

Challenges in Developing a Risk Assessment Criteria for Arms Transfers in Southeast Asia

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This article looks into the challenges of developing criteria for the risk assessment of arms transfers in Southeast Asia, carefully considering the region's experiences with armed conflicts, high levels of armed violence, and proliferation of weapons. Distinct regional experiences call for a regional approach. Informal and sub-national cooperation in the region, which is used more than the Association of Southeast Asian Nations (ASEAN)'s official regional mechanisms, can help build and strengthen formal structures to support arms control regimes and encourage national governments to adopt international instruments. This pragmatic approach incorporates disparities in the levels of development, presence of armed conflicts, and the different security needs of each country, which can complement international agreements, such as the Arms Trade Treaty (ATT). This article recommends a regional focus on the risk assessment for arms transfers, including national and regional contexts to ease the adoption of international agreements in the region.

In Southeast Asia, the adoption of the Arms Trade Treaty (ATT) has remained low despite the urgency of arms control in the region. Since the ATT was passed in 2013, five countries have signed it: Cambodia, Malaysia, the Philippines, Singapore, and Thailand. As of writing this article, no state has ratified or acceded to the ATT. However, this does not necessarily signify an unwillingness to adopt or implement it. This article shows that national mechanisms for regulating arms transfers are present in some Southeast Asian (SEA) countries. In others, the lack or absence is due to political reasons or other priorities. Nuancing these issues against broader multilateral agreements can help overcome these challenges and move towards the adoption and universalization of the ATT and similar agreements.

The SEA region has experienced various internal armed conflicts, particularly in Indonesia, Myanmar, the Philippines, and Thailand, resulting in hundreds of deaths and millions of displaced civilians. The conflict in Western New Guinea between the indigenous populations and the government of Indonesia is still ongoing. Myanmar is dealing with several ethnic armed groups, of which the most widely known is the rising Rohingya armed group. Though the Philippines has been tackling Communist and Muslim insurgencies for decades, peace talks with Muslim armed groups have progressed as

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expected so far, though not without threats from ISIS-inspired armed groups who have recently clashed with government officials in Marawi City. In Thailand, deaths due to gun and explosive violence continue to plague the Deep South despite the opening of peace negotiations with rebel armed groups.

Apart from internal armed conflicts, territorial disputes occasionally become the subject of foreign relations. Several states in the region have laid claim to sections of the disputed South China Sea, namely, Brunei, Indonesia, Malaysia, the Philippines, and Vietnam. Although not the primary driver of increasing arms imports, opposition against China's territorial claims has increased the demand for weapons importation over the last five years, along with defence modernization and assertions of sovereignty. In a region where differences in levels of development are stark and underdevelopment is a constant concern, military spending is not the sole priority in these developing countries (see Figure 1). However, data show that military spending in some SEA countries has seen a steady increase in recent years (see Figure 2).

