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No. des SE&LM:
Pages: 2

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BRIEFING NOTE TO THE MINISTER OF PUBLIC SAFETY

NOTE D'INFORMATION AU MINISTRE DE LA SÉCURITÉ PUBLIQUE

ISSUE

To provide the Minister with information on the Sport Systems Dittrich (SSD) model BD38 carbine. This carbine was originally registered as restricted but has now been determined to be a prohibited firearm.

BACKGROUND

The SSD BD38 carbine is marketed as a semi-automatic copy of a Second World War era German MP38 submachine gun. The SSD BD38 is a reproduction of the original Schmeisser MP38 to the extent that parts are interchangeable.

The Firearms Reference Table (FRT) record for the SSD BD38 was created on February 13, 2007 and listed the firearm's classification as restricted, based on the manufacturer's specifications and the criteria outlined in subsection 84(1) of the *Criminal Code*. The FRT record for the SSD BD38 was identified for review on March 3, 2009, based on reports that the weapon could be converted to full automatic fire. This effectively halted further import of the SSD BD38.

Samples of the SSD BD38 were obtained through purchase in March 2012. The inspection was completed in April 2012 and determined that the firearm was, in fact, prohibited. Testing clearly established that the SSD BD38 carbine has virtually the same receiver as the original MP38 submachine gun and can be readily made to fire in the fully automatic mode simply by installing the necessary MP38 parts. Furthermore, the SSD BD38 carbine can be converted to fire in the fully automatic mode in minutes by making minor modifications to the BD38 trigger mechanism using common items such as wire and small pieces of metal. Consequently, in July 2012, all transfers of the SSD BD38 were halted.

CURRENT STATUS

There are 77 SSD BD38 carbines currently registered: 65 to individuals; 10 to businesses; and two in police custody.

The *Firearms Act* does not permit individuals currently in possession of these firearms to legally possess them

The amended FRT record has not been published pending ministerial direction.

STRATEGIC CONSIDERATIONS

The Supreme Court of Canada established in *Hasselwander* that a firearm meets the definition of automatic weapon where it is capable of being converted to an automatic weapon in "a relatively short period of time with relative ease". The Ontario Court of Appeal in *Barnes* found that a firearm capable of conversion to full automatic fire by the use of hand tools, in about 10 minutes, fell within the definition of an automatic firearm. Recent court decisions confirmed the classification of the Norinco Type 97A rifle as a prohibited firearm, as the rifle's conversion from semi-automatic fire to full automatic fire took a matter of seconds. Thus, the SSD BD38 firearm meets the legal definition of "prohibited."

Following the Norinco Type 97A experience in 2009, a more rigorous approach was adopted in the regulatory environment. The FRT also ceased creating records for semi-automatic variants of automatic firearms, which are considered to be high risk, without an inspection to confirm that the firearm is capable of semi-automatic fire only.



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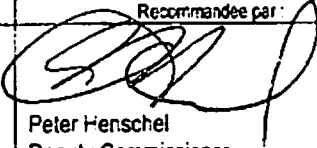
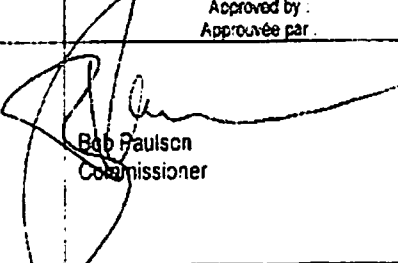
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Currently, the only legal avenue available to the CFP to resolve the SSD BD38 issue is for the Registrar to revoke the registration certificates for these firearms. Current owners of this firearm could refer such a revocation to a provincial court judge for review. There are no modifications that owners could make to the firearm that would permit them to continue to possess it, as it would simply place the firearm into the converted automatic category, maintaining its prohibited status. Owners could, however, opt to have the firearm deactivated, rendering it permanently inoperable.

In the case of Norinco Type 97A, the Government of Canada provided financial compensation to individuals who had purchased these firearms which were later, on inspection, determined to be prohibited. The SSD BD38 retails for about \$3,000 which would create a potential financial liability of approximately \$230,000, should the Government of Canada choose to provide financial compensation to owners.

As an alternative to revocation and to avoid future financial compensation liabilities, consideration could be given to making legislative changes to the *Firearms Act* to allow owners to be grandfathered, thus permitting owners to retain possession of their firearms, should certain conditions be met. Should the Minister wish to explore this option further, additional consultation with Public Safety Canada and the Department of Justice would be required.

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Prepared by : Rédigée par :	Recommended by : Recommandée par :	Approved by : Approuvée par :	Date
Pierre Perron Assistant Commissioner Director General Canadian Firearms Program	 Peter Henschel Deputy Commissioner Specialized Policing Services	 Bob Paulson Commissioner	AUG 08 2012

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Date: 20 12 - 08 08

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Diary Date: _____

Commissioner,

This BK was requested by the Minister's Office following a meeting Pierre Perron had with them. We're tentatively not providing a recommendation. Perhaps a discussion would be helpful.

FROM / DE:

[Signature]
Deputy Commissioner, Police Support Services
Sous-commissaire du Soutien des services de police
G303 L.H. Nicholson