

STATEMENT OF CASE TO RENEW THE DESIGNATION OF THE NEW PEOPLE'S ARMY AND THE COMMUNIST PARTY OF THE PHILIPPINES (NPA/CPP) AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to assess whether the New People's Army and the Communist Party of the Philippines (NPA/CPP) meets the statutory criteria to renew its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).
2. The paper concludes that the group meets the criteria for renewal as a designated terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out updated information about NPA/CPP's continued involvement in terrorist activity and covers any changes and /or developments to the organisation since its original designation, including to its objectives, structure, weapons and tactics and includes any recent attacks which meet the definition of a terrorist act under the TSA.
4. This updated information, together with the information contained in the original designation paper¹ inform the analysis of whether reasonable grounds for designation still exist and provide the basis for the conclusion that the group meets the legal criteria to renew its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION RENEWAL UNDER THE TSA

5. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier revoked or renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts ("terrorist act" is defined in s 5). Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 25(1)(a) and (b)) and also includes an attempt to carry out the act (s 25(1)(c)).
6. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
7. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

8. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: Associated Foreign Press, BBC, Human Rights Watch, International Crisis Group, Jane's World Insurgency and

Terrorism series, The Jamestown Foundation, Open Source Center, START Terrorism Database, and United Press International.

9. A range of regional media sources were referred to including: The Philippine Star, Sun Star Davao, Philippine Daily Inquirer, and Manila Bulletin. Statements from The Philippine Revolution, the official site of the Communist Party of the Philippines (CPP), were also utilised.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

10. NPA/CPP was designated as a terrorist entity on 11 October 2010.
11. On 12 May 2011, a security guard was killed when NPA militants ambushed a geological exploration team of the St. Augustine Gold and Copper Mining Company in Compostela Valley Province. A NPA spokesperson told the media the attack was launched as part of its campaign to oppose the government's move to allow foreign companies to exploit the Compostela Valley and the Philippines' natural resources.²
12. On 3 October 2011, approximately 200-300 NPA militants carried out a coordinated series of raids and sabotage operations targeting three large-scale mining operations in Surigao del Norte province.³ The militants, disguised as policemen and armed with rifles and grenades, set fire to mining company property and took several mining officials hostage.⁴ Three private security guards were killed in the attacks.⁵ In an official statement, the NPA said that the mining companies deserved to be punished for destroying the environment and violating the rights of the people.⁶ Security sources claimed the attacks were carried out because the targeted companies had refused to pay a 'revolutionary tax'.⁷
13. On 1 September 2012, NPA conducted a grenade attack which was aimed at a military detachment, located in a civilian area of the Paquibato District in Davao City.⁸ The grenade instead landed three metres from the military detachment, in the midst of a civilian crowd, gathered for a circus performance.⁹ Forty-seven civilians were injured in the resulting explosion, some with serious injuries. NPA/CPP took responsibility for the attack.¹⁰
14. The Armed Forces of the Philippines (AFP) claimed that 53 civilians were killed in a total of 374 violent incidents attributed to the NPA in 2012. The incidents also claimed the lives of 81 soldiers, eight policemen and 22 government militia members.¹¹
15. On 27 January 2013, approximately 30 NPA gunmen hiding in a sugarcane field ambushed a truck carrying police officers, Barangay Peacekeeping Action Team (BPAT) members, village guards and civilians at La Castellana town in Negros Occidental Province. The victims were returning from a town fiesta¹². Nine people were killed in the attack; a police officer, three BPAT members, two village guards and three civilians. Ten civilians and two police officers were also injured.¹³ A week later the NPA/CPP released a statement, admitting the attack but claiming it was a "checkpoint operation", not an ambush, and they had only intended to seize the arms of those on board.¹⁴

