
Regionalism and Cross-Border Cooperation against Crime and Terrorism in the Asia-Pacific

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This article examines cooperation against transnational crime and terrorism in two regional associations—The Association of South East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). It argues that, because of the presence of paired antagonists in such associations, the existence of regional associations does not itself guarantee sound cooperation. Criminals and terrorists, on the other hand, recognise neither antagonisms between countries nor borders in deciding with whom to cooperate. Securitisation of non-conventional security threats further complicates the picture. In cases of paired antagonists and tentative regionalism such as in SAARC and ASEAN, it would be better for initial cooperation to occur in a non-securitised framework. Nevertheless, regionalism does have a place in building confidence and providing a post hoc forum for cooperation once political difficulties have eased.

Paradoxically, regionalism implies both an increased and lessened flow of crime within the region in question. Crime is in some respects lessened as tariff barriers are broken down and the profits of smuggling are consequently reduced.¹ But regionalism also amplifies the potential flow of crime because it usually entails an opening up of the regional countries to trade, travel and cultural exchange. This permits criminals, terrorists, illicit firearms and other illicit products, along with illegal migrants and victims of trafficking, to move more freely throughout the region.²

Implicit in the regional contract is not only an undertaking to break down barriers to trade and transit, but also develop cooperative means to address the results of that process in terms of increased criminality. Such agreements usually relate to sharing of information and intelligence, joint investigations and the tightening of the barrier around the regional collective. Thus the Schengen Agreements (1985, 1990) in the European Union (EU)

¹ See the section on South Asia and the South Asian Association for Regional Cooperation (SAARC), below, for our description of this effect in South Asia. It can also be argued that the existence of a customs union only moves the barrier out to the outer perimeter and that illicit transactions can still take place across that barrier.

² For a recent account of the relationship between freer trade and crime see Christine Nam, 'Criminal Exploitation of Free Trade Areas', Centre of Excellence in Policing and Security, RegNet, Australian National University, Working Paper, January 2009, <http://www.ceps.anu.edu/publications/pdfs/WorkingPaper-Nam-Criminal_Exploitation_of_FTA.pdf> [Accessed 24 February 2009].

ultimately necessitated the creation of the 'Frontex' border control agency and EUROPOL.³

The problems arising from regionalism in relation to increased criminality are further exacerbated by the fact that 'crime regions'—that is, regions of intense cross-border criminality—often closely reflect the geography of the regions themselves.⁴ This is because the very lines of trade, proximity and familiarity that give rise to the idea of the region in the first place also enhance the possibilities of cross-regional criminal cooperation.

The globalisation of crime is, however, increasingly challenging the apparent primacy of regional cross border crime. In particular, illicit commodities originating outside a region, such as cocaine and heroin, need to cross the regional barrier. Cybercrime—a truly global phenomenon—has also progressively broken down regional barriers. And finally, people smuggling and trafficking, by their very nature, often involve the illicit transfer of people from a poor to a wealthy region, such as from Africa to Europe.

This combination of regional with global crime leads to a symbiotic relationship between the two. On the one hand, growing globalisation enables illicit products and people to be brought to specific regions and to cross the regional barrier. On the other, regional crime, often enabled by the breaking down of regional barriers, enables these products and people better to move around illicitly within the region once they have entered the regional barrier. Further, the regional defence against global crime is only as strong as the weakest link in the external chain.

This symbiotic relationship between global and regional crime in some respects complicates the processes of regional cooperation against crime. Failing adequate regional responses, a multiplicity of agencies become involved in the cooperative process. On the other hand, sound regional responses can simplify and render more effective the international response, in that a unified regional response can limit the number of entities involved and give leverage to the collective of countries that is the recipient of global crime problems.

Not all emerging regions, however, have been able to address the escalation in cross-border crime associated with more lax internal barriers through anti-crime measures adopted under the rubric of regionalism. Nor have they

³ Frontex was established in 2005 for the "coordination of intelligence driven operational cooperation at the EU level to strengthen security at external borders" (Frontex Mission Statement). It has a coopted staff of 164 and liaises with all relevant EU and national bodies. Europol is the EU's police service for major international crime. It was founded as an illicit drugs agency in 1994 and entered a broader mandate covering drugs, illegal migration, terrorism, forgery, trafficking in human beings, illicit vehicle trafficking and money laundering in 1999. It is based in The Hague.

⁴ We use the term 'crime region' to mean a collection of countries within which cross-border crime tends to flow with greater intensity than it does with countries outside that region.

been able to stave off the vulnerability that comes with globalisation of crime. European regionalism—as exemplified by the EU—has done better in this regard than Asian regionalism—represented in this paper by the regions covered by the Association of South East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC).

In this paper, we examine in greater detail some of the impediments to cooperation against international crime and terrorism within emerging regional associations, as distinct from more mature associations such as the EU. We consider the role of politics, and in particular the spoiling role of paired antagonistic states, within regional associations in erecting barriers against much-needed regional cooperation against crime and terrorism. We examine issues surrounding ‘securitisation’ of crime and terrorism and how securitisation can result in negative outcomes in terms of exacerbating existing political problems. And we consider some ways in which these political and securitisation problems might be mitigated in emerging regional associations.

Problems with Regionalism as a Mode of Cooperation against Crime and Terrorism

As McFarlane points out, there are both problems with international cooperation against transnational crime and terrorism as well as successes.⁵ The problems he enumerates are less in evidence in a mature regional association such as the EU than they are in less mature cases. According to Frost, “modern European integration sprang from the bones and ashes of centuries of war between France and Germany”.⁶ Cooperation only commenced once the war-weary protagonists concluded that it was the only viable way forward. And even then, a community of like-minded opinion leaders had to be in existence for many years. Europe appears eventually to have reached a ‘tipping point’ in which regional cooperation emerged as a more valued way forward in dealing with problems (including cross-border crime and terrorism) than competition.

That is not to say, of course, that competition has disappeared, or that problems in cooperation are no longer in evidence. We have only to observe the EU’s difficulties in dealing with the current global financial crisis to know that they are. But the essential difference between the situation now and that in the pre-cooperative era is that it is possible for competition and cooperation (or as Tow puts it ‘realism’ and ‘liberalism’) to coexist within the

⁵ John McFarlane, ‘Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States’, *Journal of Financial Crime*, vol. 12, no. 4 (August 2005), pp. 301-9.

⁶ Ellen L. Frost, *Asia’s New Regionalism* (Boulder, Colorado: Lynne Rienner Press, 2008), p. 13.

same framework and for competition to be constrained and contained by cooperation.⁷

In the two Asian regional associations that form the subject of this paper, however, the situation is very different. Antagonisms in this part of the world are still raw and both associations still lack confidence in their cooperative mechanisms. While cooperation in ASEAN is far advanced of SAARC, both, we suggest, are well short of any 'tipping point'.

More to the point, there is no reason to suppose that neighbouring members of a regional association should be intrinsically more able to cooperate than more distant countries. Indeed, according to the Kautilyan dictum, neighbours are often enemies and such enemies often seek to balance their enemies with powerful friends in more distant places.⁸ This dictum has certainly proven true enough in two of the areas we cover—South and South East Asia.

For example, within the ranks of the ten ASEAN countries, Thailand and Myanmar are traditional competitors. They have engaged in conflict and competition for hundreds of years.⁹ At the time ASEAN was formed, tension lingered between Malaysia and Indonesia as a result of the policy of *Confrontasi* exercised by Indonesia under Sukarno. Singapore had recently broken away from Malaysia because of the city-state's Chinese majority and the two remained uneasy partners. And Malaysia and the Philippines had also been in competition over north Borneo. Indeed, given the diversity and tensions that existed at the time ASEAN was established in 1967, the fact that the association exists at all is something of a miracle.

In view of the initial difficulties in establishing ASEAN, it is not surprising that the model chosen for cooperation was a 'consensus' one in which the agreement of all was needed to make any decision. Such a model was also deemed to be consonant with the so-called 'Asian-way'. According to this model, non-interference and mutual respect would allow the flow of cooperation amongst hitherto difficult neighbours gradually to increase, including through informal mechanisms capable of dealing with difficult

⁷ Tow explained this in terms of the co-existence of both 'realism' and 'liberalism'. See William Tow (ed.), *Asia-Pacific Strategic Relations: Seeking Convergent Security* (Cambridge: Cambridge University press, 2001), pp. 1-11.

⁸ While Kautilya did not state the dictum in quite such bald terms, this is what it implies. See Arthashastra, Chapter II, 'Peace and Exertion', Book VI, 'The Source of Sovereign States', in <http://www.bharatadesam.com/literature/Kautilya_arthashastra/artashastra_6.php> [Accessed 28 January 2009].