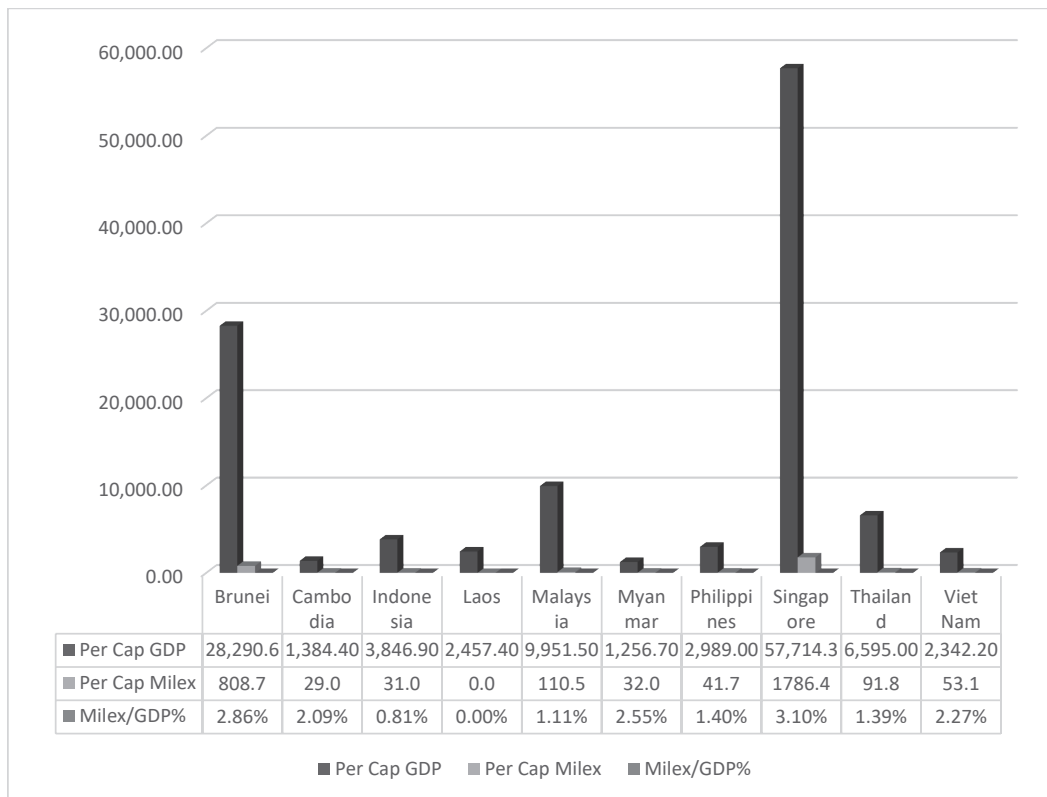


Figure 1 - Per Capita GDP and Per Capita Military Expenditure in ASEAN (2017)

Note: *Laos' military expenditure data for 2017 is unavailable

Source: SIPRI Military Expenditure Database¹

¹ Stockholm International Peace Research Institute, *Military Expenditure Database 2017*.

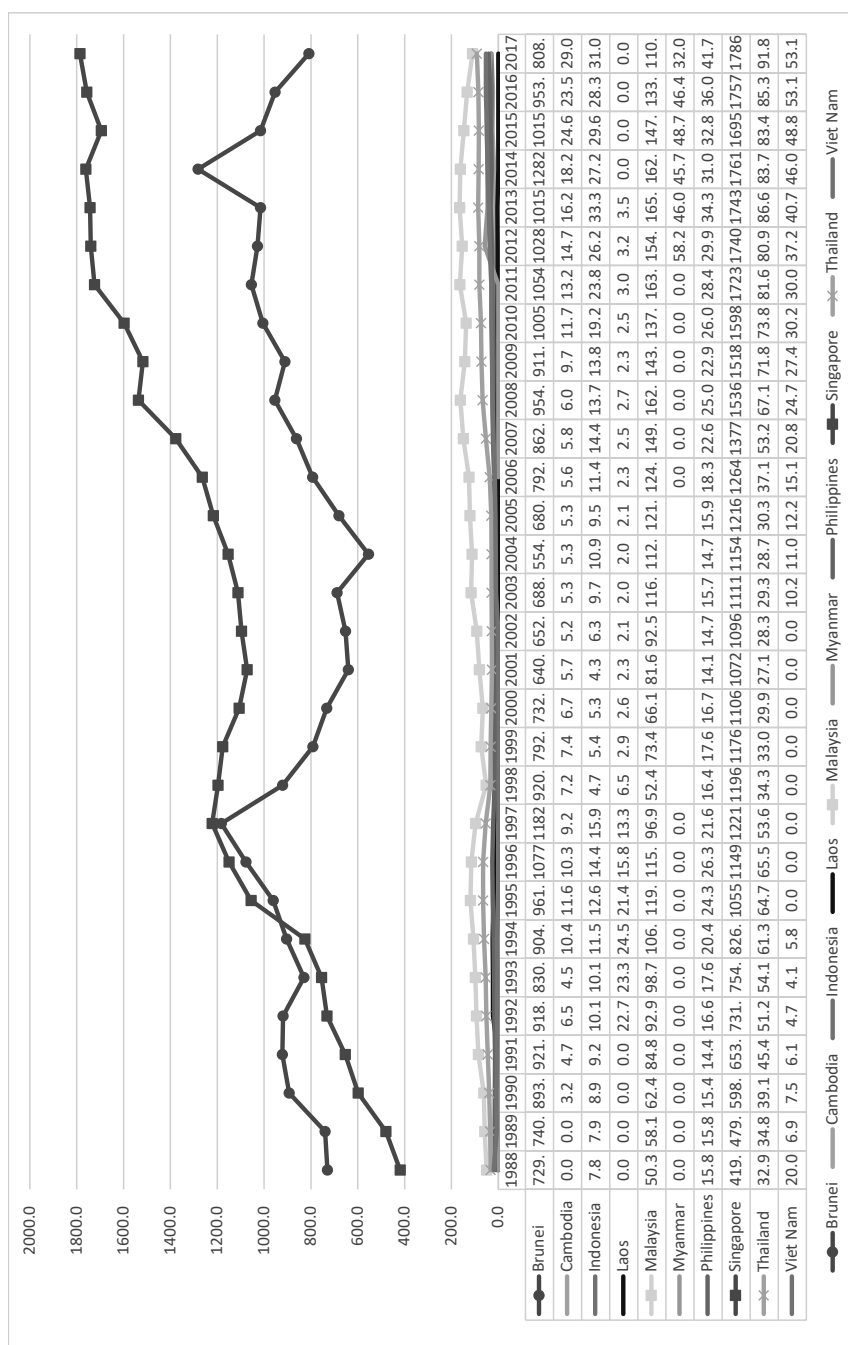


Figure 2 - Per GDP Military Spending ASEAN (1988-2017)

Note: Data for Myanmar for years 1997-2005 are unavailable.