Ideologies and objectives

16. For over 40 years, CPP has sought to establish a communist state in the Philippines utilising its armed wing to wage a rural-based insurgency according to the Maoist doctrine of protracted people's guerrilla war.¹⁵ The group has a particular focus on the environment, local rights of indigenous people and traditional Marxist land reform.¹⁶ The group uses the pursuit of these causes as justification for violence.
17. Peace talks between Filipino President Benigno Aquino III and NPA/CPP were revived in October 2010, leading to a resumption of formal discussion in Norway in February 2011.¹⁷ Despite this ongoing dialogue, negotiations have yet to result in a robust process.¹⁸ The NPA/CPP demands the release of "political prisoners" and a series of political, social and economic reforms.¹⁹ The group has been criticised for showing a lack of sincerity to the peace talks by continuing to conduct attacks.²⁰

Organisation and Structure

18. The NPA/CPP is most active in Central and Northern Luzon, Cavite, Laguna, Batanas, Rizal and Quezon provinces²¹, Bicol, Eastern Visayas, Negros Occidental and eastern and southern Mindanao in the Philippines.²² AFP estimates that the NPA consists of around 4,000-5,000 guerrillas, who are active in approximately 69 of the country's 81 provinces.²³ The group is still recruiting new members²⁴, primarily from rural areas where the underlying causes of discontent, such as poverty and unequal wealth distribution are most prevalent.²⁵
19. Jose Maria Sison (also known as Joma) continues to head the Central Committee, directing all NPA/CPP business from exile in the Netherlands.²⁶ However, NPA/CPP has been plagued with internal leadership and organisational conflict since the early 1990s, due to disagreement over the balance between armed and political struggle, along with other issues.²⁷ There is a significant rift between Sison and CPP Central Committee members, Benito and Wilma Tiamzon, who believe elections should only be used to advance the armed struggle.²⁸ These tensions flared up in 2010, when CPP members stood for senate election for the first time, a move the Tiamzons strongly objected to. Military officials within the NPA/CPP have said such a division has eroded Sison's overall control of the group.²⁹

Weapons and tactics

20. NPA activities are often characterised as guerrilla operations involving small arms and Improvised Explosive Devices (IEDs). Other tactics include kidnapping³⁰ and assassinations. During operations, NPA frequently seize weapons from police officers and security forces. NPA also conducts sporadic attacks targeting construction and mining sites, particularly those owned by foreign businesses.³¹
21. The AFP has reported that use of IEDs by NPA has increased with the group using command activated devices, as well as the more indiscriminate pressure activated IEDs (a claim refuted by NPA).³²
22. A 2012 statement by the CPP's Central Committee urged the NPA to use landmines "to impede enemy troop movement or harass any encamped force" and encouraged them to "produce explosives from unexploded munitions of the enemy."³³ In some cases, attacks with these devices have killed or injured civilians.³⁴

Law of Armed Conflict (LOAC)

23. There have been no significant changes in the status of the conflict or in the conduct of NPA/CPP to invalidate the legal analysis contained in the original designation. The situation continues to be one of sporadic violent activity by NPA/CPP, and has not reached a level of intensity and continuity on the part of NPA/CPP that would bring the situation within the meaning of "armed conflict" for the purposes of the exemption in section 5(4) of the TSA. Accordingly, the exemption in s 5(4) cannot apply, and the NPA/CPP attacks are properly characterised as terrorist acts.

CONCLUSION

24. On the evidence set out above, this paper concludes that there are still reasonable grounds, as set out in s 22 of the TSA, for NPA/CPP to be designated under that section.
25. Despite a resumption of peace talks between NPA/CPP and the Philippines' Government, NPA/CPP has so far failed to cease its violent operations. Since its designation in October 2010, NPA/CPP has continued to carry out acts which meet the definition of terrorist acts ss 5 and 25 of the TSA (see paragraphs 11-15). Accordingly, given there are still reasonable grounds to believe that NPA/CPP has knowingly carried out terrorist acts as set out in s 22 of the TSA, NPA/CPP meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
26. The designation must be renewed by 11 October 2013 to be effective.

¹ The statement of case, dated 10 October 2010 can be accessed at:

www.police.govt.nz/service/counterterrorism/designated-terrorists.html

² "Rebels justify attack on US mining company", Philippines Inquirer News, 14/05/2011,

<http://newsinfo.inquirer.net/6029/rebels-justify-attack-on-us-mining-company>. Accessed 29/01/2013.