⁹ Desmond Ball, 'Security Developments in the Thailand-Burma Borderlands', Australia-Mekong Resource Centre, University of Sydney, Working paper No. 9, 2003, <http://www.mekong.es.usyd.edu.au/publications/working_papers/wp9.pdf> [Accessed 17 March 2009], p. 5. Ball also quotes Prince Damrong Rajanubhab, *Our Wars with the Burmese: Thai-Burmese Conflict 1537-1767* (Bangkok: White Lotus Press, 2001) for a history of Thai-Burmese conflict.

issues in non-threatening ways.¹⁰ Wesley also notes how the 'Asian way' arose out of the colonial past and represented to an extent an expression of pride and a warning to western nations "to keep their advice about economic planning, human rights and democracy to themselves".¹¹ Some argue that the 'Asia way', with its reliance on family and respect for sovereignty rather than supra-legal structures, will lead to a quite different form of regionalism to Europe—one in which the idea of region supersedes any action that should be deemed to flow from such a concept.¹²

For these reasons, among others, the cooperative mechanisms in ASEAN are still relatively weak. This is especially true in sensitive areas like crime and terrorism. For example, an original resolution to set up a shared criminal intelligence database in 1992 was not implemented until the Electronic ASEAN Data System (e-ADS) came into existence in 2007. And even in the case of e-ADS, Burma and the Lao People's Democratic Republic (Lao PDR) have not yet been included.¹³

In South Asia, the reality is even more stark. India and Pakistan have had a long-standing rivalry since the partition imposed on India by the British in 1947. This rivalry has been far more damaging to SAARC than the rivalries within ASEAN. SAARC was established in 1985 and is generally agreed to have been very limited in its performance in solving regional issues. According to Rajan,

Many reasons exist for the uneven progress of SAARC: most have to do with intra-regional political tensions, and most involve India. [Factors include] the chronic tension, occasional conflict, and perennial absence of trust between India and Pakistan; the periodic hiccups in relations between India and her other neighbours—Sri Lanka, Nepal and Bangladesh; and so on.¹⁴

So the Kautilyan dictum of antipathy amongst neighbours seems to apply readily to the SAARC region and to a lesser extent to ASEAN. But as we shall see, such cross-border political tensions do not seem to be reflected in reduced cross-border criminal and terrorist activity. Crime, like business, is essentially neutral in international politics: it will go where demand takes it and enforcement allows it.

¹⁰ A number of writers have described this process, including Michael Haas in *The Asian Way to Peace: A Story of Regional Cooperation* (New York: Praeger, 1989).

¹¹ Michael Wesley, *The Howard Paradox: Australian Diplomacy in Asia 1996-2006* (Sydney: ABC Books, 2007), p 148.

¹² Frost, *Asia's New Regionalism*, p 15.

¹³ E-ADS will eventually be linked with Interpol's I-24/7 system, but only in respect of nominal information, data on lost or stolen travel documents and data on stolen vehicles.

¹⁴ See for example K. V. Rajan, 'Renewing SAARC', Regional Conference on 'New Life within SAARC', Institute of Foreign Affairs (Nepal), 2005, <<http://www.ifa.org.np/document/saarcpapers/rajan.pdf>> [Accessed 4 February 2009], p. 1. This is one example of many negative views of the capacities of SAARC.

The kind of attenuated cooperative regimes witnessed in SAARC, and to a lesser extent ASEAN, provide little, if any, restraint on criminal and terrorist activity. Unfortunately, they exist both bilaterally between antagonists and also in terms of multilateral arrangements within the region. They are extended into the multilateral sphere because the pace of cooperation is usually kept to the lowest common denominator, which is in turn the regime dictated by the antagonists.

Crime, encouraged by lack of effective law enforcement cooperation, further exacerbates existing frictions between neighbours because of its capacity to do harm across borders and to attract blame thereby from victim countries, thus perpetuating the vicious circle. Terrorism in such antagonistic circumstances is even more problematic than crime. Cross-border terrorism is often actively supported as a 'cat's paw' to weaken the disliked neighbour, or at best treated with indifference by turning the proverbial 'blind eye'.

'SECURITISATION' FURTHER COMPLICATES THE PICTURE

Although securitisation has been very useful as a means of fighting cross-border crime and terrorism at the level of the nation state, it can also complicate the process of international cooperation against these phenomena.¹⁵

'Securitisation' is said to occur when issues like cross-border crime, terrorism and environmental problems become manifest at such a level that they threaten the integrity and security of the state, or at least are perceived to do so.¹⁶ A key implication of securitisation is that all agencies of the state—not just civilian agencies such as police, health authorities and environmental agencies—need to be brought to bear to address non-conventional threats, since such threats are deemed to threaten the state existentially. This 'whole of government' approach also naturally involves the conventional security agencies, including the military.

According to Emmers, securitisation of crime in ASEAN has been a 'rhetorical device' rather than an actuality. That is, such crime has been

¹⁵ As well as the problem of international cooperation, there are other problems associated with securitisation. See for example, Christian Enemark, 'Is Pandemic Flu a Security Threat?', *Survival*, vol. 51, no. 1 (February 2009), pp. 191-214.

¹⁶ The relationship between security and so-called 'non-conventional' security threats has been vigorously debated over many years now. Key supporters of the proposition that there is a connection have included Louise Shelley, Phil Williams, Gwin Prins, Thomas Homer-Dickson and, in Australia, John McFarlane and Alan Dupont, along with many more. This view has been vigorously opposed by 'realist' scholars such as Colin Gray in the United Kingdom and Paul Dobb in Australia, along with many others.

identified as an existential threat, but ASEAN has not actually moved to treat it as such by adopting a “military-security response”.¹⁷

While that may be so at the level of ASEAN itself, it is certainly not the case at the level of individual countries. In many instances, the state security apparatus has been fully coopted to assist police to deal with crime and terrorism. Often, indeed, the security apparatus already operates in the domain of crime and terrorism suppression by virtue of its pervasive influence through society itself.

This latter point is certainly true of Burma. Until it was dismantled in 2004, the Directorate of Defence Service Intelligence (DDSI) not only had a central role in military intelligence and state security, but also in managing the state’s relations with the various drug lords (and some say actively participating in the drug trade).¹⁸ Pakistan’s infamous Directorate of Inter-Services Intelligence (ISI) is also widely involved in internal security as well as providing military intelligence support. In Thailand, the military is actively involved in the attempt to interdict drugs along the border with Burma, in terrorism suppression in the southern provinces and in turning away illegal immigrants and refugees. In Indonesia, the police and military were only separated as recently as 2000 and are still under a joint command in West Papua. The elite military response and intelligence group, KOPASSUS, is actively involved in counter-terrorism. In China, the all-powerful Ministry of Public Security (MPS) covers all aspects of non-military security, including internal security against political unrest and terrorism, separatism and insurgency, counter-espionage and more traditional aspects of criminal policing.

Even in regional countries that subscribe to a supposed ‘separation of powers’, such as Australia, the involvement of security agencies in traditional policing has increased markedly in recent years. Military services such as the Navy and the Army (especially the special forces), and agencies like the Defence Signals Directorate (DSD) and Defence Imagery and Geospatial Organisation (DIGO) have been closely involved in countering international drug and people smuggling and terrorism and working closely with police to do so. In the case of Australia, however, such involvement is enshrined in sets of legislation and encrusted in rules designed to prevent misuse either of the police or security services against Australian citizens.¹⁹

¹⁷ Ralph Emmers, ‘The Securitization of Transnational Crime in ASEAN’, RSIS Working Paper No. 39, Nanyang Technical University, Singapore, November 2002,

<<http://www.rsis.edu.sg/publications/WorkingPapers/WP39>> [Accessed 22 February 2009], p. 1.

¹⁸ See Desmond Ball, ‘Burma and Drugs: The Regime’s Complicity in the Global Drug Trade’, Strategic and Defence Studies Centre Working Paper 336 (Canberra: SDSC, 1999).

¹⁹ For one of many examples, the Defence Signals Directorate (DSD) may not be used against an Australian resident or citizen except in relation to an apparent indictable offence and even

Ironically, as a corollary to securitisation, international cooperation against crime and terrorism tends to be severely compromised, thus effectively increasing the insecurity that the concept is intended to address. This problem occurs when there is no adequate separation between traditional community policing and military and security agencies. This lack of separation itself poses a dilemma, since it is deemed (and is likely to be) useful to eliminate the 'stove-piping' that traditionally characterised the security apparatus in many Western countries. 'Stove-piping' was considered to be a key factor in the intelligence failures that presaged the 9/11 attacks.²⁰

Although 'stove-piping' can be a negative, it also has a wider purpose and its absence can itself complicate the process of international cooperation. For example, any country cooperating with Burma prior to 2004, say on a drug matter, must have expected the information it conveyed as part of that cooperation—say police-to-police—to end up in the hands of the DDSI.²¹ This could involve information about a criminal being used for political ends, say to coerce a member of an alleged criminal's family to do something political in order to keep the family member from being punished as a criminal.

Or to take another example, information obtained through special means in one country involving a specific technique of military and security value beyond its criminal interdiction purpose could leak across the permeable borders between police and the security apparatus in the receiving country, to the security detriment of the providing country. This kind of concern arises in the case of China, where there is no separation between police and security agencies—as least as far as their political control is concerned.²² China also has a poor reputation in using such techniques for purposes of industrial and military espionage. Countries dealing with China on normal police matters therefore need to be conscious of possible leakage of intelligence methods into the state security apparatus.²³ The converse of

then not without the permission of the Minister. ASIO is to an extent quarantined from executive policing agencies such as the Australian Federal Police.

²⁰ US Government, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States* (New York: WW Norton and Company, no date), pp. 335-6, for a summary of the consequences of 'stove-piping' in the context of 9/11.

²¹ In 2004, following the fall of Khin Nyunt, the Directorate of Defence Services, Intelligence was broken up into a less-pervasive, more military-focused series of units located at the military headquarters levels (Professor Desmond Ball, pers. comm. 12 March 2009).

²² This lack of separation was recently well illustrated by the Stern Hu/Conzinc Riotinto case in China. In this case, the Chinese government has made it clear that Stern Hu's alleged crime, to bribe a commercial company, is also considered a state security matter.

