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Public Safety Sécurité publique
Canada Canada

Deputy Minister Sous-ministre

Ottawa, Canada
K1A 0P8

CONFIDENTIAL

DATE: **NOV 23 2012**

File No.: 391446
RDIMS No.: SEC4104

MEMORANDUM FOR THE MINISTER

SPORT SYSTEMS DITTRICH (SSD) MODEL BD38 FIREARM

(Decision Sought)

ISSUE

Revocation of registration certificates related to the Sport Systems Dittrich (SSD) Model BD38/3008 firearms.

BACKGROUND

The SSD BD38 and BD 3008 firearms are manufactured by the German company, Sport Systems Dittrich, as semi-automatic copies of fully automatic sub-machine guns used by the German army during World War II. Their retail value is approximately \$3,000.

In February 2007, the Royal Canadian Mounted Police (RCMP) Canadian Firearms Program (CFP) accepted the BD38/3008 as restricted semi-automatic firearms, based on the manufacturer's specifications. Verifiers (i.e., designated employees of manufacturers, importers or public agencies who certify the classification of firearms) were not involved.

In 2012, the RCMP conducted a physical inspection of the BD38/3008 firearms and determined that they could be easily and quickly converted into automatic firearms. Section 84(1) of the *Criminal Code* includes firearms capable of automatic fire in the definition of "Prohibited Firearm", including, by virtue of case law, those that can be readily converted to automatic fire. Following this inspection, the RCMP corrected the classification of the firearms to reflect that they are prohibited. There are 83 BD38/3008 firearms in the Canadian Firearms Registry. Five of them belong to businesses with prohibited privileges, and three of them are in police custody. Accordingly, 75 firearms are in the possession of owners who are not appropriately licenced to possess them.

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CONSIDERATIONS

Automatic firearms are a threat to public safety because of their fast reloading action and their ability to discharge multiple shots each time the trigger is pulled. They are considered more lethal than other types of firearms because they allow the shooter to fire the firearm multiple times in a short duration.

There are similarities between the circumstances surrounding the BD38/3008 and measures taken in 2009 and 2010 to compensate owners of Norinco T97A firearms (see **TAB A** for further details). Since 2009, the RCMP CFP has instituted a more rigorous approach to identifying the class of firearms, including insistence upon a physical inspection of all semi-automatics that may be variants of automatic firearms, before determining the firearm's classification in accordance with the *Criminal Code*. The BD38/3008 firearms were imported before this more rigorous approach was implemented by the RCMP. The CFP continuously monitors and reviews existing firearms records for quality control purposes.

Previous instances in which firearms classification has been corrected attracted public attention. Firearms advocates have been severely critical, due to their perspective that the RCMP is engaging in arbitrary and unlawful "reclassification" of firearms.

CURRENT STATUS

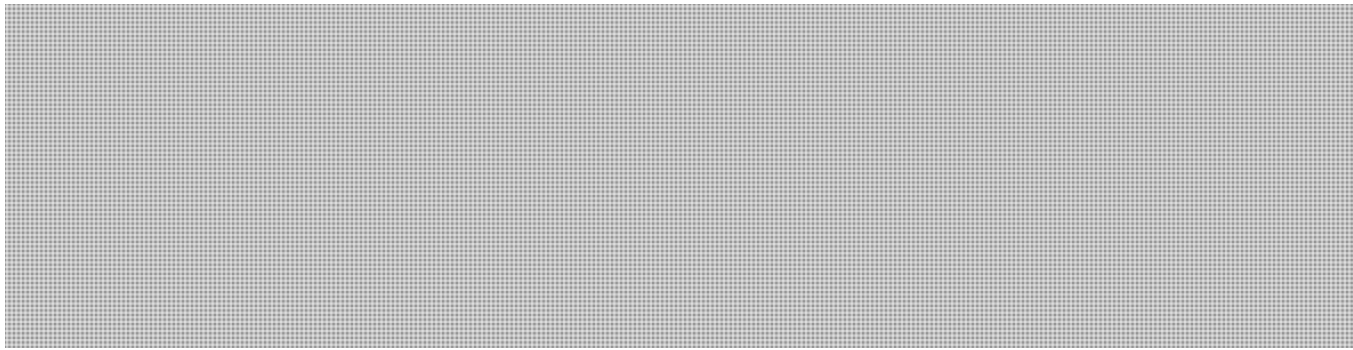
Currently, individuals and businesses without prohibited licence privileges may legally own BD38/3008 firearms only by having them deactivated. The RCMP has signalled its intention to notify affected owners of the corrected class of these firearms (i.e., prohibited) and take action to bring parties into compliance with the law (**TAB B**). The Department of Public Safety has worked with the RCMP and the Department of Justice to develop options to move forward.

