



Republic of the Philippines
ANTI-MONEY LAUNDERING COUNCIL

FOR IMMEDIATE RELEASE	FOR MORE INFORMATION
11 JUNE 2020 Reference No. AMLCS-CBCS-20-__	Log on to amlc.gov.ph . For local media, contact (+632) 8 708 7701 at locals 2259, 3025, or 3026. For international media, contact (+632) 8 708 7701 at local 2637.

Q&A: THE ANTI-TERROR BILL

1. What is the Anti-Terror Bill (ATB)?

The ATB proposes to pass a law called the Anti-Terrorism Act of 2020 (ATA). Because the Congress of the Philippines, that is, the Senate of the Philippines and the House of Representatives, has approved the bill, the ATB has now been transmitted to the President for approval to be passed into law.

Upon its effectivity, the ATA repeals and replaces Republic Act (RA) 9372, otherwise known as the Human Security Act of 2007 (HSA) and, in turn, strengthens the country's counter-terrorism policies.

2. Why do we need to replace the HSA?

Currently, the HSA or RA 9372 "An Act to Secure the State and Protect Our People from Terrorism" is the Philippines' primary law against terrorism.

The HSA, however, lacks provisions that would make the Philippines, a United Nations (UN) member state,¹ compliant with UN Security Council Resolutions (UNSCRs), such as UNSCRs 2178² and 2396³ to stop the increase of foreign terrorist fighters⁴ (FTFs), including the expansion of their recruitment and their material support other than financing.

¹ The United Nations (UN) has 193 Member States. UN membership "is open to all peace-loving States that accept the obligations contained in the UN Charter and, in the judgment of the organization, are able to carry out these obligations." States are admitted to membership by decision of the General Assembly upon the recommendation of the Security Council. ("Member States," UN, www.un.org/en/sections/member-states/. Accessed 7 Jun. 2020.)

² UN Security Council Resolutions (UNSCR) 2178 (2014) "decides that with regard to foreign terrorist fighters, member states shall prevent and suppress recruiting, organising, transporting or equipping; prevent and suppress financing; and prevent travel." ("S/RES/2178 (2014)," UNSC, www.un.org/securitycouncil/s/res/2178-%282014%29. Accessed 7 Jun. 2020.)

³ UNSCR 2396 (2017) "urges Member States to strengthen their efforts to stem the threat posed by foreign terrorist fighters (FTFs) through measures on border control, criminal justice and information-sharing and counter-extremism." ("S/RES/2396(2017)," UNSC, <https://www.un.org/securitycouncil/content/sres23962017>. Accessed 7 Jun. 2020.)

⁴ FTFs are defined as "individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict." ("Foreign terrorist fighters," UNSC



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According to the UNSC, “the FTF threat is evolving, rapidly changing.”⁵ An example of this FTF phenomenon are young people who leave their country of origin or nationality to engage in violent extremism in other countries. The UNSC notes that “terrorist organizations such as Al-Qaida, the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh), and associated groups have attracted over 30,000 FTFs from over 100 member states.”⁶

Further, UNSCR 1624 requires member states to prohibit by law incitement to commit terrorist acts, a provision which the HSA lacks.

During the Third Mutual Evaluation⁷ (ME) of the Philippines, the Financial Action Task Force⁸ (FATF) saw these inadequacies in our laws on implementing UNSC recommendations as among the key gaps in the country’s anti-money laundering and counter-terrorism financing (AML/CTF) system. The 2019 ME Report⁹ (MER) then listed recommended actions, including amendments to the HSA.

Counter-Terrorism Committee, www.un.org/sc/ctc/focus-areas/foreign-terrorist-fighters/. Accessed 7 Jun. 2020.)

⁵ “Foreign terrorist fighters,” UNSC Counter-Terrorism Committee, www.un.org/sc/ctc/focus-areas/foreign-terrorist-fighters/. Accessed 7 Jun. 2020.

