

Implementing Challenges of the Arms Trade Treaty in the Philippines

Evecar B. Cruz-Ferrer[★]

Alfredo F. Lubang^{★★}

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★ '21 Master in International Studies, University of the Philippines; '08 Post Graduate Diploma on International Humanitarian Law, National Academy of Legal Studies and Research (NALSAR) University of Law; '05 J.D., Ateneo de Manila University School of Law. The Author currently teaches International Law and is a professional lecturer at the Ateneo de Manila University School of Law, Arellano University School of Law, De La Salle University College of Law, and Polytechnic University of the Philippines College of Law. She was a consultant for the European Union-funded program Governance in Justice for the Commission on Human Rights (CHR) and an associate at Ferrer Law. She is regularly invited as a lecturer/resource person by the Armed Forces of the Philippines, Philippine National Police, and the CHR. She was a consultant for the Department of Justice in 2019, a Legal Advisor for the International Committee of the Red Cross from 2008 to 2019, and a Court Attorney at the Supreme Court of the Philippines from 2006 to 2008. She has delivered lectures on the rules of war for different local and international academic and public institutions. The Author previously wrote *International Humanitarian Law Implementation in the Philippines: Updates and Current Challenges*, 64 ATENEO L.J. 1503 (2020).

★★ '13 Master in Applied Conflict Transformation Studies, *with honors*, Centre for Peace and Conflict Studies — Paññāsāstra University of Cambodia. The Author is currently pursuing his Ph.D. on decolonization of humanitarian disarmament in the same university. He is the Regional Representative of Nonviolence International Southeast Asia and the National Coordinator of the Philippine Campaign to Ban Landmines, an affiliate of the 1997 Nobel Peace Prize Laureate International Campaign to Ban Landmines. He participated in various national, regional, and global processes, including negotiating conferences which led to the Arms Trade Treaty in New York. The Author was selected as one of the 50 individuals across governments, campaigners, public figures, and armed violence survivors who have each played a unique and an important role in the achievement of the Arms Trade Treaty. He is one of the recipients of the 2022 Sean MacBride Peace Prize given by the International Peace Bureau for his “unflagging work and commitment” to humanitarian disarmament.

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I. INTRODUCTION

It took five months for the Philippine government security forces to regain control of Marawi City after it was seized by Islamic State-aligned armed groups, the Maute, and the Abu Sayyaf Group (ASG) in 2017.¹ Months later, President Rodrigo R. Duterte led the destruction ceremony of 652 assorted weapons confiscated from the armed groups.² The large amount of weapons and seemingly unlimited quantity of ammunition, which the armed groups were able to acquire, created a dilemma for the government.³ How were non-state armed groups able to amass so much firepower? The Marawi case, among other internal conflicts worldwide, brings to fore the purpose and goals of the Arms Trade Treaty (ATT).⁴ One of the oft-cited goals of the treaty is the regulation of arms flow to prevent their illicit diversion to criminal elements.⁵ Knowing the seeming ease with which the armed groups in Marawi were able to acquire hundreds of weapons,⁶ one must be compelled to ask: could the

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1. Frances Mangosing, *Army to Destroy Maute Weapons Seized in Marawi City*, PHIL. DAILY INQ., Dec. 13, 2017, available at <https://newsinfo.inquirer.net/951960/breaking-news-army-maute-marawi-guns> (last accessed Jan. 30, 2022) [<https://perma.cc/5CQ3-6Z6A>].
 2. *Id.*
 3. See BBC News, *Marawi Siege: Philippine Militants ‘Stockpiled Food and Weapons’*, BBC NEWS, June 6, 2017, available at <https://www.bbc.com/news/world-asia-40168656> (last accessed Jan. 30, 2022) [<https://perma.cc/WAC2-3WPF>].
 4. Hana Bordey, *Arms Trade Treaty Referred to Plenary for Senators’ Concurrence*, GMA NEWS, Sept. 2, 2021, available at <https://www.gmanetwork.com/news/topstories/nation/801910/arms-trade-treaty-referred-to-plenary-for-senators-concurrence/story> (last accessed Jan. 30, 2022) [<https://perma.cc/8V5U-X27S>] & Arms Trade Treaty, signed April 2, 2013, 3013 U.N.T.S. 52373.
 5. Arms Trade Treaty, *supra* note 4, pmb1.
 6. See Ervin C. Divinagracia, *Urban Terrorism: The Siege of Marawi City*, at 91-92 (June 6, 2018) (unpublished Master of Military Art and Science (MMAS) thesis, Faculty of the U.S. Army Command and General Staff College) (on file with the Faculty of the U.S. Army Command and General Staff College Library).

ATT have possibly averted the groups' acquisition of weapons and ammunition?

Diversion of arms is among the foremost challenges of the Philippines.⁷ The unregulated flow of firearms and ammunition in the country come from various sources, which include local manufacturing, smuggling, theft from military and police arsenals, losses from Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) operations, as well as from legally traded weapons.⁸ A Small Arms Survey report on civilian firearms holdings in 2017 showed that the Philippines has an estimated 3,776,000 firearms nationwide.⁹ Around two million of these firearms are unregistered.¹⁰ The Department of National Defense and AFP, through its BALIK-Baril program, reported that a total of 26,360 firearms were turned in by various armed groups from 1 March 1987 to 20 December 2006.¹¹ Still, the number of weapons held by various armed groups in the Philippines is estimated at 14,000.¹²

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7. See Permanent Mission of the Republic of the Philippines to the United Nations, PH Shares Government Efforts, Challenges in Curbing Illicit Trade of Small Arms and Light Weapons at Third UNPoA Review Conference in New York, *available at* <https://www.un.int/philippines/activities/ph-shares-government-efforts-challenges-curbing-illicit-trade-small-arms-and-light> (last accessed Jan. 30, 2022) [<https://perma.cc/2M7P-G8YZ>].
 8. Centre for Humanitarian Dialogue, *Armed Violence in Mindanao: Militia and Private Armies* (July 2011), at 31, *available at* <https://hdcentre.org/wp-content/uploads/2016/07/17MilitiaInMindanaoReportFromIBSandHDCentreJuly2011-July-2011.pdf> (last accessed Jan. 30, 2022) [<https://perma.cc/Y545-F4N6>] (citing SMALL ARMS SURVEY, SMALL ARMS SURVEY 2002: COUNTING THE HUMAN COST 98-99 (2002)). This report was a joint collaboration between the Centre for Humanitarian Dialogue and the Institute of Bangsamoro Studies. See also JC Gotinga, *AFP to Probe Murad's Claim That Military is 'Main Source' of Mindanao Loose Firearms*, RAPPLER, Sept. 18, 2019, *available at* <https://www.rappler.com/nation/240433-afp-probe-murad-claim-military-main-source-mindanao-loose-firearms> (last accessed Jan. 30, 2022) [<https://perma.cc/F48M-R47P>].
 9. Small Arms Survey, *Civilian Firearms Holdings* (2017), *available at* <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-Civilian-held-firearms-annexe.pdf> (last accessed Jan. 30, 2022) [<https://perma.cc/L3DV-W8HL>].
 10. *Id.*
 11. SOLIMAN SANTOS JR., ET AL., PRIMED AND PURPOSEFUL: ARMED GROUPS AND HUMAN SECURITY EFFORTS IN THE PHILIPPINES 152 (2010).
 12. See Centre for Humanitarian Dialogue, *supra* note 8, at 31.