Source: SIPRI Military Expenditure Database²

² Ibid.

The potential for arms flows to be diverted from state-authorized use to any of these internal conflicts increases with the magnitude of arms imports, making it imperative to monitor arms transfers and usage closely. To date, a region-wide acceptance of the dangers of arms diversion and trafficking has been demonstrated by both the statements from the Association of Southeast Asian Nations (ASEAN) and the individual states' efforts to create domestic structures that regulate arms transfers. Basic regulatory policies exist. However, these policies are not currently sufficient to cover the lifecycle of arms in regional trade, something the ATT risk assessment process is supposed to fill. The challenge rests in how SEA countries can adopt these provisions and apply them to their current national and regional mechanisms to ensure that arms are transferred to their intended recipients and not diverted to conflict areas.

This article has five parts. The first part provides a short discussion of the ATT risk assessment process, especially its criteria. The second part is an overview of the existing treaties and international agreements adopted by SEA countries and the areas of regional arms trade they cover. The third part explains the nuances of the low priority for disarmament regimes in the region. The fourth part examines how arms proliferation contributes to the ongoing armed violence in the region and other risks that misuse of weapons pose to the civilian population and society at large. The fifth and concluding section provides recommendations for the adoption of more effective and efficient risk assessment mechanisms to address diversion issues in the region. This article recommends a combined formal and informal regional approach to facilitate the adoption of the ATT among SEA countries. This also serves to supplement unilateral implementation. Traditional perspectives on regionalism especially on the sometimes unilateral behaviour and actions of blocs do not apply in the SEA region.³ Instead, as shown in the following parts of the article, the SEA region has its own pragmatic, bottom-up approach to the implementation of international agreements, owing much to its attitudes on independence and state-building.

I

An important component of the ATT, intended to prevent the diversion of arms, includes the criteria espoused in Articles 6 and 7 of the ATT regarding prohibitions, export controls, and risk assessment. Article 6 is clear on which arms exports are prohibited. For example, 6.1 explicitly mentions 'obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular, arms embargos',⁴ while 6.2 declares that states shall not take any action that 'would violate its relevant international obligations under international agreements to which it is a Party, in particular, those relating to the transfer of, or illicit trafficking in, conventional arms'.⁵ While the first two provisions in Article 6 are straightforward, 6.3 narrowly defines the context of armed conflict by using the word 'knowledge': as stated, 'knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by the international agreements to which it is a Party'.⁶ This provision implies that

³ Norkevičius, 'Regional institutionalism in southeast Asia', pp. 98.

⁴ Arms Trade Treaty, Article 6.

⁵ Ibid.

⁶ Ibid.

exporters are given the discretion to determine whether to send an arms shipment or withhold authorization, in accordance with national legislation and mechanisms after sufficient due diligence has been conducted. Due diligence is critical to ensure that the items will not undermine peace and security, and will not be used to commit violations of International Humanitarian Law (IHL), International Human Rights Law (IHRL), offences relating to terrorism or transnational organised crime, or acts of gender-based violence.

Article 7, which addresses export and export assessment, provides a guideline to inform this decision. Article 7 requires that states consider the following dangers when making export determinations, along with those already mentioned: if the arms ‘(a) would contribute to or undermine peace and security; (b) could be used to (i) commit or facilitate a serious violation of international humanitarian law; (ii) commit or facilitate a serious violation of international human rights law; (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.’⁷ The application of the risk assessment is expected to be done objectively. States must gauge whether an arms shipment provides an overriding risk of the weapons being used in violation of the ATT, though the definition of overriding risk is not indicated in the treaty’s text. The scale or extent of this overriding risk, however, is left to the state’s sense of whether these dangers exist.

The ATT also recognizes that export assessments require the cooperation of states to perform due diligence regarding importing parties. Article 7 highlights that states should endeavour to consider ‘relevant factors, including information provided by the importing State’⁸ regarding the importing party or end user. However, if the importing state provides little to no information, the exporting state has the sole responsibility to perform due diligence.

The lack of an objective scale for an overriding risk discourages several SEA countries from becoming parties. Some countries in the region have arms manufacturing companies who would like to have a clear scale to use. In addition, following the risk assessment guidelines in Articles 6 and 7 poses several challenges for SEA countries, who are concentrated on building capacity and technical expertise, something not all countries in the region or even the ASEAN regional mechanisms possess.

