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The Criminal Sanctions against Transnational Smuggling Firearms through Sea Routes in Indonesian Territory

Based on United Nations Convention against Transnational Organized Crime

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ABSTRACT

The existence of TOC (Transnational Organized Crime) is considered to be a new threat to security, one example of TOC is the smuggling of firearms between countries through sea routes. This crime is a security threat to individuals, nationally and internationally. In international regulations, smuggling firearms between countries by organized groups is regulated in the United Nations Convention against Transnational Organized Crime which was supervised by General Assembly resolution 55/25 in 15 November 2000. In addition, there are also several national instruments, such as Law Emergency No. 12/1951, Terrorism Law and Customs Law. Indonesia has become a potential place for smuggling firearms illegally because of many internal conflicts and terrorism cases that have occurred. Most of the perpetrators of this crime use the sea route for trade it. Therefore, the government implements law enforcement and sanctions. The researcher used a normative-juridical research method, research based on a statutory approach, review of all laws and related regulations of its topic. This research used Law No. 5/2009 concerning Ratification of the United Nations Conventions against Transnational Organized and other relevant laws as primary data. The secondary data of this research is the researcher's legal argument in the perspective of a concrete case in the field, an approach to cases that are related to firearms smuggling and illegal arms trade. The objectives of this research are to find out smuggling firearms management efforts, and to analyze the criminal sanctions against this case.

Keywords: Firearms, Smuggling, Transnational Crime

INTRODUCTION

Transnational crime is a legal crime that involves more than one country in its planning, implementation and impact. This crime is different from other general crimes because it is multinational, which has complex problems and requires proper understanding to understand the causes, develop prevention strategies and increase effective adjudication. Transnational crimes is divided into three categories, there are (1) trafficking in illicit goods (trafficking drugs, stolen goods, weapons and counterfeiting), (2) illicit services (commercial sex and human trafficking), and (3) business and government infiltration (fraud, extortion, money laundering, and proceeds of corruption that affect many countries).

Smuggling and trafficking of firearms is one of the transnational crimes that have a direct negative impact on nation security. The problem of trafficking and smuggling of illegal firearms is a serious problem between countries and has an impact on regional and international issues. Because this crime will have an impact on increasing crime rates, situation instability both domestically and regionally, damaging national development and endangering human security (Haryanto et al., 2020). In general, this crime is committed by professional crime groups. Therefore, firearms smuggling is categorized as a transnational organized crime.

Possession of firearms can also be legal, but many people abuse it and engage in the illegal firearms trade. The right of countries to export and import firearms has been implicitly regulated in the United Nations Charter recognition on the right to self-defence individually and collectively. In addition, there is an international consensus on the difference between legal and illegal trade. According to an expert of the United Nations in 1997 defined the illegal firearms trade as international and conventional firearms trade which is contrary to state law and international law.

Southeast Asia has a large stockpile of firearms available for purchase. In its use, firearms are considered very durable and long-term use. According to Keith Krause statement, most of the conventional firearms trade is conducted by selling existing stockpiles of firearms, not the new one. Historically, Southeast Asia has been a group of several post-conflict countries where there are many used military firearms available for purchase. Since 1960 and 1970, the United States was the main supplier of firearms to allies in South Vietnam, while firearms from China and the Soviet Union were shipped to North Vietnam. Chinese firearms also supported the Cambodian communist or the Khmer Rouge, both as a guerrilla force and government, and after they were removed from power after Vietnam invasion in 1978. After the end of the Vietnam War in 1975, Vietnam and Cambodia inherited about 2 million firearms and 150,000 tons of ammunition arms. A decade ago, according to one reliable source, they claimed there were

between 500,000 to 1 million military transmission firearms in Cambodia (Chouvy, 2013).

