



Council for Security Cooperation in the Asia-Pacific

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

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 laundering³. 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.

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.

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**SIGNATORIES AND/OR PARTIES TO INTERNATIONAL TERRORISM & TRANSNATIONAL CRIME AGREEMENTS
ASEAN REGIONAL FORUM AND OTHER ASIA AND PACIFIC STATES***

	TERRORISM RELATED AGREEMENTS IDENTIFIED BY THE UNITED NATIONS												TRANSNATIONAL CRIME UN AGREEMENTS			
	 CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT - TOKYO CONVENTION 1963	CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT - THE HAGUE CONVENTION 1970	CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION - SIGNED AT MONTREAL 1971	CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS - NEW YORK 1973	INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES - NEW YORK 1979	INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES - NEW YORK 1979	PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION - 1998	CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION	PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF	CONVENTION ON THE MAKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF IDENTIFICATION - MONTREAL 1991	INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBING - NEW YORK 1998	INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM 1999	UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME	PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN	PROTOCOL AGAINST SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR.	PROTOCOL AGAINST THE ILLICIT MANUFACTURING OF AND TRAFFICKING IN FIREARMS, THEIR PARTS AND AMMUNITION
Australia	X	X	X	X	X	X	X	X	X		X	X	X			X
Brunei Darussalam	X	X	X	X	X			X			X	X				X
Cambodia	X	X	X					X				X				
Canada	X	X	X	X	X	X	X	X	X	X	X	X	X			X
DPR Korea	X	X	X	X	X			X								X
India	X	X	X	X	X	X	X	X	X	X	X	X				X
Indonesia	X	X	X			X	X									X
Japan	X	X	X	X	X	X	X	X	X	X	X	X	X			X
Laos	X	X	X		X							X				
Malaysia	X	X	X					X								
Mongolia	X	X	X	X	X	X	X			X	X	X				X
Myanmar	X	X	X					X				X	X			X
New Zealand	X	X	X	X	X			X	X	X						X
Papua New Guinea	X	X	X					X								
P.R. China	X	X	X	X	X	X	X	X	X	X	X	X	X			X
Philippines	X	X	X	X	X	X	X					X	X			X
Republic of Korea	X	X	X	X	X	X	X			X	X	X				X
Singapore	X	X	X					X					X			
Thailand	X	X	X					X								X
USA	X	X	X	X	X	X	X	X	X	X	X	X	X			X
Vietnam	X	X	X	X				X	X	X		X				X

*Data verified on 13 March 2003 from open source websites at <http://www.undcp.org/>; <http://www.icao.int/>; <http://untreaty.un.org/>; <http://www.imo.org/>; <http://www.iaea.org/>