



SAARC Regional Convention on Suppression of Terrorism

BACKGROUND

South Asian Association for Regional Cooperation (SAARC) Regional Convention on Suppression of Terrorism (“Convention”) was adopted in Kathmandu, on 4 November 1987. The adoption of the text was a follow-up action to respond the agreements which had been made in Bangalore Summit Declaration of 17 November 1986 and Dhaka Summit on December 1985. The government of the State Parties realized that the cooperation among themselves was needed necessarily in preventing and eradicating terrorism. This convention mainly focused on the extradition regulation among the State Parties themselves relating to the conduct of the offences caused by terrorism act.

CONCEPT

As stipulated in Article I, extradition only can be granted for the conduct considered as terroristic. The Convention itself does not define ‘terrorist act’ specifically, but it refers to the particular conducts and also the definition of the offences within the scope of other following Conventions:

1. Convention for the Suppression of Unlawful Seizure of Aircraft (Hague, 16 December 1971)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971)
3. Convention on the Prevention and Punishment of Crimes against internationally Protected Persons, including Diplomatic Agents (14 December 1973)

4. An Offence within the scope of any Convention to which SAARC Member States concerned are parties and which bilges the parties to prosecute or grant extradition
5. Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking, and offences relating to firearms, weapons, explosives, and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property
6. An attempt or conspiracy to commit the aforementioned offences, aiding, abetting, or counseling the commission of such an offence or participating as an accomplice in the offences so described.

ENTRY INTO FORCE

The Convention entered into force on 22 August 1988. All seven States members of SAARC (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Srilanka) are parties to the Convention.

MAIN FEATURES

The Convention consists of 11 articles. Mainly focus on the mechanism and regulation of extradition, the Convention required the existing extradition agreement between the Contracting States prior the Entry into Force of the Convention shall be amended in order to make it compatible with the Convention. The Convention also becomes the basis for the extradition if there is no bilateral treaty between the requesting state and the requested state. Extradition shall be subject to the law of the requested state.

The contracting state, subject to their national laws, shall develop mutual assistance among themselves and cooperate to the extent of exchange of information intelligence, and expertise, and such appropriate cooperative measures. (DH)

Additional Protocol to the South Asian Association for Regional Co-operation (SAARC) Regional Convention on Suppression of Terrorism

BACKGROUND

Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism (“Protocol”) was adopted at Islamabad on 6 January 2004, following the result of the Eleventh SAARC Summit and the decision of the SAARC Council Ministers at its Twenty Third Session in Kathmandu on 22 August 2002. The government and the council recognised the importance of updating the SAARC Regional Convention on Suppression of Terrorism (“Convention”) in order to meet the obligations devolving in terms of Security Council Resolution 1373 (2001).

CONCEPT

The purpose of the Protocol is to strengthen the Convention, particularly in adding the provisions of criminalizing, collection or acquisition of funds for the purpose of committing terrorist acts and taking further measures to prevent and suppress financing of the terrorist acts. The Protocol is supplementary to the Convention. Both Convention and Protocol shall be read and interpreted together as a single instrument.

ENTRY INTO FORCE

The Protocol entered into force on 12 January 2006, to which all seven States members of SAARC (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) are parties.

MAIN CONCEPT

The Protocol consists of 23 articles. It finally broadens its definition of the *actus reus* in particular (as stipulated in Article 4). Its main focus is to regulate terrorist-related matters intended to support terrorism activities, such as the fund and terrorism financing, trafficking in arms, narcotics, and psychotropic substances or other material, as well as money laundering. The State Parties are encouraged to be the parties of the international instrument listed in the Protocol Annex, namely:

1. Convention for the Suppression of Unlawful Seizure of Aircraft

- (Hague, 16 December 1971)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971)
 3. Convention on the Prevention and Punishment of Crimes against internationally Protected Persons, including Diplomatic Agents (UN General Assembly, 14 December 1973)
 4. International Convention against the Taking of Hostages, (UN General Assembly, 17 December 1979)
 5. Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980)
 6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988)
 7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988)
 8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (Rome, 10 March 1988)
 9. International Convention for the Suppression of Terrorist Bombing (UN General Assembly, 15 December 1997)
 10. International Convention for the Suppression of Financing Terrorism (UN General Assembly, 9 December 1999)

Under this Protocol, each State Parties are obliged to develop some technical measures in their national or regional level. Article 6 of the Protocol extends the subject which held liability of such committed offence not only to individuals but also to legal entity.

