

COUNTER-TERRORISM AND HUMAN RIGHTS: THE IMPACT OF THE SHANGHAI COOPERATION ORGANIZATION

A Human Rights in China Whitepaper

March 2011



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Abbreviations

ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CIS	Commonwealth of Independent States
CSTO	Collective Security Treaty Organization
CTC	Security Council Counter-Terrorism Committee (UN)
CTED	Counter-Terrorism Committee Executive Directorate (UN)
CTITF	Counter-Terrorism Implementation Task Force (UN)
EC	European Commission
ESCAP	Economic and Social Commission for Asia and the Pacific
EurAsEC	Eurasian Economic Community
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
MPS	Ministry of Public Security (PRC)
NATO	North Atlantic Treaty Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PAP	People's Armed Police (PRC)
PLA	People's Liberation Army (PRC)
PRC	People's Republic of China
RATS	Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization
SCO	Shanghai Cooperation Organization
TAR	Tibet Autonomous Region
UN	United Nations
UNRCCA	United Nations Regional Centre for Preventive Diplomacy for Central Asia
XPCC	Xinjiang Production and Construction Corps
XUAR	Xinjiang Uyghur Autonomous Region

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Executive Summary

Throughout the world, terrorism continues to pose major threats to peace, security, and stability. Since September 11, 2001, intensified counter-terrorism debates and responses, including national, multilateral, and regional approaches, have been marked by trends posing complex challenges to the protection of international human rights and fundamental freedoms. The current normative international framework and consensus clearly recognize that respect for human rights is not only the legal and moral obligation of states, but an essential pillar in the promotion of sustainable and effective counter-terrorism approaches. Yet, human rights violations related to and resulting from counter-terrorism measures continue; at the same time, there is push-back in the international community against those measures that violate human rights, such as extraordinary rendition, secret detentions, and torture and other inhumane treatment and abuses prohibited by *jus cogens* norms.

Within this international counter-terrorism framework, the role of regional organizations in the promotion of international peace and security is accorded special recognition and legitimacy, in light of these organizations' presumed local experience and expertise. This whitepaper examines one such regional organization in operation since 2001: the Shanghai Cooperation Organization (SCO), comprising the People's Republic of China (PRC or "China"), the Russian Federation ("Russia"), Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, states with a total population of approximately 1.5 billion. As a regional intergovernmental organization, the SCO is intended to enhance mutual security and cooperation between its member states, and takes as its core principles the respect of sovereignty, non-interference in internal affairs, and territorial integrity. While the SCO facilitates multilateral cooperation among its members in a variety of fields, including the economy, cultural exchange, and health initiatives, this whitepaper focuses on the SCO framework for security and counter-terrorism measures and the key role of China in that framework; identifies the human rights concerns raised by SCO structure, policies, and practices; and analyzes the SCO's impact on international human rights norms and standards and on the international counter-terrorism framework.

As a regional organization holding United Nations (UN) observer status, and with two permanent members on the UN Security Council – the leading UN body tasked with an international peace and security mandate – the SCO plays a critical role in shaping ongoing international counter-terrorism policy debates and developing practices and norms. The impact of the SCO extends well beyond the territories of its member states, through its engagement with India, Iran, Mongolia, and Pakistan (SCO observer status

states), Belarus and Sri Lanka (SCO dialogue partners), and through an expanding bilateral relationship with the UN, including joint cooperation in the fight against terrorism. Reflecting assumptions that regional and subregional organizations are better positioned to understand the root causes of many regional conflicts, however, and the belief that “[r]egional problems demand regional solutions,”¹ the policies and practices of the SCO have been given an uncritical free pass by key UN bodies and officials and in relevant international debates. Indeed, SCO-UN cooperation has expanded rapidly in recent years without critical attention to the human rights issues the SCO presents.

In the span of a decade, the SCO has also emerged on the international stage as an alternative mechanism for consensus-building in Eurasia. References to the SCO in the media and by governments range from assessments of whether the organization constitutes a geo-political “counter-weight” to the North Atlantic Treaty Organization (NATO) and whether it will constrain U.S. involvement in Central Asia, to whether it offers a new world order for the future, as the organization already includes a quarter of the world’s population and its membership is likely to increase. Yet, this geo-political debate overlooks the enormous impact of the SCO on its core constituency – the SCO member states’ own citizens – and on the international human rights system.