There are several countries which is being suppliers of cheap firearms, for example is Philippines, especially in Southern Philippines, Mindanao. Based on the results of the 2001 report, at that time Indonesia was faced with the situation of GAM (Free Aceh Movement), the price of an AK-47 rifle reaches forty million rupiah illegally. Whereas in Mindanao, it is only about five million rupiah. Most of these arms occur on a small scale, which caused the difficult in stopping of the transfers volume rather than individual transactions (Yunanto, 2017). UNODC (United Nations Office on Drugs and Crime) has conducted the most comprehensive data collection on the firearms trade until this time, they compiled details from survey responses and other sources in 81 countries for 2016-2017. This data provides unique insights into global, regional and national trade patterns. They also provided an important resource for law enforcement, decision-makers and public institutions seeking to reduce the losses caused by illegal firearms trafficking (United Nations Team, 2020).

Mostly, the firearms confiscation is committed within the national territory, its confiscation on the borderline which less than 10 percent of all arrests on average. The confiscated firearms are mostly manufactured outside the country of fore closure, but it is probably most that the source of firearms found on the black market has an important domestic component, such as firearms that diverted from legal route in confiscation country. Based on the confiscated firearms route, the transnational trade mostly occurs within the continent. North America has an important role in supplying firearms from one subregion to another, especially South America, Central America, and West Asia (Chelsea, Parsons; Eugenio Weigend, Vargas, and Rukmani, 2020).

The main smuggling routes in Asia are closely related to conflict areas, such as Sri Lanka, Aceh, Southern Philippines, especially Sri Lanka, Aceh, Southern Philippines, North-eastern Indian states and various Burmese rebels fighting along the Thai and Bangladeshi border (Picard, Michael; Holtom, Paul; Mangan, 2019). The firearms traders in carrying out this crime, they usually use the same routes as migrants and other illegal goods used. The seizure data from WCO (World Customs Organization) and UNODC (United Nations Office on Drugs and Crime) show that illegal firearms are more often smuggled through overland than by air, sea or post track. However, the traders tend to use sea transportation for large quantities of shipments. Most of the smuggling cases that occur through the sea, there are ships that have carried more than five times the number of confiscated firearms from other transportation. Based on those cases indicated that the law enforcement can get a better return on investment when they focus on maritime trade. However, the overland trafficking remains the most common type of cross-border case, about two-thirds of the total. Illegal trade arrest from ships accounts

for only about 6% of all customs cases, but it is about 33% of the total firearms seized by customs.

Generally, these firearms smuggling activities involve transnational criminal organizations. The development of technology and information causes the growth of the illegal arms trade business to be unavoidable. This phenomenon causes the instability of national security in military, political, economic, and social aspects. In this case, the State and Government efforts are urgently needed to eradicate this smuggling operation. On an international basis, on November 15, 2000, the United Nations issued the United Nations Convention against Transnational Organized Crime which was signed in Palermo, Italy in December 2000. This convention was adopted through resolution A/RES/55/25 of 15th November 2000 at fifty-fifth session of the United Nations General Assembly. The Convention will be held openly for signature by all countries and regional economic integration organizations, provided that at least one-member state of that organization has signed the Convention from 12 to 15 December 2000 at the Palazzi di Giustizia in Palermo, Italy, with subsequent signatures at United Nations Headquarters in New York until 12 December 2002 pursuant to Article 36 (UNODC, 2015). This convention aims to promote more effective cooperation in preventing and combating transnational organized crime. This convention is valid for 90 days after the 40th State has received its instrument of ratification, acceptance, approval or rejection. Indonesia has signed the convention on January 12th, 2009 in line with the issuance of Law No. 5/2009 concerning Ratification of the United Nations Convention against Transnational Organized Crime. Indonesian Government is not bound by the provisions of Article 35 paragraph (2) and they argued that in the event of a dispute due to differences in the interpretation and application of the content of the convention that is not resolved through the channels as stipulated in paragraph (1) of the article, it can appoint the International Court of Justice only based on agreement of the disputing parties. (UNODC, 2020).

Indonesia is an archipelagic country. This causes Indonesia to become an easy target for TOC (Transnational Organized Crime) groups. Smuggling is caused by several factors, such as complicated policies regarding the entry of firearms in a country and the taxes application that are too high for some people. This problem often occurs in conflict areas such as Aceh, Central Sulawesi, and Papua. These firearms are used to support their activities agenda as an anti-government separatist group (Yulianti, Dwi & Slamet, 2014).