⁶ “Foreign terrorist fighters,” UNSC Counter-Terrorism Committee, www.un.org/sc/ctc/focus-areas/foreign-terrorist-fighters/. Accessed 7 Jun. 2020.

⁷ The ME is an assessment of a country’s levels of (1) technical compliance with international anti-money laundering/counter-terrorism financing (AML/CTF) standards; and (2) effectiveness of the country’s existing AML/CTF mechanisms. The ME is one of the Philippines’ commitments pursuant to the Terms of Reference of the Asia Pacific Group (APG) on Money Laundering. According to APG rules, members mutually evaluate their peers to assess compliance with international AML/CTF standards, particularly the Financial Action Task Force (FATF) Forty Recommendations.

⁸ An international standard-setting body, FATF develops and promotes policies to protect the global financial system against money laundering, terrorism financing, and the proliferation financing of weapons of mass destruction.

⁹ The ME Report (MER) contains the assessment of a country’s measures to fight money laundering, terrorism financing, and proliferation of weapons of mass destruction. It also involves an evaluation of a country’s actions to address risks emanating from designated terrorists or terrorist organizations. The results of the Third Philippine ME were released through the APG adoption of the MER in 2019. The Philippines’ 2019 MER assessed the legal framework for combating money laundering and terrorism financing; and the overall effectiveness of our country’s AML/CTF system.



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To address these recommended actions, the Anti-Money Laundering Council (AMLC) proposed the following HSA amendments:

- Designation ex parte of terrorist individuals; and terrorist organizations, associations, or groups of persons;
- Implementation of targeted financial sanctions¹⁰ to stop the flow of funds or assets to terrorists; and to stop the use of such funds or assets, pursuant to UNSCR 1373;¹¹
- Evidentiary standards of “probable cause” when making designations; and
- Criminality provisions for foreign terrorist fighters and the financing of the travel of terrorists.

These proposed amendments have since been incorporated in the ATB.

3. In connection with the recommended actions, what are the non-negotiables that must be retained to comply with the FATF standards?

The non-negotiable provisions under the ATB per the Philippines’ ME findings are:

- Sec. 3(b) on the definition of a designated person;
- Sec. 11 (a, b, and c) on the unlawful acts of foreign terrorists;
- Sec. 25 on the designation of terrorist individuals, groups of persons, organizations, or associations;
- Sec. 34 on the AMLC’s authority to investigate, inquire into, and examine bank deposits;
- Sec. 35 on the AMLC’s authority to freeze;
- Sec. 37 on safe harbor for any person acting on good faith when implementing targeted financial sanctions; and
- Sec. 45(i) on the function of the Anti-Terrorism Council to take action on relevant resolutions issued by the UNSC acting under Chapter VII of the UN

¹⁰ Under the FATF Standards, targeted financial sanctions mean both asset-freezing and prohibitions to prevent funds or other assets from being made available, directly or indirectly, for the benefit of designated persons and entities.

¹¹ The UNSC adopted Resolution 1373 or "Threats to international peace and security caused by terrorist acts" on 28 September 2001 in response to the terrorist attacks in the United States of America on 11 September 2001.



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Charter and on foreign requests to designate terrorist, individuals, associations, organizations or group of persons.

If we fail to pass these provisions into law, the Philippines may be included in the list of countries with strategic deficiencies in its AML/CTF framework.

4. How is terrorism defined now under the ATB?

Sec. 4 provides that a person, within or outside the Philippines, commits terrorism when he or she, regardless of the stage of execution:

- a) Engages in acts intended to cause death or serious bodily injury to any person, or endangers a person's life;
- b) Engages in acts intended to cause extensive damage or destruction to government or public facilities, public places, or private properties;
- c) Engages in acts intended to cause extensive interference with, damage, or destruction to critical infrastructures;
- d) Develops, manufactures, possesses, acquires, transports, supplies, or uses weapons, explosives, or biological, nuclear, radiological, or chemical weapons; and
- e) Releases dangerous substances or causes fires, floods, or explosions.