This whitepaper analyzes aspects of the SCO that present fundamental challenges to the international community’s efforts to ensure protection of human rights in counter-terrorism approaches, including within the UN Global Counter-Terrorism Strategy. These problematic SCO policies and practices include:

- An **overbroad scope of targeted behavior** to which member state “counter-terrorism” obligations apply, based on the “**Three Evils**” doctrine advanced by the Chinese government. Each of the Three Evils – terrorism, separatism, and extremism – are of equal weight and criminality in the SCO framework. Reliance on the Three Evils doctrine is highly problematic in light of the Chinese government’s record of characterizing the legitimate exercise of religious, ethnic, cultural, and other rights as separatism or extremism, particularly in the Tibet Autonomous Region and the Xinjiang Uyghur Autonomous Region (XUAR).
- An **overbroad definition of “terrorism”** that relies heavily on ideology, rather than fully incorporating the internationally-accepted components of terrorism relating to intention, purpose, and offensive act. This SCO definition, along with the Three Evils doctrine, raises the issue of compliance with the principle of legality. Further human

¹ U.N. Office of the Spokesperson for the Secretary-General, “Secretary-General’s press conference before leaving Uzbekistan,” April 5, 2010, <http://www.un.org/apps/sg/offthecuff.asp?nid=1414>.

rights concerns are presented by the uncritical acceptance and citation of this broad formulation by key UN bodies and officials, including the UN Secretary-General, and the potential of such formulation to undermine the **Global Counter-Terrorism Strategy**,² in particular the “fourth pillar” of that strategy – respect for human rights and the rule of law as the fundamental basis for the fight against terrorism.

- **Intelligence practices that compromise international due process and non-discrimination guarantees and the right to privacy**, including cooperative surveillance, a shared database, and blacklists, all of which are coordinated through the SCO’s Regional Anti-Terrorist Structure (RATS) and lack transparency, meaningful safeguards, and accountability mechanisms.
- **Guaranteed extraditions or “returns” of wanted individuals among member states** that in many cases contravene the obligation of non-refoulement, a principle of international law; and outright **denials of asylum** without due process protections.
- **Military and law enforcement cooperation**, including a trend of expanding militarization of the region, that is designed to send a chilling message to targeted groups – member states’ “problem” populations – and reinforce domestic control through the threat of force.

In spite of these serious human rights concerns, the international appeal of the SCO is largely unquestioned. Such appeal – which is currently generating interest in full membership by influential states such as India, Iran, and Pakistan – is most likely due to the SCO’s “come as you are” approach of non-interference in internal affairs, its prioritization of member state stability regardless of the often heavy-handed tactics of member regimes, and its unparalleled capacity to marshal resources to apply to some of the world’s toughest hot spots (such as Afghanistan) in the face of the global economic crisis. Governments and international organizations have turned to the SCO for assistance in addressing such issues as cooperation on energy, the financial crisis, military bases and dialogue, and control of the movement of drugs, weapons, and terrorists within Afghanistan and Central Asian states, without rigorously assessing the long-term impact of this engagement, or challenging the SCO to address its own and its member states’ human rights shortcomings.

² For more information on the UN Global Counter-Terrorism Strategy, see U.N. Department of Public Information, “UN Action to Counter Terrorism: Background Note – United Nations Global Counter-Terrorism Strategy,” U.N. Doc. DPI/2439B/Rev. 4, March 2009, http://www.un.org/terrorism/pdfs/CT_Background_March_2009_terrorism2.pdf.

SCO member states for their part have quite deliberately used this opportunity to advance their respective agendas on the international stage, under cover of the regional framework. Doing so has allowed them to deflect critical scrutiny of the serious human rights problems identified by international human rights monitoring bodies and thus avoid the need to account for them. These problems include crackdowns and abuses related to individual exercise of fundamental rights and freedoms, and systemic issues such as torture, inhumane prison conditions, extra-legal detention, corruption, lack of an independent judiciary and of effective remedies, discrimination against and targeting of ethnic and other vulnerable groups, and trafficking of and violence against women and children.