Indonesia areas that are vulnerable to smuggling are aquatic region. The territorial waters of Aceh-Thailand-Malaysia which used to be a route for firearms smuggling. Meanwhile the waters of the Southern Philippines and North Sulawesi are still often used as a route for smuggling firearms to Indonesia. There are reports that the firearms were able to reach combatants' areas because they received help from sympathizers in the Philippines. According to the Indonesian

Navy, the Commander of the Eastern Fleet, Commodore Djoko Sumarsono stated that the firearms from Philippines are distributing freely in Maluku (Ananda P.H. Sipayung, 2021). In January 2000, the Indonesian newspaper *Suara Merdeka* reported that a helicopter had flown a shipment of weapons from Davao, Philippines to Ambon with the Indonesian National Army's tacit consent. However, there is no evidence to support this allegation and it is strongly denied by the Indonesian military. Indonesian naval vessels have intercepted several vessels from the Philippines carrying firearms in the past 12 months. In July 2000, three ships loaded with illegal firearms were stopped on the road to Halmahera and Ternate in North Maluku. Meanwhile in January 2001, the Indonesian Navy stopped traditional ships from the Philippines. The ship was a cargo ship carrying six firearms and 454 bullets to Maluku. The firearms are leftovers from World War II.

There are some efforts to overcome the smuggling in Indonesia. There is a legal government institution that is Directorate General of Customs and Excise, an institution that has a function as a gateway for goods flow in international trade through sea and air route, they are required to supervise them as an effort to prevent smuggling. The implementation of criminal sanctions for smuggling is cumulative criminal sanctions because smuggling is a crime that is detrimental to the interests of state revenue and origin, undermines the stability of the country's economy and harms the potential of state revenues and origins. In addition, to find out the implementation of criminal sanctions under international law regarding the crime of smuggling firearms. The objectives of this research are to find out smuggling firearms management efforts, and to analyse the criminal sanctions against this case.

RESEARCH METHODOLOGY

The research method used in this research is the normative method. While the approach in this research is juridical-normative. According to Johnny Ibrahim statement, juridical-normative approach is a scientific research procedure to find the truth based on scientific logic from the normative side, there are law and regulation (Ibrahim, 2013). The juridical-normative approach is the approach based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. In this case, the legislation used is legislation that correlates with the crime of smuggling firearms and international conventions on transnational crimes.

RESULTS AND DISCUSSION

Investigating the Smuggling Firearms Crimes between Countries through Sea Route

Investigation is an important procedure in criminal process in Indonesia. The investigation of a criminal case is the initial term based on the criminal justice system for modern citizens. The institutions that have authority to investigate this case are the National Police, Navy officers, Civil Servant Investigators of the Directorate General of Customs and Excise.

Regulation the Smuggling Firearms crimes between Countries Based on the United Nations Convention against Transnational Organized Crime

The United Nations Convention Against Transnational Organized Crime which was supervised by General Assembly resolution 55/25 in 15 November 2000. It is the major international conventions in combating transnational organized crime. This Convention was opened for signature by member states at the Summit held in Palermo, Italy, on 12-15 December 2000 and it is valid on 29 September 2003. This Convention is complemented by three protocols that target specific areas and manifestations of organized crime, including (1) protocols to prevent, suppress and punish trafficking in persons, especially women and children; (2) protocols against smuggling of migrants through land, sea and air route; and (3) a protocol against the illicit manufacture and firearms trade, their parts and components and ammunition. States must become parties to the convention itself before they can become a part of any protocol.

The convention is a major first step in the fight against transnational organized crime, indicating that member states are serious about addressing the problems it creates, and the need to enhance close international cooperation in overcoming the problem. Countries that ratify this convention commit to take several measures against transnational organized crime, including the creation of domestic crimes (participation in organized criminal groups, money laundering, corruption and obstruction of justice); adoption of a new and comprehensive framework for extradition; mutual legal assistance and law enforcement cooperation; training promotion and technical assistance to increase the required capacity of national authorities.