State Parties are also mandated to adapt their domestic legislation comprehensively, including supervisory regime for banks and other financial institutions, related to the practical measures to prevent, suppress, and eradicate the financing of terrorism. This compulsory measures applies to the prevention of money laundering as well, extending the provision to include the act committed both within and the outside the jurisdiction of a State Party. Seizure and confiscation of funds and other assets allegedly used or allocated for committing the offences are also permitted as long as it complies with the domestic regulations.

The Protocol specifically regulates about cooperation among law enforcement authorities and on immigration and customs controls for the improvement to detect and prevent the international movement of terrorists and their accomplices and trafficking.

Some important principles are also adopted in the Protocol, such as principles of sovereign equality and territorial integrity, and also principle of non-discrimination, regarding to the prosecution of a person on account of his race, religion, nationality, ethnic origin, or political opinion.

At last, similar to the provision of the Convention, each state party are required to promote a mutual legal assistance and technical cooperation with other regional and international organizations conducting activities related to the objectives and purposes of the Protocol. (DH)

The Arab Convention on the Supression of Terrorism

BACKGROUND

The Arab Convention on the Supression of Terrorism (“Convention”) was signed on April 22 1998 in Cairo, Egypt. This convention was concluded by Arab League, an regional organization that consisted of several middle-east countries. This Convention present a serious threat to hman rights in Arab countries. This Convention was open to acesion by the member states of the Arab League who did not participate in its finalization (stated on the last preambular paragraph).

This Convention confirms the commitment of the states parties to human rights as defined in international human rights law. The preamble of the Convention states that it is “committed to the highest moral and religious principles and, in particular, to the tenets of the Islamic Shari’a, as well as to humanitarian heritage of an Arab Nation that rejects all forms of violence and terrorism and advocates the protection of human rights, with which percepts the principles of internal law conform”.

CONCEPT

In order to prevent any kind of terrorist offences, Arab League establishes this Convention which mainly focusing on how the measurement and cooperation should be made. However, this Convention puts an interesting point in Article 2 (a) stating that all cases of struggle including armed struggle which against occupation and/or aggression for liberalisation and self-determination will not be considered as terrorist offence, but this Convention puts a limitation to something that can be considered as political offence which stated in Article 2 (b).

ENTRY INTO FORCE

The Convention entered into force on May 7th 1999 one month after its seventh ratification which in accordance with Article 40 which states the Convention shall enter into force on the 30th day after the instruments of ratification, acceptance, or approval are deposited by 7 Arab States.

MAIN FEATURES

This Convention contains 42 articles which grouped into 4 parts which consecutively are Definitions and General Provisions, Principles of Arab Cooperation for the Suppression of Terrorism, Mechanisms for Implementing Cooperation, and Final Provisions.

Part 1 of this convention only consists of 2 articles, Article 1 and Article 2. This part elaborate some definitions in this Convention and also the scope of terrorist offence in this Convention and other conventions mentioned in Article 1 paragraph 3. Article 2 stipulates the exception of the application of this Convention and some actions which disregarded as political offence.

Part 2 of this convention elaborates the code of conduct in measuring and cooperating in preventing the terrorist offences and also the judicial cooperation . It also put some details in measuring the terrorist offence by obliged the parties enhancing the preventive measures mentioned in Article 3 paragraph 1 and measures of suppression in paragraph 2 the same Article. Article 4 in this convention lists the cooperation by; exchanging of information, investigations, and exchange of expertise. Article 5 up to 21 emphasize the judicial field in preventing the terrorist offence, some provisions are about extradition of offenders, judicial delegation, judicial cooperation, seizure of assets and proceeds derived from the offence and exchange of evidence.