This whitepaper argues that the international community, and the UN in particular as it deepens and expands its engagement with the SCO, must urgently address the human rights risks posed by each SCO member state and by the collective SCO framework, policies, and practices. The SCO approach to counter-terrorism, modeled on China's Three Evils doctrine, and highlighting principles of territorial integrity, non-interference in internal affairs, and social stability, contributes to supporting repressive regimes at the expense of national, regional, and global human rights. The ongoing failure to demand accountability from regional frameworks such as the SCO also undermines the effectiveness and integrity of the international system in countering terrorism and advancing rule of law, peace, and security.

With a view towards contributing constructively to promoting greater effectiveness and accountability of regional and international frameworks, this whitepaper offers a number of **specific and concrete policy and practice recommendations** directed to UN bodies, governments, civil society actors, and the SCO and its member states. To advance greater transparency of the SCO's structure, policies, and practices, this whitepaper also provides an **extensive compilation of core documents and resources** in the appendices. Human Rights in China hopes that this compilation of key SCO normative documents, publicly-available information on the activities of the organization, and analysis of these materials from an international human rights law perspective, will serve as a resource for generating real accountability within the SCO, and promoting a more constructive engagement between the SCO and the international community that contributes to advancing fundamental rights and freedoms in the region and in the world.

Recommendations

A diverse range of international, national, and multilateral actors have critical roles to play in addressing the impact of regional organizations such as the SCO on the international counter-terrorism framework, and in promoting a human rights pillar as the key to effective and sustainable approaches. To contribute to the international progress underway towards developing a more coherent, effective, and sustainable approach to counter-terrorism and promoting the key pillar of human rights, Human Rights in China respectfully makes the following recommendations:

To UN bodies, including the General Assembly, the Security Council, and human rights treaty bodies, relevant procedures, and other mechanisms:

- The Security Council and its subsidiary counter-terrorism bodies should encourage and review the progress of regional counter-terrorism frameworks such as the SCO in implementing the structural reforms and protections for human rights that UN counter-terrorism bodies have themselves incorporated. Such protections include integration of **independent oversight mechanisms** and **human rights offices**, and **safeguards for terrorist listing**, including regular review for accuracy of terrorist lists.
- **Reporting to the Security Council and counter-terrorism bodies** as required by Security Council Resolution 1373 should be augmented to include:
 - updates concerning SCO member states' **implementation of the recommendations made by UN human rights treaty bodies** (including the Committee against Torture, Committee on the Elimination of Racial Discrimination, Committee on Economic, Social and Cultural Rights, and the Human Rights Committee), and include responses to concerns and inquiries made by human rights mechanisms, including the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (the "Special Rapporteur on counter-terrorism"); updates should also include information on progress made on the Human Rights Council Universal Periodic Review recommendations accepted by the reporting state; and
 - documentation of efforts to promote **compliance with the best practices** advanced by the Special Rapporteur on counter-terrorism, particularly those to enhance protection of **privacy rights**, including: safeguards for ensuring the

accuracy of data collected; notice to individuals about data collected and opportunity for review; and appropriate limits on data-mining processes.

- UN bodies and officials, when citing the SCO's **Three Evils formulation** in debates, should pay greater critical attention to the formulation's potential for creating policy conflicts and negative impact on the international counter-terrorism framework.
- Development of **expanded modalities of UN-SCO cooperation** should ensure that any cooperation, including technical assistance and capacity building, will contribute to the promotion and protection of international human rights. **Any modality should include human rights benchmarks, indicators, and transparent oversight mechanisms**, as well as **expert consultations** on the intersection of technology, human rights, and counter-terrorism.
- UN human rights monitoring bodies and mechanisms should explore cross-mandate exchange and debates to encourage China and the other individual SCO member states to implement the relevant **recommendations of treaty bodies**, including recommendations regarding detention, due process (including the right to legal counsel), torture, and other abuses. UN bodies should closely monitor each individual member state's observance of international human rights obligations, as the progress of the regional framework as a whole is unlikely to exceed the sum of its parts.
- UN human rights monitoring bodies and mechanisms, and the UN High Commissioner for Refugees, should examine the links between regional cooperation and trends of extraditions, forced returns, and disappearances, and pursue an investigation into and follow-up on **urgent cases of concern**, including:
 - the situation of the individuals of **Uyghur ethnicity** who were returned to China from Cambodia in December 2009;
 - **Tibetan cases** submitted to the Committee against Torture in 2008.
- The Special Rapporteur on counter-terrorism should initiate dialogue with the SCO and request a **mission to the SCO Secretariat headquarters in Beijing and RATS headquarters in Tashkent**, Uzbekistan. Such a mission should include meetings with SCO Secretary-General Muratbek Imanaliev and RATS Director Dzhenisbek Dzhumanbekov. While the current mandate holder's term will expire in July 2011,

there should be a transition foundation for such a mission by the next mandate holder. The communications to date between the Special Rapporteur on counter-terrorism and the SCO member states also provide a good foundation for informal outreach and preliminary discussions to inform a possible country mission.

