

TOWARDS A COMMON APPROACH TO WEAPONS CONTROL

The South Pacific Chiefs of **Police Conference (SPCPC) Working Group** and the Sub-Committee formed to suggest a common regional approach to weapons control, having met in Nadi, Fiji from 6 - 10 March 2000 and being cognisant of the 1998 Honiara Initiative and the Forum Leaders' recommended outcome for a framework towards a common approach to weapons control, recommends to the SPCPC for adoption out of session and ratification in plenary session the draft Legal Framework for a Common Approach to Weapons Control titled the "Nadi Framework", for submission later to the Forum Regional Security Committee meeting and forwarding to the Forum Leaders for their deliberations at their- meeting in Kiribati October 2000.

Isikia R Savua
Commissioner of Police
Fiji Islands
Chairman

Michael R Sala
Deputy Commissioner/
Executive Director SPICIN
American Samoa
Member

Terry Allen
Federal Agent
Australian Customs Service
Member

Tevai V Matapo
Commissioner of Police
Cook Islands
Member

Paul Mears
(Rtd) Superintendent
New Zealand
Member

Sinilau Kolokihakaufisi
Police Commander
Tonga
Member

Peter Bong
Commissioner of Police
Vanuatu
Member

Bill Henley
Customs Representative
Australia

Signed at Nadi, Fiji this 10th day of March 2000

LEGAL FRAME WORK FOR A COMMON APPROACH TO WEAPONS CONTROL MEASURES

1.0 Introduction

The SPCPC recommends to the Forum Regional Security Committee the following guidelines as a basis for the legal framework upon which Forum member countries may adopt in their domestic legislations relating to a common approach to weapons control. The suggested legal framework is based on the following principles and objectives.

1.1 Principles

- a. To confirm that the possession and use of firearms, ammunition, other related materials and prohibited weapons is a privilege that is conditional on the overriding need to ensure public safety; and
- b. To improve public safety by imposing strict controls on the possession and use of firearms, ammunition, other related materials and prohibited weapons,

1.2 Objectives

- a. To require each person who possesses or uses a firearm, ammunition, other related materials and prohibited weapons under the authority of a permit to have a genuine reason for the possession/use of the weapon.
- b. To provide strict requirements that must be satisfied in relation to the possession and use of firearms, ammunition, other related materials and prohibited weapons.

2.0 Legislative Measures

- 2.1 Legislative measures are to be put in place which establish as criminal offences the illicit manufacturing of, trafficking, sale and possession of firearms, ammunition, other related materials, and other prohibited weapons (non firearms).

3.0 jurisdiction

- 3.1 Forum member countries to establish jurisdiction over the sale, possession and use of. firearms, ammunicions, explosives other related materials, and prohibited weapons.

4.0 Marking of Weapons

4.1 For the purposes of identification and training, Forum member countries are to require:

- (a) at the time of manufacture, appropriate markings of the name of the manufacturer, place of manufacture and unique serial number of the firearms, ammunitions, explosives and other related materials;
- (b) appropriate markings on imported firearms as per paragraph (a) above.
- (c) for prohibited weapons, a complete description i.e. type, color, blade length etc.

5.0 Confiscation or Forfeiture

5.1 Forum member countries to undertake to confiscate or forfeit firearms, ammunitions, explosives, other related materials and prohibited weapons that have been illicitly manufactured or trafficked or as required under domestic laws.

6.0 Export, Import and Transit Licences or Authorisation

6.1 Forum member countries are to:

- (a) establish and maintain an effective system of export, import and transshipment of firearms, ammunitions, explosives, other related materials and prohibited weapons.
- (b) notify one another when firearms, explosives, other related materials and prohibited weapons are in transit through their respective territories.
- (c) harmonize : the export, import, transit and transshipment requirements under their respective weapons legislations with domestic laws relating to Customs requirements.

7.0 Strengthening of Controls at Entry & Exit Points

7.1 Forum member countries are to implement measures to establish the detection and prevention of illicit trafficking in firearms, ammunitions, explosives, other related materials, and prohibited weapons by strengthening controls at entry and exit points.