²³ For the FBI's growing concern about China's industrial and military espionage program see 'US fears Chinese industrial spies', BBC News, June 2006, <<http://www.news.bbc.co.uk/go/pr/fr/-/2/hi/programmes/newsnight/510238.stm>> [Accessed 21 June 2006]. In one infamous case, Chinese-American double agent Katrina Leung allegedly obtained secrets from her FBI

this principle is true also: by giving police access to state security secrets, we increase the vulnerability of those secrets and reduce the normal protective mechanisms placed around them.

It need hardly be stated that such concerns about the securitisation of non-conventional threats are 'turbocharged' in a situations like that between Burma and Thailand, or India and Pakistan, which are 'traditional' enemies or antagonists.

Human rights issues also often come to the fore in cases of securitisation. This occurred between Australia and Indonesia, which were otherwise cooperating strongly against terrorism in the post-Bali bombings environment. However, when KOPASSUS was invited to be involved in counter-terrorism cooperation, Australia balked because KOPASSUS nominated personnel who had allegedly been involved in serious human rights abuses.²⁴ Similarly, Australia was for many years chary of cooperating with Burma against the flow of drugs from that country because of human rights concerns. Eventually, the benefits of such cooperation in terms of interdicting the then very large and damaging flow of heroin into Australia were deemed to outweigh the human rights considerations associated with cooperation. However, that decision, and a subsequent decision to provide intelligence training to the Burmese police through the Jakarta Centre for Law Enforcement Cooperation (JCLEC), raised questions amongst NGOs and in the parliament about possible leakage of intelligence methods from the police to the military.²⁵

In the case of counter-terrorism cooperation, such problems are manifold. By its very nature, terrorism is a political activity and therefore tends to feed into existing inter-state political difficulties. Moreover, it often also involves an intense crossover between criminal and political activity, which results in a further blurring of the lines in terms of the separation of powers. This, in turn, muddies the waters of cooperation and reduces transparency.

In short, what we have in some regional associations is the confluence of enhanced cross-border crime and terrorism as a result of greater regional exchange with the existence of paired sets of antagonists. The equation is then further complicated by the securitisation of transnational crime and

lover. See US Department of Justice, Office of the Inspector General, *A Review of the FBI's Handling and Oversight of FBI Asset Katrina Leung*, Unclassified Executive Summary (Washington: US Department of Justice, 2006), available at <<http://www.usdoj.gov/oig/special/s0605/final.pdf>> [Accessed 2 March 2009].

²⁴ ABC Radio, PM, 13 October 2003, <<http://www.abc.net.au/pm/content/2003/s966082.htm>> [Accessed 4 February 2009].

²⁵ See Craig Skehan, 'We trained Burmese officers, police admit', *Sydney Morning Herald*, 5 October 2007.

terrorism, which in turn feeds into the existing sets of antagonisms in a vicious feedback loop.

In order further to explore these phenomena and develop some insights into how they might be addressed, we will now turn to an examination of cross-border crime and terrorism between antagonists in two crime regions—South Asia and South East Asia.

Antagonism and Cooperation in Two ‘Crime Regions’

Although the ‘crime regions’ of ASEAN and SAARC do not always correspond exactly with the cooperative regions, such correspondence is broadly the case. For example, the SAARC region is characterised by smuggling networks that criss-cross the region and that originated from the extremely high sets of tariffs it had been subjected to, especially in the case of the popular precious metals, gold and silver.²⁶ The region also has a flourishing cross-border illegal arms trade supporting various criminal and insurgency activities.²⁷ *Hawala*, or the traditional money transfer business, is also in evidence for both licit and illicit purposes.²⁸ These criminal smuggling routes, methodologies and modes of contact have strong traditional roots, sometimes stretching back hundreds of years. This is especially true of *hawala*, an age-old form of exchange now adapted to a globalised criminal setting.

In the case of ASEAN, the crime region not only covers ASEAN itself, but also extends into North Asia and Australasia. It originally focused mainly on the production and movement of the illicit drugs heroin and methamphetamine, but in recent years has evolved to include maritime piracy, intellectual property piracy, identity fraud and other kinds of fraud and white collar crime, people smuggling and trafficking, money laundering and terrorism.²⁹

South and South East Asia are also increasingly connected through terrorism and crime. South Asian criminals are active in Bangkok in

²⁶ See the section on SAARC, below, for more detail.

²⁷ Sukanya Poddar, ‘The Politics of Gun Control and India’s Internal Security’, *Strategic Analysis*, vol. 31, no. 4 (1 July 2007), pp. 675-87.

²⁸ See US Department of State, ‘Money Laundering and Financial Crimes’, International Narcotics Control Strategy Report, Volume II, March 2009, <<http://www.state.gov/documents/roganisation/120055.pdf>> [Accessed 2 March 2009], pp. 260-72.

²⁹ ASEAN appears to periodically adjust the range of crimes it considers to be priorities. The ones listed here seem constantly to surface, however. For an account of some of the crimes of concern to ASEAN see ‘ASEAN Plan Of Action to Combat Transnational Crime’, ASEAN Secretariat site, <<http://www.aseansec.org/16133.htm>> [Accessed 3 March 2009]. For another ‘second track’ list of seven crimes of priority see John McFarlane, ‘International Cooperation Against Transnational Crime: Second Track Mechanisms’, paper delivered at a conference at the Australian Institute of Criminology, 9-10 March 2000, <<http://www.aic.gov.au/conferences/transnational/mcfarlane.pdf>> [Accessed 3 March 2009], p. 5.

providing false documents and also use the city as a safe-haven from both law enforcement and rivals.³⁰ Precursor chemicals move from India into Burma and from China to Afghanistan. South East Asian terrorists have frequently received training and indoctrination in Pakistan and Afghanistan.³¹ There is a flourishing illegal arms trade from South East Asia (mainly Cambodia and Thailand) into South Asia. Increasingly, the Mumbai, Karachi, Dubai 'triangle' has emerged as a major *hawala* based source of illegal money laundering for criminals in South East and East Asia and Australasia. And we have seen recently increasing numbers of refugees and illegal migrants departing South and South West Asia for destinations in South East Asia and Australasia.

In both regions, however, long-standing bilateral disputes and tensions have seriously undermined the overall progress of regional and inter-regional cooperation against these problems. Let us examine two of these disputes in greater detail to see what they have meant for regional cooperation against crime and terrorism.

INDIA, PAKISTAN AND SAARC

As discussed above, SAARC has progressed very little since its foundation and could even be described as a case of 'dysfunctional regionalism'. Although a number of measures are in place, they are often honoured more in the breach than implementation, particularly in the case of traditional competitors such as India and Pakistan.

SAARC nations have implemented a *SAARC Regional Convention on Suppression of Terrorism* and an *Additional Protocol to the SAARC Regional Convention on Terrorism*. These documents emphasise cooperation against organised crime and terrorism amongst relevant agencies, especially in information exchange, completion of all law harmonisations and the criminalisation of terrorism, as mandated by UN Resolution 1373 of 2001. SAARC also has a *Regional Convention on Narcotic Drugs and Psychotropic Substances* and has finalised a text of the *SAARC Convention on Mutual Legal Assistance in Criminal Matters*.³²

The actual state of cross-border cooperation against terrorism and crime within the SAARC region, however, is a far-cry from the declared policy. India and Pakistan have no extradition or MLAT arrangements and a SAARC

³⁰ Anthony Davis, 'Bangkok as Crime Central: Where International Gangs are Settling Scores', *Asiaweek.com*, 13 October 2000, <<http://www.asiaweek.com/asiaweek/magazine/2000/1013/nat.thailand.html>> [Accessed 26 August 2009]. Chotta Rajan and other members of the Dawood Ibrahim gang also fled to Bangkok when under pressure from Indian police and Ibrahim.

³¹ International Crisis Group, 'Jemaah Islamiyah in South East Asia: Damaged but Still Dangerous', *ICG Asia Report*, no. 63 (26 August 2003), p. 2.

³² Declaration of 15th SAARC Summit, Colombo 2008, <http://saarc-sic.org/_adm/editor/summits_15.php> [Accessed 4 February 2009].

policing arrangement ('SAARCPOL'), establishing the equivalent of EUROPOL or ASEANAPOL, has yet to be formally established. Although information exchange appears in the exhortatory policy, it does not occur to any significant degree. Again, Pakistan-India and to a lesser extent India-Bangladesh problems and suspicions lie behind these failures.

One of the manifestations of SAARC's overall failure has been the region's low intra-regional trade. Rajan notes that intra-SAARC trade is only 5 percent of the region's total trade (in other words the aggregate value of trade of all SAARC countries), compared with 62 percent for the EU and 55 percent for the North American Free Trade Association (NAFTA).³³ Despite the introduction of the first phase of the South Asian Free Trade Area (SAFTA) regime in 2007,³⁴ South Asia has significantly higher sets of tariffs than other comparable regions and very much higher non-tariff barriers.³⁵

As mentioned, one result of these very high sets of tariffs was to produce a region with some of the most entrenched smuggling networks of any on the globe, especially in relation to areas of high demand, such as gold, silver and foreign consumer goods. These networks were often funded through the *hawala* indigenous systems of money exchange. Such smuggling and *hawala* networks in turn proved invaluable for terrorism purposes.³⁶

While falling tariffs have diminished the role of smugglers, they have not yet been lowered to the extent that the incentive to smuggle has been entirely removed.³⁷ According to one estimate commissioned by the World Bank in 2004, 'informal' trade within South Asia is still between US\$0.5 billion and US\$3 billion *per annum*.³⁸ The same report found that this massive illegal trade consisted of smuggling via Afghanistan through the UN facilitated

³³ Rajan, 'Renewing SAARC', p. 1.

