

COSATT

Countering Terrorism

BUILDING A COMMON APPROACH IN SAARC

This policy brief, containing recommendations on measures to strengthen the SAARC counter terrorism regime, is one of the products of the academic interaction facilitated through the Consortium of South Asian Think Tanks (COSATT).

CONSORTIUM OF SOUTH ASIAN THINK TANKS

COSATT

BRIDGING POLICY RESEARCH IN SOUTH ASIA

PREFACE

It is an honour to write the Preface to the Recommendations of the Consortium of South Asian Think Tank's (COSATT) annual publication "**Countering Terrorism – Building a Common Approach in SAARC**". It is a collective recommendation of the Heads of leading South Asian Think Tanks. As the sub-title refers, these are an **Outline of Measures Recommended for Action**. Actually it goes on to make 22 specific recommendations for collective action by the Heads of State and Governments of SAARC countries. Hopefully these will receive a level of attention that this important topic deserves, in their forthcoming Summit at Thimpu, Bhutan in end April 2010.

We are grateful to the Konrad Adenauer Stiftung for their collaborative support to the project, without which this project would not have been possible.

My grateful thanks to all the Heads of leading think tanks in South Asia, who took part in the project and in particular contributed their ideas at the two deliberations that were held and which are reflected at the end of the report.

My special thanks are due to Ambassador KC Singh, a distinguished former member of the Indian Foreign Service, whose outstanding drafting skill makes the report, the lucid and highly acceptable document that it has finally turned out to be.

My final thanks are due to Dr Suba Chandran (Deputy Director) and Ms Devyani Srivastava (Research Officer) who provided invaluable organizational and intellectual support to the project.

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COUNTERING TERRORISM

BUILDING A COMMON APPROACH IN SAARC

The scourge of terrorism has for long afflicted South Asia causing extensive social disharmony, loss of human life, destruction and damage to property. It has adversely affected investment and development keeping this rich region in poverty and deprivation. A number of states in SAARC have extremist and terrorist organisations broadly subscribing to either Maoist, separatist or extremist religious ideology with cross-border linkages. Terrorism has further jeopardised the sovereignty and integrity of the States in the region, and posed a threat to friendly and good neighbourly relations impacting on the evolution and effectiveness of the SAARC.

Since its inception, concern over terrorism and the need for greater regional cooperation has prominently figured in the SAARC agenda. Starting from the signing of the SAARC Regional Convention on Suppression of Terrorism in Kathmandu on 4 November 1987 that came into force on 22 August 1988 following its ratification by all Member States, strong consensus existed among the states for regional counterterrorism cooperation. Numerous commitments have since reiterated the political commitment to counterterrorism at the regional level. A Terrorist Offences Monitoring Desk was established in 1995 in Colombo to support the implementation of the convention by 'collecting, assessing and disseminating information on terrorist offences, tactics, strategies and methods'. An Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism was signed in 2002 but which came into force on 12 January 2006 following ratification by all Member States. Finally a Convention on Mutual Legal Assistance in Criminal Matters was signed in August 2008 but has yet to come into force pending ratification by all Member

RECOMMENDATION - 1

Establish a Counterterrorism Centre within the SAARC Secretariat or alternatively create a new Counterterrorism Mechanism unrelated but complementary to SAARC

RECOMMENDATION - 2

Strengthen the SAARC Terrorist Offences Monitoring Desk and the SAARC Drug Offences Monitoring Desk

RECOMMENDATION - 3

Improve coordination and cooperation between the Financial Intelligence Units in the SAARC region

RECOMMENDATION - 4

Establish a Working Group or a Task Force responsible for monitoring implementation of measures against terrorist financing

RECOMMENDATION - 5

Cooperate with the Financial Action Task Force

States. These commitments have, however, resulted in limited concrete action. Historical mistrust, short-term foreign policy objectives, lack of capacity at the national and regional level, fragile political systems, and technical limitations have variously been held responsible for crippling regional efforts.

With the latest series of terror attacks in South Asia including the 26/11 Mumbai attacks and the March 2009 Lahore attacks on the Sri Lankan cricket team, there is a growing recognition of the transnational agenda and network of the terror groups. The additional concern is the possibility of one or more of these groups obtaining access to a weapon of mass destruction (radiological, nuclear, biological and chemical). While domestic political action is a precondition to prevent and combat terrorism, region-wide cooperation on counterterrorism is a necessary accompaniment. A significant step forward in this regard has been the recent announcement by the Bangladesh Prime Minister declaring support for setting up a SAARC Task Force on Counter Terrorism. Also noteworthy is Pakistan's cooperation in investigating and prosecuting the conspirators of the Mumbai attacks. In order to take forward the commitment of the Member States to the global regime against terrorism, the following set of recommendations will further strengthen SAARC anti-terrorism mechanisms.