To the SCO and its member states:

- SCO member states should take steps to incorporate into the SCO framework the **ten areas of best practices in countering terrorism recommended by the Special Rapporteur on counter-terrorism.**³ As a matter of priority, such steps should include a narrowing of the Three Evils-based normative structure, and reformulation of the SCO's definition of terrorism.
- SCO member states should take steps to incorporate into the SCO framework and RATS operations the **best practices for intelligence cooperation recommended by the Special Rapporteur on counter-terrorism,**⁴ including the following reforms:
 - Intelligence sharing within RATS should have **clear basis in national law**, which should indicate the **parameters** for intelligence exchange, and such sharing should be further enumerated by written agreements between the parties on use of data and human rights compliance. (Practice 31.)
 - National law should outline the **process for authorization** of intelligence sharing, with executive approval of **sharing with foreign entities.** (Practice 32.)
 - Any intelligence sharing should be necessary, and preceded by **assessment of the counterpart's human rights and data protection record**, and the legal safeguards/controls to which it is subject, as "intelligence received from a foreign entity may have been obtained in violation of international human rights law." (Practice 33.)

³ See U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Ten areas of best practices in countering terrorism," U.N. Doc. A/HRC/16/51 (2010) (Special Rapporteur, Martin Scheinin), <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-51.pdf>.

⁴ See U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight," U.N. Doc. A/HRC/14/46 (2010) (Special Rapporteur, Martin Scheinin), <http://www2.ohchr.org/english/bodies/hrcouncil/14session/reports.htm>.

- **Assessment of the impact on individuals** of the sharing of data should also be undertaken – **sharing should be explicitly prohibited when it could lead to violation of the individual’s rights**. All outgoing data should be screened for accuracy and relevance to avoid dissemination of flawed information, and exchanged pursuant to written agreement. (Practice 33.)

- The SCO should **incorporate safeguards regarding extradition practices and measures to ensure due process**, as well as mechanisms to increase the accountability and transparency of SCO cooperation, including clear legal guidelines regarding the process for review of asylum-seeker applications and member state extradition requests.

- The SCO should adopt transparent **human rights principles**, and conduct regular, independent assessments of the implementation by member states and by the SCO itself of such principles. The principles should reflect the full range of individual member states’ international human rights obligations and account for the specific areas in which SCO member states cooperate. These human rights assessments should be included in the SCO member states’ required reporting to UN bodies, including the Security Council.

- SCO member states should adopt and report on concrete measures to address the **root causes of domestic social conflict and instability**, in order to:
 - promote better **understanding, respect, and tolerance** among ethnic groups;

 - address serious systemic **inequalities**, including access to healthcare, education, employment, and housing; and

 - promote **respect for and protection of fundamental rights and freedoms** – including freedom of expression, access to information, religious and cultural expression, and respect for different languages, cultures, and history – that enable effective identification and analysis of the problems and development of concrete solutions.

- The SCO should **promote compliance by individual SCO member states with their human rights obligations** concerning cases and issues documented and reported by treaty bodies and special procedures, as well as those raised in the course of reviews of reports by SCO member states to the Security Council.

Methodology

The research on which this whitepaper is based was conducted by Human Rights in China from 2008 to 2011. Primary sources include: normative documents and public statements of the SCO, including materials of the SCO's Regional Anti-Terrorist Structure, in English, Chinese, or Russian; Chinese legal materials and official statements; UN Security Council materials, including reporting of the SCO member states to the Security Council pursuant to its counter-terrorism resolutions, and materials issued by the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate; UN General Assembly materials, including resolutions and deliberations; reporting, conclusions, and recommendations associated with international treaty body reviews of SCO member states; and reports of UN Special Rapporteurs.