This convention has been signed by around 149 countries including Indonesia since this research was conducted.

The Convention articles related to Firearms Smuggling as Transnational Organized Crimes

1. Article 2 concerning The Use of Terms.
2. Article 3 concerning The Scope of Enforcement
3. Article 4 concerning Sovereignty Protection
4. Article 5-9 concerning Certain Forms of Crime

5. Article 10 concerning Liability of Legal Entities
6. Article 11 concerning Prosecution, Judgment, and Sanctions
7. Article 12 concerning Confiscation and Seizure
8. Article 13 concerning International Cooperation for The Purpose of Deprivation
9. Article 15 concerning Jurisdiction
10. Article 16 concerning Extradition
11. Article 18 concerning Mutual Legal Assistance (MLA)
12. Article 19 concerning The Joint Investigation
13. Article 20 concerning Specific Investigation Techniques
14. Article 24 concerning Witness Protection
15. Article 25 concerning Assistance for Victim Protection
16. Article 26 concerning Measures to Enhance Cooperation with Law Enforcement Authorities
17. Article 27 concerning Law Enforcement Cooperation
18. Article 29 concerning Training and Technical Assistance
19. Article 31 concerning Prevention

Certain types of Smuggling Firearms Cases in Indonesia Legislation

1. The Smuggling Firearms and The Explosives Crimes based on Emergency Law No. 12 /1951

In this case, anyone who does not have the right to import, receive, try to obtain, surrender, control, carry, has stock with him or his ownership, keeps, transports, hides, uses, or removes from Indonesia such as firearms, munitions or explosives, they will be punished with several severe punishment options, there are death penalty execution, life imprisonment or a maximum twenty years temporary imprisonment (Soekarno, 1951).
2. The Terrorism Crime based on Law No. 15/2003

According to statement in Article 9, anyone who intentionally violates the law by importing into Indonesia, making, receiving, trying to obtain, surrendering, controlling, carrying, having inventory with him or his possession, storing, transporting, hiding, using, or releasing to or from Indonesia such as a firearm, ammunition, explosives and other dangerous materials with the aim of committing a criminal act of terrorism, they will be punished with several severe punishment options, there are death penalty execution, life imprisonment or imprisonment for a minimum of three years and a maximum of twenty years (Pemerintah Pusat, 2003).
3. The Customs Crime based on Law of the Republic of Indonesia No. 17/2006

According to the Customs Law, anyone who transports imported goods that are not listed in the manifest, in this case firearms can be punished for smuggling with a maximum imprisonment of ten years and a maximum fine of five billion rupiah. Penalties do not only apply to imports, but also exports (Susilo Bambang Yudhoyono, 2006).

Implementation of the United Nations Convention against Transnational Organized Crime related to Firearms Smuggling through Indonesian Sea Route

The implementation of the United Nations convention against transnational organized crime which case is firearms smuggling through Indonesian sea route. The government has various problems and obstacles related to law enforcement; one example is the problem of transnational arms smuggling. Firearms are produced and traded both legally and illegally, making the identification and tracking of illegally manufactured and traded firearms extremely complex. Another complicating problem is that most firearms are legally produced, then smuggled through the black market to fulfil the demands of both criminal and separatist groups. The smuggling is done to increase the strength of organized criminal groups. The following are the obstacles experienced by the government against arms smuggling as below:

1. Indonesian Geographic Area

Indonesia is the largest archipelagic country. A country surrounded by sea from Sabang to Merauke. The total area of Indonesian waters is 6,400,000 square miles (Marihandono, Djoko; Sawstiwi, Anastasia Wiwik; Ikfal Raharjo, 2019). In this case, maritime security priority is the most important thing in maintaining unity, national integrity, and sovereign rights in national sovereignty and maintaining peace and stability in the region based on international law of the sea. This condition is directly affected towards law enforcement efforts in Indonesian waters. Due to the many interests in Indonesian waters, it creates several criminal problems and even transnational crimes. It is caused smugglers to smuggle arms to Indonesia.