RECOMMENDATIONS

STRENGTHENING REGIONAL STRATEGY

Recognizing the need for region-wide cooperation to combat and eliminate all forms and manifestations of terrorism, the Member States of the SAARC signed the Regional Convention on Suppression of Terrorism (referred to as the Convention from now on) on 4 November 1987 that came into force on 22 August 1988 following ratification by all Member States. The Convention provided for cooperation on

offences related to hostage-taking, kidnapping, firearms, weapons, explosives and dangerous substances used as a means to perpetrate indiscriminate violence (Article I); and mutual assistance in the apprehension and prosecution or extradition of persons connected, directly or indirectly, with the commission of terrorist acts, subject to the provisions of national laws (Article IV). Recognizing the need to update the Convention on account of the obligations devolving on Member States in terms of UN Security Council Resolution 1373 (2001) and the International Convention for Suppression of Financing of Terrorism, the Member States signed the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (Additional Protocol from now on) that came into force on 12 January 2006 following its ratification by all Member States. The Additional Protocol strengthened the Convention by criminalizing the provision, collection or acquisition of funds for the purpose of committing terrorist acts and provided for further measures to prevent and suppress the financing of such acts.

Together, the Convention and the Additional Protocol provide a regional framework for cooperation on counterterrorism in the SAARC region. However, significant developments have taken place in the global counterterrorism regime since 2006 with the unanimous adoption of the UN Global Counterterrorism Strategy (the Strategy) in September 2006. The Strategy calls for a holistic, inclusive approach to counterterrorism by including a slew of measures addressing conditions conducive to the spread of terrorism in addition to measures to prevent and combat terrorism. In doing so, the Strategy links the fight against terrorism with social and economic development, good governance and human rights, and better inter-cultural and inter-religious understanding and respect. Keeping in mind the guidelines to counterterrorism as laid out in the Strategy, it is incumbent upon regional organizations to be mindful of the plan of action appended to the Strategy and take steps to implement it.

RECOMMENDATION - 6

Ratify the SAARC Convention on the Mutual Legal Assistance in Criminal Matters signed at Fifteenth SAARC Summit in Colombo

RECOMMENDATION - 7

Maintain a Law Enforcement Database

RECOMMENDATION - 8

Establish regular interactions between law enforcement officials to facilitate exchange of information and maintain transparency of institutions

RECOMMENDATION - 9

Establish of a South Asian Law Enforcement Academy or a Task Force that can provide training to law enforcement and judicial officials and conduct regular workshops

RECOMMENDATION - 10

Encourage Regional or Bilateral Extradition treaties among the SAARC countries

REGIONAL MECHANISM FOR COUNTERTERRORISM

Establishment of a Counterterrorism Centre within the SAARC Secretariat or alternatively creating a new Counterterrorism Mechanism unrelated but complementary to SAARC

The Counterterrorism Centre be mandated with overall coordination and coherence of SAARC's counterterrorism efforts and work for the adoption and implementation by Member States of the regional strategy and international standards for combating terrorism.

The various functions of the Counterterrorism Centre may include confidence-building among the Member States through public information sharing; assistance in increasing compliance with international conventions; facilitating capacity-building; improving efficiency of technical assistance delivery; carrying out research and studies on the main trends of terrorism in the region and making policy inputs on ways to strengthen security; conducting training programs for law enforcement officers of the Member States; and provision of legal, financial and technical assistance in response to the needs and requests of Member States.

The Centre should consist of a national authority designated by each Member State and a principal representative competent in the elimination and prevention of terrorism. It should meet at least once a year to discuss the trends in terrorism and identify areas of cooperation.

GREATER FLOW OF INFORMATION

Strengthen the SAARC Terrorist Offences Monitoring Desk and the SAARC Drug Offences Monitoring Desk

The Terrorist Offences Monitoring Desk should be made into a mandatory means of data sharing on arrests, prosecution etc of individuals involved, directly or indirectly, with money laundering, drug trafficking and terrorism. The Member States should increase their

financial support to the Desk as well as provide suitable and qualified human resources for implementation. Ideally, the region should work towards real time intelligence sharing as confidence develops among the countries. To begin with, the desk could be a source of public information based on open sources. Once trust has developed, the Monitoring Desk could be given access to intelligence from areas where threat emanates.

COMBATING FINANCING OF TERRORISM AND MONEY LAUNDERING

Better coordination and cooperation between the Financial Intelligence Units in the SAARC region

In accordance with the Additional Protocol and with international law and conventions relating to Anti-Money Laundering and Combating of Financing of Terrorism, the following countries of SAARC have established Financial Intelligence Units (FIU) to ensure effective surveillance of terrorist financing: India (2005), Sri Lanka (2006), Pakistan (2007), Nepal (2008), Bangladesh (2008) and Maldives. The Member States should work towards strengthening coordination and cooperation between the FIUs through regular exchange of information particularly on suspicious transactions, and establishment of standard procedure for anti-money laundering and combating of financing of terrorism.