Part 3 of this Convention starts from Article 22 to Article 38 which mainly focusing on the mechanism in the implementation of the cooperation. Article 22 up to Article 28 explain about the extradition procedures which shall be made by competent authorities in the contracting states. This part also explains the necessary documents for extradition. Other things that provided in this part are the procedures for judicial delegation and measures for the protection of witnesses and experts. Part 4 of this Convention stipulates the provisions regarding the ratification, acceptance or approval and also the reservation clause and the denunciation mechanism from this Convention. (AIS)

Convention of The Organization of The Islamic Conference on Combating International Terrorism

BACKGROUND

Convention of The Organization of The Islamic Conference on Combating International Terrorism was adopted in July 1st 1999 in Ouagadougou, Burkina Faso. This Convention makes clear that the OIC member states firmly reject terrorism, and it grounds that rejection in Islamic law. A preambular paragraph, for instance, states that “terrorism cannot be justified in any way, and that it should therefore be unambiguously condemned in all its forms and manifestations, and all its actions, means and practices, whatever the origin, causes or purposes, including direct or indirect actions of States.”

CONCEPT

In order to prevent any kind of terrorist offences, Arab League establishes this Convention which mainly focusing on how the measurement and cooperation should be made. However, this Convention puts an interesting point in Article 2 (a) stating that all cases of struggle including armed struggle which against occupation and/or aggression for liberalisation and self-determination will not be considered as terrorist offence, but this Convention puts a limitation to something that can be considered as political offence which stated in Article 2 (b) and (c). The members of Organization of Islamic Cooperation is also member of The Arab League so that this convention has similarities with the combating terrorism convention adopted by Arab League.

ENTRY INTO FORCE

This Convention entered into force in 2002, pursuant to Article 40, it states that the Convention shall enter into force 30 days after the deposit of seventh instrument of ratification or accession.

MAIN FEATURES

This Convention consists of 42 articles which are grouped into 4 parts. The first part of the convention is about Definition and General Provision. This part has 2 articles, Article 1 and 2. Article 1 contains definitions for the purpose of the Convention and also other conventions considered as offences in terrorist crimes. This convention also categorizes the exceptional political actions which such actions could be considered as offences. This convention will not apply if there is a struggle situation against foreign occupation, aggression, colonialism, and hegemony which aims at liberalisation and self-determination.

The second part of this convention is about Foundations of Islamic Cooperation for Combating Terrorism. Article 3 until Article 21 are in this part. The second part of the Convention focuses on measures to Prevent and Combat Terrorist Crimes which such measures are mentioned in Article 3. This part also provides the Areas of Islamic Cooperation for Preventing and Combating Terrorist Crimes by exchange of information, investigation, exchange of expertise and educational and information fields. This part also explains about the extraditing conditions, rogatory commission, judicial cooperation, seized assets and proceeds of the crime and exchange of evidence.

Third part of this convention provides the extradition procedures between contracting states that shall be made through diplomatic channels or through the Ministry of Justice or their substitute and the documents needed for the extradition. Other things that are explained in this part are the measures for rogatory commissions and protecting witnesses and experts. The fourth part of this Convention explains the ratification and the Entry into Force clause. But this convention is not open for reservation according to Article 41 but the parties still could possibly withdraw their participation by submitting to the Secretary General of the organization a written request. (AIS)

International Convention for The Suppression of Terrorist Bombings

BACKGROUND

International Convention For the Suppression of Terrorist Bombings (“The Convention”) was adopted on 12 January 1998 in New York, United States of America. The Convention is a comprehensive treaty mainly focused on the enhancement international cooperation among States in devising and adopting effective and practical measures for the prevention of the acts of terrorism, and for the prosecution and punishment of their perpetrators (Preamble of the Convention).

The Convention applies to all form of actions regarding explosives or lethal devices by the perpetrators. This Convention, however, only applies to perpetrators not in the nationality of the same state where the act is committed. The main focus of The Convention is to set rules and obligations in form of Cooperation to member States in detaining and transferring the Perpetrators committing such act not in the nationality of where the act is committed.

CONCEPT

The Convention is applicable, according to Article 3, where:

1. The offence is committed within a single State;
2. The alleged offender and the victims are nationals of that State;
3. The alleged offender is found in the territory of that State and no other State; and
4. No other State has a basis under Article 6, Paragraph 1, or Provisions to Articles 10 to 15.

ENTRY INTO FORCE

The Convention entered into force on 23 May 2001 which requires 22 (twenty second) instruments of ratification, acceptance, approval, or accession after the thirtieth day of its submission (Article 22 Paragraph 1).