8.0 Record keeping

8 A Forum member countries are to implement measures to establish a licensing system and proper maintenance of records relating to possession and sale of firearms, ammunition, explosives and other related materials. Such records may include:

- (a) name, licence number and current address of owner/purchaser;
- (b) serial number, calibre and type of firearm.
- (c) in relation to prohibited weapons, a complete description i.e. type, colour, blade length etc.
- (d) expiry date

9.0 Exchange of Information

- 9.1 (a) Forum member countries are to implement measures to enhance the exchange of information on matters such as:
- i authorised producers, dealers, importers, and exporters, of firearms, ammunition, explosives, other related materials, and prohibited weapons;
 - ii. the means of concealment used in the illicit manufacturing of or trafficking in firearms, ammunition, explosives, other related materials, and prohibited weapons and ways of detecting them;
 - iii. routes customarily used by criminal organisations engaged in illicit trafficking in firearms, ammunition, explosives, other related materials, and prohibited weapons;
 - iv. legislative experiences, practices, and measures to prevent, combat, and control the illicit manufacturing of and trafficking of firearms, ammunition, explosives, other related materials, and prohibited weapons;
 - v techniques, practices, and legislation to combat other crimes related to illicit manufacturing of and trafficking in firearms, ammunition, explosives, other related materials, and prohibited weapons;
 - vi. information on legitimate movement of firearms and prohibited weapons in relation to vessels, aircraft and individuals; and

- (b) Relevant scientific and technological information useful to law enforcement in relation to firearms, ammunition, explosives, other related materials and prohibited weapons.

10.0 Prohibited Weapons

- 10.1 In relation to prohibited weapons (a proposed list is on Annexure W) it is intended that the legal measures are to cover such weapons which do not have a utilitarian use and are designed or intended to incapacitate or injure an individual.

11.0 Genuine Reasons

- 11.1 For prohibited weapons it is suggested that an applicant for a permit to carry such weapons are to have a genuine reason as suggested in Annexure 'B'.

12.0 Suggested Definitions

- 12.1 The suggested definitions covering such weapons are to be in a form suggested in Annexure 'C'.

13.0 Permit Scheme

- 13.1 A suggested permit scheme and permit samples are in 'Annexure 'D'.

14.0 Traditional and Other Weapons

- 14.1 Other types of instruments (e.g. traditional weapons, cane knives or any other item) which by their nature or intended use may be classed as offensive weapons, the carriage of which is without lawful authority or reasonable excuse is to be criminalised, i.e. to be provided for in the respective criminal law legislation.

PROPOSED UNIFORM PROHIBITED MAPONS LIST

- **Acoustic anti-personnel device:** that is designed to cause permanent or temporary incapacity or disability, or to otherwise physically disorientate persons.
- **Anti-personnel spray:** containing any one or more of the following substances in liquid, powder, gas or chemical form:
 - a (a) chloroacetophenone, known as CN,
 - b (b) orthochlorobenzalmalonitrile, known as CS,
 - c (c) dypenylaminechloroarsone, known as DM or Adamsite,
 - d (d) oleoresin capsicum, known as OC.
- **Anti-personnel spray** or other device: that discharges any substance of a corrosive, noxious, or irritant nature, or that is capable of causing injury.
- **Ballistic knife:** that propels or releases a knife-like blade of any material by any means other than an explosive.
- **Blow-gun** or blow-pipe: that is capable of projecting a dart, or any other device that consists of a pipe or tube through which missiles in the form of a dart are capable of being projected by the exhaled breath of the user or by any other means other than an explosive.
- **Body armour**, or any other similar article: designed for anti-ballistic or anti fragmentation purposes and to be worn on any part of the body (other than helmets or anti-ballistic articles used. for eye or hearing protection).
- **Bowen Knife Belt** or any other similar article: consisting of a belt or belt buckle that conceals or disguises within the article a knife or a single-edged or multi-edged blade or spike of any length or of any material.
- **Butterfly knife** or "balisong" or any other device: that consists of a single-edged or multi-edged blade or spike that fits within 2 handles attached to the blade or spike by transverse pivot pins and is capable of being opened by gravity or centrifugal force.
- **Dagger** or similar device: being a sharp pointed stabbing instrument, of any material, ordinarily capable of concealment on a person, with:
 - (i) a flat blade with cutting edges (serrated or not serrated) along the length of both sides;
 - (ii) A needle-like blade, the cross section of which is elliptical or has 3 or more sides;

But not including swords or bayonets.