In terms of its policy and legal commitments, the Philippines does not lack in its efforts. It was the first Southeast Asian country that signed the ATT when it was opened for signature in 2013.¹³ Philippine Permanent Representative to the United Nations in New York, Ambassador Libran N. Cabactulan, signed the treaty on behalf of the Philippine government on 25 September 2013.¹⁴ In his statement, Ambassador Cabactulan expressed that “[t]he Philippines signed the ATT to fulfill [the] country’s commitment to promoting international peace and security. The proliferation of conventional arms has contributed to violence and instability in many parts of the world including the Philippines and there is a need to address this serious concern.”¹⁵ The Philippines has consistently showed active participation in most humanitarian disarmament initiatives including the regulation of arms trade.¹⁶

On 26 January 2022, in a historic decision, the Philippine Senate approved Senate Resolution No. 960,¹⁷ or the Senate’s concurrence of the ratification of the Arms Trade Treaty.¹⁸ The Philippines, represented by Secretary of Foreign Affairs Teodoro L. Locsin Jr., deposited the instrument of ratification for the Arms Trade Treaty at the United Nations, New York on the 24th of March 2022.¹⁹

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13. Philippine Mission to the United Nations and Other International Organizations, Philippine Ambassador Reiterates Manila’s Commitment to Arms Trade Treaty to President of Conference of ATT States Parties, *available at* <https://genevapm.dfa.gov.ph/philippine-mission-s-press-releases/891-philippine-ambassador-reiterates-manila-s-commitment-to-arms-trade-treaty-to-president-of-conference-of-att-states-parties> (last accessed Jan. 30, 2022) [<https://perma.cc/TL49-5B5J>].
 14. Department of Foreign Affairs, Philippines Signs Historic Global Arms Trade Treaty, *available at* <https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postsupdate/891-philippines-signs-historic-global-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/HQY5-KB2Z>].
 15. *Id.*
 16. *See id.*
 17. Resolution Concurring in the Ratification of the Arms Trade Treaty, S. Res. No. 960, 18th Cong., 3d Reg. Sess. (2022).
 18. Christia Marie Ramos, *Senate Concurs with PH Ratification of Arms Trade*, PHIL. DAILY INQ., Jan. 26, 2022, *available at* <https://globalnation.inquirer.net/201942/senate-concurs-with-ph-ratification-of-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/L76N-MK48>].
 19. *See* Permanent Mission of the Republic of the Philippines to the United Nations, Philippines Deposits Instruments of Ratification for the Arms Trade Treaty and the 1961 Stateless Convention, *available at* <https://www.un.int/philippines/activities/philippines-deposits-instruments->

Despite national initiatives and adoption of international instruments, however, the Philippines has faced the same problem of weapons proliferation, armed violence, and conflict for the past few decades.²⁰ What difference can the ratification of the ATT make in the Philippines' ability to address these problems?

This Article discusses the benefits of and challenges to the implementation of the Arms Trade Treaty in the current Philippine context and concludes with a number of recommendations in addressing them.

II. GLOBAL ARMS TRANSFER

The Hague's International Centre for Counter-Terrorism discussed the effects of the global arms transfer of small arms and light weapons (SALW).²¹ Thus,

[w]ith an estimated one billion in circulation worldwide, of which only 16[%] are in the hands of security and [defense] forces, the proliferation of small arms and light weapons ... across the globe is a source of deep concern to local, regional, and global peace and security. Widespread circulation of SALW has contributed to 'the increase in global armed violence, to insecurity due to fear of gun violence, and to delaying conflict resolution.'²²

ratification-arms-trade-treaty-and-1961-statelessness (last accessed Jan. 30, 2022) [<https://perma.cc/WY3P-DWCR>].

20. See generally Siân Herbert, Conflict Analysis of the Philippines (K4D Helpdesk Report), available at https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14661/648_Conflict_analysis_of_The_Philippines.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/JM22-FYUX>].
21. International Centre for Counter-Terrorism (ICCT) — The Hague, Cashing in on Guns: Identifying the Nexus Between Small Arms, Light Weapons and Terrorist Financing (ICCT Report, Mar. 2021), available at <https://icct.nl/app/uploads/2021/03/SALW-Report.pdf> (last accessed Jan. 30, 2022) [<https://perma.cc/8XSQ-LK92>].
22. *Id.* at 3 (citing United Nations, Spread of 1 Billion Small Arms, Light Weapons Remains Major Threat Worldwide, High Representative for Disarmament Affairs Tells Security Council (87, 13th Meeting, Feb. 5, 2020), available at <https://www.un.org/press/en/2020/sc14098.doc.htm> (last accessed Jan. 30, 2022) [<https://perma.cc/KCL4-HFK2>]; Mattias Nowak, Enjeux Du Trafic D'armes: L'Afrique de l'Ouest Dans la Tourmente (Les Grands Dossiers de Diplomatie n. 52, Sept. 2019), at 52, available at <https://web.archive.org/web/20210828161935/www.smallarmssurvey.org/fileadmin/docs/L-External-publications/2019/Grands-Dossiers-Diplomatie-no-52-Enjeux-du-traffic-armes.pdf>; & CARMEN-CHRISTINA CÍRLIG, ILLICIT SMALL ARMS AND LIGHT WEAPONS (2015)).

Additionally, as of 2020, global military expenditures have reached almost two trillion U.S. dollars, calling to mind how conflict and the spread of weapons siphon much needed resources from economic and social development.²³ Several studies were undertaken on the links between arms availability and human rights and International Humanitarian Law (IHL) violations.²⁴ The Rwandan genocide, which was one of the several atrocities committed in various conflicts in the 1990s, drove the need to address the unregulated weapons transfers.²⁵ The escalation of wars in Syria and Yemen in recent years have highlighted the impact of unregulated weapons transfers both between State and non-State armed groups.²⁶

In 1999, the International Committee of the Red Cross (ICRC) came up with a study that examines “the extent to which the availability of weapons is contributing to the proliferation and aggravation of violations of [IHL] in armed conflicts and to the deterioration of the situation of civilians.”²⁷ The study indicates that “the unregulated transfer of weapons and ammunition can increase tensions, heighten civilian casualties[,] and prolong the duration of conflicts.”²⁸ Among its central conclusions is that “the current pattern of transfers of small arms, light weapons[,] and related ammunition, because it is

23. Stockholm International Peace Research Institute, World Military Spending Rises to Almost \$2 Trillion in 2020, *available at* <https://www.sipri.org/media/press-release/2021/world-military-spending-rises-almost-2-trillion-2020> (last accessed Jan. 30, 2022) [<https://perma.cc/JYH6-GSQE>].

24. *See, e.g.*, Markus Wagner, *The Dehumanization of International Humanitarian Law: Legal, Ethical, and Political Implications of Autonomous Weapon Systems*, 47 VAND. J. TRANSNAT'L L. 1371, 1376-78 (2014); Louis Maresca & Eleanor Mitchell, *The Human Costs and Legal Consequences of Nuclear Weapons Under International Humanitarian Law*, 97 INT'L REV. RED CROSS 621, 623-26 (2015); & Hannah Matthews, *The Interaction Between International Human Rights Law and International Humanitarian Law: Seeking the Most Effective Protection for Civilians in Non-International Armed Conflicts*, 17 INT'L J. HUM. RTS. 633, 639-40 (2013).