OPTIONS

The following options could be considered to address the BD38/3008 issue:

2) Revocation of registration certificates, with an offer of compensation. This option would also increase public safety; limit the number of court challenges; and, attract much less criticism than Option 1. However, it would cost the Government an estimated \$225,000 (\$3,000 x 75), and could entrench the precedent of compensation in similar circumstances.

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These options, advantages and disadvantages are discussed in more detail under **TAB C**.

RECOMMENDATION

Option 2, revocation of the registration certificates, with an offer of compensation, is recommended because it strikes a balance between fairness to individual owners and public safety.

It is also recommended that you instruct officials to work within the Public Safety Portfolio to identify a source of funds and a funding mechanism for compensation.

Should you require additional information, please do not hesitate to contact me or Mr. Richard Wex, Assistant Deputy Minister, Law Enforcement and Policing Branch, at 613-990-2703.

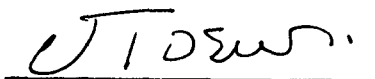

François Guilmont

Enclosures: (3)

- Option 1
- Option 2
- Option 3

I approve: **NOV 28 2012**

I do not approve:


Vic Toews, P.C., Q.C., M.P.

Vic Toews, P.C., Q.C., M.P.

Prepared by: Christine Guénette

NORINCO T97A FIREARMS

In 2006 and 2007, 60 Norinco T97A firearms were imported from China in two shipments. Based on representations from Lever Arms company verifiers, the Royal Canadian Mounted Police initially identified some of them as non-restricted and others as restricted. Subsequently, upon physical inspection in 2009, 55 of these firearms were determined to be fully automatic firearms that had been modified to be semi-automatic, and were therefore prohibited. Following consideration of several options to address the situation, the Government offered settlement of claims payments to 35 individuals and one business in 2010. There were 33 owners who accepted the payments (three owners pursued reference hearings; none were successful). Compensation for the T97A cost the Government approximately \$50,000 (or up to \$1,400 per firearm).



Royal Canadian Mounted Police
Gendarmerie royale du Canada

MLCU No.-N° de l'UCLM	Security Classification/Designation Classification/désignation sécuritaire Unclassified/Non classifiée	Total Pages Pages totales 2
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BRIEFING NOTE TO

NOTE D'INFORMATION

D/Commr PSS

au S.-comm SSP

PURPOSE:

To update the Deputy Commissioner of Policing Support Services regarding the Norinco Type 97A retrieval and compensation project.

ISSUE:

The RCMP Canadian Firearms Program (CFP) has undertaken to implement the Government of Canada's decision to retrieve the prohibited variant Norinco Type 97A firearms and provide compensation to the owners.

BACKGROUND:

Between 2006 and 2007 Lever Arms imported 60 Norinco Type 97A firearms. The RCMP CFP determined that 55 of these firearms are prohibited. Of the 55 prohibited variants, 15 are registered to businesses with appropriate licence purpose to possess prohibited firearms, 39 are registered to 35 individuals, and one is registered to a business without the appropriate purpose.

On March 23, 2010, Notices of Revocation for the above-mentioned 40 prohibited firearms were issued by the Registrar of Firearms because the individuals and the business cannot legally possess this type of firearm. Recipients of the Notices of Revocation had 30 days to file for a reference hearing before a provincial court judge, or lawfully dispose of their firearm(s). The market value of each firearm is approximately \$1000.

On April 13, 2010, the Minister of Public Safety was briefed. On April 19, 2010, for public safety reasons, the Minister decided the Norinco Type 97A firearms would be retrieved and the Government of Canada would provide compensation to the owners.

On April 22, 2010, the Minister of Public Safety directed that owners be compensated up to \$1400 where supported by a receipt or statutory declaration.

On April 23, 2010, the RCMP CFP sent letters to the 36 recipients of the Notices of Revocation explaining the Government's decision to compensate.

A process was developed to retrieve the firearms. The firearms in question will be retrieved by CFP representatives and sent to the RCMP CFP Specialized Firearms Support Services (SFSS) in Ottawa for examination. Once the firearm(s) has been examined by SFSS and the affected

Prepared by - Rédigé par	Date	Recommended by - Recommandée par	Date	Approved by - Approuvé par	Date
Robert MacKinnon Manager Operations Support Canadian Firearms Program Policing Support Services	2010-08-13	Scott McDougall, Director Strategic Policy, Planning and Communications Canadian Firearms Program Policing Support Services	2010-08-13	Geoff Francis Chief Superintendent Acting Director General Canadian Firearms Program Policing Support Services	2010-08-13

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individual is confirmed eligible for compensation, a cheque will be issued.

On May 4, 2010, RCMP CFP representatives began to retrieve firearms from those individuals who are still in possession of the firearm(s) and have received the compensation letter.

