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## “The Philippines and the Arms Trade Treaty: The Call for Safe and Responsible Distribution of Arms”

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### **I. Introduction**

Unregulated global arms trade continues to threaten human security, and leave people vulnerable to violence, assault, and displacement. Poor implementation of regulatory laws at the international level has made it easy for armed groups and individuals to gain weapons and use it to pursue unlawful interests. The increase in number of cases of transnational crimes have caused states to forge cooperative mechanisms to minimize, if not eradicate, such illegal activities. In this light, the Arms Trade Treaty (ATT) sets an important basis for international efforts for countries to control threatening arms trade.

Today, the consequences of illicit arms trade can be seen through different conflicts around the world. The Philippines is also vulnerable to the deleterious effects of illicit arms trade and transfers. Given a host of internal security concerns, the country needs to implement stricter measures to deal with proliferation of illicit arms and enhance policies on gun-ownership and arms trade.

This paper aims to discuss: (1) background and main provisions of the ATT; (2) implications of ATT in Philippine national security; and, (3) the issues and challenges the ATT remains to faces.

### **II. International Call for Arms Trade Treaty**

The ATT is the first international instrument to establish legally binding obligations in ensuring responsible and effective controls on all types of international transfers of conventional arms and ammunitions.<sup>1</sup> The term “transfer” refers to the activities of the international trade that comprise arms export, import, transit and transshipment and brokering. The ATT aims to reduce casualties from illegal and irresponsible arms transfers, improve regional security and stability, and promote state accountability and transparency of conventional arms transfers. The close link between terrorism, transnational crimes and trafficking

makes the illicit circulation of small arms and light weapons (SALW) a serious threat to peace and security at the individual, local, national, regional, and international levels.<sup>2</sup> If left unchecked, criminal elements may use SALWs to perpetrate violence and sow terror— breeding insecurity that contributes to the vicious cycle of poverty and underdevelopment. Mindful of these consequences, international organizations (i.e., Amnesty International, Oxfam International, and International Action Network for Small Arms) and government agencies have cooperated to draft the ATT to avoid human rights abuses, protect livelihood and save lives.<sup>3</sup> The final document was adopted by the UN General Assembly on March 2013

The Philippines signed the ATT on September 25, 2013, becoming the first Southeast Asian country to do so.<sup>4</sup> According to Ambassador Libran N. Cabactulan, the Philippines signed the treaty “*to fulfill our country's commitment to promoting international peace and security*”. The Philippines has strongly and consistently supported the ATT since 2006. As of this writing, Philippines’ ATT document is with the Department of Foreign Affairs for concurrence and it will be forwarded to the Senate for deliberations and ratification.

### **III. The Main Provisions of the ATT**

Article 2 of the ATT states that the treaty shall apply to all eight (8) categories of conventional arms namely: 1) battle tanks; 2) armored combat vehicles; 3) large-caliber artillery systems; 4) combat aircraft; 5) warships; 6) attack helicopters; 7) missiles and missile launchers; and 8) small arms and light weapons.

The ATT mandates that every State-Party shall establish and maintain national control systems for the import, export, transit, and transshipment of and brokering activities related to the eight categories of arms covered by the ATT. The treaty allows each State-Party to create a publicly available national control list to share among other State-Parties

The ATT shall designate national authorities responsible for maintaining the system. State-Parties shall assign one or more national points of contact to exchange information on matters related to the implementation of the ATT. State-Parties under Article 6 shall not allow any transfer of conventional arms if it has knowledge at the time of authorization, that the items would be used to commit genocide, crimes against humanity, grave breaches of the Geneva Convention of 1949, attacks directed against civilians, and war crimes. Moreover, under Article 7, national control systems shall determine the risks that exported arms will be used to commit violations of international humanitarian law and human rights resulting from terrorism, international organized crimes, or gender-based violence.

#### IV. Implications of the ATT in internal security

In order to understand the complexity of illicit arms trade in the Philippines, we need to look into the dynamics of various threat groups in the country. The Internal Peace and Security Plan (IPSP) or “*Oplan Bayanihan*” of the Armed Forces of the Philippines (AFP) provides relevant statistical data on internal peace and security threats in the country. The IPSP was publicly released in 2010 to provide official statistical information on non-state armed groups (NSAGs) such as “Ideology-Based Armed Threat Groups” (IBATGs), “Terrorist Groups” (TGs), and “Auxiliary Threat Groups” (ATGs).<sup>5</sup> These NSAGs are defined as “rebel or insurgent groups i.e. groups that are armed, use force to achieve their political or quasi political objectives, and are opposed to or autonomous from the state”.<sup>6</sup>

As an IBATG, the Communist Party of the Philippines (CPP), along with its armed wing– the New People’s Army (NPA), and its political wing the National Democratic Front (NDF), aims to overthrow the government and establish a different socio-politico-economic order. The CPP-NPA-NDF (CNN) has been waging an armed revolution by applying guerilla tactics. The CNN has been responsible for several high-profile violent attacks against government forces for decades.