³⁴ For the relatively high tariffs up to 2002, see Shaheen Rafi Khan, Faisal Haq Shaheen, Moeed Yusuf and Aska Tanveer, 'Regional Integration, Trade and Conflict in South Asia', International Institute for Sustainable Development, January 2007, <http://www.iisd.org/pdf/2007/tas_rta_south_asia.pdf> [Accessed 28 January 2009], Figure 1, p. 28. The so-called developing countries of the SAFTA region (India, Pakistan and Sri Lanka) were required to reduce their tariffs to 20 percent or below by the end of 2007. They are required to introduce a zero tariff regime in 2012.

³⁵ *Ibid.*, table 4, p. 28.

³⁶ See the concerns of Indian officials expressed in Asia/Pacific Group on Money Laundering (APG), 'APG Mutual Evaluation Report on India, March 2005', <<http://www.apgml.org/documents/docs/8/India%20ME1%20-%20Final.pdf>> [Accessed 3 February 2009], pp. 14-5, para. 13; Rollie Lal, 'South Asian Organised Crime and Terrorist Networks', *Orbis*, vol. 49, no. 2 (Spring 2005), pp. 295-304.

³⁷ For a mathematical analysis of the relationship between the rate of tariff and non-tariff barriers and the incentive to smuggle see the Appendix 1 to an unknown Asian Development Bank report of 2004, 'Tariff Revenue and Smuggling', <<http://www.adb.org/Documents/Reports/MREO/2004/appendix.pdf>> [Accessed 28 January 2009].

³⁸ Shaheen Rafi Khan, 'Can Illegal Trade Between Pakistan and India be Eliminated?', Sustainable Development Policy Institute (Pakistan), *Research and News Bulletin*, vol. 12, no. 3 (May-June 2005), <http://www.sdpi.org/help/research_and_news_bulletin/may_june_05/can_illegal_trade%20.htm> [Accessed 28 January 2009].

Afghan Trade and Transit Agreement (ATTA) trade corridors and thence on to Pakistan, by means of direct shipment from India with false bills of lading (purchasable for as little as US\$50) or via more minor routes across the India-Pakistan border.³⁹ Another commentator puts the 'informal' trade between Afghanistan and Pakistan as high as US\$10 billion, which compares with an official trade of only US\$2 billion.⁴⁰ According to a reporter from *Dawn*, this volume of smuggled goods outweighs demand in Peshawar (the principal initial destination in Pakistan) and is presumably intended for elsewhere in South Asia.⁴¹ Another favoured smuggling route is via Nepal, which, as a land-locked country, has a virtual open border with India.

An arms smuggling route also extends out of South East Asia and thence via the Bangladeshi ports of Cox's Bazaar and Chittagong into South Asia proper. These arms are either used for insurgencies in northeast and central India or are sold onto the illicit arms market throughout South Asia.⁴² An alternate route, having left Thailand, goes through the Ten Degree Channel and thence to fuel the civil war in Sri Lanka.⁴³ Arms and explosives, including the military-type explosive RDX, are frequently smuggled across the India-Pakistan border for use of criminals and terrorists. There is also a flourishing trade throughout the region in illicit gelignite stolen from mines and factories.

Viciziany points out that some commentators believe that economic liberalisation forced the noted gangster, Dawood Ibrahim (of 'D Company'), to abandon smuggling, leave India and fall into the arms of the ISI, from whence he progressed to stage what is still the most destructive terrorist attack in India, the 1993 Mumbai serial bombings.⁴⁴ According to others, however, Ibrahim is still in the business of smuggling, including heroin

³⁹ Ibid.

⁴⁰ Ashfaq Yusufzai, 'Across Afghan border [sic], a smugglers' market', *Asia Times Online*, 7 August 2007, <http://www.atimes.com/atimes/South_Asia/IH07Df01.html> [Accessed 9 February 2009].

⁴¹ Quoted in Ibid.

⁴² In one infamous case, in which a very large quantity of arms were seized at the Bangladeshi port of Chittagong in 2004, it has now been established that the arms were destined for the United Liberation Front of Asom (ULFA), an Indian separatist group operating in Assam. See 'Chittagong arms were for ULFA' *The Hindu*, 8 March 2009, <<http://www.hindu.com/2009/03/08/stories/2009030855661200.htm>> [Accessed 8 March 2009].

⁴³ There have been many accounts of this phenomenon, including that of Cdr. Vijay Sakhuja quoting intelligence sources, 'Bangladesh: Of Terrorists, Gun Runners and Pirates', Institute of Peace and Conflict Studies, South Asia, Article 1028, 6 May 2003, <http://www.ipcs.org/articles_details.php?article No=1028> [Accessed 2 March 2009].

⁴⁴ See Marika Viciziany, 'Understanding the 1993 Mumbai Bombings: Madrassas and the Hierarchy of Terror', *South Asia*, vol. XXX, no. 1 (April 2007), pp. 45-6. However, one must remain sceptical about this thesis, since the real impact of liberalisation on gold was only felt at the very end of 1992. Prior to that, the premium on smuggled gold was recorded to be as high as US\$200 per ounce. See Tony Warwick-Ching, *The International Gold Trade* (Cambridge: Woodhead Publishing, 1993), p. 80.

smuggling.⁴⁵ A recent Rand Corporation publication also covers D Company and points out that the gang is now heavily into film piracy, including as a means of funding terrorism.⁴⁶

'D Company' provides an interesting example of the fact that criminals do not recognise political and religious differences. In a world increasingly bifurcated between Hindus and Muslims and shaped by the India-Pakistan competition, the gang remained syncretic. It contained Muslim, Christian, Hindu, Parsi, Pakistani and Indian members and facilitators, right up to the time of the 1993 bombings. These attacks, however, finally forced some of the non-Muslim members, such as 'Chhota' (or 'Little') Rajan, out of the gang.⁴⁷ But prior to that, profit knew no religious or national boundaries.

The broader point is that the long-standing antagonism between India and Pakistan, based partly on the religious divide, does not mean that criminals within both countries are unable to cooperate to make a profit. They certainly can, and do.

On the other hand, the antagonism between India and Pakistan has been notable in preventing concerted action against both terrorism and criminality, even in cases such as the massive cross-border smuggling between the two, where it would seemingly be to mutual advantage to cooperate. This failure has been manifest both in terms of the lack of bilateral arrangements such as MLATs and extradition treaties, and in terms of multilateral action through SAARC. Nowhere is this failure more obvious than in the field of counter-terrorism.

The problem is that Pakistan has little incentive to cooperate in this area with India. Pakistan uses the cross-border terrorism of groups like Lashkar-e-Taiba (L-e-T) and Jaish-e-Mohammed (J-e-M) as a cat's paw in its proxy war with India, especially over the Kashmir dispute. There is ample evidence that Pakistan has officially fostered, supplied and trained such groups.⁴⁸

As far as any involvement of the Pakistani state was concerned at the time these relationships with sub-state actors were forged, however, the intention was probably only to use such means in the disputed territory of Kashmir,

⁴⁵ See Clinton W. Taylor, 'Derailing D-Company', *The American Spectator*, 11 May 2005, <<http://www.spectator.org/archives/2005/05/11/derailing-d-company>> [Accessed 15 February 2009].

⁴⁶ Gregory Treverton et al., *Film Piracy, Organised Crime, and Terrorism* (Santa Monica: Rand Corporation, 2009), <http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf> [Accessed 7 March 2009].

⁴⁷ Chhota Rajan emerged as a major competitor and enemy of Ibrahim, eventually being severely wounded in a shoot-out with Ibrahim gang members in Bangkok in 2000.

⁴⁸ That has certainly been the view of the respected International Crisis Group. See 'India/Pakistan Relations and Kashmir: Steps Toward peace', ICG Report No. 79, 24 June 2004, <<http://www.crisisgroup.org/home/index.cfm?id=2825&CFID=66440389&CFTOKEN=90901545>> [Accessed 18 February 2009], p. 2.

not in those parts of India outside Kashmir. The fact that groups like L-e-T and J-e-M have increasingly become involved in terrorist attacks outside Kashmir has greatly complicated the picture.

The 2001 attack on the Indian parliament was not the first such attack outside Kashmir, but it was the most prominent and dangerous up till that time. Following the attack—attributed by India to L-e-T and J-e-M—India remained in a state of military mobilisation for almost a year and demanded that Pakistan extradite over twenty alleged terrorists and criminals, including Dawood Ibrahim. Pakistan refused and continues to refuse to this day.⁴⁹ In the context of the investigation and trial of the sole surviving alleged perpetrator of the 26-29 November 2008 attacks in Mumbai, Indian prosecutors passed another list of twenty-two to Pakistan, requesting extradition. Again, Pakistan refused.⁵⁰

This use of the cat's paw of terrorism *vis à vis* Kashmir was for a long period seemingly acceptable internationally on account of the disputed nature of Kashmir and Pakistan's role as a front line state in the so-called 'war on terrorism'. Pakistan was taken off the US State Department's list of states in support of terrorism after it became an ally in the US 'war on terrorism' in 2001, and has not subsequently been re-included.⁵¹

If wider international pressure was lacking in India's attempts to get redress, the mechanisms of SAARC were even less productive. According to Crispin, India tried extradition under the principle of *aut dedere aut judicare* (extradite or prosecute) using the *SAARC Convention on Suppression of Terrorism*, signed in 1987.⁵² But this approach did not work and in the 2007 SAARC meeting India angled to have included a proposal for a regional MLAT under the auspices of SAARC, to which Pakistan would automatically be forced to subscribe. Although the SAARC Convention on Mutual Legal Assistance has recently been agreed in a text form, Pakistan and a number of other countries are still to ratify the agreement.