In order to establish proper assessment procedures, institutional capacity must be present and dedicated personnel should have the knowledge and practical understanding of the process. In lesser-developed arms export mechanisms, institutional capacity is a concern since knowledge, training, and expertise are not institutionalized. Given the limited resources of lesser-developed countries, there may not be enough individuals to receive the training. Furthermore, changes in government administration sometimes trigger a turnover of bureaucrats and civil servants before knowledge is retained by government institutions. Individuals thus retain the technical know-how and are sometimes not able to pass it down to their replacements or other personnel. Unless the person has attended conferences or training programmes where processes for other states are shared, he or she will have no prior knowledge. For example, an Applicant Exporter informed the relevant agency in Country A that an Importing End User in Country B is exempt from presenting an import permit, a typical documentary requirement before a transfer is authorised in Country A.

⁷ Ibid., Article 7.

⁸ Ibid.

The exemption was allegedly due to a policy in Country B. Officials in Country A could not access the information regarding Country B's import exemptions from the public record. Had the official in Country A not known an officer from Country B, Country A would not have been able to determine that the claim of exemption was inaccurate and that the Importing End User was not eligible.⁹

This lack of institutional memory is also due to a lack of documented or available information. In some countries, there is no easily accessible information on national processes for licensing, import, and export. National policies are not disseminated widely throughout the region, compelling ASEAN Member-States to conduct new research on each country's procedure for numerous transactions. The context of each export application must thus be assessed, so the prior information and public availability of this information are very important.

II

	Nuclear Ban	ATT	CCM	MBT
State-Party	Thailand Vietnam	None	Lao PDR Philippines	Brunei Cambodia Indonesia Malaysia Philippines Thailand
Signatory	Indonesia Lao PDR Malaysia Philippines	Cambodia Malaysia Philippines Singapore Thailand	Indonesia	None
Non-signatory	Brunei Cambodia Myanmar Singapore	Brunei Indonesia Lao PDR Myanmar Vietnam	Brunei Cambodia Malaysia Myanmar Singapore Thailand Vietnam	Lao PDR Myanmar Singapore Vietnam

Figure 3 - International Agreements involving SEA Countries

SEA countries are parties or signatories to a number of international agreements (see Figure 3). In most of these agreements, the capacity to implement is the foremost concern of the states. However, SEA countries tend to establish the laws and build the institutions first, before acceding to an international agreement. This can be interpreted from an outsiders' point of view as either inefficiency or unwillingness. However, for the SEA region, this process is consistent with each country's state building experience. With regards to the ATT, this approach also applies. In the words of government officers during consultations,

⁹ Personal communication, 5 August 2018.

‘Let’s build our national capacities first, then ratification follows’.¹⁰ While signing or ratification may be postponed, the passage of national legislation and expertise-building continues in individual countries. SEA has not become stagnant and has demonstrated its national strategies through national programme. There is also enough national support for the ATT in most ASEAN countries. Most SEA countries’ behaviour thus points towards laying the groundwork for implementation before legally submitting to the ATT. By focusing on effective capacity-building of national institutions and agencies directly involved in weapons flow regulation, concerns regarding compliance with the ATT may be alleviated. The bigger challenge for SEA countries is developing the capacity to apply the law, which can take several months to years. Because SEA countries are in different stages of development, poverty alleviation and underdevelopment take priority in national agendas alongside internal and external security, thus dividing limited resources and reducing the ability to implement national programmes promptly.

The lack of capacity and expertise is not the only issue in determining the adaptability of the ATT in the region. Apart from capacity, the export assessment has not been adopted in all the national control systems of SEA countries. The current national laws of most of the states in the region do not have clear criteria regarding arms trade. Because national systems of some form already exist, adoption requires that ATT provisions be translated to complement national laws for state agencies’ compliance. Since the ATT is not the sole international instrument to which ASEAN countries subscribe, and laws for these other agreements are already in place, adoption often requires the amendment of pre-existing laws or an overhaul of established organizations and institutions. Laws must be harmonized and procedures streamlined to include the scope and procedures laid out in the ATT. Problems arise not only when the ATT is supposed to address gaps in legislation and policy but also when other related instruments already address certain provisions of the ATT. There are many cases where national legislation and government offices that govern the policies concerning conventional weapons overlap with the scope of the ATT; hence, implementing agencies are thrown into confusion regarding jurisdiction to implement and oversee the transfers of relevant goods and items. These conflicting responsibilities cause competition and disagreement between national government agencies, further hindering institutional development in these countries. Instead of focusing on capacity-building for core implementing agencies, resources are diffused among a variety of government agencies to keep the knowledge and expertise within existing organizations part of the implementation of the ATT and to save time in the implementation process. Some provisions of these laws will require revision to concentrate expertise and resources on government agencies that oversee arms transfers in all forms, thus streamlining processes and increasing efficiency, especially in times of crisis. National laws should guide national implementing agencies, rules, and regulations.