2. Lack of Supervision Control by Law Enforcers

Nowadays, there has been smuggling of firearms aimed at meeting the needs of separatist groups in Papua or better known as KKB (Armed Criminal Group). Smugglers use the sea route to smuggle these firearms illegally, they pass through Philippines and then to Manado and the last destination is Papua. Based on an interview with Mr Kevin Syaifullah as the Head of Navigation at KRI (The Republic of Indonesia Ship) Banjarmasin 119, he stated that the case usually occurs because of the blind spot in the Navy patrol. Because Indonesia's waters are very wide, the lack of supervisory troops, fleet of ships and fuel, causes the handling of this firearm smuggling case is not optimal.

Along with law enforcement at sea, the role of Indonesian customs is also very important. According to the context of goods transported journey by ships, supervision of incoming goods must be a concern. There are many large cargoes carried by ship containers in and out of the port. The manifest examination of the container contents is a form of anticipation in the crime of firearms smuggling. Unfortunately, there are some unscrupulous local officials who play dirty to help escape the contraband.

3. Lack of Tracing Regarding Firearms

Identification and analysis of firearms and ammunition can provide an indication of their illicit characters and clues to the particular *modus operandi* of the criminal. It is feared that their firearms will be used to injure others. A firearm that is not officially manufactured and does not have the original marking or serial number, it is probably having been produced illegally or was diverted to the black market at some point. Therefore, if a firearm does not have traceable markings, the investigation of the nature of the firearm will be more difficult (Yusman, 2015).

States Parties that permit manufacture of firearms must require a unique designation that includes the name of the manufacturer, country or place of manufacture, serial number or maintains any unique user-friendly alternative. Designation with simple geometric symbols in combination with a numeric or alphanumeric code allows the weapon to be readily identified by all countries of the country of manufacture. The markings on these firearms are important to facilitate identification in traceability of firearms and to determine vulnerability points in the illegal market. Unfortunately, criminals and traffickers sometimes attempt to remove these markings on industrially produced firearms or make them unreadable and those actions that States parties must also criminalize it. Firearm tracking is the systematic tracking of firearms found or confiscated, in terms of manufacture or legality of import into a country through the supply line to the last known point of possession. Tracking firearms requires close cooperation between police, customs and international border agencies.

4. Lack of Supervision Against Smuggling Firearms in the State Warehouse

Leakage of the existence of state armory is a serious problem in Indonesia. It is because of the unorganized management and weakness of the defence in maintaining the security of this armory. They identified that these firearms were stolen by anti-government separatist groups. Indonesian National Army in Wamena, Jayawijaya ever had found 2,142 rounds of bullets and two long-barrelled firearms. The military equipment was found in Muaragaima Village, Asolagaima District for the last month. The ammunition was found when the army was combing the interior of Wamena. It was confirmed that the war equipment belongs to the Indonesian army which was stolen from the armory of

the 1702 Jayawijaya Military District Command. Then an incident occurred of 2012 in PT. Pindad, one of Indonesian's Weapon Manufacturers, one of the employees of PT. Pindad stole several short-barrelled firearms. Because of this incident, it caused there is a lot of firearms distribution in the community and one of those firearms had distributed by irresponsible people. The looting military armories indicated that lack of protection and supervision. It will cause to more trading and distribution of illegal firearms among civil society. If this firearms owned by an irresponsible person, it is not impossible to endanger public safety.

5. The Involvement Military Members and Supervisors

Nowadays, most of those involved in the illegal arms trade are military members. They distributed those firearms to separatist groups because the financial benefits are quite large. In addition to the gun dealers, there are also criminals who help escape the firearms smugglers by accepting bribes from them. In 2015, Paspampres (The Presidential Security Force of Indonesia) had purchased illegal firearms in the United States through United States army as brokers, those were smuggled into Indonesian aircraft which was on a state visit by the President and Vice President of the Republic of Indonesia. There were several types of snappers, such as Glock Model 17 9 mm, Glock Model 19 9 mm, Glock Model 43 9 mm and Heckler & Koch Model P30L 9 mm.