Dart: capable of being projected from a blow-gun or blow-pipe.

- **Dart projector** known as the Darchery dartslinger, or any other similar device: that is designed to project a dart by means of an elasticized band.
- **Extendable or telescopic baton:** which is designed or adapted so that the length of the baton extends by gravity or centrifugal force. or by any pressure applied to a button, spring or device in or attached to the handle of the baton.
- **Flail** or any other similar article: that consists of a staff or handle that has fitted to one end, by any mean, a freely swinging striking part that is armed with spikes or studded with any protruding matter.
- **Flick knife** or other similar device: of any material that has a blade folded or, recessed into the handle which opens automatically by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handled of the knife.
- **Goods** which incorporate a concealed knife, blade or spike of any material and any length.
- **Hand or foot claws:** an article consisting of claws that are made or modified to be attached to or worn on the hands or feet (eg the martial arts weapon known as Ninja claws, ninja hand claws or ninja foot claws).
- **Hand-held electric anti-personnel device:** that is designed to administer an electric shock on contact, such as the Taser Self-Defence Weapon or an. electrified brief-case, excluding cattle prods which may lawfully be used on animals.
- **Hunting Sling**, catapult or slingshot, or any other device: in the nature of a hunting sling, catapult or slingshot that is designed for use with, or a component part of which is, a brace that:
 - (a) fits or rests on the forearm or on another part of the body of the user, and
 - (b) supports the wrist against the tension of elastic material used to propel a projectile.
- **Knife**, blade or spike: which contains neither metal nor ceramics, excluding plastic cutlery.
- **Knuckles-dusters** or any other similar article: that can be fitted over the knuckles of the hand of the user to protect the knuckles and increase the effect of a punch or other blow or that is adapted for use as such.
- **Mace** or any other similar article: capable of causing injury that consists of a club or staff fitted with a flanged or spiked head, other than a ceremonial occasions.
- **Pistol crossbow:** any crossbow designed to be used with one hand (excluding toys) that when discharged is capable of causing damage or injury to property or capable of causing bodily harm.

- **Push knife** or similar device: designed as a weapon that consists of a single-edged or multi-edged blade or spike of any material that has a handle fitted, transverse!y to the blade or spike and allows the blade or spike to be supported by the palm of the hand so that stabbing blows or slashes can be inflicted by a punching or pushing action.
- **Riding crop**: that contains conceals or disguises a knife, stiletto or any other single-edged or multi-edged blade or spike of any length or of any material.
- **Shark Dart**, or any other similar device: that is designed to expel, on or after contact, any gas or other substance capable of causing bodily harm.
- **Sheath knife** or similar device: of any material, that has a sheath which withdraws into its handle by gravity or centrifugal force or if pressure is applied to a button, spring or device attached to or forming part of the sheath, handle or blade of the knife.
- **Slingshot**: being a device consisting of an elasticized band secured to the forks of a 'Y' shaped frame that has been or appears to have been commercially manufactured.
- **Star knife** or similar device: that consists of more than one angular point, blade or spike, of any material, disposed outwardly about a central axis point and that are designed to spin around the central axis point in flight when thrown at a target,
- **Studded glove**, or any other similar article: designed or constructed to be used as a weapon, that consists of a glove (including a fingerless glove) that has a number of raised studs or spikes made of a hard substance and positioned over the back of the glove to increase the effect of a punch or blow.
- **Throwing blade** throwing knife or throwing axe: of any material, which is designed or modified to be thrown.
- **Trench knife** or similar device: that consists of a single-edged or multi-edged blade or spike of any material that is fitted with a handle made of any hard substance that can be fitted over the knuckles of the hand of the user to protect the knuckles and increase the effect of a punch or blow, or that is adapted for such use.
- **Walking stick** or cane: that contains, conceals or disguises a sword or any other single-edged or multi-edged blade, knife or spike of any length or of any material.
- **Weighted glove** or any other similar article: that consists of a weighted glove (including a fingerless glove) designed or constructed to be used as a weapon.

