

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

PURPOSE

1. This paper sets out the case demonstrating New People's Army and the Communist Party of the Philippines, (NPA/CPP) meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about NPA/CPP's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in October 2010,¹ and renewals in October 2013 and September 2016², including NPA/CPP's objectives, structure, weapons and tactics and includes recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with the information contained in the original designation paper and previous renewal papers, provide the basis for the conclusion that NPA/CPP meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. 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 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. 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)).
5. 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.
6. 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

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: Jane's Terrorism and Monitoring series, Control Risks, The Washington Times, and Reuters.
8. A range of regional news sources were also referred to including Manila Bulletin, Philippines Lifestyle News, Inquirer News, GMA News Online, The Diplomat, The Manila Times, CNN Philippines, Sun Star, ABS CBN News, and PhilStar.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

9. On 9 May 2017 NPA/CPP claimed responsibility for a 6 May attack against the Mil-Oro Mining Corp as punishment for its negative impacts on the people and environment of Mati City, Barangay Macambol. The attack involved 15 NPA/CPP members disarming security guards, setting fire to mining equipment, vehicles, and a staff dormitory, and taking firearms, ammunition and military radios.³
10. On 3 October 2017, two foreign tourists and their driver were injured when they were fired upon during an NPA/CPP ambush targeting a police patrol vehicle in Negros Occidental province. The perpetrators likely targeted the wrong vehicle, and later engaged in a thirty minute firefight with the five officers that were the intended target, before escaping.⁴
11. On 26 February 2018, approximately 50 NPA/CPP members, mostly unarmed, ransacked a coconut plantation and briefly abducted six workers - two Citizen Armed Forces Geographical Unit members and four security guards - in San Francisco, Quezon province. Six Armalite rifles were also taken from the house during the raid. NPA/CPP claimed the raid was punishment for the plantation owners' continuous refusal to give land to their tenants, and warned landlords in the province to prepare for attacks should they continue with their "anti-farmer policy".⁵
12. On 27 February 2018, four soldiers and five civilians, including two children, were wounded in an NPA/CPP ambush in Quezon province. A military truck was fired upon followed by a landmine explosion. The civilians were wounded by shrapnel from the landmine as they were following the military vehicle in a jeepney bus and tricycle. A commander for the military's 201st Infantry Brigade stated NPA/CPP "targeted the military truck... without considering the safety of innocent civilians".⁶
13. On 29 March 2019, NPA/CPP marked the 50 year anniversary of its founding by attacking a police patrol in Sitio Malabagan, Barangay Bangnen, killing one police officer.⁷ The previous day, members of the group had attacked a police station in eastern Victoria town, during which three of the attackers were killed and another three captured. The group threatened further attacks, possibly in cities.

Ideology and objectives

14. NPA/CPP seeks to overthrow the democratically elected government of the Philippines and establish a communist regime based on Maoist ideology. NPA/CPP try to accomplish their goals by waging peasant-based protracted guerrilla warfare in accordance with the Maoist revolutionary doctrine of 'people's war'. NPA/CPP also oppose the presence of United States armed forces in the Philippines, viewing it as an encroachment on Philippine sovereignty.⁸
15. On 3 March 2019 for example, the CPP released a public advisory stating, "we are celebrating the NPA's 50th anniversary as its units carry out tactical offensives across the country to punish the worst of the Duterte regime's fascist agents and defend the people's rights, advance their struggle for land reform and build the people's organisations and organs of political power". The statement also urged "all forms of information, educational and propaganda activity to broadcast the call for waging people's war. Let us rouse the people to support and join the NPA".⁹

16. Since Rodrigo Duterte's Presidency in June 2016, peace negotiations between NPA/CPP and the Philippines government have continued to start and stall:

16.1. The Philippine government and CPP signed unilateral ceasefires in August 2016. On 31 January 2017, the Armed Forces of the Philippines (AFP) accused the NPA of launching planned and co-ordinated attacks, despite ongoing negotiations with CPP's political wing, the National Democratic Front (NDF). NPA/CPP declared on 2 February 2017 it would terminate the ceasefire.¹⁰

16.2. Following further rounds of peace talks in April and May, and NPA/CPP's rejection of a Government demand for a ceasefire in September, on 5 December 2017 Duterte signed a declaration designating NPA and CPP as terrorist organisations, following frustrations with their demands to form a "power-sharing government".¹¹ Duterte had previously declared his administration would no longer pursue peace talks with the NDF, which was representing NPA/CPP in peace negotiations, as both sides accused each other of ceasefire violations.¹²

16.3. Following the termination of the negotiations, on 11 January 2018 a Manila Regional Trial Court ordered the re-arrest of CPP leaders Benito and Wilma Tiamzon. The court found "no reason to further allow their temporary liberty", which had initially been granted "...to enable said accused to participate in the peace process". The pair had been released in August 2016 for peace talk resumptions at the time.¹³ Similarly, Philippine security forces arrested Rafael Baylosis, believed to be NPA/CPP's secretary, on 1 February 2018. Baylosis had been freed on bail in August 2016 to attend peace talks in the Netherlands.¹⁴