On June 16, 2010, the RCMP CFP received the Minister's support to make settlement offers to individuals who have outstanding reference hearings. The settlement offer must be accepted by August 31, 2010.

The first reference hearing for the Norinco Type 97A firearm, scheduled for June 29, 2010, has been adjourned until the fall. Therefore, no reference hearings will take place prior to the expiry of the settlement offer.

CURRENT STATUS:

The RCMP CFP is continually tracking any/all steps the owners are taking to come into compliance with the Notices of Revocation.

As of August 13th, 2010, the RCMP CFP confirms:

All 36 of the letters have been confirmed delivered.

- 14 individuals (14 firearms) are still in possession of the Type 97A firearms and have filed for reference hearings. The 14 clients have been advised in writing of the August 31, 2010 compensation deadline.
- 21 individuals and 1 business (26 firearms) are no longer in possession of the firearm(s). Of those no longer in possession, 17 individuals and 1 business (20 firearms) have been issued compensation package, and 4 individuals (6 firearms) have yet to provide CFP with receipts of purchase for firearms.

17 individuals and 1 business (20 firearms) have been issued compensation cheques under a cover letter from the RCMP, with a total compensation value to date of \$26,917.13.

RECOMMENDATION:

It is recommended the Commissioner be updated on this issue.

BN Identification Number: CFP-2010-34 CCM #: 10-004464

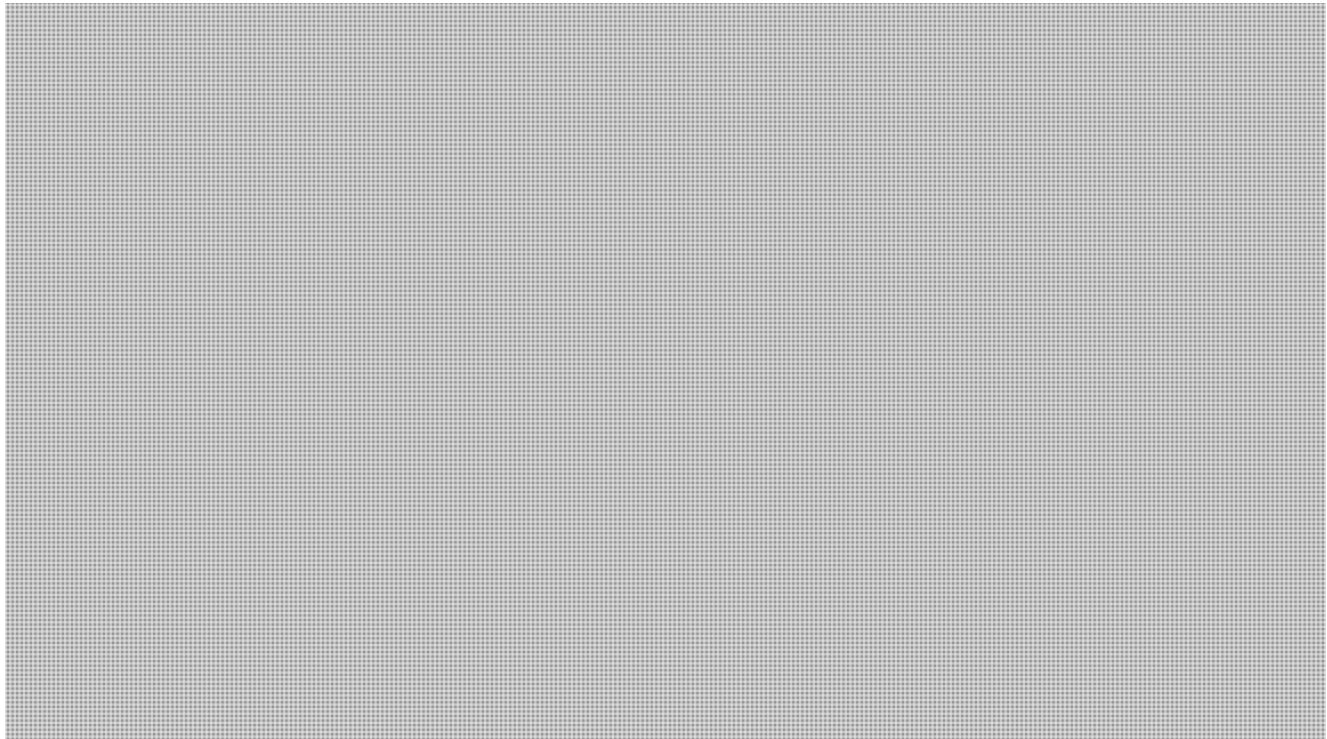
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s.21(1)(b)