25. *See generally* Stephen D. Goose & Frank Smyth, *Arming Genocide in Rwanda*, 73 FOREIGN AFF. 86, 86 (1994).

26. International Centre for Counter-Terrorism — The Hague, *supra* note 21, at 41 (citing MARC LYNCH, *THE NEW ARAB WARS: UPRISING AND ANARCHY IN THE MIDDLE EAST* (2017)).

27. International Committee of the Red Cross, *Arms Availability and the Situation of Civilians in Armed Conflict (A Study by the ICRC)*, at 2, *available at* https://www.icrc.org/en/doc/assets/files/other/icrc_002_0734_arms_availability.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/2SLT-6FJ5>].

28. *Id.* at 24.

largely outside of international control, should be a matter of urgent humanitarian concern.”²⁹

Civil society has long recognized the issues posed by the misuse and the unregulated proliferation of conventional weapons.³⁰ In 1997, a group of Nobel Peace Prize awardees launched the International Code of Conduct on Arms Transfers³¹ together with a number of civil society organizations.³² Their call was to begin a multilateral process for a legally binding global instrument that addresses the unregulated arms transfers.³³

III. ABOUT THE ARMS TRADE TREATY

The Arms Trade Treaty³⁴ is a legally binding international agreement, which entered into force as part of international law in 2014.³⁵ ATT aims to “[e]stablish the highest possible common international standards for regulating

29. *Id.*

30. In the Philippines, several groups such as Amnesty International–Pilipinas, Ateneo Human Rights Center, Gaston Z. Ortigas Peace Institute, Medical Action Group, Miriam College Center for Peace Education, Pax Christi, United Youth for Peace and Development, and University of the Philippines Third World Studies Center, to name a few, were eventually convened into an informal network, the Philippine Action Network on Small Arms (PhilANSA), an affiliate of the International Action Network on Small Arms (IANSA) with an initial financial support from Nonviolence International Southeast Asia. Sulu Armed Violence Reduction Initiative, Sihmag (2008 Annual Review), at 23–24, *available at* https://www.hdcentre.org/wp-content/uploads/2016/08/66Sihmag2008webPDFrev2_I_January-2009.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/CNF4-9E26>].

31. UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION, THE CODES OF CONDUCT TO CONTROL ARMS TRANSFERS (1998).

32. Led by Costa Rica’s former president Dr. Oscar Arias Sánchez, together with other Nobel Peace Prize recipients Bishop Desmond M. Tutu, José M. Ramos-Horta, Betty Williams, His Holiness the Dalai Lama, Amnesty International, and several NGOs. Several accounts of the history of the ATT were written.

Id. at 10, n. 2 & Amnesty International, The Long Journey Towards an Arms Trade Treaty, *available at* <https://www.amnesty.org/en/latest/news/2013/06/the-long-journey-towards-an-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/2R4F-XB57>].

33. Amnesty International, *supra* note 32.

34. Arms Trade Treaty, *supra* note 4.

35. United Nations, Arms Trade Treaty (Depositary Notification), *available at* <https://treaties.un.org/doc/Publication/CN/2014/CN.630.2014-Eng.pdf> (last accessed Jan. 30, 2022) [<https://perma.cc/G2XN-78MS>].

or improving the regulation of the international trade in conventional arms ... and eradicate the illicit trade in conventional arms and prevent their diversion.”³⁶

According to the ICRC, the ATT

regulates international transfers of conventional arms, as well as their ammunition, parts[,] and components, with a view to reducing human suffering. The ATT makes arms transfer decisions subject to [evaluation based on] humanitarian concerns [and forbids] transfers when there is a defined level of risk that war crimes or serious violations of international human rights law will be committed.³⁷

The ATT recognizes

the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including [] commission of terrorist acts[.]

...

[The treaty acknowledges] that civilians, particularly women and children ... [are] those [most] adversely affected by armed conflict and armed violence[.]³⁸

The purpose of the ATT is to contribute “to international and regional peace, security[,] and stability[, reduce] ... suffering [and promote] cooperation, transparency[,] and responsible action by State[] Parties in the international trade in conventional arms[.]”³⁹

ATT applies to all conventional arms, including those in the following categories: “(a) Battle tanks; (b) [Armored] combat vehicles; (c) Large-calibre artillery systems; (d) Combat aircraft; (e) Attack helicopters; (f) Warships; (g) Missiles and missile launchers; and (h) Small arms and light weapons.”⁴⁰ Transfer is defined as “activities of the international trade comprising of export, import, transit, trans-shipment[,] and brokering[.]”⁴¹

36. Arms Trade Treaty, *supra* note 4, pmbl. & art. 1.

37. International Committee on Red Cross, 2013 Arms Trade Treaty, at 1, *available at* https://www.icrc.org/en/download/file/148645/dp_consult_41_2013_arms_trade_treaty_web.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/ZYV3-VBNR>].

38. Arms Trade Treaty, *supra* note 4, pmbl.

39. *Id.* art. 1.

40. *Id.* art. 2 (1).

41. *Id.* art. 2 (2).

A. Expectations vs. Reality

In 2014, when the ATT entered into force as part of international law, it was warmly welcomed by the international community.⁴² United Nations then Secretary-General Ban Ki-Moon issued a statement describing the treaty's entry into force as "a new chapter in our collective efforts to bring responsibility, accountability[,] and transparency to the global arms trade."⁴³

Eight years later, however, the intended impact of the ATT is yet to be strongly felt. Its effect on reducing human suffering remains to be seen, as the past few years have seen weapons flow unregulated from various arms-producing States towards a number of armed conflicts being waged in countries such as Syria, Yemen, and Myanmar.⁴⁴

In the Philippines, there is a clear commitment to implement the treaty with no less than President Rodrigo R. Duterte expressing his support for the ATT.⁴⁵ In his message during the national training of frontline agencies'

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42. See, e.g., Media Release by Australian Department of Foreign Affairs and Trade, *Ministers Welcome the Adoption of the UN Resolution on the Final Conference on the Arms Trade Treaty* (Dec. 24, 2012) (on file with the Author) & Elli Kytömäki, *The Arms Trade Treaty and Human Security: Cross-Cutting Benefits of Accession and Implementation* (Research Paper), at 8, available at https://www.chathamhouse.org/sites/default/files/field/field_document/20150220ATTKytomaki.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/W3K2-UA2W>].
43. Ban Ki-Moon, Secretary-General of the United Nations, *Statement by the Secretary-General on the Entry into Force of the Arms Trade Treaty*, Speech at the United Nations General Assembly (Dec. 23, 2014) (transcript available at <https://www.un.org/sg/en/content/sg/statement/2014-12-23/statement-secretary-general-entry-force-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/C9H3-4HAK>]).
44. See Peter Maurer, President, International Committee of the Red Cross, Address at the 6th Conference of States Parties to the Arms Trade Treaty (Aug. 17, 2020) (transcript available at <https://www.icrc.org/en/document/statement-peter-maurer-president-international-committee-red-cross-icrc> (last accessed Jan. 30, 2022) [<https://perma.cc/T7VY-9QSH>]). See also Alex J. Bellamy & Ivan Šimonović, *Introduction: Towards Evidence Based Atrocity Prevention*, 24 J. INT'L PEACEKEEPING 285, 299 (2020).
45. Nonviolence International Southeast Asia, Status Update, FACEBOOK, Feb. 12, 2018: 11:14 a.m., available at <https://www.facebook.com/nonviolenceasia/photos/a.1871354869541735/1871381972872358> (last accessed Jan. 30, 2022) [<https://perma.cc/U84W-5YG4>].

personnel on licensing, enforcement, and investigation policies and procedures in relation to the ATT,⁴⁶ he stated —

As a [S]tate signatory in the Arms Trade Treaty (ATT), the Philippines has undertaken measures to ensure compliance with our commitment to foster international peace and security within our borders.