³ (2/07/2012) "Communist Insurgency Ramps Up as Manila Reaches Settlement with Muslim Militants", The Jamestown Foundation, Terrorism Monitor Volume: 10 Issue: 11,

http://www.jamestown.org/programs/gta/single/?tx_ttnews%5Btt_news%5D=39451&tx_ttnews%5BbackPid%5D=26&Hash=964bbc1568beddd0b6a2b1e9562b151b. Accessed 21/01/2013

⁴ (4/10/2011) "Communist rebels attack mining companies in the Philippines", Jane's Country Risk Daily Report. Available on subscription. Accessed 8/02/2013.

⁵ (3/10/2011) "3 killed as NPA rebels attack mining firm", Manila Bulletin, <http://manila-bulletin.net/blog/2011/10/03/3-killed-as-npa-rebels-attack-mining-firms/>. Accessed 14/2/2013.

⁶ (4/10/2011) "Sumitomo Mining Corporation, Taganito Mining Corporation and Platinum Gold Metal Corporation punished!", Philippine Revolution Web Central, www.philippinerevolution.net/statements/sumitomo-mining-corporation-taganito-mining-corporation-and-platinum-gold-metal-corporation-punished. Accessed 29/01/2013.

⁷ (2/07/2012) "Communist Insurgency Ramps Up as Manila Reaches Settlement with Muslim Militants", The Jamestown Foundation, Terrorism Monitor Volume: 10 Issue: 11, www.jamestown.org. Accessed 21/01/2013

"Revolutionary taxation" primarily refers to a NPA/CPP practice of extorting money from well-off villagers, businesses, politicians and bureaucrats. NPA frequently demands that companies pay a tax or a set premium from their annual profits to operate and has even, on occasion, sought to procure a percentage share of *barangay* (village) internal revenue allotments. Peter Chalk et alia, 'Muslim and Communist Extremism in the Philippines' in *The Evolving Terrorist Threat to Southeast Asia: A Net Assessment*, (RAND: Washington, 2009), p 61.

⁸ (10/09/12) "Philippine Communist Rebels Apologise for Grenade Attack in Davao City Village", GMA News Online, accessed via Open Source Centre, www.opensource.gov. Accessed 23/01/2013.

⁹ (18/09/2012) "Group formed to oversee NPA reparations for Davao grenade attack", Inquirer News, <http://newsinfo.inquirer.net/272982/group-formed-to-oversee-npa-reparations-for-davao-grenade-attack>. Accessed 19/02/2013.

¹⁰ (1/10/12) "Philippine Peace Team Urges Communist Rebels to Surrender Blast Suspects", Office of the Presidential Adviser on the Peace Process, accessed via Open Source Center, www.opensource.gov. Accessed 23/01/2013.

¹¹ (6/02/2013) "NPA Kills an Innocent Civilian every Week in 2012", Armed Forces of the Philippines, <http://www.afp.mil.ph/index.php/19-afp-data-articles/latest-news/1107-npa-kills-an-innocent-civilian-every-week-in-2012>. Accessed 18/02/2013.

¹² (31/01/2013) "Police: Suspects in ambush-massacre identified", Sun Star, <http://www.sunstar.com.ph/bacolod/local-news/2013/01/31/police-suspects-ambush-massacre-identified-265737>. Accessed 31/01/2013.

¹³ (10/02/2013) "Rebels justify Negros Occidental ambush", The Rappler, <http://www.rappler.com/nation/21452-rebels-justify-negros-occidental-ambush>. Accessed 21/03/2013.

¹⁴ (4/02/2013) "New People's Army rebels admit perpetrating Negros massacre", GMA New, <http://www.gmanetwork.com/news/story/293306/news/regions/new-people-s-army-rebels-admit-perpetrating-negros-massacre>. Accessed 8/02/2013

¹⁵ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist. Accessed 28/01/2013.

¹⁶ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist. Accessed 28/01/2013.