MAIN FEATURES

This Convention consist of Preamble and 24 Articles.

The scope of the Convention is limited to unlawful acts to cause terror and damage using lethal explosives and not restricted to the person who delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility. The Convention is not applicable in:

- a. The offence is committed within a single State;
- b. The alleged offender and the Victims are nationals of that State;
- c. The alleged offender is found in the territory of that State and no other State has a basis under Article 6 of the Convention in regards to the requirements of States rights and obligations to take measures necessary against the perpetrators.

The Convention also provides cooperative mechanisms among parties in regards to the transfer of the perpetrator such as extradition (Article 9(1)) and mutual legal assistance (Article 10(2)). In conclusion, Parties are required to establish jurisdiction over and make punishable, under their domestic laws, the offences described, to extradite or submit for prosecution persons alleged of committing or aiding in the commission of the offences, and to assist each other in connection with criminal proceedings under the Convention. The offences referred to in the Convention are deemed to be extraditable offences between Parties under existing extradition treaties and under the Convention itself. (AD)

International Convention for The Suppression of The Financing of Terrorism

BACKGROUND

The International Convention for The Suppression of the Financing of Terrorism (“The Convention”) was adopted on December 9th 1999 in New York, United States of America. The Convention is a comprehensive treaty mainly focused on the enhancement of international cooperation among States in devising and adopting effective measures for the prevention of the financing terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators (Preamble of the Convention).

CONCEPT

The scope of The Convention, as set forth in Article 2, is:

“This Convention is applicable to any person commits an offence by any means, directly or indirectly, unlawfully, and willfully, provides or collects funds with the intention that they should be used, in full or in part, in order to carry out acts of terrorism”

This Convention is supported with 9(nine) annexes to combat the act of financing of terrorism, such as:

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970;
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971;
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980;

6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988;
7. Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988;
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

ENTRY INTO FORCE

The Convention entered into force on 10 April 2002 which requires the submission of 22 (twenty-second) instruments of ratification, acceptance, approval or accession with the Secretary-General of the United Nations and the thirtieth day of such submission (Article 26(1)).

MAIN FEATURES

The Convention consists of Preamble and 28 Articles.

According to Article 8 the Convention, each State Party has the obligation for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in Article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture. The Convention provides cooperation mechanisms to prevent such offences stated in Article 2 by providing a specific obligation to afford assistance in connection with criminal investigations or criminal or extradition proceedings, including assistance in obtaining evidence in their possession necessary for the proceedings (Article 12(1)).

The Convention doesn't allow State Parties to refuse a request for mutual legal assistance on the ground of bank secrecy (Article 12(2)).

After the assistance given to another State Party, the requesting Party has an obligation for not transmitting or using information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party (Article 12(3)). It is also possible to provide a mutual legal assistance concerning a fiscal offence (Article 13). (AD)

International Convention for The Suppression of Acts of Nuclear Terrorism

BACKGROUND

The International Convention for The Suppression of acts of Nuclear Terrorism (“The Convention”) was adopted on April 13th 2005 in New York, United States of America. The Convention is a comprehensive treaty mainly focused on the enhancement of international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators.

CONCEPT

The scope of the Convention is not broader than the two other international conventions in regards to suppress terrorist bombings and financing to acts of terrorism. The Convention applies to acts committed by individuals. Within the meaning of the Convention, any person commits an offence if that person possess radioactive material or makes or possess a device with the intent to cause death or serious body injury or to cause substantial damage to property or to the environment. It is also within the scope of offence regulated in the Convention, acts constitute the use of threat of use of radioactive material or a device. Any person also commits a crime if that person attempts to commit an offence or participates as an accomplice in the commission of the above acts (Article 2). It is also explicitly stated that the Convention is not applicable in the activities of armed conflict (Article 4).

ENTRY INTO FORCE

The Convention entered into force on 7 July 2007 with requirements of 22 (twenty-second) instruments of ratification, acceptance, approval or accession after the thirtieth day of its submission (Article 25 (1)).

MAIN FEATURES

The Convention consists of Preamble and 28 Articles.