...

Pending the Senate's concurrence to the ATT, the executive department will continue to exert efforts to professionalize concerned government agencies[.]⁴⁷

Despite national efforts, reports of weapons diversion continue. One such report by the Independent Fact-Finding Mission on Myanmar to the Human Rights Council in 2018 cited the Philippines, together with Israel and Ukraine, all ATT signatories of the time of the transfers, which “allowed the transfer or enabled the assembly of conventional weapons and other items covered by the [ATT], namely [armored] combat vehicles and battle tanks, small arms and light weapons, and warships.”⁴⁸ One of the challenges the Philippines faces in being able to fully implement the treaty is establishing an effective risk assessment criteria to evaluate weapons transfers before export. The development of risk assessment criteria through the implementation of the Strategic Trade Management Act, the National Firearms Law and other related national laws can facilitate the strengthening of capacities of national agencies, including due diligence in all ports of exit and to monitor transfers. These efforts reveal that the Philippines is not only politically prepared but is in the right direction of fully enforcing the ATT.

1. Ratification of Arms Trade Treaty

In a historic move, months before the term of President Duterte's administration ends, the Philippine Senate concurred with the ratification of the ATT on 26 January 2022.⁴⁹ The Philippines became the 111th State Party,

46. *Id.*

47. *Id.* (emphases omitted).

48. U.N. Human Rights Council, *The Economic Interests of the Myanmar Military: Independent International Fact-Finding Mission on Myanmar*, ¶ 170, U.N. Doc. A/HRC/42/CRP.3 (Sept. 12, 2019).

49. Philippine Senate voted for the concurrence of the Arms Trade Treaty with 16 affirmative votes, zero against, and six abstentions. Mara Cepeda, *Senate Concurs with PH Ratification of Arms Trade Treaty*, RAPPLER, Jan. 26, 2022, available at <https://www.rappler.com/nation/senate-concurs-philippine-ratification-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/SM3M-P752>].

the first country in the Association of Southeast Asian Nations (ASEAN), to ratify the ATT.⁵⁰

It should be noted that despite the express support from the Executive Department for ATT's ratification, it took about eight years for the Philippine Senate to give its concurrence to the ratification of the treaty.⁵¹ Several factors caused the delay in the ratification, among others: (1) contending government priorities, (2) lack of understanding of the purpose and impact of the ATT, and (3) relentless lobbying from weapons manufacturer, dealers, and gun owners against its ratification.⁵²

The Philippines' active participation in the preparatory meetings and in the various regional and global consultations that led to the negotiations on the ATT has been remarkable.⁵³ The Philippines can be considered as the "most humanitarian disarmament compliant [S]tate in Southeast Asia[.]" having ratified most of the treaties related to humanitarian disarmament and IHL-related treaties.⁵⁴ Being a State Party to the ATT only reaffirms Philippines leadership on humanitarian disarmament in the region.

50. See Arms Trade Treaty, Treaty Status, available at <https://thearmstradetreaty.org/treaty-status.html> (last accessed Jan. 30, 2022) [<https://perma.cc/N3FW-2JGK>] & Philippine Mission to the United Nations and Other International Organizations, *supra* note 13.

51. See Nonviolence International Southeast Asia, *supra* note 45.

52. See, e.g., Position Paper by Armscor Global Defense, Inc. & Firearms and Ammunition Manufacturers of the Philippines, *No to the Ratification of the UN Arms Trade Treaty (September 2021)* (on file with Author) [hereinafter Armscor Position Paper] & Position Paper by Association of Firearms and Ammunition Dealers of the Philippines, *Position Paper on the Proposed Ratification by the Philippines of the Arms Trade Treaty* (on file with Author) [hereinafter AFAD Position Paper]. See also Senate of the Philippines, Video, *Committee on Foreign Relations (September 2, 2021)*, YOUTUBE, Sept. 2, 2021, available at https://www.youtube.com/watch?v=K_WVr-Xwmfo (last accessed Jan. 30, 2022) [<https://perma.cc/L5TY-DZWK>].

53. See Arms Trade Treaty, Proposed Philippine Statement on the Occasion of the Second Conference of States Parties to the Arms Trade Treaty (as of Aug. 22, 2016), available at https://www.thearmstradetreaty.org/hyper-images/file/PHILIPPINES_STATEMENT/PHILIPPINES_STATEMENT.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/JWJ2-R8FD>].

54. The Philippines is a High Contracting Party of the Convention of Certain Conventional Weapons (CCW) and its Protocols. The Philippines deposited the instrument of ratification of Protocol V and the Amended Article 1 of CCW on May 10, 2022. It is also a State Party to the 1996 Ottawa Convention, the 2008 Convention on Cluster Munition, and the 2017 Nuclear Weapon Prohibition

Various government agencies have shown support for the ratification of the ATT and have clearly identified the benefits and capacity of the government to implement the provisions of the treaty.⁵⁵

The Department of Foreign Affairs (DFA) supports the treaty ratification and deems the same to be beneficial for the Philippines.⁵⁶ According to the DFA, the ATT not only regulates arms trade but also contributes to international, regional, and domestic “peace, security and stability[,]” as it reduces opportunities for the use of armed violence.⁵⁷

Likewise, cooperation of State Parties is encouraged under the ATT. This may be done through the following:

- (1) “Exchange of information and consultation on matters of mutual interest;”⁵⁸

Treaty. Department of Foreign Affairs, The Philippines Highlights Recent Efforts to Implement the Convention on Certain Conventional Weapons During the 5th CCW Review Conference, *available at* <https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postupdate/11327-the-philippines-highlights-recent-efforts-to-implement-the-convention-on-certain-conventional-weapons-during-the-5th-ccw-review-conference> (last accessed Jan. 30, 2022) [<https://perma.cc/Q2Z9-SUTL>]; Arms Control Association, The Ottawa Convention: Signatories and States-Parties (as of January 2018), *available at* <https://www.armscontrol.org/factsheets/ottawasigs> (last accessed Jan. 30, 2022) [<https://perma.cc/G2CP-9JHG>]; The Convention on Cluster Munitions, States Parties and Signatories by Region, *available at* https://www.clusterconvention.org/files/convention_text/Convention-ENG.pdf (last accessed Jan. 30, 2022); & U.N. Office for Disarmament Affairs, Treaty on the Prohibition of Nuclear Weapons (Status of Treaty), *available at* <https://treaties.unoda.org/t/tpnw> (last accessed Jan. 30, 2022) [<https://perma.cc/3N2Y-6AVR>].

55. See, e.g., Department of Foreign Affairs, PH Reiterates Support for Responsible Global Arms Trade in Annual Conference, *available at* <https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postupdate/24389-ph-reiterates-support-for-responsible-global-arms-trade-in-annual-conference> (last accessed Jan. 30, 2022) [<https://perma.cc/9ZV7-BK2U>].