Establishment of a Working Group or a Task Force responsible for monitoring implementation of measures against terrorist financing

The Working Group can be tasked with collecting, analysing and disseminating data on cases of terrorist financing in the region and monitoring the implementation of various regulatory initiatives and government policies on Anti-Money Laundering. The above can be maintained as a common database that will get regular feeds by the countries in the region. The Group can conduct regular studies on trends in terrorist financing and make policy inputs to the governments and regulators.

RECOMMENDATION - 11

Standardize travel documents across SAARC nations that can help reduce fraudulently obtained travel documents and develop standards for maintaining and upholding the sanctity of travel documents

RECOMMENDATION - 12

Develop closer working relationship between the Customs agencies of the SAARC nations

RECOMMENDATION - 13

Facilitate greater monitoring of clandestine transfer of explosives and sensitive material

RECOMMENDATION - 14

Strengthen cooperation to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects

RECOMMENDATION - 15

Develop a Regional Framework and Standards for Maritime Security

RECOMMENDATION - 16

Improve coordination with and within relevant sub-regional, regional and international organizations, including the Organization for the Prohibition of Chemical Weapons and other United Nations actors

Cooperation with the Financial Action Task Force

The Working Group established must work closely with the Financial Action Task Force (FATF), an unofficial international organization set up in 1989 to promote policies to combat money laundering. None of the SAARC nations are members of the FATF although India acquired an observer status in November 2006. The Working Group must also work towards operationalising the FATF’s nine Special Recommendations on Tackling Terrorist Financing and forty Special Recommendations on Money Laundering in addressing the common problems of terrorist financing in South Asia.

LEGAL PRACTICE AND LAW ENFORCEMENT

Ratification of the SAARC Convention on the Mutual Legal Assistance in Criminal Matters signed at Fifteenth SAARC Summit in Colombo

The SAARC Convention on Mutual Legal Assistance in Criminal Matters (MLAT) signed in August 2008 is an important step in establishing a legal basis for regional cooperation in the prevention, suppression and prosecution of criminal offences as defined in the Convention. The MLAT provides for widest possible measures of mutual legal assistance in criminal matters, namely investigations, prosecution and resulting proceedings. The Member States must urge its early ratification by all Member States in order to ensure its effective implementation.

Maintain a Law Enforcement Database

An integrated database with information on known and suspected criminals, wanted persons, missing persons, witnesses and persons requiring surveillance that can be accessed by national law enforcement agencies across SAARC nations can enable greater sharing of information.

Regular interactions between law enforcement officials to facilitate exchange of information and maintain transparency of institutions

Interactions at informal level amongst senior police officials from states and provinces of member countries, either under the SAARC umbrella or outside of it, should be encouraged. These informal meetings can enable networking without the pressure of sharing intelligence details.

Establishment of a South Asian Law Enforcement Academy or a Task Force that can provide training to law enforcement and judicial officials and conduct regular workshops

The Academy can further be mandated to establish guidelines to improve and standardize the reporting of terrorist-related criminal activity. The states can be urged to provide information regarding the identity of the person, group, or entity involved; the specific acts under investigation and their circumstances; and the links with other relevant cases of terrorist offences in a standardised format.

Regional or Bilateral Extradition treaties among the SAARC countries

While the SAARC countries have several such treaties with other countries, they are yet to sign extradition treaties/agreements among themselves. For example, India, Pakistan and Bangladesh have numerous extradition treaties with other countries of the world, but none with each other. As the MLAT does not lay down guidelines and procedures for extradition, the Member States are encouraged to either enter into bilateral extradition agreements or work towards a regional agreement.

BORDER CONTROL

Standardisation of travel documents across SAARC nations that can help reduce fraudulently obtained travel documents and develop standards for maintaining and upholding the sanctity of travel documents.

RECOMMENDATION - 17

Establish a mechanism to facilitate cooperation and coordination between various agencies for assistance delivery, relief operations and victim support so that all States can receive adequate assistance

RECOMMENDATION - 18

Step up national efforts, as appropriate, to improve the security and protection of particularly vulnerable targets such as infrastructure and public places related to tourism and recreational facilities

RECOMMENDATION - 19

Promote dialogue, tolerance and understanding among religions in order to counter extremist and exclusionary ideologies conducive to the spread of terrorism by means of dehumanizing its victims and to prevent the defamation of religion, religious values, beliefs or cultures

RECOMMENDATION - 20

To implement Security Council Resolution - 1624 (2005) which aims to prohibit by law and prevent within their territories the incitement to commit terrorist acts

In accordance with Security Council Resolution 1373 (2001), regional cooperation must also be strengthened on adoption of legislation and administrative measures to implement the terrorist travel-related obligations under the said resolutions, and to identify best practices in this area in sync with the guidelines of the International Civil Aviation Organization, World Customs Organization and the International Criminal Police Organization.