This whitepaper also draws upon interviews of government officials, NGOs, and asylum seekers conducted by staff of Human Rights in China and the International Federation for Human Rights during a June 2009 fact-finding mission to Kazakhstan and Kyrgyzstan to investigate the situation of asylum seekers and migrants⁵; English, Chinese, and Russian media reports; and research and policy papers related to or regarding the SCO. (See Appendix F for a select bibliography of references.)

The analytical framework of this whitepaper takes international law, including human rights, humanitarian, and refugee law, as the normative foundation of its assessment of the SCO and its counter-terrorism efforts. This echoes and conforms to the UN Global Counter-Terrorism Strategy, and, more broadly, international recognition of the primacy of that strategy's human rights pillar for peace, security, and sustainable development. However, a number of methodological obstacles limit analysis of the SCO's impact on human rights. Despite the SCO's assertions of transparency, the SCO and its counter-terrorism operations unit RATS do not publicly release detailed information concerning member state cooperation, e.g., statistics regarding extraditions between member states, parameters of the shared RATS database, etc. The information that the SCO does make public is in many instances available only in Russian – for example, the RATS website appears to be most complete and current in its Russian form, with the last entry in the English version dated July 27, 2005.⁶

⁵ For the full report on the mission to Kazakhstan and Kyrgyzstan, see International Federation for Human Rights (FIDH), *Kazakhstan/ Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees* (FIDH: 2009), <http://www.fidh.org/IMG/pdf/Kazakhstan530a.pdf>.

⁶ See RATS, "The Regional Anti-Terrorist Structure of Shanghai Cooperation Organization (RATS SCO)," <http://www.ecrats.com/en/> (accessed March 17, 2011).

It is important to note as well that media reports coming out of SCO member states in which the media is largely controlled by the government, such as China, often do not provide a full and accurate picture of relevant details. China's state secrets system presents an additional hurdle, as a great deal of information pertaining to, for example, ethnic minorities, is classified as top secret under the state secrets regime.

Within these existing constraints, Human Rights in China presents a detailed introduction to the SCO and an analysis of the human rights impacts of its structure, policies, and practices in the region and on the UN Global Counter-Terrorism Strategy and framework, and specific recommendations directed at a range of actors. In light of the limitations outlined, Human Rights in China has also flagged a number of areas about which little is known, including SCO practices related to extraditions, blacklisting, and intelligence cooperation, for further consideration and investigation.

I. Introduction: Counter-Terrorism, Human Rights, and the SCO

Over the past decades, the international community has identified global terrorism as a major threat to peace, security, and stability. Since September 11, 2001, intensified counter-terrorism debates and responses, including national, multilateral, and regional approaches, have been marked by trends posing complex challenges to the protection of international human rights and fundamental freedoms. In the efforts to protect the right to life and security of the person against terrorist acts, a broad range of fundamental rights have come under increasing threat, in the Eurasian region as well as in Western nations such as the United States. The climate of fear created by the fight against terrorism has facilitated the undermining of universal human rights principles, and national security has often been invoked as justification for questionable government action affecting fundamental rights and freedoms recognized under both domestic and international law. A major challenge to counter-terrorism efforts on national, multilateral, and regional levels is how to ensure that these concerns are fully addressed.

Drawing upon Chapter VII of the *Charter of the United Nations* (“UN Charter”) concerning action with respect to threats to peace, breaches of peace, and acts of aggression, as well as *UN Charter* Article 55 on the obligations of states to ensure stability, peace, and universal respect for human rights and fundamental freedoms, and Article 56 regarding joint and separate action among states to achieve these goals, the UN General Assembly and Security Council have established an international framework for countering terrorism that explicitly and clearly states that all counter-terrorism measures must comply with international law, in particular, human rights, humanitarian, and refugee law.

The UN has highlighted the need for multilateral cooperation in counter-terrorism and taken positive steps to push cooperation forward, including through development of its Global Counter-Terrorism Strategy.⁷ Steps have also been taken at the regional level to develop counter-terrorism frameworks tailored to the specific circumstances and goals of nations in the region. One such regional framework, spearheaded by the People’s Republic of China (PRC or “China”), is the Shanghai Cooperation Organization, which is comprised of six member states: China, the Russian Federation (“Russia”), Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. Reflecting a significant regional manifestation of China’s domestic agenda and counter-terrorism practices, the SCO and regional security cooperation have served as a key conduit for China’s policies – with significant human

⁷ United Nations Global Counter-Terrorism Strategy, G.A. Res. 60/288, U.N. Doc. A/RES/60/288 (2006), <http://www.unodc.org/pdf/terrorism/Index/60-288en.pdf>.

rights implications – to spread throughout the region, as well as to the international community.