In Southern Philippines, there are a number of both separatists groups including the rogue elements of the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF), as well as the Bangsamoro Islamic Freedom Fighters (BIFF) and the Justice Islamic Movement (JIM). These groups claim that the Bangsamoro problem concerns economic marginalization and destitution, political inequality, physical insecurity, and a threatened Bangsamoro and Islamic identity. The perception of systemic marginalization of the Bangsamoro people from mainstream political affairs, economic growth,

and development fuels the sentiments of armed separatist and terrorist groups.

Meanwhile, the Abu Sayyaf Group (ASG) is a notorious terrorist group in Mindanao. The ASG is known to have strong links with the international terrorist group Al-Qaeda. Its recent pledge of allegiance to the Islamic State of Iraq and Syria (ISIS) also opens the possibility of arms flow from the Middle East.

The Jemaah Islamiyah (JI) is a foreign terrorist organization (FTO) also affiliated with Al Qaeda. The IPSP report states that JI has 28 fighters and 50 foreigners in the country. The Philippine National Police (PNP) estimated that there are almost 30 foreign terrorist personalities affiliated with JI.

Based on official estimates, there has been a significant decline in the recruitment and arms procurement of these threat groups. While there is an on-going peace-process with the MILF, other IBATGs are experiencing a decline in number and arms, which is attributable to counter measures being implemented by government authorities.

Aside from these armed groups, some wealthy and powerful families or clans are known to be keeping and maintaining private armies. These private armed groups (PAGs) are illegally armed and use their weapons to intimidate and promote political and economic interests of the influential individuals and/or families they serve.

In 2010, the Independent Commission for the Abolition of Private Armies (ICAPA) reported that there are about 112 armed groups in the country, 24 of them have already been dismantled. Intensified police efforts have resulted in the arrest of 177 persons and confiscation of 193 firearms.<sup>7</sup>

Small arms are the preferred tools of armed groups in the Philippines, and are held by a much wider cross-section of groups compared to other arms. Porous borders, thriving domestic craft industry, and a lax regulatory regime converge in the Philippines to swell levels of gun ownership and gun violence.<sup>8</sup>

Growing criminal actors are operating without fear or reprisal from law enforcement that contribute to cycle of conflict and sporadic violence.<sup>9</sup> These protracted conflicts lead to a very unstable political security and socio-economic environment affecting various national security dimensions.

In understanding the dynamics of these threat groups, the government is compelled to strengthen arms control measures to regulate the acquisition, transfers and retrieval of arms nationwide. As defense and law

enforcement bodies, the AFP and PNP must therefore, facilitate and ensure that arms are responsibly monitored.

## V. Implications of Illicit Arms Trade in Humanitarian, Social, Economic, Gender and Political Aspect

Hereunder are the impacts of illicit arms trade cuts across different dimensions of state and human security:

- 1) **Humanitarian Aspect** - In times of conflict or post-natural disaster, civilians are vulnerable to injuries and widespread violence. People are more predisposed to engage in arms trafficking in post-disaster scenarios due to dire socio-economic conditions. Civilians suffer human rights abuses as small arms are used to perpetrate more criminal acts and violence in a distraught environment.
- 2) **Social Aspect**- Armed conflicts as fueled by illicit arms trade forces people to leave their homes, properties and livelihood resulting to the continuation of poverty and exploitation. Since guns symbolize power, it lures people to the cycle of power play and encourages people to engage in illegal businesses. Small arms are a source of protection and counter-defense as it gives others the sense of authority that is often abused to inflict injury– particularly among those who belong to the marginalized sector.
- 3) **Economic Aspect**- The black market is increasingly growing due to a wide spectrum of illicit activities: narcotics, kidnap-for-ransom, human smuggling, arms trafficking, trade in counterfeit goods, bribery and money laundering. Illegal arms brokers and manufacturers are infiltrating and corrupting legitimate markets. Illicit trade of arms not only prevents fair and open markets, but also hinders legitimate gun markets from reaching their full potential. Furthermore, the employment of private armies to protect unsanctioned industries is another economic nexus of the illicit arms trade problem. On another level, illicit arms trade diminishes the revenue margin of the government with respect to government sanctioned arms transfers.
- 4) **Gender Aspect**- the University of Minnesota defines gender-based violence as “*violence against women based on women’s subordinate status in society; it includes any act or threat by men or male dominated institutions that inflict physical, sexual, or psychological harm on a woman or girl because of their gender*”. Arms are used to perpetrate more terror among women-- they become vulnerable to exploitation, assaults, sexual violence, enforced pregnancy and human trafficking.<sup>10</sup>
- 5) **Internal Security Aspect**- Loose firearms make people more vulnerable to political violence. Violations such as kidnapping, hostage-taking and extra-judicial killings are some forms of political intimidation and

oppression in the Philippine politics. Perennial armed encounters popularly known as ‘rido’ are rampant social political concern among influential clans in Southern Philippines.<sup>11</sup>