There are two mechanisms of cooperation provided by the Convention, such as (Article 7(1)):

- a. Exchanging accurate and verified information in accordance with their national law and in the manner and subject to the conditions specified herein;
- b. Coordinating administrative and other measures taken as appropriate to detect, prevent, suppress and investigate the offences.

The Convention allows an international organization to take part in such measure. It is stipulated that International Atomic Energy Agency (IAEA) shall give relevant recommendations and functions to ensure the protection of radioactive material (Article 8). The Convention also stipulates that each Party taking control of radioactive material, devices or nuclear facilities should adopt measures to render harmless such items and ensure that any nuclear material is held in accordance with IAEA safeguards. This article also regulates the return of the seized nuclear or devices to the Parties concerned (Article 18).

The cooperation among State Parties could be in form of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 2 (Article 14) (AD)

Organization of African Union Convention on the Prevention and Combating of Terrorism

BACKGROUND

Organization of African Unity Convention on the Prevention and Combating of Terrorism (“Convention”) was adopted in Algiers, Algeria, on 14 July 1999.

The Convention is one form to raise awareness about all forms of terrorism and its related links of organized crimes, including illicit traffic of arms, drugs and money laundering.

One of the main focuses in the convention is its concern of the lives of the innocent women and children which are the most adversely affected by terrorism.

This Convention particularly enacted to strengthen regional cooperation to prevent and to combat terrorist acts.

CONCEPT

In the Convention, Terrorist act is defined as:

1. Any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause person or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
 - a. Intimidate, put in fear, force, coerce or induce any government, body, institution the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandonment encouragement, attempt on a particular standpoint or to act according to certain principles; or
 - b. Disrupt any public service, the delivery of any essential service to the public to create a public emergency or
 - c. Create general insurrection in a State.
2. Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing,

or procurement of any person, with the intent to commit any act referred to the terrorist act as defined in the previous point.

ENTRY INTO FORCE

The Convention entered into force on 6 December 2002 and was registered with United Nations on 23 July 2003. By February 2013, there are only 13 states out of 54 Member States of African Union that have not ratified the convention.

MAIN FEATURES

This Convention consists of Preamble and 23 articles in which are divided into 5 parts.

1. State Parties shall implement their national legislation in conformity with the ratified international instrument. It is all by means to make the act of terrorism punishable by appropriate penalties.
2. State Parties shall cooperate among themselves in the following areas particularly.
 - a. Exchanging of information regarding acts and crimes committed by terrorist group as well as the arrest of any person charged with terrorist acts.
 - b. Exchanging of information regarding the seizure, confiscation of the instrumentalities intended for the purpose to commit a terrorist act.
 - c. Exchanging studies and researches on how to combat terrorist acts and to exchange expertise relating to the control of terrorist acts.
 - d. Providing technical assistance, such as joint training courses, in order to improve scientific, technical, and operational capacities to prevent and combat the act of terrorist.
3. The State Parties jurisdiction established over terrorist acts are based on the principles of territorial, active nationality and passive nationality as well.
4. Each State Parties shall undertake to extradite any person charged with terrorist acts whenever it is requested by other State Parties.
5. An extra-territorial investigation (commission rogatoire) is

conducted upon the request of a state party to the other state party relating to any judicial proceeding matters in the latter's territory, in particular:

- a. The examination of witnesses and transcripts of statements made as evidence;
- b. The opening of judicial information;
- c. The initiation of investigation processes;
- d. The collection of documents and recordings or their authenticated copies;
- e. Conducting inspections and tracing of assets for evidentiary purpose
- f. Executing searches and seizures; and
- g. Service of judicial documents.

A commission rogatoire may be refused whereas the same terrorist acts are also executed in the same or other States Parties, or the request is likely to affect sovereignty, security policy, and public order of the requested state.

6. Bilateral or multilateral agreements are properly feasible among the State Parties in mutual legal assistance procedure aiming the objectives of the convention. (DH)

Protocol to the OAU Convention on the Prevention and Combating of Terrorism

BACKGROUND

Protocol to the OAU Convention on the Prevention and Combating of Terrorism (“Protocol”) was adopted in Addis Ababa, Ethiopia, on 2 July 2004. Pursuant to article 21 OAU Convention on the Prevention and Combating Terrorism (adopted in July 1999), a protocol shall be made if it was considered necessary. Thus, the making of the Protocol aimed to supplement the Convention.