56. Position Paper by Department of Foreign Affairs, *Position Paper on the Arms Trade Treaty* (Aug. 16, 2021) (on file with Author) [hereinafter Department of Foreign Affairs Position Paper]. See also Senate of the Philippines, *supra* note 52 (the presentation of the DFA statement begins at 28:20).

57. *Id.*

58. *Id.*

- (2) “Sharing of information regarding illicit activities and actors to prevent or eradicate diversion of arms;”⁵⁹
- (3) “[A]ssistance in investigations, prosecutions, and judicial proceedings relating to violation of national measures established pursuant to the ATT;”⁶⁰
- (4) “Cooperation to prevent arms transfers[; and]”⁶¹
- (5) “Exchange of experience and information on lessons learned.”⁶²

These treaty provisions on international cooperation can be relied upon and used as basis for the “[strengthening of] national laws and systems for the regulation and control of conventional arms and ammunition[,]”⁶³ “[gathering] intelligence[,] and [accessing] information and lessons learned obtained by other States.”⁶⁴

In its position paper submitted to the Philippine Senate, the DFA submits that arms proliferation has played a part in many events worldwide that resulted in violence and instability.⁶⁵ For the Philippines, the creation of a national control list of weapons under the ATT will help prevent private armies from taking root.⁶⁶ Consequently, the DFA made a recommendation in favor of Senate concurrence, arguing that such course of action is “in line with the Philippines’ commitment to ensuring international and regional peace, security, and stability through the regulation of illicit transfer, flow[,] or diversion of conventional arms using internationally agreed standards.”⁶⁷

Likewise, the Department of Justice (DOJ) interposes no legal or constitutional objection to the ATT ratification.⁶⁸ According to the DOJ,

arms control and management, and consequently, peace and security, can only be achieved through an integrated and comprehensive program that involves all actors in the local, national, and global levels. Hence, a strong

59. *Id.*

60. *Id.*

61. Department of Foreign Affairs Position Paper, *supra* note 56, at 7.

62. Arms Trade Treaty, *supra* note 4, art. 15.

63. Department of Foreign Affairs Position Paper, *supra* note 56, at 7.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* at 9.

68. Position Paper by Department of Justice (Sept. 8, 2018) (on file with Author).

ATT implementation, through the collective efforts of the Philippine National Police, Armed Forces of the Philippines, and other law enforcement agencies, is essential.⁶⁹

The Office of the Special Envoy on Transnational Crime (OSETC), serving as the national contact point of the ATT, has played a crucial role in its ratification process.⁷⁰ OSETC submits that being party to the ATT and “adopting international standards on the regulation of arms lends to the credibility of the Philippines as a trading partner and to manufacturers and dealers as responsible traders, opening doors for foreign direct investments for local manufacturers.”⁷¹ The arms manufacturing industry in the Philippines will benefit from the ATT ratification since this will “give them the recognition of being responsible and credible trading partners that contribute to international peace and security, a responsible partner in ensuring that weapons they produce do not end up in the wrong hands.”⁷² It further submits that the Philippines is prepared to implement the ATT and is, in fact, already implementing its provisions through its various laws and policies.⁷³ OSETC convened a Technical Working Group (TWG) on ATT among government agencies with the assistance of the Philippine-based non-government organization Nonviolence International Southeast Asia (NISEA) in 2017.⁷⁴

The Philippine Center on Transnational Crime also supports the ratification of the ATT, submitting that the treaty “has the potential of changing the global security landscape by the establishment of international

69. *Id.* at 2.

70. *See generally* The Special Envoy for Transnational Crime, History, *available at* <https://osetc.gov.ph/about-osetc/history> (last accessed Jan. 30, 2022) [<https://perma.cc/Q5MS-8W5Y>].

71. Position Paper *by* Office of the Special Envoy on Transnational Crime, *Ratifying the Arms Trade Treaty*, at 5 (on file with Author).

72. *Id.*

73. *Id.* at 15.

74. Members of the TWG on ATT include the following government agencies: AFP — Munitions Control Center, Bureau of Customs, DFA, Department of Trade and Industry — Strategic Trade Management Office, Department of National Defense, DOJ, PNP — Firearms and Explosive Office, Philippine Coast Guard, National Bureau of Investigation, National Coast Watch Council Anti-Terrorism Council — Project Management Center, Philippine Ports Authority, and Office of the President — OSETC, among others. *See* Jullie Pua, European Union Extends Outreach for the Arms Trade Treaty, *available at* <https://osetc.gov.ph/european-union-extends-outreach-for-the-arms-trade-treaty> (last accessed Jan. 30, 2022) [<https://perma.cc/PC59-K3BQ>].

and national regimes to ensure responsible ownership, manufacturing, sale, and other commercial dealings involving conventional weapons.”⁷⁵ It is also their position that ATT can help address the issues faced by the Philippines concerning proliferation of arms in certain parts of the country, loose firearms and arms smuggling due to “[i]ts porous borders coupled with deficient border control mechanisms.”⁷⁶ The treaty can also address the illicit firearm manufacturing in the Philippines arising from long-standing conflicts in the country.⁷⁷

Likewise, the PNP, in its position paper submitted to the Philippine Senate, supports the ratification of the ATT, as being a State Party establishes Philippines’ credibility among UN Member States and ATT State Parties.⁷⁸ According to the PNP, “[t]his would mean better opportunities for the government to acquire conventional arms of their choice, even from countries with stringiest export control programs knowing that [the Philippines is] legally bound to take necessary control measures in accordance with the requirement of the ATT.”⁷⁹ It also mentioned that the ATT will facilitate the creation of a “framework for regional engagement[,] which is important for the ... [ASEAN] Member States (AMS) in coming up with a possible Regional Instrument or cooperation to combat arms smuggling.”⁸⁰

The Philippine Coast Guard (PCG) is of the position that becoming a State Party to the ATT will aid in maritime law enforcement.⁸¹ First, it will benefit the PCG modernization program, specifically “the upgrade of its arms and weaponry that will facilitate the enhancement of their maritime law enforcement and security functions.”⁸² Likewise, it will afford them “ready access to all information and reference [concerning] international trade of conventional arms through the establishment of a national control system and maintenance of national records or lists[,]” as well as cooperation from other

75. Position Paper by Philippine Center on Transnational Crime, *Position Paper on the Arms Trade Treaty*, at 2 (on file with Author).

76. *Id.* at 1.

77. *Id.*

78. Position Paper by Philippine National Police (Sept. 8, 2021) (on file with Author).

79. *Id.*

80. *Id.*

81. See Position Paper by Philippine Coast Guard, *PCG’s Position on the Ratification of Arms Trade Treaty, Senate Bill No. 786 and Senate Bill No. 787*, at 1 (on file with Author).

82. *Id.* at 1.