On the other hand, Suryadi from the religious separatist group named *Laskar Jundullah*, he was carrying a box containing weapons that he bought from Mindanao Island, Southern Philippines. When facing immigration checks, Suryadi told the immigration officer that the box contained tuna and slipped 3 million in cash to the inspecting officer. The involvement of these individuals in the smuggling of firearms is unfortunate, considering their functions and duties as supervisors and law enforcement. This causes people's trust to live in security and peace will slightly be lost.

Besides the obstacles faced by Indonesia, the Government's role in anticipating transnational firearms smuggling through sea route is divided into two scales, there are national scale and global scale. Those scales is described in following below:

1. National Scale:

- (a) Indonesia Arms Manufacturers have demonstrated their capabilities by improving the quality of weapons in accordance with international standards. PT. Pindad as the main producer of weapons in Indonesia for the Indonesian National Army and military ranks is ready to export weapons ammunition to Thailand, Bangladesh and the United States. For industrial homemade that do not have an official license, the police have followed up and are trying to launch further home production of firearms that do not have a permit and those are processed immediately and not cause damage to the state.

- (b) Law enforcement agencies have also made operational procedures for marine patrols which include ship detection, pursuit of suspected perpetrators and the process of investigating criminal acts at sea. In addition, Indonesia also has sophisticated ships belonging to the Indonesian Navy, one of them is Indonesian Ship of *Golok 688*, which is predicted to have great destructive power. The Indonesian Navy is the strongest military in the top ten according to the GFP (Global Firepower) ranking. Indonesia has a total of 282 ships, with details of 7 frigates, 24 corvettes, 5 submarines, 179 patrol boats and 10 mines weepers.
- (c) Hearing on Transnational Crime Countermeasures at Indonesia and the Philippines Border with Intelligence and Security Agency of the Republic of Indonesia National Police. This cooperation hearing was attended by the Immigration Division of North Sulawesi and Intelligence and Security Agency of the Republic of Indonesia National Police Team. This coordination is to anticipate the development of organized transnational cases because North Sulawesi is a province that directly adjacent to the Philippine Sea, making this route often traversed by transnational crime groups. The National Police also continues to coordinate with the Indonesian Ministry of Law and Human Rights in carrying out this collaboration. The police force has also carried out bilateral cooperation and coordinated regularly with the Philippines. This hearing was one of the hearings that conducted at 8 Regional Police Forces which were directly adjacent to foreign crossings.

2. Global Scale

Indonesia has also pursued various collaborations with other countries in regional and international forums. These efforts and collaborations include the following as below:

- (a) The Government has already signed mutual legal assistance agreements with Switzerland, ASEAN, Australia, Hong Kong, China, South Korea, India, Vietnam, United Arab Emirates and Iran.
- (b) Indonesia has also pursued some of extradition treaties with other countries, it described in following below:
 - (1) Indonesia-Malaysia (Law No. 9/1974)
 - (2) Indonesia-Filipina (Law No. 10/1976)
 - (3) Indonesia-Thailand (Law No. 2/1978)
 - (4) Indonesia-Australia (Law No. 8/1994)
 - (5) Indonesia-South Korea (Law No. 42/2007)
 - (6) Indonesia-India (Law No. 13/2014)
 - (7) Indonesia-Vietnam (Law No. 5/2015)
 - (8) Indonesia-Papua New Guinea (Law No. 6/2015)
 - (9) Indonesia-China (Law No. 13/2017)
 - (10) Indonesia-Arab (Law No. 1/2019)
 - (11) Indonesia-Iran (Law No. 9/2019)

(12) Indonesia-Singapore, these two of countries has not yet been ratified by law; however the two countries signed an extradition treaty in January 2022.

(c) Indonesia and other Asean countries produced the Asean Plan of Action to Combat Transnational Crime (2016-2025). The ASEAN Plan of Action in Combating Transnational Crime (2016-2025) was formed to follow up on the mandate of the 2015 Kuala Lumpur Declaration in combating Transnational Crime and contribute to the realization of the ASEAN Political-Security Community Blueprint 2025. This declaration contains strategies, law enforcement, legal matters, information exchange, training and institutional development related to transnational crime, one of them is firearms smuggling in the ASEAN regions.