OPTIONS

SPORT SYSTEMS DITTRICH BD38/3008 FIREARMS

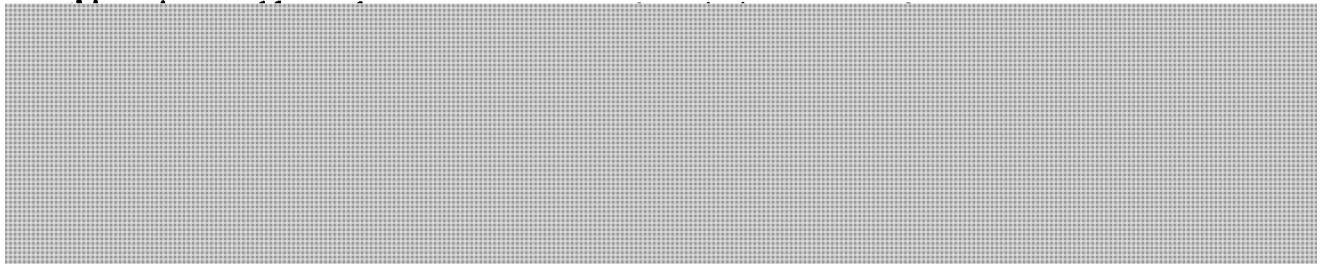


Option 2 - Revocation with Compensation: this option would offer affected owners the same choices for lawful disposal of the firearms as under Option 1, with the offer of compensation (\$3,000 each x 75, estimated total cost: \$225,000). Under this option, a source of funds and an appropriate payment mechanism would have to be identified.

Advantages:

- it would meet the public safety imperative of removing most of the firearms from circulation;
- it could limit the number of court challenges;
- it would be consistent with the government's compensation of the Norinco T97A owners, and,
- compensation would be supported by affected owners and firearms advocates.

Disadvantages:



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Page 479

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Public Safety Sécurité publique
Canada Canada

Deputy Minister Sous-ministre

Ottawa, Canada
K1A 0P8

CONFIDENTIAL

DATE:

File No: 394487
RDIMS No: SEC6741

MEMORANDUM FOR THE MINISTER

THE ARMS TRADE TREATY

(Information Only)

ISSUE

Overview of the international *Arms Trade Treaty* (ATT) approved by the United Nations (UN) General Assembly on April 2, 2013.

BACKGROUND

Since 2012, member states, including Canada, have been negotiating the ATT. The Treaty establishes international standards to regulate international trade in conventional arms, and to prevent and eradicate illicit trade and diversion of conventional arms.

Conventional arms are broadly defined in the Treaty and include various types of military assets such as battle tanks, warships, artillery systems, as well as small arms and light weapons.

The Treaty requires States Parties to refuse the export of conventional weapons where they could be illicitly trafficked or used in such acts as genocide or crimes against humanity. The Treaty also requires States Parties to establish controls over the international transfer of conventional weapons, including assessing the degree of risk that such weapons could be used in acts to undermine peace and security, and to maintain records on such transfers for ten years.

CURRENT STATUS

On April 2, 2013, the UN General Assembly approved the Treaty with 154 countries, including Canada and the U.S., voting in favour. Three countries, the Democratic People's Republic of Korea (DPRK), Iran and Syria, voted against the decision with 23 countries, including Russia and China abstaining.

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The Treaty will be opened for signature on June 3, 2013, and will enter into force after 50 States have ratified it.

CONSIDERATIONS

Canada participated in the negotiation of the ATT since 2012 and supported a legally-binding arms trade treaty to establish common international standards for the export and import of conventional arms. Canada sought to have the Treaty focus on curtailing arms transfers that fuel armed conflict, terrorism, organized crime and human rights abuses. Canada already has a robust system of export and import controls.

The Canadian delegation was comprised of governmental officials, as well as Mr. Steve Torino, President of the Canadian Shooting Sports Association and co-chair of the Canadian Firearms Advisory Committee.

During negotiations, Canada sought and successfully influenced development of a treaty that will not impede international transfers of conventional arms for lawful purposes, nor place any new burdens on Canadian firearms owners.

During the spring and early summer of 2013, the Department of Foreign Affairs and International Trade (DFAIT) plans to undertake a comprehensive analysis of the final treaty text to determine the extent to which the ATT is consistent with Canada's current regulatory regime for conventional arms or whether domestic changes would be required in order for Canada to fully comply with the Treaty's obligations. As well, DFAIT will be consulting with interested parties to determine what, if any, impacts there may be for Canadian firearms owners and manufactures, and how such potential impacts could be managed. Recommendations will then be made to the Government on whether or not Canada should sign the Treaty.

NEXT STEPS

Should you require additional information, please do not hesitate to contact me or Mark Potter, Acting Assistant Deputy Minister, Law Enforcement and Policing Branch, at 613-991-1632.

François Guimont

Prepared by: Suzing Hum

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