Aside from domestic efforts, the ATT also emphasizes the need for international cooperation. Regional mechanisms are necessary to transcend the states’ capabilities to move the ATT towards ratification and application. Regional cooperation and assistance can complement national efforts in conducting due diligence and monitoring transfers. In ASEAN countries use informal channels along with formal ones. The use of informal mechanisms establishes rapport among sub-national agencies, especially law enforcement offices and eventually builds reliable information channels. The informal communication also facilitates information exchange and cooperation that would normally be encumbered

¹⁰ Personal communication, 3 May 2016.

by red tape if formal channels were used. While there is currently no inter-governmental group, such as the Regional Centre on Small Arms, in the region there are national experts who are unfortunately overlooked.

Dialogue and consultations with government agencies regarding the regulation of arms flows have revealed that this knowledge and technical know-how is concentrated on individuals. Individuals who are experts in various areas of dealing with weapons systems often possess advanced knowledge, for instance, from experts on the identification of dual goods in a national control list, to risk assessments of an arms import or export. Much of this personal knowledge is drawn from extensive experience in wars and armed conflicts and issues regarding the diversion of arms. Because these experiences revolve around secessionist movements within their countries, SEA countries also tend to be guarded, even towards each other. Internal conflicts contribute to a feeling of insecurity, which tends to contribute to governments becoming more vigilant to internal and external threats, making the confidentiality or secrecy surrounding existing weapons systems and their quantity imperative to national security. This lack of complete trust can hinder cooperation when crises emerge. In addition, the principle of non-intervention and the focus on protecting sovereignty draws from the region's history and experience with strong leaders, including Cambodia's Prime Minister Hun Sen, the Philippines' President Rodrigo Duterte, Thailand's military Prime Minister Prayuth Chan-ocha, Singapore's Prime Minister Lee Hsien Loong, Indonesia's Prime Minister Jokowi Widodo, and Malaysia's Mahathir, coupled with Myanmar's long ruling 'former military' led party. Any international treaty that could easily be perceived as intervening in another's affairs, sovereignty, or security will not be high in anyone's priorities.

The existing formal regional mechanisms do facilitate information exchange, and these exchanges happen on sub-national, agency, and individual levels. At the ministerial and state levels, there are ongoing bilateral and multilateral agreements through ASEAN and other means that promote cooperation on security issues, all of which can complement ATT's efforts. The existence of strong leadership in the region should transcend national borders and move towards regional solidarity, cooperation, and assistance. ASEAN was, after all, able to negotiate nuclear weapons issues in the region in its early years. Strengthening regional mechanisms with the ATT through formalization is therefore not an impossible task.

While informal exchanges and cooperation can supplement the lack of formal institutions and speed investigations and due diligence, this type of cooperation works best at the individual level and relies too much on personal rapport and relationships. Formalization is still important because it can help in institutionalizing practices. SEA countries must consider the creation of an ASEAN institution that will steer disarmament efforts in the region and facilitate the exchange of necessary information and technical expertise among countries in a timely and efficient manner. National approaches are currently more numerous and context-specific, and many national considerations and efforts to integrate at a regional level require inter-state coordination.

The lack of formal institutions and lack of transparency in arms transfers inhibit the strengthening of information and expertise exchange among SEA countries. While transparency has always been a thorny issue when dealing with weapon systems or matters that affect national security, trust is an important factor in forming and maintaining inter-state relationships.

III

The preference of SEA countries for informal mechanisms draws from the importance they accord to sovereignty, owing largely to their historical struggles with independence, state-building, and internal disputes. In this century alone, the region has seen numerous wars and armed conflicts, some of which have not yet been resolved. Their positions regarding arms procurement as a means of self-defence thus shape their views regarding the ATT. Promoting regional peace and security in the region would require these perspectives to be given importance, since arms procurement is inextricably linked with capacitating the state's self-defence. Development is now widely considered to be tied to security; hence, the term 'development-security nexus'. Global threats and challenges have moved states towards arming rather than disarming. Disarmament discussions can no longer be limited to security issues but instead should go hand in hand with economic development deliberations as a means to secure progress and development, which is a national priority for the majority of the states in SEA.

Recent data have shown that several states in the region are increasing their military spending. The data below, from SIPRI's 2018 Yearbook, include Indonesia in the top 10 importers of major weapons from 2013 to 2017 (Table 1).¹¹

Table 1 - Main Exporters and Importers of Major Weapons (2013-17)

Exporter		Global share (%)	Importer		Global share (5)
1	US	34	1	India	12
2	Russia	22	2	Saudi Arabia	10
3	France	6.7	3	Egypt	4.5
4	Germany	5.8	4	UAE	4.4
5	China	5.7	5	China	4.0
6	UK	4.8	6	Australia	3.8
7	Spain	2.9	7	Algeria	3.7
8	Israel	2.9	8	Iraq	3.4
9	Italy	2.5	9	Pakistan	2.8
10	Netherlands	2.1	10	Indonesia	2.8

Aside from political considerations, there is greater ease in increasing military spending for some SEA states due to steady economic growth. Economic development has allowed more resources to be allocated to upgrading and modernizing national defence forces and weaponry. However, the steady economic growth of some states in the region should take into consideration that these developments were also possible due to the reduction of armed violence and the resolution of internal conflicts, which is enshrined in the principles of humanitarian disarmament treaties like the ATT.

