of the *Firearms Act 1996* (Vic.). Victoria has also added **Category E** that includes machine guns, cannons, bazookas, etc.

A key objective of the effective nationwide control of firearms is to achieve a reduction in the total firearms inventory. Amnesties are a necessary strategy to that end, and will reduce the total number of firearms and encourage owners of permitted firearms to apply for licences. In addition to the above ten resolutions and new firearms licence categories, the Police Ministers’ Council also saw the establishment and implementation of compensation and amnesty schemes—The Australian Firearms Buyback.

### The Australian Firearms Buyback

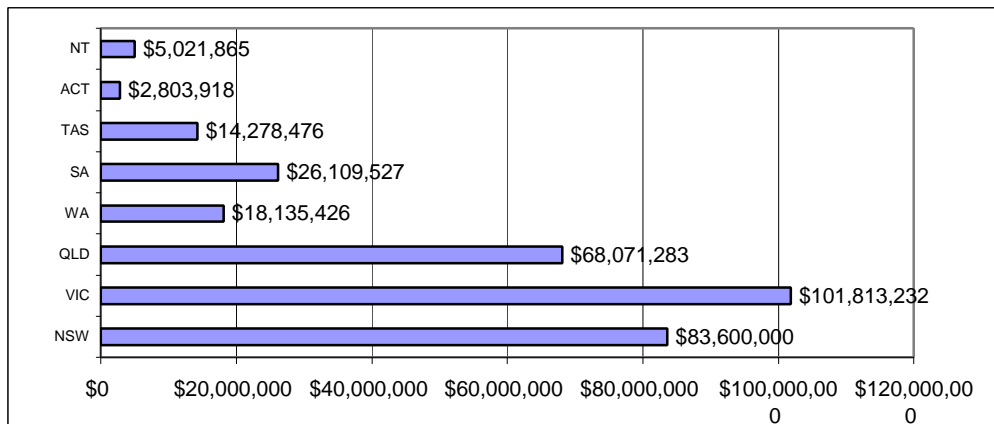
- The Commonwealth allocated funds (one-off levy on most tax payers through Medicare—the national universal health scheme) to meet the costs of establishing the 12-month firearm buyback that ended 30 September 1997. Another purpose of the buyback was to compensate those who could no longer continue with their chosen sport.
- In addition to the buyback, an amnesty was put in place across Australia to allow for the hand-in of any firearms or ammunition without prosecution.<sup>36</sup> The main purpose of offering monetary incentives was to induce compliance. Inducements of this kind are more likely to be perceived as more legitimate than are commands. For this reason they are more likely to be more effective.
- The total number of firearms collected during the gun buyback was 643,726 (figure correct at 31 August 1998) and the total amount paid in compensation to firearm owners was \$378,249,883 (figure correct at 5 January 1999).

*AUSTRALIA, Number of Firearms Collected in the Gun Buyback*



<sup>36</sup> In South Australia the gun buyback ended on 28 February 1997 and the amnesty ended on the 30 June 1997.

### *AUSTRALIA, Compensation Paid to Firearms Owners*



On the one hand, the main problem with the buyback approach is that the extent and level of compliance cannot be ascertained because the size of the pre-buyback inventory is unknown. Nor is it possible to ascertain with any certainty the extent to which the current inventory is increased by illicit imports.

#### ***Importation of Small Arms***

In 1991, the Commonwealth 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” while often understood as meaning “banned”, actually means “restricted”. 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:

#### **The Official Purposes Test**

The importation of an article<sup>37</sup> is for the purposes of the government of the Commonwealth, a State or a Territory, and can be supplied:

- under a contract in force;
- to demonstrate the articles’ uses;
- for inspection, testing or evaluation;
- to be used for training; and
- given or donated to the government.

#### **The Specified Purposes Test**

The importation of an article that:

- is of a type not available in Australia;
- is to be used in connection with the production of a film (cinematographic, documentary made specifically for television, a television program, or series) in a State or Territory in which the importer holds a licence or authorisation in

<sup>37</sup> An article being a firearm, a firearm accessory, a firearm part, a firearm magazine, ammunition or a component of ammunition.

accordance with the law of the State or Territory to possess an article of that type;  
and

- is not to be used in an advertisement, a music video or another type of film promoting music or product.

#### **The Specified Person Test**

- the importer of the article is a person whose principal or only occupation is the business of controlling vertebrate pest animals on rural land; and
- the importer holds a licence or authorisation, in accordance with the law of the State or territory in which the importer will carry out that occupation, to possess that article.

#### **The Police Authorisation Test**

- the importer of the article has been given a statement, in an approved form, to the effect that the importer holds a licence or authorisation according to the law of the relevant State or Territory to possess the article;
- for a category C article – the importer has been given a certificate, in an approved form by the Commissioner or Chief Commissioner of the police force of the State or Territory that the importer is a primary producer.

#### **The Sports Shooter Test**

- the importer of a restricted category C article is a certified sports shooter for the article

#### **The International Sports Shooter Test**

- the importer of a restricted category C article is a certified international sport shooter for the article.

#### **The Dealer Test**

- the importer of a category C article is a licensed firearm dealer.

### **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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