⁴⁹ Masood Azhar, 'Dawood Ibrahim not in Pakistan: Malik', *The Times of India*, 19 February 2009, <<http://www.timesofindia.indiatimes.com/Masood-Azhar-Dawood-not-in-Pak-Malik/articleshow/4152437.cms>> [Accessed 19 February 2009].

⁵⁰ 'Mumbai warrants seek 22 suspects', BBC News, 23 June 2009, <http://news.bbc.co.uk/2/hi/south_asia/8115940.stm> [Accessed 1 July 2009]. For Pakistan's refusal see Basim Usmani, 'Pakistan's no-extradition Tradition', *Guardian.co.uk*, 2 June 2009, <<http://www.guardian.co.uk/commentisfree/2009/jun/02/extradition-terrorism-pakistan-india>> [Accessed 1 July 2009]; ABC News, 'India issues 22 arrest warrants over Mumbai attacks', 24 June 2009, <<http://www.abc.net.au/news/stories/2009/06/24/2607636.htm>> [Accessed 2 July 2009].

⁵¹ Although the US State Department no longer publishes such a list annually, the United States continues to apply legal sanctions to four states deemed to be in support of terrorism: Iran, Syria, Cuba and Sudan. North Korea has recently been removed from the list.

⁵² For a discussion of India's demands for extradition under international law see Martineau Crispin, 'India-Pakistan Extraditions after the Mumbai Attacks', *Jurist Forum*, University of Pittsburgh School of Law, 16 December 2008, <<http://www.jurist.law.pitt.edu/forumy/2008/12/india-pakistan-extradition-after.php>> [Accessed 4 February 2009].

In 2006, India and Pakistan established a bilateral panel at Additional Secretary-level for exchanging counter-terrorism information. The panel was established in the aftermath of the so-called 7/11 bombings in Mumbai, in which over 200 people died and which were initially blamed by India on the ISI and Pakistani-based L-e-T.⁵³ Following the bombings, India froze the Kashmir peace process and the new thaw did not occur until the two heads of state met informally at the Cuba Non-Aligned Movement leaders' summit. Subsequent talks at Foreign Secretary level established the panel. At the time of writing, the panel has met five times—well short of the stipulated quarterly meetings.

To date the panel has failed to make any real progress. Although it proposed to set up a mechanism to exchange information, to the knowledge of the author, no such mechanism was ever established and no information of substance exchanged.⁵⁴ The essential problem was that the process was politically constituted and had a security focus, consisting of members of foreign ministries, ministries of home affairs and intelligence services on both sides, rather than police services. This political orientation meant it became mired in political issues, such as whether India can provide details of terrorism in Kashmir, which Pakistan regards as disputed territory. As well, members of the intelligence services of antagonistic states are hardly likely to want to pass over sensitive information. A better beginning might have been made had the panel been confined to police, who at least do not have to deal with high level national security issues (or not as their core business) and can rely on the so-called 'international brotherhood of police'.

Indeed, discussions in criminal matters, which also commenced in 2006, are somewhat more promising. They even covered formation of 'SAARCPOL', also mooted by SAARC in 2006 but so far not yet in place. The dialogue is being conducted at police-to-police level, but with representation from Home Affairs and External Affairs ministries. As an illustration of just how bad the state of cooperation is, however, it is noteworthy that this dialogue has only recommenced after an interregnum of seventeen years.

By 2008, the international community's myopia in relation to Pakistani sponsored terrorism in India was starting to be cured. The initial trigger of this change was the apparent involvement of the ISI in the bombing of the Indian embassy in Kabul in July 2008, in which 54 died. Afghanistan was, of

⁵³ 'Pakistan "Role in Mumbai Attacks"', BBC News, 30 September 2006, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/5394686.stm> [Accessed 1 October 2006]; for a strong statement of the Indian Security Adviser, Narayanan, see 'Good Proof of Pak Hand in 7-11, Narayanan', *The Times of India*, 23 October 2006, <<http://www.timesofindia.com/articleshow/2229928.cms>> [Accessed 16 February 2009].

⁵⁴ There has only been one officially released statement on the talks—following the first session. See 'On the First Meeting of the India-Pakistan Anti-Terrorism Mechanism held in Islamabad', 7 March 2008, <http://74.125.47.132/search?q=cache:ko1tNsQ6yRUJ:www.carnegieendowment.org/newsletters/SAP/pdf/march07/india_pakistan_anti_terrorism.pdf+Joint+Anti-Terrorism+Mechanism&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a.> [Accessed 2 July 2009].

course, integral to the 'war on terrorism' and an attack in Kabul was not equivalent to one in India. But to be fair, the United States appeared to have direct knowledge of the ISI's involvement on this occasion, since following the attack the US intelligence services apparently leaked intercept information suggesting ISI involvement.⁵⁵ Information based on intercepts was also leaked, suggesting that the top brass of the Pakistani Army regarded a leading Taliban figure, Maulavi Jalaluddin Haqqani, as a 'strategic asset' to be tipped off when Pakistani attacks against the Taliban occurred.⁵⁶

In the case of the Mumbai attacks of 26-29 November 2008 (referred to as 26/11 in India), the international community could no longer tolerate Pakistan's indulgence of terrorist groups like L-e-T. Two problems caused this to happen. The attacks involved the deaths of 26 foreigners, including westerners. And the dangerous escalation in tension between India and Pakistan in the aftermath caused Pakistan to withdraw troops from the western frontier—crucial in the 'war on terrorism'—so they could confront a belligerent India to the east. Pakistan played this concern about a withdrawal of support for the 'war on terrorism' to the hilt in order to try to get the United States to restrain India.

Despite the sharp escalation in international pressure on Pakistan, Islamabad has had to be forced against its will to cooperate with India on the Mumbai bombings. Initially, the recently elected civilian government had undertaken to send the head of the ISI to New Delhi for consultations. This would have been an amazing move on Pakistan's part, even a major breakthrough in terms of possible cooperation. However, the military evidently soon intervened.⁵⁷ It could not allow one of its senior members to be 'dressed down' by India. The government had to back down.

India also attempted to garner international support by allowing the FBI and British police to interrogate the lone survivor of the Mumbai attacks. (This in itself was a breakthrough, because police-to-police cooperation with India is notoriously difficult.) The foreign agencies assisted with analysis of telephone intercepts and GPS data. Subsequently, the FBI confirmed that the attacks had emanated from Pakistan under the auspices of the L-e-T.⁵⁸ India then released a series of dossiers which it said it had passed to

⁵⁵ See Mark Mazzetti and Eric Schmitt, 'Pakistan Aided Attack in Kabul, U.S. Officials Say', *New York Times*, 1 August 2008. See also Catherine Philp, 'Perves Musharraf Was Playing a "Double Game" with US', *The Times*, 16 February 2009.

⁵⁶ *Ibid.*

⁵⁷ 'Pakistan "May Share Mumbai Probe"', BBC News, 19 February 2009, <http://www.news.bbc.co.uk/2/hi/south_asia/7898549.stm> [Accessed 19 February 2009].

⁵⁸ 'FBI Hands over Mumbai Proofs to Pak', *The Times of India*, 4 January 2009, <http://timesofindia.indiatimes.com/FBI_hands_over_Mumbai_proof_to_Pak_Report_/articleshow/3933997.cms> [Accessed 16 February 2009]. See also 'US, India ask Pak to Cooperate in Probing 26/11 Strikes', *The Hindu*, 4 March 2009, <<http://www.hindu.com/thehindu/holnus/000200903040380.htm>> [Accessed 4 March 2009].

Pakistan, in which was laid out what New Delhi referred to as the 'proof' of Pakistani involvement. The dossiers included phone numbers allegedly contacted by the attackers in Pakistan, the GPS data detailing the maritime route by which the attacks came and photos of various items and weapons allegedly seized from the attackers with Pakistani markings.⁵⁹

Pakistan initially denied the attacks came from Pakistan. Instead, Islamabad claimed they were supported from within India (probably true but not strictly relevant). They also delayed their official responses. Eventually they admitted that the lone surviving attacker, Kasab, did come from Pakistan but claimed he and other involved Pakistanis were 'sub-state actors'.⁶⁰ When Islamabad did issue a reply to the Indian dossiers, it initially did so through the press rather than directly to India. Through leaks to the press Pakistan 'asked' further questions and made demands that India supply DNA for all of the attackers, including the nine deceased.⁶¹

This prompted an angry response from Indian Home Affairs Minister Chidambaram. He claimed that nothing had been communicated to India officially by Pakistan.⁶² Moreover, he said, India had evidence of official Pakistani involvement.⁶² Eventually, Islamabad formally issued 30 questions to India that it demanded be answered before the investigation could be progressed.⁶³

Pakistan's 30 questions were issued after Cabinet consideration rather than directly by the investigating authorities. The charade of 'cooperation' was played out at the political level and as public theatre by both sides rather than behind closed doors as is more normal for legal cooperation. If terrorism is political drama, so too is 'cooperation' against it, when played out by antagonistic states.

On its part, India continued to apply pressure on Pakistan by holding out the possibility of a limited use of armed force through a surgical strike. Some argue such a response was not available to India due to continuing failure of

⁵⁹ These were published in a scanned, pdf format by *The Hindu* newspaper.