¹⁷ (1/09/2012) "Under pressure? Maoist insurgents altering IED tactics, claims Philippines military", Jane's Terrorism & Security Monitor. Available on subscription. Accessed 31/01/2013.

¹⁸ (8/10/2012) "BBC - Guide to the Philippines Conflict" - BBC, www.bbc.co.uk. Accessed 15/01/2013.

¹⁹ (14/02/2011) "The Communist Insurgency in the Philippines: Tactics and Talks", Asia Report No. 202, International Crisis Group, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/202-the-communist-insurgency-in-the-philippines-tactics-and-talks.aspx>. Accessed 19/02/2013.

²⁰ (15/12/2012) "YEARENDER: Peace talks with NPA hit rough patch", The Philstar, <http://www.philstar.com/headlines/2012/12/15/886228/yearender-peace-talks-npa-hit-rough-patch>. Accessed 21/03/2013.

²¹ Also referred to as CALABARZON.

²² (14/02/2011) "The Communist Insurgency in the Philippines: Tactics and Talks", Asia Report No. 202, International Crisis Group, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/202-the-communist-insurgency-in-the-philippines-tactics-and-talks.aspx>. Accessed 19/02/2013.

²³ (4/10/2011) "Philippines: Communist Rebels Target Civilians. New People's Army Should Stop Unlawful Killings, Detentions", Human Rights Watch, <http://www.hrw.org/news/2011/10/05/philippines-communist-rebels-target-civilians>. Accessed 23/01/2013.

²⁴ (2/07/2012) "Communist Insurgency Ramps Up as Manila Reaches Settlement with Muslim Militants", The Jamestown Foundation, Terrorism Monitor Volume: 10 Issue: 11, http://www.jamestown.org/programs/gta/single/?tx_ttnews%5Btt_news%5D=39451&tx_ttnews%5BbackPid%5D=26&Hash=964bbc1568beddd0b6a2b1e9562b151b. Accessed 21/01/2013

²⁵ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist at page 11. Accessed 28/01/2013

²⁶ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist. Accessed 28/01/2013

²⁷ (14/02/2011) "The Communist Insurgency in the Philippines: Tactics and Talks", Asia Report No. 202, International Crisis Group, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/202-the-communist-insurgency-in-the-philippines-tactics-and-talks.aspx>. Accessed 19/02/2013.

²⁸ (12/02/2013) "The Leadership Crisis in the Communist Party of the Philippines-New People's Army", Small Wars Journal, <http://smallwarsjournal.com/jrnl/art/the-leadership-crisis-in-the-communist-party-of-the-philippines-new-people%E2%80%99s-army>. Accessed 22/02/2013.

²⁹ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist, at page 13. Accessed 28/01/2013.

³⁰ (6/07/2012) "NPA holding 3 men asking for P25M, says gov", Philippine Daily Inquirer, <http://newsinfo.inquirer.net/224735/npa-holding-3-men-asking-for-p25m-says-gov>. Accessed 22/01/2013

³¹ (15/01/2013) "New People's Army (NPA)", Jane's World Insurgency and Terrorist. Accessed 28/01/2013

³² The CPP's Information Bureau released a statement to IHS Jane's seeking to legitimise the use of "command detonated devices" in its operations, stating the were designed to be set off manually against specific military targets. The statement also said the explosives used by NPA were not of the type banned by the Ottawa Treaty, the Anti-Personnel Mine Ban Convention. See (1/09/2012) "Under pressure? Maoist insurgents altering IED tactics, claims Philippines military", Jane's Terrorism & Security Monitor. Available on subscription. Accessed 31/01/2013.

³³ (29/03/2012) "Strengthen the people's army and intensify the people's war -Message to the New People's Army", National Democratic Front of the Philippines, <http://www.ndfp.net/joom15/index.php/readings-mainmenu-73/1394-strengthen-the-peoples-army-and-intensify-the-peoples-war.html>. Accessed 20/03/2013.

³⁴ (29/11/2012) "Philippines: Mine Ban Policy", Landmine and Cluster Munitions Monitor, http://www.the-monitor.org/index.php/cp/display/region_profiles/theme/2129. Accessed 20/03/2013.