



Australian Government

Australian Government response to the
Parliamentary Joint Committee on Law Enforcement report:

Theft and export of motor vehicles and parts

JULY 2020

Recommendation 1

The committee recommends that the Australian government amends the *Customs Act 1901* and the *Customs (Prohibited Exports) Regulations 1958* to make it an offence to export stolen goods, including stolen motor vehicles and motor vehicle parts.

Government response:

The Government notes this recommendation.

The Australian Border Force (ABF), as Australia's customs service undertakes regular compliance action, including against false or misleading declarations under the *Customs Act 1901* (the Customs Act). The Government reaffirms the ABF's role in combatting illicit activities at our borders and in supporting law enforcement agencies.

The Customs Act governs Australia's customs related functions and is the legislative authority for customs requirements for the importation, and exportation, of goods to and from Australia. This includes penalties for breaching provisions in the Customs Act.

The *Customs (Prohibited Exports) Regulations 1958* (Prohibited Exports Regulations) prohibit the exportation of goods from Australia either absolutely or by prohibiting exportation unless specified conditions or restrictions are complied with. The prohibitions in the Prohibited Exports Regulations are generally made to support Australia's international obligations or on measures of Australian national significance.

The Government intends to give effect to the intent of this recommendation through administrative changes within the scope of the provisions of the Customs Act relating to false and misleading statements. The Government will direct the ABF to consider appropriate amendments to Australia's export declaration process, to require an exporter to confirm the legitimacy of their goods at the point of export. If an exporter's declaration regarding those goods were found to be false or misleading, this would trigger offences under both the Customs Act and the *Criminal Code Act 1995* (Criminal Code) for providing false or misleading statements.

The Government notes that penalties for making a false or misleading statement under the Customs Act include fines of up to a maximum of 250 penalty units (\$55,500). Penalties for providing false or misleading information under the Criminal Code includes a maximum penalty of imprisonment for 12 months. These penalties would apply in addition to penalties under State and Territory law relating to theft and handling of stolen goods, which can also include imprisonment.

The application of additional penalties under the Customs Act and the Criminal Code would be an appropriate additional deterrent to exporting stolen vehicles and parts. This approach reflects that the primary offences of theft and handling stolen property remain matters for domestic law enforcement.

The ABF would be required to amend the export declaration form and make system changes to give effect to this approach.

The Government's view is that neither amending the Customs Act nor creating a new export prohibition under the Prohibited Exports Regulations would be an effective or appropriate

response to the criminal issue identified by the Committee. ABF officers are not in a position to assess accurately and promptly the ownership of goods presented for export to justify their seizure, in the absence of intelligence from domestic law enforcement agencies or specific referrals. Combatting the theft and handling of motor vehicles and vehicle parts remains primarily a domestic law enforcement issue.

The Government's proposed action would provide a suitable additional deterrent for exporting stolen vehicles and parts and would support federal and state and territory law enforcement agencies in their law enforcement efforts.

Recommendation 2

The committee recommends that the Australian Border Force works with state and territory law enforcement agencies and the National Motor Vehicle Theft Reduction Council to develop a national strategy to reduce the export of stolen motor vehicles and motor vehicle parts.

Response:

The Government notes this recommendation.

The Home Affairs portfolio, which includes the ABF, collaborates regularly with domestic law enforcement agencies to address unlawful and illicit activities that cut across areas of Commonwealth and State and Territory responsibilities. Areas of the Portfolio other than the ABF are more appropriately placed to represent the Portfolio's interests with the National Motor Vehicle Theft Reduction Council. The ABF will refer the recommended action to the Department of Home Affairs and its relevant portfolio agencies for consideration.