⁶⁰ Jawed Naquvi, 'Two sets of queries sent to India', *Dawn*, 2 February 2009, <<http://www.dawn.com/2009/02/02/top3.htm>> [Accessed 19 February 2009].

⁶¹ For a list of the Pakistani demands, as to be forwarded to India following a meeting of the Defence Committee of Cabinet, see Syed Irfan Raza and Ahmed Hassan, 'Ball back in Delhi's court: Answer sought to queries raised in FIA report', *Dawn*, 10 February 2009, <<http://www.dawn.com/2009/02/10/top1.htm>> [Accessed 11 February 2009]. See also Indrana Bagchi, 'Talk to us directly: India tells Pak', *The Times of India*, 11 February 2009, <http://timesofindia.indiatimes.com/India/Talk_to_us_directly_India_tells_Pak/articleshow/4108221.cms> [Accessed 16 February 2009].

⁶² BBC News, quoting Home Minister Chidambaram, 'India accuses Pakistan on Mumbai', 10 February 2009, <http://www.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/782201.stm> [Accessed 12 February 2009].

⁶³ Shakeel Ahmad, 'Samjhota, Mumbai Attacks Linked, says Qureshi', *Dawn*, 16 February 2009, <<http://www.dawn.com/2009/02/16/top5.htm>> [Accessed 18 February 2009].

the process of military modernisation.⁶⁴ However, it is likely that the Indian Cabinet decided not to attack on other grounds, believing that a limited strike could well have led to a 'hot war' with devastating consequences on both sides. Probably also it was subjected to considerable pressure from the United States not to attack Pakistan. But the possibility of a surgical strike is still very much alive should India consider that Pakistan's response is never going to be adequate.

India's dissatisfaction with Pakistan's response was further increased by the release by a Pakistani court of the head of the L-e-T, Hafiz Saeed, on grounds there was insufficient evidence associating him with the attack. The Indian Foreign Minister said Saeed's release made India question the sincerity of Pakistan's offer of further talks.⁶⁵

Thus, the attempt to cooperate following 26/11, such as it was, actually had the effect of inflaming the situation further. To India, Pakistan appeared to be obfuscating instead of sincerely cooperating, a manoeuvre the Indians found infuriating in the circumstances. The process was politically driven and played as public theatre by both sides. That does not mean that some kind of cooperation may not eventually occur, but if it does, it will be due to unremitting international pressure on Pakistan and will have nothing to do with regional mechanisms.

Indeed, in all of this, the mechanisms of SAARC were worse than useless. It appeared that the organisation is seen in New Delhi as little more than a vehicle for the lesser powers of the region to gang up on India. Regionalism showed itself to be a 'dead letter' when it came to solving cross border problems between enemies.

But that does not mean that regionalism has no role to play in difficult circumstances like those between India and Pakistan. SAARC could ultimately prove very useful should India and Pakistan reach a modicum of workable cooperation on terrorism and transnational crime as a result of bilateral efforts and other external pressures, for example from the wider international community. Should such a state of affairs eventuate, SAARC would be well placed to 'wrap that cooperation around' with more formal regional mechanisms in order to ensure that it becomes embedded in the regional norm. SAARC's MLAT document could even be used as a vehicle for future cooperation between India and Pakistan.

⁶⁴ Suddha Ramachandran, 'It's Official: India not yet ready for War', *Asian Times Online*, 11 February 2009, <http://www.atimes.com/atimes/South_Asia/KB11Df01.html> [Accessed 11 February 2009]. For India's continuing threats to attack Pakistan see Rajat Pandit, 'Antony slams Pak, says Armed Forces can handle any situation', *The Times of India*, 12 February 2009, <<http://www.timesofindia.indiatimes.com/articleshow/msid-414414,prtpage-1.cms>> [Accessed 12 February 2009].

⁶⁵ 'We will talk about terror—Krishna', *The Hindu*, 6 July 2009, <<http://www.hindu.com/2009/07/06/stories/2009070660151000.htm>> [Accessed 6 July 2009].

Nevertheless, SAARC clearly has difficulties as a result of the intense India-Pakistan antagonism. But are prospects any better for ASEAN? Has ASEAN at least started to progress down the path to a 'tipping point' when cooperation actually instils confidence? To explore this issue, let us examine another relationship tainted by cross border violence and criminality—that of Burma and Thailand.

Burma, Thailand and ASEAN

One of the best-known examples of the vicious circle mentioned above is the series of short border exchanges fought between Burma and Thailand in 2001 and 2002 over the trafficking of illicit drugs and the on-going tensions between them over the flow of refugees and illegal migrants into Thailand.

Independently of any problems relating to cross-border criminality, there is no love lost between the two countries when viewed in the historical context. After hundreds of years of intermittent warfare, competition and invasion, they are what might be called 'traditional' competitors, albeit ones with a strong cultural and religious affinity. Ball reports that problems along the border between the two are 'perennial'.⁶⁶

In the latter part of the 20th century, these tensions were exacerbated by the massive flow of methamphetamines (so-called *ya ba* pills) over the border from Burma into Thailand, particularly under the agency of the United Wa State Army (UWSA—a hitherto separatist group now sponsored by the Burmese military regime). According to one estimate made early in 2001, as many as 700 million *ya ba* pills were to cross the border in that year.⁶⁷ Such was the negative effect on Thai youth that the Thais were provoked to tighten their grip on sections of the ill-defined northern border, resulting in military clashes with Burma involving artillery and air attacks in early 2001 and 2002.⁶⁸

The history of the flow of *ya ba* across the border is complex. It involves the crack-down in Thailand itself on the production of *ya ba* in local labs in the 1980s and 1990s; the movement of heroin production from the border region to the UWSA region more to the north west after the drug lord, Khun Sa, was

⁶⁶ Desmond Ball, 'Security Developments in the Thailand-Burma Borderlands', Australia-Mekong Resource Centre, University of Sydney, Working paper No. 9, 2003, <http://www.mekong.es.usyd.edu.au/publications/working_papers/wp9.pdf> [Accessed 26 August 2009], p. 5. Ball also quotes Prince Damrong Rajanubhab, *Our Wars with the Burmese: Thai-Burmese Conflict 1537-1767* (Bangkok: White Lotus, 2001) for a history of Thai-Burmese conflict.

⁶⁷ See Michael Richardson, 'Cross-Border Drug Trade Irritates Thai-Burmese Relations', *International Herald Tribune*, 23 March 2001, <http://www.iht.com/articles/2001/03/23/a9_11.php> [Accessed 29 January 2009]. For a full account of the flow of *ya ba* into Thailand see Desmond Ball and David Scott Mathieson, *Militia Redux: Or Sor and the Revival of Paramilitarism in Thailand* (Bangkok: White Lotus Press, 2007), pp. 134-44.

⁶⁸ Richardson, 'Cross-Border Drug Trade Irritates Thai-Burmese Relations'.

'brought in from the cold' in 1996; possibly the deal struck by the Wa with the Burmese regime to cease heroin production by 2002; possibly UN and US sponsored heroin eradication efforts in the latter part of the 1990s; probably the sharp crackdown by China on cross-border trafficking of heroin from the Wa regions into China; and certainly the complex market shifts, economics and risk assessment of methamphetamine production in relation to heroin production.⁶⁹ In any case, it is not the purpose of this paper to assess the reason for the massive flow of *ya ba* across the Thai-Burmese border in these years, but rather to examine its consequences.

Ya ba dependency had begun as a lower-order problem in Thai society, one involving sex workers, truckers and shift workers who needed to stay awake to fuel Thailand's booming economy and tourism industry. By the late 1990s, however, the problem had started to filter into Thailand's school, college and university populations. This meant it also became a middle-class problem. Moreover, at whatever level it struck society, vicious side effects were exposed involving a rapid rise in morbidity and crime. Thailand, having cracked down on the internal trade in the 1990s and closed down large numbers of manufacturing laboratories, now saw millions of *ya ba* pills crossing the northern border from Burma. Bangkok directed its attention to interdicting the flow, including by military means. It was these endeavours that caused the two militaries to become embroiled in conflict.

By 2003, the Thaksin Shinawatra government was engaged in its so-called 'war on drugs' against *ya ba*. In this 'war', hundreds, and possibly thousands, of alleged, but untried, traffickers were killed in execution-style killings, often left clutching a firearm and bag of *ya ba*. Reported use of *ya ba* fell sharply (although the data may well have been distorted due to fear of self-reporting) and the Burmese drug routes were re-directed from the northern Thai border to the Lao PDR, Cambodia and Vietnam, with deleterious consequences in terms of addiction in those countries.⁷⁰

Another set of tensions triggered by cross-border criminal activity related to illegal migration into Thailand from Burma. Thousands of Burmese women were smuggled and trafficked from Burma into Thailand to service the sex industry in the 1990s and early 2000s. Many were minors, and many more became infected with HIV/AIDS. Upon such infection, they were unceremoniously pushed back into Burma, where they received further ill-

⁶⁹ Sandy Gordon, 'Technology Impact on Drug Production in Asia', *Platypus Magazine*, no. 72 (September 2001), p. 17.