State Parties.⁸³ More importantly, PCG posits that becoming a State Party “will enhance domestic security in preventing and reducing internal armed conflict because of regulated transfer of conventional arms[,] ... [lessening the chances of arms] availability in the black market.”⁸⁴

The Strategic Trade and Management Office (STMO) submits that as a State Party to the ATT, ratification “will boost [the] reputation [of the Philippines] in complying with global standards in the trade of strategic commodities, sending a message to foreign investors that the country is a safe and secure manufacturing hub of strategic goods, including conventional arms.”⁸⁵ This is in line with the National Security Strategy 2018, “which promotes the development of strategic industries[,] including strategic materials and weapons.”⁸⁶

2. Views of the Local Arms Industry and Civil Society

The local arms industry views the ATT as restrictive and disadvantageous for the Philippines. Armscor, an arms manufacturer in the Philippines, and the Association of Firearms and Ammunition Dealers of the Philippines (AFAD) are of the position that being a State Party to the ATT will make it challenging for the Philippine government to import weapons, and will create added bureaucracy and expense for arms manufacturers/importers.⁸⁷ AFAD claims that “[e]ven Philippine manufacturers and importers who supply the military will decidedly have a much more difficult time should the country enter into the [t]reaty. A strict multi-agency route of registrations and authorizations awaits the hapless manufacturer or importer.”⁸⁸ In a Senate hearing on the

83. *Id.* at 1-2.

84. *Id.* at 2.

85. Position Paper by Strategic Trade and Management Office, *Working-level Position of the Strategic Trade Management Office on the Ratification of the Arms Trade Treaty*, at 6 (on file with Author) [hereinafter STMO Position Paper].

86. *Id.* (citing Official Gazette, National Security Strategy 2018, at 27, available at <https://www.officialgazette.gov.ph/downloads/2018/08aug/20180802-national-security-strategy.pdf> (last accessed Jan. 30, 2022) [<https://perma.cc/QM67-WW2K>]).

87. See Armscor Position Paper, *supra* note 52 & AFAD Position Paper, *supra* note 52. See also Christia Marie Ramos, *Sen. Marcos Wary of Arms Treaty, Officials Allay Fear of Blacklisting vs PH*, PHIL. DAILY INQ., Sept. 3, 2021, available at <https://globalnation.inquirer.net/198890/marcos-wary-of-arms-treaty-but-officials-allay-fear-of-blacklisting-vs-ph> (last accessed Jan. 30, 2022) [<https://perma.cc/G4UF-84Y7>].

88. AFAD Position Paper, *supra* note 52, at 3. See also Ramos, *supra* note 87.

ATT, both AFAD and Armscor claim that ATT ratification would require the State to submit names of all gun owners in the Philippines, thereby violating the security and privacy of individuals.⁸⁹

To address the concerns of the arms industry, civil society has pointed out that the ATT will be beneficial to the arms industry as it contributes further to the credibility of the arms industry in the Philippines as being responsible, accountable, and transparent in making sure that the weapons that are transferred do not end in the wrong hands.⁹⁰

NISEA, one of the Philippine-based non-government organizations that has been consistently advocating for the ATT, participated in the Senate hearings and submitted its view to the Senate Committee on Foreign Relations addressing the myths and misconception about the ATT.⁹¹

NISEA asserted that the ATT does not require the State Party to submit the names of gun owners in the country, referring to the National Control List.⁹² The ATT requires States to submit in its initial report a “national control list” of weapons to regulate.⁹³ The Strategic Trade Management Act (STMA)⁹⁴ clearly states the “National Control List” refers to the National Strategic Goods List (NSGL) containing the range of strategic goods that will be subject for authorization.⁹⁵ In addition, the State Party “may exclude

89. A Senate hearing was held by the Senate Committee on Foreign Relations when it was chaired by then Senator Loren B. Legarda on 6 August 2018. Both Co-Authors Cruz-Ferrer and Lubang participated in the Senate hearing. See Resolution Concurring in the Ratification of the Agreement Between the Government of the Republic of the Philippines and the Government of the Republic of Indonesia Concerning the Delimitation of the Exclusive Economic Zone Boundary, P. S. Res. No. 1048, whereas cl. para. 7, 17th Cong., 3d Reg. Sess. (2019).

90. See Transcript of the Meeting of the Technical Working Group of the Committee on Foreign Relations on the Arms Trade Treaty, at 30–32 (Sept. 7, 2018) (transcript on file with the Authors).

91. Senate of the Philippines, *supra* note 52 (presentation of NISEA begins at 2:25:05).

92. *Id.* A representative of the Pro-Gun movement raised this concern during the initial Senate public hearing.

93. Arms Trade Treaty, *supra* note 4, art. 13 (1).

94. An Act Preventing the Proliferation of Weapons of Mass Destruction by Managing the Trade in Strategic Goods, the Provision of Related Services, and for Other Purposes [Strategic Trade Management Act (STMA)], Republic Act No. 10697 (2015) [hereinafter STMA].

95. *Id.* § 4.

commercially sensitive or national security information” as reflected in Article 13 (3) of the ATT.⁹⁶ From the foregoing, there is no requirement for the Philippines to submit the names of gun owners in the country.

NISEA also submitted that the ATT is not against arms sales and does not hinder the right of self-defense of the State.⁹⁷ The right of self-defense is mentioned clearly within the preambular paragraphs of the ATT.⁹⁸ The ATT, just like other treaties, recognizes the “sovereign right of [each] State to regulate ... conventional [weapons] within its territory.”⁹⁹

3. Philippines Laws and Implementation Challenges

At present, existing domestic legislation in the Philippines substantially comply with the general requirements to implement the ATT.

One of the requirements under the ATT is to “establish and maintain a national control system”¹⁰⁰ administered by a national authority and meet baseline standards for control provided in the treaty.¹⁰¹ In line with this, Republic Act No. 10697 or the STMA was enacted in 2015.¹⁰² The law aims to fulfill the state policy “to be free from Weapons of Mass Destruction ... [and to comply with] its international commitments and obligations, [pursuant to] United Nations Security Council Resolution (UNSCR) 1540[.]”¹⁰³ The regulated activities under the STMA are similar to the scope of activities covered by the ATT, which includes export, import, transit, transshipment, and brokering.¹⁰⁴ Moreover, the categories of conventional arms covered by the ATT are included in Annex 1 (Military Goods) of the NSGL.¹⁰⁵ The implementing rules and regulations of

96. Arms Trade Treaty, *supra* note 4, art. 13 (3).

97. Senate of the Philippines, *supra* note 52 (presentation of NISEA begins at 2:25:05).

98. Arms Trade Treaty, *supra* note 4, pmbl.

99. *Id.*

100. *Id.* art. 5 (2).

101. *See id.* art. 5 (5).

102. Fulvio D. Dawilan, The Philippines Implements Its “Strategic Trade Management Act”, *available at* <https://wts.com/global/publishing-article/20210401-philippines-customsnl-publishing-article?> (last accessed Jan. 30, 2022) [<https://perma.cc/6NXA-7CHN>].

103. STMA, § 2.

104. *Compare* Arms Trade Treaty, *supra* note 4, art. 2 (2), *with* STMA, § 4.