16.4. In April 2018, Duterte ordered his peace secretary, Jesus Dureza, to restart negotiations before ordering them to be cancelled again in June 2018.¹⁵ Duterte stated in January 2019 that the government was still open to peace negotiations, and in February 2019 offered to resume peace talks if NPA/CPP stopped their extortion activities.¹⁶

Organisation and structure

17. Jose Maria Sison (also known as Joma) continues to be the political figurehead for the Communist insurgency from self-exile in the Netherlands.¹⁷ The organisation and structure of the CPP/NPA is not thought to have changed substantially since the renewal of designation in 2016.

18. Leadership of the NPA/CPP within the Philippines is under pressure following an ongoing string of arrests and deaths of ranking leaders.¹⁸ NPA/CPP activities continue to be concentrated in rural areas in Mindanao, with hotspots in Central and Southern Luzon,¹⁹ but violent incidents occur across all regions of the Philippines.

Weapons, tactics and capability

19. The Associated Press claimed a confidential report numbered NPA/CPP fighters at 3,800 with over 4,500 firearms.²⁰ In February 2017 Philippines Defense Secretary Delfin Lorenzana stated he had received reports of a surge in recruitment by NPA/CPP, with estimates of 5,000 armed rebels throughout the country.²¹ In March 2019 the Philippine government estimated armed NPA/CPP combatants numbered "less than 5,000", while Sison claimed a number "far beyond 5,000".²² It is possible this claim to larger numbers could include a large number of 'militia' thought to be operating in support of the NPP/CPA.²³

20. NPA/CPP weaponry tends to be small arms and infantry support weapons such as pistols, automatic rifles, machine guns and/or grenade launchers seized from the Armed Forces.²⁴ The group is thought to produce its own mines.²⁵

LAW OF ARMED CONFLICT (LOAC)

21. Despite the reports of increasing numbers of NPA/CPP fighters and continued attacks across the Philippines, the situation still does not meet the threshold to be considered an “armed conflict” for the purposes of the exemption in section 5(4) of the TSA. Further, NPA/CPP attacks against civilians and police officers breach the LOAC principle of distinction. Accordingly, the exemption in section 5(4) cannot apply and NPA/CPP attacks are properly characterized as terrorist acts.

CONCLUSION

22. 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.
23. Since its designation in October 2010 and renewals in October 2013 and September 2016, NPA/CPP has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA including planning, threatening and attempting attacks (paragraphs 9-13 above). Accordingly, given there are still reasonable grounds to believe 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.
24. The designation must be renewed by 26 September 2019 to be effective.

¹ The statement of case, dated 11 October 2010 can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-new-peoples-army-communist-party-philippines-terrorist-entity-11-oct-2010.pdf>.

² The statements of case, dated 2 October 2013 and 26 September 2016 respectively, can be accessed at:

<http://www.police.govt.nz/sites/default/files/publications/renew-cpp-npa-2-oct-2013.pdf> and

<http://www.police.govt.nz/sites/default/files/publications/renew-npa-cpp-terrorist-entity-26sept2016.pdf>.

³ 09/05/2017 “NPA attacks mining firm in Davao Oriental”, Manila Bulletin, accessed via <https://news.mb.com.ph/2017/05/09/npa-attacks-mining-firm-in-davao-oriental/> on 29/05/2019

i. 09/05/2017 “5 ‘NPA rebels’ nabbed for attack on Mati mining firm – Police”, Inquirer News, accessed via <https://newsinfo.inquirer.net/895553/5-npa-rebels-nabbed-for-attack-on-mati-mining-firm-police> on 29/05/2019

ii. 11/05/2017 “Philippines: Risk of insurgent attacks on mining companies to rise following removal of environment secretary”, Control Risks, accessed on 29/05/2019. Available on subscription.

⁴ 06/10/2017 “Philippines: Communist rebels unlikely to specifically target foreigners; heightened risk of violence to persist”, Control Risks, accessed on 29/05/2019. Available on subscription, and;

i. 03/10/2017 “Swedish tourists and driver shot in suspected communist ambush”, Philippines Lifestyle News, accessed via <https://philippineslifestyle.com/swedes-shot-suspected-communist-ambush/> on 29/05/2019

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⁵ 27/02/2018 “NPA rebels ransack ranch in Quezon, abduct 6 workers – military”, GMA News Online, accessed via <https://www.gmanetwork.com/news/news/regions/644733/6-individuals-kidnapped-by-suspected-npa-members-in-quezon/story/> on 29/05/2019

i. 28/02/2018 “9 wounded in NPA attack in Quezon”, Inquirer News, accessed via <https://newsinfo.inquirer.net/971822/9-wounded-in-npa-attack-in-quezon> on 29/05/2019.