⁷⁰ This 'potted' account is taken from UNODC, 'Patterns and Trends in Amphetamine-Type Stimulants in East Asia and the Pacific', 2004, <<http://www.apaic.org/dc/2005%ZORAQ%20Analysis.pdf>> [Accessed 11 February 2009], pp. 85-9; UNODC, 'Amphetamines and Ecstasy' in the 2008 'Global Amphetamine-Type Stimulants Assessment', <<http://www.apaic.org/PROJECT/doc/Global-ATS-Assessment-2008.pdf>> [Accessed 11 February 2009]; Dan Murphy, 'A Drug Craze Sweeps Thailand', *The Christian Science Monitor*, 29 May 2002, <<http://www.csmonitor.com/2002/0529/p06S01-woap.html>> [Accessed 11 February 2009]; Ball, 'Security Developments in the Thailand-Burma Borderlands'.

treatment at the hands of the Burmese authorities. Others arrested by the Thais were simply re-trafficked, which was indicative of the fact that border relations were corrupted and mutual data were not maintained.

In addition, many Burmese young men also came across the border to find paid labour in the more affluent parts of Asia. This irregular migration was at first ignored by Thailand, but with the Asian financial crisis of 1997-98, the Burmese were less welcome and many were sent back. As the economy quickly resumed its higher growth rate, however, the flow of migrants again increased and numbers reached perhaps a million by 2004.⁷¹ At least some of these were Rohingyas, Muslims from the northern border region of Burma near Bangladesh. The Rohingyas were discriminated against by the Burmese regime and had initially been pushed into refugee camps in Bangladesh. But by the early 1990s, Burma was attempting to show its more benign side in order to obtain membership of ASEAN. For a period, it therefore accepted the Rohingyas back.⁷²

Political refugees from the draconian military regime also established themselves in semi-permanent camps along the Burma-Thai border and in Bangkok. The existence of these camps further exacerbated tensions between Thailand and Burma. These tensions came to a head in 1999. The Burmese regime was outraged when a group of Burmese political refugees in Bangkok seized the Burmese embassy. Instead of being arrested by the sympathetic Thais, they were subsequently flown out to a jungle camp.⁷³

If that was the bald history of the tensions generated between Burma and Thailand over *ya ba* and illegal migration, how was ASEAN involved, if at all, and what has happened in the relationship since?

As a founding member of ASEAN, Thailand had initially favoured a relatively soft position on Burma. This occurred despite the historical antipathy between Thailand and Burma and on-going cross-border problems. It was the Thai foreign minister who coined the term 'constructive engagement' for ASEAN's dealings with Burma in 1991.

This softer attitude to Burma was related to the growing interconnectivity between the two economies following the establishment of the State Law and Order Restoration Committee (SLORC) junta in 1998. In order to win much-needed friends, the junta gave the Thai military under General Chavalit Yongchaiyudh valuable concessions in Burma in the logging and

⁷¹ Tin Maung Maung Than, 'Cross-Border Migration: A Non-Traditional Security Issue between Myanmar and Thailand', <http://www.asean-isis-aseanpeoplesassembly.net/pdf/APA%20Papers%20in%20PDF/APA06_Paper_Than.pdf> [Accessed 18 February 2009], pp. 22-4.

⁷² Aung Zaw, 'ASEAN-Burma Relations', in *Challenges to Democratization in Burma* (Stockholm: Institute for Democracy and Electoral Assistance, 2001), <http://www.idea.int/asia_pacific/burma/upload/chap1.pdf> [Accessed 18 February 2009], p. 43.

⁷³ Than, 'Cross-Border Migration', p 4.

fishing industries and in cross-border trade, causing the two economies to become increasingly enmeshed.⁷⁴ The Singaporeans and Malaysians also had significant investments in Burma. And with the softer policy towards the Rohingyas, the religious qualms of Indonesia and Malaysia were put to one side. These—and perhaps a desire to make a point to the Europeans and Americans who were critics of South East Asia's illiberal regimes—were among the factors that contributed to Burma's admission to ASEAN in 1997.⁷⁵

But following Burma's admission, Thailand's problems over illicit drugs and illegal migration caused its attitude to Burma to change. Thailand's return to democracy also contributed to this change.⁷⁶ Constructive engagement had given way to 'flexible engagement', implying the right of ASEAN member states to criticise the activities of others, where those activities impacted across the border. Thai Prime Minister Surin referred to the flow of Burmese refugees across the border as an example of such Burmese 'interference'.⁷⁷

ASEAN's role in mitigating these frictions was limited by its policy of non-interference. This was despite the desires of Thailand, and to a lesser extent the Philippines, to use ASEAN to settle troubling cross-border issues. Non-interference in turn meant that there was little basis for real (as opposed to exhortatory) cooperation in matters like transnational crime and terrorism.

With the attacks on the United States of 11 September 2001 and subsequent Bali bombings of October 2002, however, much changed. In part these changes were induced by outside intervention and money, particularly from the United States and Australia. In part also they were progressed by extra-ASEAN mechanisms, such as the collection of activities surrounding the so-called 'Bali Process', the Asia-Pacific Group (on money laundering), JCLEC and APEC.⁷⁸ That said, it is also true that the years of hard work in ASEAN, including through expansionary mechanisms such as the ASEAN Regional Forum (ARF) and 'ASEAN plus 3' and second track mechanisms like the Council for Security Cooperation in the Asia-Pacific (CSCAP), also oiled the wheels for this additional level of cooperation.

⁷⁴ See *Ibid.*, p. 2, quoting Maung Aung Myoe, *Neither Friend nor Foe: Myanmar's Relations with Thailand Since 1988, A View from Yangon* (Singapore: Institute of Defence and Strategic Studies, 2002); Aung Zaw, 'ASEAN-Burma Relations'.

⁷⁵ Aung Zaw, 'ASEAN-Burma Relations'.

⁷⁶ Than, 'Cross-Border Migration', p 3.

⁷⁷ Aung Zaw, 'ASEAN-Burma Relations', p 46.

⁷⁸ The Bali Process was established jointly by Australia and Indonesia to address the issues of people smuggling and trafficking throughout the Asia-Pacific region. The first meeting took place with a ministerial-level conference in Bali in 2002 and involved 38 countries from around the region. A second ministerial-level meeting took place in 2003. An officials' level meeting also took place in Brisbane in 2004. The Process has hosted many seminars and workshops and developed a number of practical mechanisms such as model laws. (Bali Process website: <www.baliprocess.net/index.asp?pageID=2145831401> [Accessed 12 February 2009]). APEC is also involved in facilitating and protecting the movement of people and products throughout the region. JCLEC was established at Semarang with Australian funding of A\$32 million.

As to ASEAN itself, progress in law enforcement cooperation continues to be slow but should not be dismissed out of hand. ASEAN often works through informal mechanisms. For example, the Australian Department of Immigration and Citizenship (DIAC) commented to an Australian parliamentary inquiry into Australia's relationship with ASEAN that Australia's involvement in the annual ASEAN meeting of senior immigration and consular officials (known as the DGICM) provides an excellent network for on-going cooperation throughout ASEAN.⁷⁹ Through this involvement, DIAC has been able to work with regional countries to strengthen training of immigration officials and move towards a collective database.⁸⁰ Also, bilateral as distinct from multilateral cooperation amongst regional countries is often far stronger than the regional association's progress would suggest. This is exemplified by the excellent cooperation at a police-to-police level between the Australian Federal Police (AFP) and a number of regional police services, such as Indonesia's POLRI.⁸¹

A visit to the ASEAN Secretariat web site, however, is mind-numbing in its focus on exhortatory and declaratory strategies. The site contains thirteen joint communiqués; seven press releases; six declarations; and eight other documents, only a few of them of a more practical bent, such as MLATs and MoUs.⁸² But beneath this rhetoric, some good work has been done, especially in the areas of illicit drugs training and people smuggling and trafficking.⁸³

The issue for the present inquiry is: what has this work achieved in terms of mitigating the negative effects of cross-border issues between the two competitors, Burma and Thailand?

Both countries subscribe to the various multilateral mechanisms in play around the issues of drugs, trafficking in persons and illegal migration. Both are part of the Bali Process; both are signatories of the Bangkok Declaration on Irregular Migration of 1999; and both have acceded to the UN's Convention on Transnational Organised Crime (CTOC) and its associated convention on trafficking. ASEAN has also played a role, at least to an extent, with the two countries signing an MoU on the employment of migrant workers in the sidelines of the 36th ASEAN Ministerial Meeting held in

⁷⁹ DIAC submission on ASEAN, Parliament of Australia, *Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry on Australia's Relationship with ASEAN* (undated), <<http://www.aph.gov.au/house/committee/jfadt/asean1/subs/sub4.pdf>> [Accessed 12 February 2009], pp. 2-6.

⁸⁰ *Ibid.*

⁸¹ For a good account of such regional bilateral cooperation involving the AFP see McFarlane, 'Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States', pp. 305-7.

⁸² <<http://www.aseansec.org/4964.html>> [Accessed 12 February 2009].

⁸³ There are four illicit drugs training centres, in Kuala Lumpur, Manila, Bangkok and Singapore. Much good work has been done against trafficking through two AusAID-funded projects, which liaise closely with the ASEAN Secretariat.

Bangkok.⁸⁴ (But as Than notes, there is no evidence that this MoU led to any further coordination between the two.)⁸⁵ In 2006, however, they did agree to set up joint border documentation centres and some progress has been made in establishing them.⁸⁶

Perhaps some of the best progress has been made against trafficking under the auspices of the Australian aid-funded Asia Regional Project to Prevent People Trafficking (ARCPPT), involving Myanmar, Thailand, Laos and Cambodia. This project involves NGOs, the establishment of specialised anti-trafficking police units, legal reform, protection of victims and exchange of information. It has led to an MoU on trafficking between the six members of the Mekong sub-region and a ministerial level coordination mechanism between them.⁸⁷ It is noteworthy that the ARCPPT project works closely with the ASEAN Secretariat, which assists in spreading the mechanisms developed amongst the four original participants more widely.