105. STMO Position Paper, *supra* note 85, at 5, tbl. 2.

the law also provide for the following criteria in assessing export authorizations:

- (1) “Preservation of regional peace, security, and stability;”¹⁰⁶
- (2) “Terrorism or organized criminal activities;”¹⁰⁷ and
- (3) “Risk of diversion to an unauthorized end-user or end-use[.]”¹⁰⁸

In fact, the STMO, a bureau under the Department of Trade and Industry, is already established and functioning to implement the law.¹⁰⁹ The latter is the “lead government agency responsible for the establishment of management systems for the trade in strategic goods. It supervises the implementation of the licensing system, verifies compliance with the law, and provides information to industr[ies.]”¹¹⁰

Furthermore, Republic Act No. 10591 (National Firearms Law),¹¹¹ Republic Act No. 9516 (National Law on Explosives),¹¹² and Republic Act No. 10863 (Customs Modernization and Tariff Act or CMTA)¹¹³ likewise provide guidelines that comply with some of the requirements under the ATT.¹¹⁴ The National Firearms Law already provides regulations for the

106. National Security Council — Strategic Trade Management Committee, Rules and Regulations Implementing the Republic Act No. 10697, rule IV, § 6 (b) (2017).

107. *Id.* § 6 (e).

108. *Id.* § 6 (h).

109. *See generally* Department of Trade and Industry, Strategic Trade, *available at* <https://www.dti.gov.ph/negosyo/strategic-trade-management> (last accessed Jan. 30, 2022) [<https://perma.cc/6FV6-VLVL>].

110. *Id.*

111. An Act Providing for a Comprehensive Law on Firearms and Ammunition and Providing Penalties for Violations Thereof [Comprehensive Firearms and Ammunition Regulation Act], Republic Act No. 10591 (2012).

112. An Act Further Amending the Provisions of Presidential Decree No. 1866, as Amended, Entitled “Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations Thereof, and for Other Relevant Purposes”, Republic Act No. 9516 (1983).

113. An Act Modernizing the Customs and Tariff Administration [Customs Modernization and Tariff Act], Republic Act No. 10683 (2015).

114. *See id.* & *See generally* Comprehensive Firearms and Ammunition Regulation Act & Republic Act No. 9516.

export, import, transfer,¹¹⁵ registration and licensing¹¹⁶ for end-use of small arms and light weapons, ammunitions and parts and components. On the other hand, the CMTA regulates the export and import,¹¹⁷ including disposition and destruction¹¹⁸ of dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, parts, and components, while the National Law on Explosives controls the “deal in” and import of any explosive or incendiary device and its parts.¹¹⁹ These laws clearly already provide some form of regulation and control for activities and weapons covered by the ATT, though they vary in terms of its scope, activities, implementing agencies, export controls and criteria, record-keeping, transparency and reporting, and levels of capacities.

Moreover, there is an existing TWG on the ATT, led by OSETC, which is an important mechanism in implementing the national action plan in relation to Philippine obligations under the treaty.¹²⁰ The TWG on ATT must continue the dialogue with the local arms industry to address their concerns of possible increase in bureaucratic processes as a result of the ATT ratification. The PNP noted that national agencies will seek a balance between the ease of business policy of the government without prejudice to putting in place risk assessments and due diligence requirements.¹²¹

Though there are existing legislation that already implement specific provisions of the ATT, there remains a need to conduct a review of relevant laws and analyze the gaps that need to be addressed. At present, domestic legislations already provide some form of control and restriction for ATT covered activities, however, there is a need to enhance further the scope of activities and amend them to comply with the level provided for in the treaty. It is worthwhile to consider the possibility of crafting a comprehensive law that will harmonize and synchronize the duties and responsibilities of the different agencies tasked to implement the treaty and address concerns in the areas of brokering, diversion, implementation of international sanction and arms embargoes on other States, risk assessments and due diligence integrated

115. Comprehensive Firearms and Ammunition Regulation Act, §§ 21-27.

116. *Id.* §§ 8-20.

117. Customs Modernization and Tariff Act, § 119 (a).

118. *Id.* § 1147 (a).

119. Republic Act No. 9516, §§ 1-2.

120. Pua, *supra* note 74.

121. The statement made by the Philippine National Police representative was made during the Senate hearing on ATT ratification. Senate of the Philippines, *supra* note 53 (the presentation of PNP begins at 1:27:00).

in issuance of transfer permits and end-user certificates, and transparency in terms of reporting obligations of the Philippines as a State Party.

Another challenge in implementing the ATT is putting in place a system for risk assessment in the transfer of weapons. The ATT obligates State Parties to put in place risk assessments and due diligence mechanisms pursuant to Articles 7 and 8 of the treaty.¹²² Specifically, countries need to determine whether there is a risk that the weapons transfer may facilitate commission of violation or contribute to human suffering.¹²³ This is to mitigate the risk that weapons, exported or imported, will be used to facilitate or commit human rights and IHL violations among the civilian population.¹²⁴

Related to this, State Parties need to ensure that interpretation of the risk assessment criteria should be in accordance with the goal of the ATT to reduce human suffering.¹²⁵ The risk assessment criteria should be based on strong and evidence-based research, taking into account a variety of factors, including:

- (a) an accounting of [human rights] and IHL violations in armed conflict areas;
- (b) civilian casualties and gender-based violence in armed conflict areas;
- and (c) [civilian] displacement ... in armed [conflict] areas. ... [The] [r]isk mitigation [and criteria] should be in place for [both] the exporter and the importer [of the weapons.]¹²⁶

This obligation is crucial for the Philippines and several States in Southeast Asia as several ongoing armed conflicts have exacerbated the burden of addressing weapons proliferation in the region, apart from the increasing military expenditure to acquire more arms.¹²⁷

The Philippines should also be conscious and factor in its risk assessment criteria its obligations under other multilateral treaties, the United Nations Security Council (UNSC) sanctions or decisions, and arms embargoes on certain States.¹²⁸

122. Arms Trade Treaty, *supra* note 4, arts. 7 & 8.

123. *Id.* art. 7 (1).

124. *Id.* art. 7 (2).

125. *See id.* art. 1.

126. Mitzi Austero & Pauleen Gorospe, *Challenges in Developing a Risk Assessment Criteria for Arms Transfers in Southeast Asia*, 8 HIST. GLOBAL ARMS TRANSFER 39, 52 (2019).

127. *Id.* at 47 & 51.

128. *See* U.N. Security Council, *Final Report of the Panel of Experts Submitted Pursuant to Resolution 2515*, at 23, U.N. Doc. S/2021/211 (Mar. 4, 2021). The Philippines has been cited in the Experts Panel Report on arms embargo on Democratic People's Republic of Korea. While the cases were not related to weapons transfer,

B. Benefits of the ATT Ratification in the Philippines and to the Global Community

Being a State Party to the ATT will benefit the Philippines in various ways. Being responsible, accountable, and transparent on all arms transfers¹²⁹ happening within the country's territory impacts the peace and security environment while the State continues to address the root causes of weapons misuse and proliferation, which consequently fuels armed conflicts. While ATT regulates State-to-State transfer of weapons,¹³⁰ national implementation of the treaty will impact local concerns related to misuse and proliferation of weapons.

For the arms industries based in the Philippines, being responsible is a mark of a good business practice when companies make sure that the weapons and ammunition produced do not end up in the wrong hands. The arms industry will benefit from building the credibility and reputation that local arms manufacturers exercise due diligence and undergo strict risk assessment procedures.