Along with these acts is the purpose of intimidating the general public or a segment of the public; creating an atmosphere or spread a message of fear; provoking or influencing by intimidation the government or any of its international organization; seriously destabilizing or destroying the fundamental political, economic, or social structures of the country; or creating a public emergency or seriously undermining public safety.

Other crimes include:

- Threatening to commit terrorism (Sec. 5);
- Planning, training, preparing, and facilitating the commission of terrorism (Sec. 6);
- Conspiring to commit terrorism (Sec. 7);
- Proposing to commit terrorism (Sec. 8);
- Inciting to commit terrorism (Sec. 9);
- Recruiting and becoming a member in a terrorist organization (Sec. 10);
- Being a foreign terrorist (Sec. 11);



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- Providing material support to terrorists (Sec. 12); and
- Being an accessory to the crime of terrorism (Sec. 14).

Based on these provisions, the intent and purpose must be established to be considered an act of terrorism. Executing the aforementioned acts without the underlying aforementioned purposes may be considered violations of the Revised Penal Code or other Special Laws, and not acts of terrorism.

5. Does terrorism cover valid exercise of freedom of expression?

Sec. 4 states that terrorism does not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person’s life, or to create a serious risk to public safety.

6. So if, for example, I join a peaceful rally in protest of the ATB, am I considered a terrorist?

Sec. 3(l) defines a terrorist individual as any natural person who commits any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10,11 and 12.

Based on Sec. 4, a protest that does not intend to cause death or physical harm to a person, to endanger a person’s life, or to create a serious risk to public safety is not terrorism. Thus, participating in such will not tag you as a terrorist.

7. Why is the ATB a priority, when we are amid the Covid-19 pandemic?

First, we must remember that the Philippines was placed under a 12-month observation period by the FATF in October 2019, following the adoption of the country’s MER. In view of the general pause in the International Co-operation Review Group¹² (ICRG) review process due to the Covid-19 pandemic, the Philippines’ observation period will now end in February 2021, instead of October 2020.

This observation period is the last opportunity for the Philippine competent authorities to address identified deficiencies in the MER to avoid gray-listing. Among these deficiencies are the gaps in the HSA and the Anti-Money Laundering Act of

¹² The International Co-operation Review Group analyzes high-risk jurisdictions and recommends specific actions to deal with the money laundering and terrorism financing risks.



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2001 (AMLA), as amended. So passing amendments to both the HSA and AMLA, as amended, is among the conditions to avoid the country’s inclusion in the gray list.

But it is not enough to just pass these amendments into law, since the Philippines is being assessed both on technical and effectiveness compliance. The country must also demonstrate effective implementation of these amendments before the observation period ends in February 2021. With the early passage of the ATA, the Philippines will be given a very good opportunity to implement the same and demonstrate progress in fulfilling our international commitments.

So we hope that the same attention and commitment would be given to amendments to the AMLA, as amended, so that the country may finally avoid inclusion in the FATF ICRG gray list.

Second, fighting terrorism is just as urgent because it also concerns protecting life, as stated in the ATB. If there is anything that this pandemic has taught us, it is the importance of being prepared. Just as we don’t know when pandemics will hit, so too when terrorist acts will occur and take away life.

8. What are the implications of failure to pass these important legislations?

If any or all of the proposed amendments are not passed and not implemented within the observation period, the country will be included in the FATF ICRG gray list, which will publicly identify the Philippines as a risk to the international financial system for having strategic deficiencies in its AML/CTF framework.

Consequently, the Philippines’ inclusion in the gray list will result to an additional layer of scrutiny from regulators and financial institutions, thereby increasing the cost of doing business; delaying the processing of transactions; and blocking the country’s road to an “A” credit rating. The pandemic is already adversely affecting our economy. It would be prudent to mitigate other risks and avoid problems gray-listing would further bring to our economy.

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