MEMORANDUM 7

THE RELATIONSHIP BETWEEN TERRORISM AND TRANSNATIONAL CRIME

Memorandum objectives
This memorandum notes the long-standing relationship and complex links between transnational crime and terrorism continues around the world, and recommends prevention and enforcement strategies to assist in counteracting these global problems to CSCAP member countries individually as states, and collectively as the Asia Pacific Region. Specifically the memorandum emphasises that terrorist acts are crimes, and that terrorist groups commit transnational crimes in advancing their objectives.

Definitions
It is accepted that definitions can be highly contentious and that terrorism has many contexts and histories, as do transnational criminal activities. It is also recognised that some tactics used by criminal groups can cause ‘terror’ in their victims, but inducing terror per se should not be equated with engaging in terrorist activities, or be the basis for linking transnational crime to terrorist groups. For the purpose of this memorandum CSCAP has relied on the following working definition for terrorism1:

Criminal acts intended to provoke terror in the general public to advance a political cause.

And, a working definition of transnational crime as:

Crime that impacts on more than one jurisdiction.2

Transnational crime and terrorism
In all countries the practice of terrorism involves the commission of some criminal acts. The activities of terrorist groups are linked to transnational crime in two distinct ways:

- the terrorist activity is itself a criminal activity and may impact on more than one jurisdiction; and
- the terrorist groups commit other transnational crimes in advancing their objectives.

At its core an international terrorist act is a crime, and thus responses need to be co-ordinated under a robust and principled international legal framework. Focusing on the criminal aspects of terrorism provides governments with the legal mandate to act against terrorist activity by using all appropriate agencies to uphold the rule of law. Improved co-ordination of government resources to combat terrorism is not an argument for the weakening of the separation of coercive powers between agencies of the state, and

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1 Abridged and adapted from the United Nations definition (GA Res. 51/210 Measures to eliminate international terrorism).
2 Adapted from the United Nations Convention on Transnational Organised Crime
recognises that combating terrorism and transnational crime at times will involve a whole of government approach that may well include the private security industry, non-government groups and the community.

Recent changes in global politics have seen attitudes towards the sponsorship of terrorist type groups by some states shift significantly. The loss of such support for some terrorist groups, and their ongoing need for funds, has seen a closer relationship between terrorist groups and criminal activities develop. Recent probes into terrorist groups show they are engaged in a range of criminal activity for profit, such as the international manufacture and supply of drugs, people smuggling and money laundering. These illicit activities provide funds to support the terrorist organisations in the achievement of their objectives. Further the equipment, arms, and potentially even weapons of mass destruction, are known to have been sought by terrorist groups from transnational criminals who operate illegal markets for a range of dangerous commodities.

### The importance of human security

A fundamental principle of a credible and sustainable international response to both terrorism and transnational crime will rely on observing principles of human security whilst upholding the rule of law. Human security advocates a holistic state and civil society approach that targets the actual problem, crisis, or threat rather than the rhetoric of the dilemma. An appropriate response, in keeping with a human security perspective, may involve the military, may even involve ‘war’, but will be most mindful of the long-term security and wellbeing of citizens and broader communities.

Understanding linkages between terrorism and transnational crime is of more than theoretical importance. If the links are not acknowledged, there is a risk of nations approaching terrorism in a way that will not be in the interests of human security, and risks duplicating efforts between the significant resources already existing in criminal justice systems and those special agencies established to specifically counter terrorism. The question is often not the importance of the link between terrorism and transnational crime, but rather the nature of the terrorist operation and thus the nature of the criminal act. Criminal or terrorist linked information derived from the civil police, the military or national security agencies must supply the objective and verifiable intelligence that is required to ‘understand’ the nature of the terrorist group that is the subject of enforcement efforts. Such an approach is supported both morally and legally by the international community, and required to adduce admissible evidence in courts of law.

### Recommendations

Terrorism is a crime and requires a response in keeping with human security principles and international justice. Practical actions to strengthen regional positions against terrorism and transnational crime have been promulgated by different international bodies, however, these initiatives are not fully implemented in the region, accordingly:

As a regional priority CSCAP member countries are encouraged to:

endorse and implement the UN Conventions and Protocols, and the supporting regional agreements, against terrorism and transnational crime. (Attachment A)

implement the 40 recommendations of the Financial Action Task Force (FATF), and the eight recommendations of the FATF extraordinary meeting of 30 October, 2001. Support the activities of the FATF and other relevant anti money laundering institutions and where necessary:

- seek relevant technical and legal expertise to ensure that national commitments are translated into effective national programs.
- ensure sufficient resources are allocated to anti-money laundering units so that they can function effectively in identifying terrorist financing.

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3 In 2001, the FATF identified the following major sources of terrorist funding: Drug production and trafficking; Extortion; Kidnapping for ransom; Robberies, especially bank robberies; Fraud, especially credit card fraud; Illicit gambling operations; Smuggling and trafficking in counterfeit goods; Direct sponsorship by states; Contributions and donations; Sale of publications (legal and illegal); Legitimate business activities. To this list could be added: Illicit trafficking in firearms and diamonds; Human smuggling and sex trafficking; Manipulation of the stock market and technology crimes.
As matters of importance CSCAP member countries are encouraged to:

- **Develop** practical processes linking ASEAN activities with other sub-regional groupings, recognising that criminality and terrorism know no boundaries. Such links will be especially fruitful between ASEAN and North Asia, ASEAN and South/South West Asia, ASEAN and Eurasia, ASEAN and North America and ASEAN and Oceania.

- **Support** the development of assistance packages to poorly resourced jurisdictions to strengthen domestic resistance to transnational crime and terrorism and enable them to participate fully in regional activities to counter crime and terrorism.

- **Develop** strategic partnerships with leading national crime agencies to ensure CSCAP has access to the best information and guidance for Track Two policy development. These secure relationships will support Working Group research aimed at a better appreciation of the inter-regional links of terrorist groups and their financial networks.

- **Contribute** through CSCAP Working Groups the development of a resource and information dissemination strategy that will promote best practice in the investigation of terrorist groups and related incidents. This may include CSCAP members participating in the development of resources, information systems and the delivery of regional training programs.

*July 2003*
## TERRORISM RELATED AGREEMENTS IDENTIFIED BY THE UNITED NATIONS

**ASEAN REGIONAL FORUM AND OTHER ASIA AND PACIFIC STATES**

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**Council for Security Cooperation in the Asia-Pacific**

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