Develop closer working relationship between the Customs of the SAARC nations

There is a need to establish better communication links and standards for cargo inspection for more secure and efficient handling of regional trade. This can be done in accordance with the guidelines of the World Customs Organizations.

Facilitate greater monitoring of clandestine transfer of explosives and sensitive material

A Working Group can be established to monitor and review the implementation of the SAARC Convention on Narcotics, Drugs and Psychotropic Substances, signed on 23 November 1990 and that came into force on 15 November 1993 following ratification by all Member States.

Strengthen cooperation to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects

In accordance with the guidelines laid out in the International Instrument to Enable States to Identify and Trace in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. For this purpose, following measures be considered:

- maintaining record of marked small arms and light weapons
- designate one or more national points of contact to exchange information
- to build national capacity in the area of marking, record-keeping and tracing of small arms and light weapons

Develop a Regional Framework and Standards for Maritime Security

Establish a Working Group responsible for sharing information on port security and disseminating information on maritime security in accordance with the guidelines of the International Maritime Organization.

RESPONSE MECHANISMS TO TERRORIST ATTACKS

In planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, the following measures are recommended:

Improve coordination with and within relevant sub-regional, regional and international organizations, including the Organization for the Prohibition of Chemical Weapons and other United Nations actors

Improved coordination is required to manage the response to terrorist attacks and other disasters, in particular in the area of civil protection in cases of extreme emergency that overwhelm the capacity of the affected State or States

Establishment of a mechanism to facilitate cooperation and coordination between various agencies for assistance delivery, relief operations and victim support so that all States can receive adequate assistance

Step up national efforts, as appropriate, to improve the security and protection of particularly vulnerable targets such as infrastructure and public places related to tourism and recreational facilities

RECOMMENDATION - 21

To put in place in accordance with national laws, procedures and policies, a system of assistance and, if appropriate, compensation that would promote the needs and concerns of victims of terrorism and their families and facilitate the normalization of their lives

RECOMMENDATION - 22

In accordance with the requirements of the UN Global Counterterrorism Action Plan which seeks to review the national, regional and global implementation of the Global Counterterrorism Strategy, SAARC should set up an independent task force to prepare appropriate steps to be in compliance with its provisions

MEASURES TO PREVENT THE SPREAD OF MILITANT IDEOLOGIES BY THE GOVERNMENT AND CIVIL SOCIETY

In accordance with the measures laid out in the UN Global Counter Terrorism Strategy, following recommendations be considered to address the conditions conducive to the spread of terrorism:

Promote dialogue, tolerance and understanding among religions in order to counter extremist and exclusionary ideologies conducive to the spread of terrorism by means of dehumanizing its victims and to prevent the defamation of religion, religious values, beliefs or cultures

To implement Security Council Resolution 1624 (2005) which aims at preventing the subversion of educational, cultural and religious institutions by calling upon Member States to prohibit by law and prevent within their territories the incitement to commit terrorist acts, as may be necessary and appropriate in accordance with their respective obligations under international law, in particular human rights law, refugee law and international humanitarian law

To put in place in accordance with national laws, procedures and policies, a system of assistance and, if appropriate, compensation that would promote the needs and concerns of victims of terrorism and their families and facilitate the normalization of their lives

REVIEW MECHANISM

In accordance with the requirements of the UN Global Counterterrorism Action Plan which seeks to review the national, regional and global implementation of the Global Counterterrorism Strategy, SAARC should set up an independent task force to prepare appropriate steps to be in compliance with its provisions

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CONSORTIUM OF SOUTH ASIAN THINK TANKS

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BRIDGING POLICY RESEARCH IN SOUTH ASIA

The Consortium of South Asian Think Tanks (COSATT) was set up in January 2008 in collaboration with the Konrad Adenauer Stiftung (KAS). The objective of this undertaking was to bring together some of the leading think tanks in South Asia with an aim of developing peace and cooperation in the region.

In 2008, the Consortium worked together on increasing connectivity within South Asia. The study and its recommendations were released in Colombo, just in time for the SAARC summit.

In 2009, the Consortium undertook a study on countering terrorism with the purpose of addressing the issue institutionally and work together towards peace and stability in the region. It is with this objective that the Consortium met regularly during 2009 to evolve a common policy agenda for all SAARC countries on measures to counter terrorism in the region. The aim was to evaluate a regional approach to counter terrorism, identify processes and structures that can help realize the objective, and draw up a common plan of action based on broad set of unifying principles and interests. This document is to be submitted before the leadership of SAARC for comprehensive action.

Currently, the Institute of Peace and Conflict Studies (IPCS) is the convener of the COSATT. For further information on COSATT, contact

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