While signs currently point to SEA countries exhibiting more inward-looking policies,

¹¹ Stockholm International Peace Research Institute, *SIPRI Yearbook 2018: armaments, disarmament and international security (summary)*.

strong political will and leadership can also help in promoting universalization by appealing to each country's strength and convincing SEA countries to become champions. Strong and popular leadership means championing people's causes and aspirations, including those of their neighbouring countries. These aspirations also include greater security, sustainable peace, and more economic opportunities.

IV

The SEA region still experiences internal armed conflict, particularly in Indonesia, Myanmar, the Philippines, and Thailand. This section discusses these issues and the context in which the risk assessment criteria should be based: (1) to stop weapons from flowing into armed conflict areas; and (2) to help create a better environment for peace processes to move forward.

Indonesia

In Indonesia, violence continues to plague the West Papua region, due partially to existing separatist movements. The most recent clash, on 7 March 2019 between the National Liberation Army (TPNPB) freedom fighters and the Indonesian Army in Nduga Regency, has sparked renewed fears of armed violence. The TPNPB even claims to have 'secured four weapons from the Indonesian army'¹² after the clash, which could potentially point to the diversion of weapons.

There is more than one separatist movement contributing to the fragile security of West Papua, along with the prevalence of other types of violence and conflicts arising from other root causes, such as resource-related and identity-based clashes. Further exacerbating this issue as well as being affected by the political turmoil, the homicide rate has increased to a level of five times higher than the national average.¹³ In West Papua, insecurity is aggravated not only by the existing armed conflict but also by disagreements rooted in historical issues that contribute to non-conflict-based violence.

Myanmar

Despite efforts to negotiate with numerous armed groups that have kept the government occupied, Myanmar's peace process is stalled and the Nationwide Ceasefire Agreement (NCA), signed on 15 October 2015, is neither fully implemented nor trusted. The NCA has only 10 armed group signatories out of 16 or a potential 20 that signed with the government: the All Burma Students' Democratic Front, Arakan Liberation Party, Chin National Front, Democratic Karen Buddhist Army - Brigade 5 (DKBA-5), Karen National Union, KNU/KNLA Peace Council, Lahu Democratic Union, New Mon State Party, Pa-O National Liberation Army, and the Restoration Council of Shan State. Over the past two years, the Arakan Army has shown its growing strength and has increased attacks in the broader Rakhine State, located on the Western coast. There are also pockets of armed clashes between other armed groups that have resulted in the displacement of countless civilians. The escalation of violence is complicating efforts for the returning Rohingya refugees; the displacement of the Rohingyas due to violence has already raised the number to 1,526,000 people.¹⁴

¹² The Jakarta Post, 'TNI soldiers killed in clash with West Papua liberation army'.

¹³ The Asia Foundation, *State of conflict and violence in Asia*.

¹⁴ United Nations Refugee Agency, 'Myanmar factsheet'.

Philippines

The Mindanao region in the Philippines still suffers from armed conflict despite the attempts of former and current presidents to seal a long-lasting peace agreement with Communist and Muslim insurgents. The five-decades-old conflict between the government of the Philippines and the Moro Islamic Liberation Front has resulted in over 120,000 deaths on both sides as well as civilian casualties.¹⁵ The country also has one of the highest numbers of internally displaced persons (IDPs) due to armed conflict in SEA, a large part of which are the conflicts in the southern part of the country. The Global Report on Internal Displacement 2018 has put this number at 645,000 IDPs in Mindanao alone, which constitutes 25.5% of the national total of 2,529,000.¹⁶ The Bangsamoro separatist movement, settled recently through a politically-negotiated peace process, was followed by the signing of the Bangsamoro Organic Law in 2018 and its ratification through plebiscites held on 21 January and 6 February 2019. This political settlement will grant the new Bangsamoro region expanded autonomy. So far, the attitude among the affected populations has been positive, with higher confidence that the effects of the political agreements would have a positive impact on reducing armed violence and displacement in the area. All that remains is the political transition to the new autonomous region and addressing the threat of ISIS-inspired groups in the region. Unlike the peace talks with Muslim armed groups, the Communist peace process has stalled and sees no immediate end in sight despite a promising cessation of hostilities during the early months of the Duterte administration.

Thailand

Conflict in southern Thailand due to the Malay-Muslim insurgency erupted in 2004 and has already resulted in the deaths of 7,000 people.¹⁷ Bombings and arson continue to threaten lives in the area. Despite the signing of an agreement in February 2013 between Thai government officials and the armed group Barisan Revolusi Nasional in Kuala Lumpur, peace remains obscure. Efforts to address the conflict and increase understanding of its root causes do not appear to command a high priority on the country's agenda.