CONCEPT

The main purpose of this Protocol, as stated in article 2, is to enhance the effective implementation of the Convention and to give effect about the need to coordinate and harmonise continent efforts in the prevention and combating terrorism, as well as the implementation of other relevant international instrument. The Protocol emphasized on the commitment among the parties to take such measures In order to fully ensure their active participation, cooperation, and coordination in its determined efforts to combat and eradicate terrorism.

ENTRY INTO FORCE

The Protocol entered into force on 26 February 2014, which was the 30th day after the deposit of the fifteenth instrument of ratification. The fifteenth state to ratify the Protocol was Sahrawi Arab Democratic Republic. It deposited its instrument of ratification on 27 January 2014.

MAIN FEATURES

The Protocol consists of 12 articles. Some important measures required to be undertaken by states relating to their aims stated in the objection of the Protocol, among others:

1. Prevent the entry into, and the training of terrorist groups in their territories;
2. Identify, detect, confiscate and freeze or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families;
3. Establish national contact points in order to facilitate the timely exchange and sharing of information on terrorist groups and activities at the regional, continental and international levels, including the cooperation of States for suppressing the financing of terrorism

The Protocol also required establishment of a coordinating body, namely Peace and Security Council of the African Union (PSC). State Parties are obliged to submit reports to PSC on an annual basis regarding their implementation of the Protocol. In pursuing its endeavor to harmonise and to coordinate continental efforts in the prevention and combating terrorism, the PSC shall:

1. Establish mechanism to facilitate the exchange of information among State Parties regarding terrorism activities;
2. Present an annual report to the Assembly of the Union on the situation of terrorism in the continent;
3. Examine all reports submitted by the State Parties on the implementation of the provisions of this Protocol;
4. Establish an information network with national, regional, and international focal points on terrorism

Besides PSC, there is Regional Mechanism in each national level of the State Parties. Together with PSC, the regional mechanism also plays a complementary role, especially in monitoring the implementation of the Protocol at the regional level. It establishes contact points on terrorism and liaises with the Commission of PSC in developing measures for the prevention and combating terrorism.

The mechanism for settlement of disputes is also established in the Protocol. In case of dispute or differences between State Parties arising from interpretation or application of the Protocol, the disputing parties can resolve amicably through direct consultation or refer it to the Court of Justice of the African Union. (DH)

Inter-American Convention against Terrorism

BACKGROUND

Inter-American Convention against Terrorism (“Convention”) was adopted at Bridgetown, Barbados, on 3 June 2002. It was established as the follow-up step in response to the resolution RC.23/RES. 1/01 rev. 1 corr. 1 titled “Strengthening Hemispheric Cooperation to Prevent, Combat and Eliminate Terrorism”, which was adopted at the 23rd Meeting of Consultation of Ministers of Foreign Affairs.

CONCEPT

The purposes of this Convention are to prevent, punish and eliminate terrorism. The definition of offences regarded as terrorist act is not specifically defined in the Convention, but it refers to the existing definition established by other international instrument listed below:

1. Convention for the Suppression of Unlawful Seizure of Aircraft (Hague, 16 December 1971)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971)
3. Convention on the Prevention and Punishment of Crimes against internationally Protected Persons, including Diplomatic Agents (UN General Assembly, 14 December 1973)
4. International Convention against the Taking of Hostages, (UN General Assembly, 17 December 1979)
5. Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980)
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 24 February 1988)
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988)
8. Protocol for the Suppression of Unlawful Acts against the Safety of

Fixed Platforms located on the Continental Shelf (Rome, 10 March 1988)

9. International Convention for the Suppression of Terrorist Bombing (UN General Assembly, 15 December 1997)
10. International Convention for the Suppression of Financing Terrorism (UN General Assembly, 9 December 1999)

In case that the State party to this Convention is not a party to one or more of international instrument listed above, that international instrument shall be deemed to have no effect to such state party in application of this Convention.

ENTRY INTO FORCE

The Convention entered into force on 10 July 2003. Article 22 of the Convention stipulated that its Entry into Force commenced on the 30th day following the date of deposit of the sixth instrument of ratification of the Convention. Nicaragua was the sixth state to deposit its instrument of ratification of the Convention.