(d) Indonesia became a host in the Regional Transnational Crime Training Forum on 27 April 2011. The purpose of this forum is to provide opportunities for representatives from transnational crime training centre from around the world to meet and interact with one another. Take part in discussions on how agencies will work more appropriately in the future. The forum was attended by delegates from Cambodia, China, Hong Kong, Malaysia, the Philippines, and Thailand.

(e) Indonesia as a member of Interpol (The International Criminal Police Organization). Indonesia has collaborated with other Interpol member countries. One of cooperation that participated by Indonesia is the construction of an online communication network, known as the Interpol Global Communication System (IGCS). This communication network is available for 24 hours or 7 days non-stop, that's why it is known as I-24/7. This network is an information exchange platform about transnational crimes, one of them is firearms smuggling.

CONCLUSION AND SUGGESTION

Conclusion

The smuggling firearms between countries are a criminal committed by transnational organized crime groups. Indonesia is a distribution area for firearms smuggling based on countries that have borders adjacent to Indonesia; one of them is Southern Philippines, especially in Mindanao Island. This case occurred because of there are many polemic cases in Indonesia, such as terrorism and armed criminal groups who want independence. In resolving the case of transnational firearms smuggling through various routes, then the United Nations Convention Against Transnational Organized Crime was inaugurated in 2000 and its additional protocol named Protocol Against the Illicit Manufacturing of And Trading in Firearms, Their Parts and Components and Ammunition in 2001. Unfortunately, Indonesia only ratified the UNTOC, not with the additional protocol regarding firearms. Indonesia's laws and regulations also have

regulations related to the distribution of firearms; it is regulated in Emergency Law No. 12/1951, Law No. 15/2003 concerning of terrorism and Law No. 17/2006.

Therefore, the Government has to maintain the security of Indonesian territorial waters to prevent the occurrence of cross-border firearms smuggling through sea route, there are at least four agencies that are engaged in protecting Indonesian marine waters. There are BAKAMLA (Indonesian Maritime Security Agency), the National Police, the Navy, and the Directorate General of Customs and Excise. As well as within the scope of the investigation regarding the criminal committed by Criminal Investigation Agency, Indonesian Navy Officers, PPNS (Shipbuilding Institute of Polytechnic Surabaya), and Investigators of the Directorate General of Customs and Excise. Then, Indonesia has made various efforts to improve standards quality in the production of firearms and their security by publishing a law regarding permits for the use and possession of firearms outside the police and military. Law enforcement agencies have also made operational procedures for marine patrols which include ship detection, pursuit of suspected perpetrators and the process of investigating criminal acts at sea. The form of Global Indonesia's efforts in resolving this case, such as (1) the government has signed mutual legal assistance agreements with several countries, (2) Indonesia is also active in cooperating with Asean countries, (3) Indonesia has extradition agreements and is active in various ICPO-Interpol activities. Based on these previous explanations, it indicates that Indonesia is serious in resolving the case of transnational firearms smuggling through sea route.

Suggestion

The researcher give some suggestions based on this research result, such as (1) for the government, the first step to resolve an issue of distribution and smuggling of illegal firearms by signing and agreeing Protocol Against the Illicit Manufacturing of And Trading in Firearms, Their Parts and Components and Ammunition, (2) expanding the sophisticated naval fleet for security patrols. Due to the vastness of Indonesia's seas, this needs to be considered because smugglers use small boats to cross sea borders and take advantage of blind spots in distribution of firearms, (3) tracking firearms in Indonesian territory to prevent fraud and illegal transfers between individuals, especially military authorities to civilians, and (4) the role of Customs and Excise in the maximum and thorough inspection of every incoming item in order to minimize the smuggling of firearms. In addition, the distribution of Customs and Excise Posts to small islands which are indicated as berths for ships belonging to the perpetrators of smuggling firearms.

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