The presence of ongoing armed conflicts in the four countries of SEA poses a risk that arms transfers may be diverted to unauthorized end users and used in violation of the ATT. As with the long history of armed conflicts in the world, human rights (HR) and IHL violations occur in war-torn communities. The likelihood of armed groups obtaining firearms from illicit sources, such as the events that surrounded the siege of Marawi City in Mindanao, might increase due to a lack of more robust and strict regulation of arms and ammunitions transfers in the region. There is a danger that similar cases may occur in other states where armed conflict is present, and thus may cause even more deaths and suffering. Deaths caused by firearms can be difficult to measure due to a lack of peace and order that would enable field work to be conducted without interruption or risk, the preference of some civilians and victims of violence to withhold information out of fear of reprisal, and an overall lack of capability for doing so. However, a general picture can be drawn regarding the extent of deaths that firearms cause. An estimate made by the Journal of the American Medical Association (JAMA) is presented in Figure 4.

¹⁵ International Crisis Group, *Philippines: addressing Islamist militancy after the battle for Marawi*.

¹⁶ Internal Displacement Monitoring Centre, *Global report on internal displacement*.

¹⁷ International Crisis Group, 'Jihadism in southern Thailand: a problem menace'.

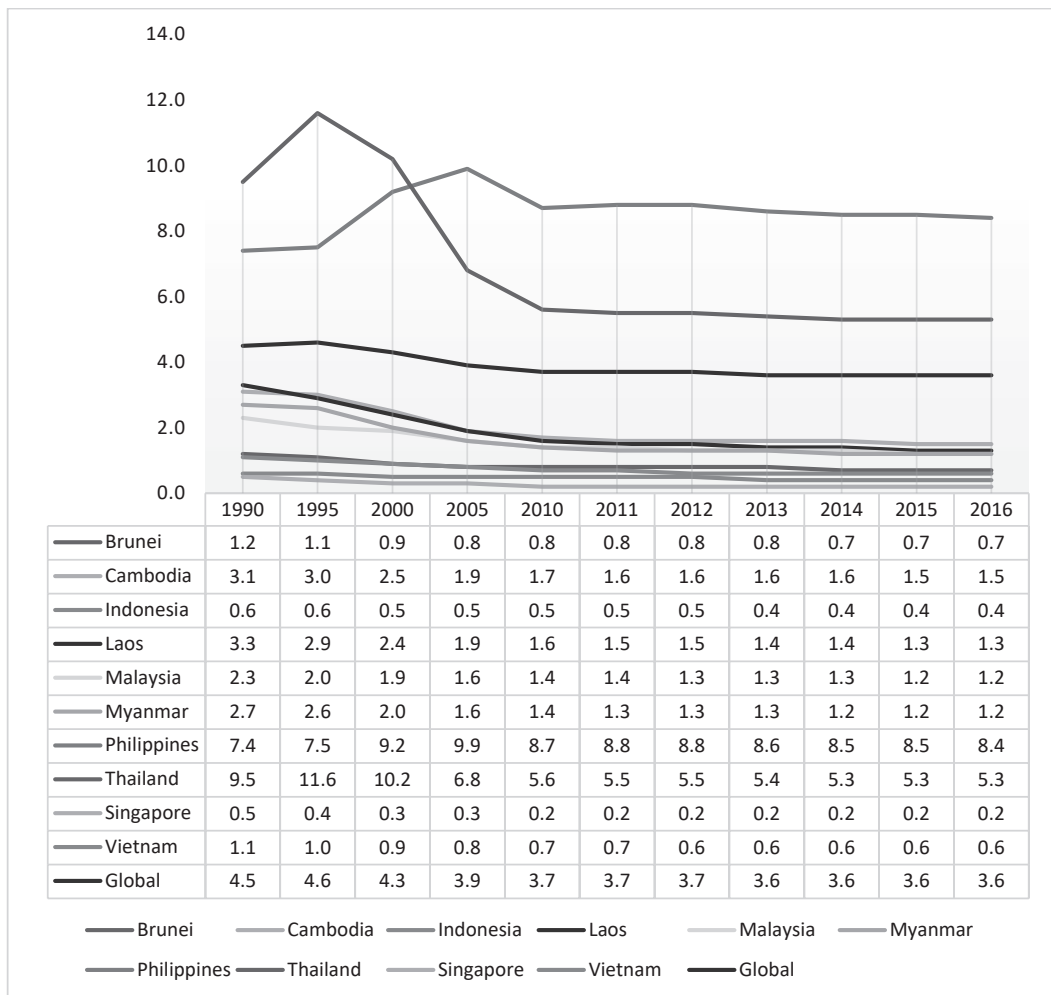


Figure 4 - Mean Estimate Firearm Deaths Per 100,000 Population (ASEAN)

Source: *The Journal of the American Medical Association*, 2018¹⁸

The reasons for the firearms-related deaths cited in JAMA's study include physical violence or assault, self-harm, and unintentional firearm injury, although the context under which these incidents were experienced are not provided. A more detailed documentation of the types of violence in SEA countries can be developed in future research in order to more accurately depict the link between arms diversion and the exacerbation of internal conflicts.