## VI. Implications of an Effective ATT Implementation in the Philippines

Ratifying the ATT manifests the Philippine government is willing to act upon its shortcomings on arms control. Ratifying ATT would strengthen the government’s commitments to its obligations and responsibilities in protecting its citizens from armed violence. The ratification of ATT helps address both internal and external security threats by empowering the state in implementing a more transparent and credible arms control. It assures that arms will be transferred responsibly and legally. With a firm regulation of arms, the government can address both licit and illicit acquisition of small arms and light weapons. The stricter the regulations, the better chances of eliminating further conflict and violence. By penalizing excessive and illicit arms market, the government reduces the odds of having firearms in the hands of organized crime groups or terrorists.

The value of ATT in promoting internal security lies in the implementation process of the signatory state. By ratifying the ATT the government enhances its accountability to secure safe transfers of arms and responsibility to protect its citizens. *A stable control of arms in a developing country like the Philippines demands a major radical shift in behavior through its both arms exporters and arms transporters since demonstrating a new sense of responsibility comes from within the arms trading bodies itself.*

Once the ATT is ratified in the Philippines, it shall become a tool to deter armed threat groups from illegally amassing arms. Standardization shall gradually keep the weapons out of the hands of those who would use it for human rights abuses and insurgents. By strengthening the ATT, law enforcement agencies are also to reinforce their capacity to deter illicit arms transfers.

## VII. Issues and Challenges on the ATT

The challenge for the Philippine government is the nature of criminal elements presupposing that they operate beyond the realm of the law. Thus, despite the attempt of the government to implement the ATT, there will still be elements which will attempt to circumvent or transgress the law through illicit procurement of weapons prohibited by the ATT.

In terms of the letter of the law, procurement of arms can be interpreted in two (2) ways; 1) right to self

defense; and 2) right of states to engage in military and strategic partnership. Also, the treaty encourages states to have credible and transparent measures and report their acquired weapons and have them registered. Some states argue that the ATT entails a commercially “sensitive information” or a matter of national security information.<sup>12</sup>

There are economic and administrative considerations in order to effectively implement the ATT: 1) the willingness of the state to create a set of standard procedures when it comes to the national regulation of arms circulation which involves reforming of weapons import and export control systems; 2) budget allotment and administrative capacities concerns for the implementation of the ATT; 3) acknowledgement that there will always be a disparity in the implementation of the ATT among developed and developing states; 4) the willingness of weapons manufacturers to commit to the ATT even if it means reducing business revenues; 5) willingness of the Party-States to disclose its procured weapons to the public; and, 6) adherence to the international standards that may overlap domestic standards.

The Defense Planning Guidance 2016-2021 indicates that the Department of National Defense (DND) and AFP shall share responsibilities with other government agencies with regard to internal security operations (ISO). The transition of ISO primary responsibility from the AFP to PNP will require enhanced capacity building and technology-sharing in terms of arms control or conduct of illegal arms retrieval operations. While the AFP still remains as the agency equipped with capabilities of monitoring or intelligence-related work on arms proliferation, it shares the task with the Philippine National Police. Hence, once the ATT is ratified, the AFP and PNP together are expected to take eventual compliance on matters related to regulatory measures and/or arms control.

## VIII. Conclusion

Mindful of the specific conditions brought by illicit arms trade, governments are compelled to come up with initiatives to regulate arms in both domestic and international trade. The Philippines, like any other state that faces conflict, understands the detrimental effects of loose domestic arms regulation. Hence, having a strong ATT implementation can aid in breaking the cycle of gun violence in conflict-stricken communities. The continuous cycle of violence has an overall impact in a country's progress and development. One way to assure that the ATT contributes to the safety and security of the state is through collective effort by the AFP, the PNP and other law enforcement agencies, and efficient implementation of the ATT once ratified. Through the ATT, internal and external control and circulation of arms is strongly observed. While the ATT does not entirely eliminate the accumulation of

arms by threat groups, the on-going illicit trade of arms can be monitored, thereby, reducing the probability of arms being turned over to illegitimate gun-holders or NSAGs which engage in illegal activities that entail humanitarian, social, economic, gender and political impacts— all of which hamper the development of the state. Likewise, problems in view of the armed conflict in Southern Philippines can minimize (if not eliminate) the risk of conflict escalation. Having a strong ATT is tantamount to preventing the spread of violence and oppression. By upholding the ATT, the government can practice both accountability and transparency, thus putting it on a better position to counter threats from NSAGs.

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## Endnotes

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