It remains to be seen whether this broad range of cooperative mechanisms, including under ASEAN, has provided a means of addressing the latest Thai-Burmese crisis—that over the Rohingyas.

By late 2008 and early 2009, the Thais were picking up growing numbers of Rohingya boat people. Normally, Rohingyas had drifted into Thailand to find work in the fishing and other low-paid industries and the Thais had not worried too much about them. But on this occasion the Thai authorities took a different attitude. According to some estimates, 1000 were put back to sea by the Thai military, some after being beaten. The Thai authorities were also accused of setting them adrift with little food and water and in some cases in boats without engines.⁸⁸ Thailand's Foreign Ministry vigorously denied these charges of inhumane treatment, but in an interview on CNN the Thai Prime Minister, Abhisit Vejjajiva, eventually admitted that Rohingyas were put back to sea.⁸⁹ The problem was exacerbated by the fact that the Burmese junta denied that the Rohingyas were even originally from Burma.⁹⁰

The decline in the Thai economy caused by the global financial crisis was one factor in the changed attitude on the part of the Thais to the Rohingyas.

⁸⁴ Than, 'Cross-Border Migration', p. 25.

⁸⁵ *Ibid.*, p. 25.

⁸⁶ *Ibid.*, pp. 25-6.

⁸⁷ *Ibid.*, pp. 26-9.

⁸⁸ 'Thailand accused of mistreating Burmese asylum seekers', Radio Australia News, 29 January 2009, <<http://www.radioaustralia.net.au/connectasia/stories/200901/s2477244.htm>> [Accessed 18 February 2009].

⁸⁹ 'PM Admits Rohingyas Pushed out to Sea', *Bangkok Post*, 13 February 2009, <<http://www.bangkokpost.com/breakingnews/136504/pm-admits-rohingya-pushed-out-to-sea>> [Accessed 18 February 2009].

⁹⁰ Radio Australia News, 3 February 2009. For a statement concerning the plight of the Rohingyas see Amnesty International, 'Open Letter to Leaders—Protect Rohingyas', 30 January 2009, <<http://www.amnesty.org.au/news/comments/20163/>> [Accessed 18 February 2009].

The Thai military and security agencies were also concerned that an additional population of discontented Muslims might feed into the discontent already manifest in the Muslim majority southern provinces.⁹¹ Indeed, from the outset, the matter had been given a strong security focus. For example, the coordinating authority between the different agencies involved with countering drug and people smuggling is the Internal Security Operations Command (ISOC).⁹² ISOC was established in 1965 with a heavy military bias in order to deal with the communist insurgency. With the insurgency defeated, and under civilian control, it still retains strong military links and the Army Chief-of-Staff is Chief-of-Staff of ISOC. In 2001, following the 9/11 attacks, General Chavalit said it should become “the Thai equivalent of the US homeland defence command” and placed in charge of “all border threats”.⁹³ Another aspect of this securitisation policy is the involvement of the major Thai paramilitary organisation, the *Or Sor*, in policing borders, combating drug running and dealing with refugee and illegal immigration flows.⁹⁴

In the face of mounting criticism from the international community and predominantly Muslim ASEAN neighbours such as Malaysia and Indonesia, Thailand turned not to ASEAN, but demanded an international conference of concerned countries, which would include India (which had picked up Rohingyas adrift on the high seas), Bangladesh, Burma, Malaysia and Indonesia (both of which had been destinations for Rohingya refugees).

The Thais, however, were facing severe international censure and disquiet from their Muslim ASEAN neighbours. In a significant shift from Thailand's initial approach to the issue, the Thai foreign minister agreed with the Indonesian foreign minister to “put the whole thing back under the Bali process”.⁹⁵ This decision both had the effect of bringing more familiar cooperative mechanisms to bear and implying a mutual agreement that the Rohingyas were *not* refugees but part of the regional people smuggling and trafficking problem. The subsequent 14th ASEAN Summit confirmed this position, finding that the Rohingyas were part of a wider Indian Ocean illegal migration problem “best addressed by other fora [than ASEAN]”.⁹⁶

⁹¹ Radio Australia News, 3 February 2009.

⁹² MySinChew, ‘Thailand: PM Comes Clean on Rohingya Atrocities’, 14 February 2009, <<http://www.mysinthew.com/node/21240>> [Accessed 18 February 2009].

⁹³ Details on ISOC are taken from Ball and Mathieson, *Militia Redux*, pp. 100-2. The Chavalit quote is from p 101 of the same work.

⁹⁴ For a comprehensive analysis of the *Or Sor* see Ball and Mathieson, *Militia Redux*.

⁹⁵ Thai Foreign Minister interviewed in *The Jakarta Post*, 18 February 2009, <<http://www.thejakartapost.com/news/2009/02/16/kasit-defends-thai-policy-boatpeople.html>> [Accessed 18 February 2009].

⁹⁶ Christine Hadju, ‘ASEAN Makes Fragile Myanmar Progress’, *Asia Times Online*, 5 March 2009, <http://www.atimes.com/atimes/Southeast_Asia/KCO5Ae01.htm> [Accessed 5 March 2009].

As far as Thailand was concerned, it appeared that initially ASEAN had little to offer in resolving this complex issue. The issue of the Rohingyas cut across the ASEAN region and into South Asia, so ASEAN itself was not an ideal vehicle. And ASEAN was replete with sensitivities and tensions, including those between Thailand and Burma and between Thailand and its Muslim majority brethren. Thailand was perhaps nervous that the Muslim ASEAN countries would argue that the Rohingyas were genuine refugees and therefore to be looked after by Thailand as the country of first refuge. (Thailand had refused to refer the matter to the United Nations High Commissioner for Refugees for the same reason). The fact Burma disowned the Rohingyas, and that ASEAN apparently accepted Burma's position, enabled ASEAN to shove the issue to one side by claiming it was extra-mural.

Ultimately, however, it was at least an ASEAN-related process—the Bali Process—that offered Thailand a way out. Apparently the Thai and Indonesian foreign ministers were able to reach this position in accordance with the 'Asian way' of non-interference, in which human rights issues are, essentially, subservient to perceived security issues and in which the behaviour of other member states in support of their own security is not criticised.

Conclusion

International cooperation against problems like transnational crime and terrorism is fraught with difficulties in the best of circumstances. In terms of regional associations like ASEAN and SAARC and their potential role in mitigating non-conventional threats of this nature, the way forward is not likely to be easy. Bilateral disputes, especially those between 'traditional' competitors like India and Pakistan, have a propensity to bias the outcome against favourable regional outcomes. Even when regional solutions are available, they do not tend to be used. Regional cooperation progresses at the level of the lowest common denominator—the pace allowable between the competitors. Ironically, it is precisely between such competitors that an outside formula for cooperation is most needed.

Securitisation of such problems—while no doubt necessary for sound practical reasons—also greatly adds to problems associated with cooperation. Securitisation acts to 'turbo-charge' cross-border issues between antagonistic neighbours by dragging them into the security domain when they do not necessarily belong there. Securitisation also prevents cooperation in such circumstances because the security authorities are just too suspicious of each other to cooperate.

In really difficult circumstances such as those relating to SAARC, cooperative efforts should focus initially on a non-securitised approach. The initial focus of cooperation should not be on issue like terrorism as such, but

on cross-border crime—harm to property and life, fraud, people smuggling and trafficking, and so on. In this regard, it may prove that the shift to the criminalisation of terrorism has not been especially helpful, since it has had the effect of focusing on the political aspects of such crimes, which in turn feeds the paranoia that already exists between the competitors. Rather, in terms of a cooperative framework, it might have been better to continue to treat such acts under the existing criminal law—as murder, grievous bodily harm, and other common crimes associated with acts of terrorism. Nor should national intelligence agencies, the military or other quasi-military agencies be involved in cooperation in the initial phases.

In organisations such as SAARC, which are troubled by entrenched antagonisms such as that between Pakistan and India, the aim of regional cooperation should be not to solve major problems between antagonistic neighbours in the first instance, but to get at least some *useful* cooperation in play, so that eventually the sets of competitors can become more used to cooperation and confident in its outcomes. In this way, eventually the kind of tipping point may be reached that has been reached in Europe, where traditional competitors have come to gain confidence in each other precisely *because* of the existence of functioning cooperative mechanisms. In other words, a ‘virtuous circle’ is established between cooperation and trust. Unfortunately our study shows that SAARC is well short of that point; but ASEAN may be approaching a more useful period of cooperation.

If the focus remains on the *criminality* of the cross-border acts involved, then it is also possible to use wider cooperative mechanisms, such as Interpol, which can, to an extent, help the parties escape the historical baggage carried within some of the regional associations. In this regard, the linking of the e-ADS database with Interpol’s I-24/7 database is an excellent innovation that could eventually be emulated by SAARC.

In the case of weak regional associations like SAARC, where regional arrangements can become important is that they provide a ready-made external platform for cooperation once the protagonists have made up their mind to do so—that is, they are important in the *post facto* sense. This approach can be seen in the case of Thailand, which negotiated a broad approach with its ASEAN partners and then picked up an existing regional arrangement—the Bali Process—once the basic ground rules of non-interference had been set. Should India and Pakistan ever determine at the political level to cooperate, the existing SAARC MLAT arrangement may prove a useful vehicle, among others, for that cooperation.

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