¹⁸ Nagavi, 'Global mortality from firearms: 1990-2016'.

V

SEA states generally experience four factors that could exacerbate the conflict- and non-conflict-based security issues in affected countries. First, internal armed conflicts are ongoing, and their resolution has met mixed success, or they may not be a priority on the national agenda. Second, the persistence of internal armed conflicts provides an environment where a lack of governance and the rule of law enable unauthorized parties, such as non-state armed groups, to obtain weapons illicitly, contributing to the potential extension of the conflict. Third, governments engaged in internal wars have fewer resources to devote to peacebuilding and economic development, both of which are key programmes in promoting peace in post-conflict situations. Fourth, as governments struggle individually without a regional instrument or mechanism to assist in curbing and preventing the illicit transfer of conventional arms, states have even less capacity to address the problem despite the presence of informal networks among sub-national agencies and individuals in the region.

These problems intersect not only domestically, between the risk of weapons diversion to armed conflicts and the establishment of peace and order and development of progress in countries but also are impacted by national and regional means of addressing the problem. At different levels, the adoption of sufficient risk assessment criteria and programmes have been slow due to reasons already cited, which causes more difficulty for national governments already dealing with peace and order problems. To further universalize treaties, such as the ATT, in the region, the means of adopting the risk criteria should consider how both national and regional adoption can be synergized and how informal cooperation channels can strengthen the formalization of rules and regulations at the regional level. ASEAN's preference towards non-intervention should not be dismissed as inimical to institutionalization. Non-intervention should instead be seen as the initial step in establishing an arms control regime.

Institutional regionalism is an important lens to use in Southeast Asia since one of the bases for ASEAN's formation is centred on non-interference and cooperation.¹⁹ Cooperation among ASEAN Member-States has focused on the capacities each country has contributed to help shape their individual nation-state building and achieve peace and development, especially in the earlier period of ASEAN's establishment. Inextricably connected to the need to establish counter-mechanisms to curtail and address the threat of armed violence and violent extremism, which threatens the very security of each Member-State in ASEAN, is the need to establish robust institutions to counter arms proliferation in the region, an undertaking that is becoming more relevant. Southeast Asia formed ASEAN to establish a regional identity in its quest for strengthening their sovereign states, which it has achieved, but this need not necessarily be its only goal. There are greater benefits in utilising each state's strength and expertise to ensure further peace and stability, something for which the ATT can provide a structure.

Specific steps are essential to this process. A regional engagement should be initiated to encourage and ensure that mechanisms developed in the risk assessment process consider the states' problems concerning large-scale arms availability. The local context through which diversion happens, and at what stage of the importation process it happens, must be carefully assessed. An argument could be made that corrupt government officials are responsible for diversion, but not the government institutions themselves, so this concept has to be examined carefully. A regional mechanism where the verification of both import

¹⁹ Norkevičius, *Regional institutionalism in southeast Asia*, pp. 98-113.

and export licences can be made easier and more accessible to concerned agencies should be developed and implemented. Enhanced regional cooperation among the implementing agencies, such as the police, customs, trade, and other related agencies should be developed. The mechanism should also build trust among the states in the region.

The term ‘overriding risk’ should be operationalized in developing risk assessment criteria for SEA countries. At the regional level, the risk assessment should have strong evidence-based criteria that will include multiple factors, such as (a) an accounting of HR and IHL violations in the armed conflict-affected areas; (b) civilian casualties and gender-based violence in armed conflict areas; and (c) the displacement of civilians in armed conflict-affected areas. The risk management process is essential for the region but should focus on foreseen misuse that can be quantified through measurable evaluation. Risk mitigation should be in place for the exporter and importer alike in such cases.

On the part of SEA countries, experts are tucked away in government offices, academic and civil society organizations and are largely ignored or untapped. It is important to note that the region’s experience with wars and internal conflicts should be harnessed and used to prepare and establish solutions that can be implemented in unique domestic situations. These same experts can also assist in specific steps towards treaty implementation. SEA countries should come together to work on a framework for the region that will use the region’s context and experience of armed violence, non-interference, and post-colonial assertion. Merely targeting the administrative requirements of regulating conventional arms is a simplistic, one-dimensional solution that does not consider various motivations and interests of SEA countries. The region is instead looking for a solution that will transcend the issue of proliferation while working towards development and modernisation while maintaining national integrity and establishing a stronger, more efficient region.

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