⁶ 28/02/2018 “9 wounded in NPA attack in Quezon”, Inquirer News, accessed via <https://newsinfo.inquirer.net/971822/9-wounded-in-npa-attack-in-quezon> on 29/05/2019.

⁷ 29/03/2019 “Philippine communist rebels mark 50th year with new attacks”, The Diplomat, accessed via <https://thediplomat.com/2019/03/philippine-communist-rebels-mark-50th-year-with-new-attacks/> on 27/05/2019, and;

30/03/2019 “NPA anniversary attack: Cop slain in Mountain Province”, The Philippine Star, accessed via <https://www.philstar.com/nation/2019/03/30/1905722/npa-anniversary-attack-cop-slain-mountain-province> on 27/05/2019.

⁸ 17/07/2017 “New People’s Army (NPA)”, Jane’s World Insurgency and Terrorism, accessed on 25/02/2019. Available on subscription, and;

24/11/2016 “Duterte’s anti-US rhetoric not enough for communist rebels”, The Washington Times, accessed via <https://www.washingtontimes.com/news/2016/nov/24/communist-rebels-see-philippine-us-ties-troubling/> on 27/05/2019.

⁹ 03/03/2019 “NPA to heighten attacks to celebrate 50th founding anniversary”, Inquirer.net, accessed via

https://newsinfo.inquirer.net/1091544/npa-to-heighten-attacks-to-celebrate-50th-founding-anniversary?utm_expid=.XqNwTug2W6nwDVUSgFJXed.1 on 05/03/2019.

¹⁰ 02/02/2017 “Philippines: Increased risk of fighting between government and communist rebels following ceasefire termination”, Control Risks, accessed on 02/02/2017. Available on subscription.

¹¹ 30/05/2018 “Prospects for a truce with Philippine NPA improve, but formal peace agreement remains unlikely”, Jane’s 360, accessed via <https://www.janes.com/article/80456/prospects-for-a-truce-with-philippine-npa-improve-but-formal-peace-agreement-remains-unlikely> on 05/03/2019, and;

i. 05/12/2017 “Duterte declares CPP, NPA as terrorist organizations”, Inquirer.net, accessed via <https://newsinfo.inquirer.net/950017/duterte-declares-cpp-npa-as-terrorist-organizations> on 26/02/2019

ii. 03/04/2017 “Philippines: bilateral ceasefire with communists unlikely; businesses to face significant security risks”, Control Risks, accessed on 29/05/2019. Available on subscription

iii. 26/05/2017 “Philippines: Communist rebels’ condemnation of Mindanao martial law unlikely to bring significant rise in attacks”, Control Risks, accessed on 29/05/2019. Available on subscription

iv. 14/09/2017 “‘Reds’ reject govt demand for ceasefire”, The Manila Times, accessed via <https://www.manilatimes.net/reds-reject-govt-demand-ceasefire/350621/> on 29/05/2019.

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¹³ 17/01/2018 “Manila court orders rearrest of Tiamzon couple”, Inquirer.net, accessed via

<https://www.reuters.com/article/us-philippines-rebels/philippine-security-forces-capture-top-maoist-guerrilla-leader-idUSKBN1FL3OG?il=0%20> on 28/05/2019,

¹⁵ 30/05/2018 “Prospects for a truce with Philippine NPA improve, but formal peace agreement remains unlikely”, Jane’s 360, accessed via <https://www.janes.com/article/80456/prospects-for-a-truce-with-philippine-npa-improve-but-formal-peace-agreement-remains-unlikely> on 05/03/2019

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¹⁶ 04/01/2019 “Duterte again says still open to peace talks with Reds”, ABS CBN News, accessed via <https://news.abs-cbn.com/news/01/04/19/duterte-again-says-still-open-to-peace-talks-with-reds> on 05/03/2019

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¹⁷ (03/06/2015) “AFP: Rebel leader’s arrest to cripple CPP operations”, The Philippine Star, accessed via

<http://www.philstar.com/headlines/2015/06/03/1461818/afp-rebel-leaders-arrest-cripple-cpp-operations> on 12/05/2016.

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²⁰ 24/11/2016 “Duterte’s anti-US rhetoric not enough for communist rebels”, The Washington Times, accessed via <https://www.washingtontimes.com/news/2016/nov/24/communist-rebels-see-philippine-us-ties-troubling-/> on 27/05/2019.

²¹ 07/02/2017 “DND admits recent surge in NPA numbers”, PhilStar, accessed via

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²² 03/03/2019 “NPA to heighten attacks to celebrate 50th founding anniversary”, Inquirer.net, accessed via

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²³ (11/7/2019) “Formal Message: Terrorist Designations – Communist Party of the Philippines/New People’s Army”, Ministry of Foreign Affairs and Trade.

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²⁵ *ibid.*