Likewise, the ATT will benefit the Philippine economy since it will establish and create the reputation that the country is a safe place to trade strategic goods. In fact, the STMA, the domestic translation of the ATT, was enacted to help boost the Philippine economy.¹³¹ A 2010 study shows that implementation of export control boosts exports and imports of high-value and high technology goods, since it fosters confidence in exporting countries to allow the trade of strategic goods and technology.¹³²

One of the noble goals of the ATT is to reduce human suffering caused by the unregulated weapons trade and flow.¹³³ When the Philippines officially becomes a State Party to the ATT, this will move the government to enact or

the acts cited pertains to maritime activities (i.e., ship to ship transfer, changing of ships' flags) which are the same modus used in weapons transfers. Addressing these concerns strengthens the Philippines' capacity to implement not just the UNSC sanctions but also the ATT.

129. Transfers include "export, import, transit, trans-shipment[,] and brokering." Arms Trade Treaty, *supra* note 4, art. 2 (2).

130. *See id.*

131. STMO Position Paper, *supra* note 85, at 6.

132. Scott Jones & Johannes Karreth, Assessing the Economic Impact of Adopting Strategic Trade Controls (December 2010), at 31, available at https://media.nti.org/pdfs/off_us_dept_21.pdf (last accessed Jan. 30, 2022) [<https://perma.cc/QEV6-R54G>].

133. Arms Trade Treaty, *supra* note 4, art. 1.

put in place stronger policies and implementation guidelines that ensure compliance with the treaty. Among others, it needs to come up with implementation guidelines, standard risk assessments, and a national action plan to secure weapons from unintended arms users.

Moreover, it will benefit and support the security sector in the Philippines in addressing crimes, terrorism, and other criminal activities involving weapons. ATT encourages international cooperation and assistance among States and this will enhance the ability of the frontline enforcement agencies directly involved in regulating weapons flow to address security concerns.¹³⁴

Being accountable on weapons transfers is about making sure that what happened in the past, particularly the humanitarian consequences of the unregulated weapons transfers, will not happen again. This is the essence of accountability which will definitely benefit both the local and international community. While the ATT is not the only solution to the complex issue of weapon transfers, fulfillment of the obligations as a State Party will contribute to the goal of the ATT in reducing human suffering.¹³⁵

As part of the obligations of a State Party, being transparent on various aspects of implementing the treaty will definitely build the Philippines' capabilities to further improve both policy and national implementation. The ATT has an integral international cooperation and assistance mechanism which recognizes the disparity of resources to address the complex issue of unregulated weapons transfers.¹³⁶ The Philippines has already previously benefited from the ATT Voluntary Trust Fund¹³⁷ and will definitely benefit from further multilateral assistance among States Parties of the ATT.

IV. CONCLUSION & RECOMMENDATIONS

The ATT alone cannot solve the complex issue of unregulated weapons transfers. The ATT complements a range of other treaties and global instruments addressing various aspects of the issue.

134. *Id.* art. 15 (4). These frontline agencies are the AFP, PNP, and PCG, among others.

135. Arms Trade Treaty, *supra* note 4, art. 1.

136. *Id.* art. 16.

137. *See id.* & Department of Foreign Affairs, PH's Effort to Curb Illicit Traffic of Conventional Arms Contribute to International Peace and Security, *available at* <https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postupdate/17783-ph-s-effort-to-curb-illicit-traffic-of-conventional-arms-contribute-to-international-peace-and-security> (last accessed Jan. 30, 2022) [<https://perma.cc/T4YE-JXV2>].

The implementation of the ATT is closely linked with other obligations under other weapons-related treaties. It should be linked with other humanitarian disarmament efforts such as the effort to craft the National Action Plan in the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons, the implementation of various sanctions, and arms embargoes.¹³⁸

Though the ATT primarily regulates State-to-State transfer of weapons,¹³⁹ implementation of a State Party's obligation will result in the strengthening of national policy and enhancement of the country's implementation capability. The impact of reducing human suffering among local communities, particularly in areas where armed conflicts are ongoing, remains to be the biggest challenge in implementing the treaty since this will be the benchmark as to whether the goal of the ATT is achieved. National implementation should be monitored as the Philippines fulfills its obligation under the treaty. A National Action Plan to implement the ATT in the Philippines is key in ensuring that the goals of the treaty, as well as the domestic security and economic issues of the State are addressed.

ATT implementation should also be linked with other weapons-related national initiatives and the Philippines' ratification of other humanitarian disarmament treaties. In a country that has been challenged by several armed conflicts for decades already,¹⁴⁰ explosive remnants of war are a significant concern. Clearing of UXOs is an urgent task as they are being used as a main component in making Improvised Explosive Devices by various armed groups — notably the ASG, Bangsamoro Islamic Freedom Fighters, and other Islamic State-linked armed groups.¹⁴¹

As a State Party, a number of opportunities for international cooperation and assistance will be facilitated for the Philippines. As the ATT is a product of international cooperation and assistance,¹⁴² implementing it entails a

138. *See generally* United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific, Programme of Action: The United Nations Programme of Action on Small Arms and Light Weapons, available at <https://unrcpd.org/conventional-weapons/poa> (last accessed Jan. 30, 2022) [<https://perma.cc/7GLT-YD98>].

139. *See Arms Trade Treaty*, *supra* note 4, art. 2 (2).

140. *See generally* SANTOS JR., ET AL., *supra* note 11.

141. Landmine & Cluster Munition Monitor, Philippines: Cluster Munition Ban Policy, available at <http://www.the-monitor.org/en-gb/reports/2020/philippines/view-all.aspx> (last accessed Jan. 30, 2022) [<https://perma.cc/5FZ4-ZZPY>].

142. *Arms Trade Treaty*, *supra* note 4, art. 15.

collective effort by States and States assisting each other. This will also further build Philippines' credibility as a strong partner among State Parties, furthering its consistent position on humanitarian disarmament issues in Southeast Asia. How the Philippines will be perceived in its performance, as it meets its obligations as a State Party, sends a strong signal of encouragement to its neighboring countries that the benefits of becoming a State Party far outweigh the challenges.

The Philippines' ratification process took some time for various reasons. One of the reasons was the constant circulation of various myths and misperceptions about the ATT.¹⁴³ All of these should be regularly addressed. Lessons learned, as well as best practices of the Philippines, should be shared widely as part of the universalization of the ATT's goals. It should be clear that ATT or any international law alone does not solve the problem of unregulated weapons trade and its impact. ATT regulates but does not stop weapons production, arms manufacturing, and trading.¹⁴⁴

The Philippines' ratification of the ATT is a significant development as there were no ratifications since 2021 and this is the first ratification in Southeast Asia.¹⁴⁵ The benefits of the ATT far outweigh the implementation challenges. Just like with any other international law, its effectiveness relies on States' political will to fulfill its obligations. The Philippines' ratification is a reflection of its consistent leadership in the field of humanitarian disarmament. Its credibility and leadership on this issue will be crucial in encouraging its neighboring ASEAN Member States to be State Parties to the ATT and other humanitarian disarmament treaties. The next administration should take on and continue this leadership and build the same political will to enact strong legal regime to regulate arms flows, in collaboration with civil society organizations who have been consistently accompanying States to be responsible, accountable, and transparent in their transfers. Expectations are high for the Philippines as it fulfills its commitment under the ATT and other related global instruments to set effective and actionable agenda in building new norms for democratic developing countries.

143. See Senate of the Philippines, *supra* note 52 (presentation of NISEA begins at 2:25:05).

144. See Arms Trade Treaty, *supra* note 4, arts. 3, 4, & 9.

145. Philippine Mission to the United Nations and Other International Organizations, *supra* note 13.