GENUINE REASONS

1. **Recreational/Sporting**
Must demonstrate that the weapon is necessary to pursue the sporting/recreational activity.
2. **Business/Employment**
Must demonstrate that possession is required/nec.essary in the legitimate conduct of the business/employment.
- 3: **Film/TV/Theatre**
Must demonstrate that, the weapon is necessary for the use in the Film etc.
4. **Collectors**
Must demonstrate that the collection has a genuine commemorative, historical or financial value.
5. **Public Museum**
The Museum must be a public museum and involved in the collection and permanent display of weapons.
6. **Heirloom**
The weapon has been inherited and has genuine sentimental value.
7. **Animal Management**
Must be a Veterinarian, person or organization involved in animal management, and must demonstrate the weapon is necessary/required for use in animal management.
8. **Cultural**
Must demonstrate that the weapon is of cultural significance to the owner.
9. **PERSONAL PROTECTION OR PROTECTION OF ANOTHER PERSON IS NOT CONSIDERED A GENUINE REASON FOR POSSESSION.**

SUGGESTED DEFINITIONS
(PART 1 - NON FIRE)

Approved means approved by the Commissioner from time to time.

Authorised employee of an authorised theatrical weapons armourer or authorised weapons dealer means a person who:

- (a) is an employee of the armourer or dealer concerned, and
- (b) is eligible to be issued with a permit, and
- (c) is authorised in writing by the Commissioner,

Authorised officer means a person who is authorised by the Commissioner.

Authorised weapons dealer means a weapons dealer who is the holder of a weapons dealer permit.

Buy includes:

- (a) purchase by wholesale, retail, auction or tender, and
- (b) hire, and
- (c) take possession under a hire-purchase agreement, and
- (d) cause or permit anything referred to above.

Commissioner means the Commissioner of Police

Genuine reason means a genuine reason as referred to in Annexure'13'.

Holder of a permit means the ~person to whom it is issued.

Manufacture a prohibited weapon includes repair or test the weapon in the course of carrying on a business.

Permit means a permit issued by the Commissioner.

Possession of a prohibited weapon includes any case. in which a person knowingly:

- (a) has custody of the weapon, or
- (b) has the weapon in the custody of another person, or
- (c) has the weapon in or on any premises, place, vehicle, vessel or aircraft, whether or not belonging to or occupied by the person.

Prohibited weapon means anything described in Annexrue'A'.

Sell includes:

- (a) sell by wholesale, retail, auction or tender, or
- (b) parting with something under a hire-purchase agreement, or
- (c) barter or exchange, or

- (d) supply for profit, or
- (e) offer for sale, receive for sale, have in possession for sale or expose or exhibit for sale, or
- (f) conduct negotiations for sale, or
- (g) consign or deliver for sale, or
- (h) cause or permit anything referred to above.

Use a prohibited weapon includes causing a reasonable belief that the weapon will be used.

For the purposes of this suggested definitions:

- (a) anything that would be a prohibited weapon if it did not have something missing from it, or a defect or obstruction in it, is taken to be a prohibited weapon, and
- (b) a person in or on (or in or on any part of) any premises, vehicle, vessel or aircraft in which there is a prohibited weapon is to be regarded as having possession of the weapon unless the person proves otherwise, and
- (c) if parts of a prohibited weapon are in the possession of, or are being carried by, 2 or more persons, each of those persons is to be regarded as possessing the weapon.

Seller - A person may not sell a prohibited weapon unless the buyer has a permit to possess that particular weapon and the seller has sighted the permit.

Advertising

Prohibited weapons may not be advertised unless the advertisement clearly states that the weapons are prohibited and may only be purchased on production of a valid permit.

Safekeeping

A person who possesses a prohibited weapon must take all reasonable precautions to ensure that it/they are

- (a) not lost or stolen; or
- (b) do not come into the possession of a person not authorized to possess that weapon.

Illicit Manufacturing refer to part 2.

Illicit Trafficking refer to part 2

PART 2 - FIREARMS, AMMUNITION AND EXPLOSIVES

Illicit Manufacturing

The manufacture or assembly of firearms, ammunition, explosives-, and other related materials:

- a. from components or parts illicitly trafficked; or
- b. without a license from the appropriate authority of a SPCPC member country where the manufacture or assembly takes place; or
- c. without marking the firearms that require marking at the time of manufacturing.

Illicit Trafficking

The import, export, acquisition, sale, delivery, movement or transfer of firearms, ammunition, explosives, and other related materials from, through or across a country to that of a SPCPC member country, if the member country concerned does not authorize it.

