

Information on Implementation of the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. (Response to DDA Note number DDA/11-2002/TSA of 19 February 2002 requesting information pursuant to operative paragraph 12 of UNGA resolution 56/24V)

Australia's National Implementation of the Programme of Action

Australia's Small Arms Policy, released in July 1999, identified a range of practical measures at national, regional and global levels for addressing problems related to small arms. Implementation of the Programme of Action at the national level in Australia is well advanced, through an established and comprehensive system of policies and regulatory frameworks relating to small arms and light weapons, details of which are outlined below.

Australia's point of contact for international liaison on matters relating to implementation of the Programme of Action is the Conventional and Nuclear Disarmament Section of the Department of Foreign Affairs and Trade.

The Firearms Unit of the Commonwealth Attorney-General's Department is responsible for providing the Minister for Justice and Customs with a national perspective on firearms policy and prohibited weapons. Policy responsibility for firearms controls at the Commonwealth (national) level resides with the Minister for Justice and Customs. The Firearms Unit provides the Minister with policy advice on matters relating to the importation of firearms and dangerous goods under the *Customs (Prohibited Imports) Regulations 1956* and on national policy matters such as the development of more consistent and effective firearm control legislation by the States and Territories. These matters are progressed through the Australasian Police Ministers Council (APMC), as laws regulating the ownership, possession and use of firearms are the responsibility of State and Territory governments. The APMC is also responsible for the development of the Minimum National Standards for Firearms Safety Training and the Firearms Safety Code. The Firearms Unit also processes applications for permission to import items listed in Schedule 6 of the *Regulations*. Import approval must be obtained prior to the goods arriving in Australia.

In Australia, the possession and manufacture of guns and all other types of small arms are subject to strict national controls and strong law enforcement. Australia has in place some of the most stringent firearms laws in the world. Following the Port Arthur massacre in 1996, Australian governments tightened the regulation of ownership and licensing of firearms through the historic National Firearms Agreement reached by the APMC in May 1996.

The National Firearms Agreement includes: bans on specific types of firearms; registration systems maintained by each jurisdiction and linked across Australia; requirement for genuine reasons for owning, possessing or using a firearm; minimum licensing requirement; compulsory safety training for all licence holders; grounds for licence refusal or cancellation and seizure; permit to acquire; minimum standards for the security and storage of firearms; recording of sales, including control of mail order sales; and amnesty and compensation.

Australia also has in place strict and comprehensive controls and licence procedures to regulate the import and export of small arms. These controls restrict the legal trade in small arms, which in turn helps to prevent illicit trafficking.

All proposed exports from Australia of defence and related goods, including small arms, are subject to comprehensive, case-by-case government review and licence procedures. Licence approvals are issued only where export is consistent with Australia's international obligations and broader interests, including security and human rights considerations.

- In March 2000 Australia increased penalties for illegal firearms trafficking, including some types of small arms, through amendments to the *Customs Act 1901* making criminal offences relating to smuggling or importing firearms punishable on conviction by a penalty of up to \$250,000 and/or 10 years imprisonment.
- Importation of handguns under the *Customs (Prohibited Imports) Regulations 1956* has also been tightened (in August 2000 and again in April 2001). Importers now require permission from State and Territory police prior to the importation and sale of imported handguns occurring, and limits are placed on the stocks of newly imported handguns that importers/dealers can hold (handguns stocks over and above the set limits must be held by the Australian Customs Service). The amendments to the *Regulations* in April 2001 also extended controls to handgun frames/receivers in the same fashion as complete handguns. This occurred because handgun frames/receivers were being legally imported as parts and subsequently assembled as an operative firearm.
- Australia's strict policy on illegal arms transfers is illustrated by the various conditions under which exports of military small arms and military goods are expressly prohibited, including:
 - to countries against which the United Nations Security Council has imposed a mandatory arms embargo
 - to governments that seriously violate their citizens' rights, unless there is no reasonable risk that the goods might be used against those citizens
 - where foreign and strategic policy interests outweigh export benefits.

Australia has also decided that in certain circumstances it may be necessary to prevent the export of non-military lethal goods (including certain types of small arms, such as hunting or sporting weapons) to particular destinations on foreign policy, defence or other national interest grounds. As with military goods, the export of non-military lethal goods also requires an export licence or permit.

Australia fully complies with third party transfer undertakings and obligations provided to the original exporting State. The discharge of these obligations includes notification of the original exporting State of the intention to retransfer.

Strict control measures apply to military weapons, munitions and explosives. Weapons are individually numbered and tracked, and are stored securely in defence establishments. All weapons are registered and subject to strict accounting procedures, including an annual census under the supervision and direction of the Defence Inspector General's Office. The aim of each census is to account for 100 percent of weapons. Thorough investigation procedures are in place for investigations into the loss, theft or attempted theft of weapons, ammunition and explosives. Control measures on the employment of military small arms are enforced on operations through Rules of Engagement and Orders for Opening Fire.

Defence operates an inventory management system which details the exact number and location of its small arms by type. All ADF official stocks are audited on an annual basis. Defence regularly reviews operational stock levels against capability requirements. This analysis provides the basis for ongoing provisioning and determination of any potential surplus.

Disposal or destruction of surplus weapons is managed by the Armaments Systems Program Office of DMO, with guidance from Service Headquarters. If a particular weapon is declared out of service, disposal action will be commenced. Weapons are destroyed (usually by smelting), or occasionally they may be on-sold to a third country. The same process occurs for weapons declared surplus to requirement. However, surplus weapons may be held in long term storage as War Reserve Stocks. In the event of a sale, the transfer of the weapon is effected according to the aforementioned procedures governing weapon exports. This ensures that the sale complies with relevant Australian Government policy and that arms or weapons are sold only to approved purchasers, using the mechanism of end-user certification. In both the case of disposal by sale to another country and/or destruction, official stocks are strictly controlled by the DMO using extant procedural requirements, including the record of all serial numbers.

Exports of military and sporting firearms are controlled under the *Customs Prohibited Exports Regulation 13(e)*. The Australian Federal Police and the Department of Defence have in place measures to verify whether firearms to be exported have been stolen.

The Australian Federal Police (AFP) imports official police issue firearms directly from the manufacturers, bypassing product importers and agents. The AFP clears all their firearms through Customs directly into the AFP Central Armoury. Those firearms are then inspected, and registered before being issued personally to sworn members. Regular audits, inspections and servicing are conducted. The transport of firearms is controlled through secure couriers on special contract conditions. All security conduct is controlled by the AFP Protective Security Manual.

State and Territory police forces are responsible for regulating the sale, ownership, possession and use of firearms within their area of jurisdiction. Regulations are based upon the requirements established by the National Firearms Agreement.

Australia has worked hard to develop and strengthen laws and regulations and to improve traceability of possession and transfers. The Commonwealth has amended the *Customs (Prohibited Imports) Regulations* in line with the National Firearms Agreement. Prohibited or restricted firearms may only be imported with the appropriate import permission and, under certain circumstances for high-powered firearms, with the permission of the Attorney-General.

All States and Territories maintain registers of firearms held within their respective communities. Details kept include the make, model and serial number of firearms as well as personal details of owners. The CrimTrac Agency is currently developing a national register on firearms.

The Commonwealth passed the *National Firearms Program Implementation Acts 1996 and 1997* to provide for financial assistance to the States and Territories to reimburse them for compensation paid to gun owners for the surrender of prohibited weapons under the National

Firearms Program. Some 660,000 firearms have been relinquished and destroyed under the program.