MAIN FEATURES

The convention consists of Preamble and 23 articles. Mostly, the Convention regulates about the domestic measures each state parties shall take in order to aim Convention's objectives and purposes. The Convention set broadly about the common area that terrorism acts is usually related. Those areas are specified below.

1. Financing of terrorism
2. Seizure and confiscation of funds or other assets
3. Money laundering

Each Party are also mandated to establish a mutual legal assistance, cooperation in extradition, cooperation among law enforcement authorities, cooperation on border controls, training, consultations among the parties, and also cooperation through Organization of American States.

There are also some exceptions in which the perpetrator cannot be granted for some particular reasons, namely political offence exception,

denial of refugee status, and denial of asylum. None of those exceptions could make a perpetrator or the alleged terrorism actor be free of any judicial process in a jurisdiction of a state party.

One important principle adopted in the Protocol is the principle of non-discrimination, regarding to the prosecution of a person on account of his race, religion, nationality, ethnic origin, or political opinion. The Convention also obliged the state parties to carry out any measures with full respect for the rule of law, human rights, and fundamental freedoms. (DH)

ASEAN Convention on Counter Terrorism

BACKGROUND

The ASEAN Convention on Counter Terrorism (“Convention”) were adopted on January 13th 2007 in Cebu, Philippines by all ASEAN leaders as a commitment in countering terrorism from the grassroots. As mentioned on its preamble, this Convention intends to improve regional cooperation on counter terrorism and undertake effective measures through deepening cooperatio among ASEAN law enforcement agencies and relevant authorities in countering terrorism and provide frameworks for all parties to this Convention on coordinating and measuring terrorism activities and responding to such activity. This Convention enhances the region’s strategic role in the global strategy on counter-terrorism.

CONCEPT

The Objective of this convention, as stipulated in its Article 1 to provide for the framework for regional cooperation to counter, prevent, and suppress terrorism in all its forms and manifestations and to deepen cooperation among law enforcement agencies and relevant authorities of the Parties in countering terrorism. The convention’s main scope is to combat all kind of offenses as mentioned in several conventions listed in its Article 3.

ENTRY INTO FORCE

Pursuant to Article 21 paragraph 1 of this convention, the Convention shall enter into force on the 30th day following the date of thte deposit of sixth raification instrument. This Convention entered into force on May 27th 2011 after Brunai Darussalam became the sixth party to ratified this Convention. Now, all members of ASEAN have ratified this Convention as Malaysia becomes the 10th member to submit its ratification instrument back on 11 January 2013.

MAIN FEATURES

This Convention contains 23 Articles which describes the code of conduct on countering terrorism in ASEAN region. General overview of this Convention, Article III and IV highlights the recognized general norms in International which are Sovereign Equality, Territorial Integrity and Non-Interference. Article 2 of this convention mentions the scope of “offence” in several listed conventions that are deemed as terrorism activity in this convention and under Article 6 the areas of cooperation that need a specific and appropriate measures that is accordance with domestic law is explained. This convention will not applied when the terrorism activity occurs only involving a single party where no other party could not exercise its jurisdiction, pursuant to article 5. Other party could exercise the jurisdiction if only they fulfil the conditions set forth in Article 7 of this Convention.

The following articles will mainly focused on the alleged offender and the party’s obligation to treat such offender. Article 8 of this convention intends to guarantee the rights of the alleged offenders when they are taken into custody, and Article 10 stipulates the refugee status that granted to person(s) which obliged the granting state to take a right measurement according to applicable international laws, human rights laws, and domestic laws before granting the refugee status, so the asylum seekers will not participated in any kinds of terrorism activities. Article 12 stipulates that any offender shall enjoy a mutual legal assistance during the prosecution proceeding. This Conventions also describes the Extradition condition on its Article 13 and also states that this convention can be regarded as extradition treaty if there’s no extradition treaty before between the states.

DISPUTE SETTLEMENT

Pursuant to Article 19 regarding the dispute settlement mechanism, the disputed parties shall settle the dispute by consultation and negotiation through Diplomatic Channel or through any other peaceful way agreed between disputed parties. (AIS)