Explosives

Any substance or article that is made, manufactured, or used to produce an explosion, detonation, or propulsive or pyrotechnic effect.

Other Related Materials

Any component, part, or replacement part of a firearm, or an accessory which can be attached to a firearm.

Antique means a firearm manufactured before 1900.

Component of Ammunition means a projectile, cartridge casing or primer, designed or adapted for use in ammunition.

Firearm means a device designed or adapted to discharge shots, bullets or other projectiles by means of explosive charge or compressed gas, whether that device is fitted with a magazine or other feeding device designed to be used with it or not.

Firearm Accessory means any of the following devices:

- (a) a silencer designed or intended for use with a firearm,
- (b) a device designed to modify a firearm so as to give it a rapid fire capability;
- (c) a device capable of converting a firearm to fire in a fully automatic condition;

- (d) a folding stock;
- (e) a detachable stock;

Firearm Magazine means a magazine designed or intended for use with a firearm.

Firearm Part for a firearm, means any of the following items:

- (a) a gas piston,, friction assembly, action bar, breech bolt or breech block; and
- (b) a firearm barrel; and
- (c) an assembled trigger mechanism; and
- (d) a receiver; and
- (e) something, other than a complete firearm, that includes 1 or more of these items.

"Note": The effect of the definition is that items used in the firearm are not treated as 'firearm parts' by themselves, including the following items:

- (a) a firearm accessory, a firearm magazine, ammunition, p, component of ammunition or replica;
- (b) a screw, spring, or other minor component, of a firearm.

Replica means an article that is a copy or reproduction of a firearm, whether the article is fitted with a magazine or other feeding device designed to be used with it or not, but:

- (a) is not capable of discharging shots, bullets or other projectiles by means of an explosive charge or a compressed gas; and
- (b) is not a toy.

PERMIT SCHEME

Permit categories and authority conferred by permit

(1) The categories of permits and the authority they confer are as follows:

General permit

Authorizes the holder of the permit to possess or use a prohibited weapon of the kind specified in the permit, but only for the purpose established by the holder as being the genuine reason for possessing or using the prohibited. weapon.

Weapons dealer permit

Authorizes the holder of the permit, and any authorised employee, to possess, buy, sell and manufacture prohibited weapons of the kind specified in the permit, but only in the course of carrying on business as a weapons dealer and only at the premises specified in the permit (or at such other premises as may be approved).

Application for Permit

- (1) A person may apply to the Commissioner for a permit.
- (2) An application must be in the approved form and be accompanied
 - (a) by the fee prescribed,
 - (b) by such information and particulars, as required
- (3) An applicant for a permit must provide proof of the applicant's identity,
- (4) On receiving an application for a permit, the Commissioner may carry out such investigations and inquiries as the Commissioner considers necessary to enable the Commissioner to consider the application properly.

Issuing of permit

- (1) The Commissioner may, after considering an application for a permit:
 - (a) issue a permit to the applicant, or
 - (b) refuse to issue a permit to the applicant.

- (2) A permit must not be issued unless:
 - (a) the Commissioner is satisfied that the applicant is a fit and proper person and can be trusted to have possession of prohibited weapons without danger to public safety or to the peace, and
 - (b) the Commissioner is satisfied that such storage and safety requirements as may be approved (either generally or in a particular case) are capable of being met by the applicant.
- (3) A permit must not be issued to a person who:
 - (a) has, within the period of 10 years before the application for the permit was made, been convicted of a criminal offence;
 - (b) is subject to an apprehended violence order;
 - (c) is subject to a recognizance, to keep the peace..
- (4) The Commissioner may refuse to issue a permit if the Commissioner considers that the issue of the permit would be contrary to the public interest.

Form of permit

- (1) A permit is to be in any one or more forms approved by the Commissioner.

Conditions of permit

- (1) A permit is subject to such conditions as the Commissioner thinks fit to impose and as are specified in the permit.

Surrender and seizure of prohibited weapons when permit suspended or revoked

- (1) If a permit is suspended or revoked, the person to whom it was issued must immediately surrender to a police officer:
 - (a) any prohibited weapon in the person's possession, and
 - (b) the permit
- (2) A police officer is authorised to seize any prohibited weapon in the possession of a person if that person's permit is suspended or revoked.