However, despite the high profile of the problems posed by terrorism, and notwithstanding over a dozen international conventions related to terrorism, as well as the efforts of UN bodies, human rights mechanisms and procedures, and experts, there is still no universal, comprehensive, and precise definition of “terrorism.”⁸ As argued by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (“Special Rapporteur on counter-terrorism”),⁹ the absence of a clear definition of terrorism impacts the assessment and promotion of proper compliance with international obligations regarding counter-terrorism and human rights protection, poses difficulties for extradition and mutual law enforcement assistance, prompts misunderstandings and misuses of the term

⁸ See generally U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. E/CN.4/2006/98 (2005) (Special Rapporteur, Martin Scheinin), paras. 26-50, <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.4/2006/98>. An ad hoc committee of the UN General Assembly has for many years been working towards a comprehensive convention on international terrorism. U.N. General Assembly, “Report of the coordinator on the results of the informal consultations on a draft comprehensive convention on international terrorism, held from 25 to 29 July 2005,” U.N. Doc. A/59/894 (2005), 7-18, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/894>. However, UN member states have not yet reached agreement on the convention, including its definition of terrorism. See “Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996,” U.N. Doc. A/65/37 (2010), Annex I.B, available at <http://www.un.org/law/terrorism/index.html>.

⁹ The UN Commission on Human Rights established the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in April 2005, through resolution 2005/80. U.N. Commission on Human Rights, “Protection of human rights and fundamental freedoms while countering terrorism,” Human Rights Res. 2005/80, U.N. Doc. E/CN.4/RES/2005/80 (2005), para. 14, http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-80.doc. Martin Scheinin, Professor of Public International Law at European University Institute (Florence), accepted the appointment as Special Rapporteur on August 8, 2005. U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/60/370 (2005) (Special Rapporteur, Martin Scheinin), para. 1, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/60/370>. The Special Rapporteur’s mandate was initially limited to three years, but in December 2007 the Human Rights Council extended the mandate for an additional three years. U.N. Human Rights Council, “Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” Res. 6/28 (2007), para. 2, http://www2.ohchr.org/english/issues/terrorism/rappporteur/docs/A_HRC_RES_6_28.pdf. The mandate of the Special Rapporteur authorizes him to make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism, including by providing advice and assistance at the request of states; to gather, request, receive, and exchange information and communications from and with all relevant sources, including governments and individuals, as well as through country visits; to integrate a gender perspective throughout the work of the mandate; to identify, exchange, and promote best practices; to work with other UN bodies to strengthen the protection of human rights while countering terrorism in an efficient manner; to engage in dialogue and cooperation with governments, nongovernmental organizations, and other UN bodies (including the Security Council counter-terrorism bodies), with attention to the parameters of their respective mandates; and to report regularly to the Human Rights Council and the General Assembly. Ibid.

“terrorism,” and risks unintentionally legitimizing conduct by oppressive regimes conducted under the label of countering terrorism.¹⁰

In the Eurasian region, the SCO has stepped into this gray zone by adopting broad and conceptually unclear definitions of “terrorism,” linked to “separatism” and “extremism,” in a framework with significant potential for abuse. This whitepaper examines the definitions promulgated through the 2001 *Shanghai Convention on Countering Terrorism, Separatism, and Extremism* (“*Shanghai Convention*”) and the 2009 *Convention on Counter-Terrorism of the Shanghai Cooperation Organization* (“*SCO Counter-Terrorism Convention*”). The analysis takes as its starting point the working formulation of terrorism drawn from Resolution 1566 of the UN Security Council and advanced by the Special Rapporteur on counter-terrorism, with a view towards ensuring that “the term ‘terrorism’ is confined in its use to conduct that is of a genuinely terrorist nature.”¹¹ While not offering a definition of terrorism, this formulation focuses on three cumulative characteristics of terrorist acts – intent, purpose, and a threshold “trigger offense” – that together serve to establish terrorism. (See discussion at Section IV.A *infra*.)

This whitepaper further evaluates the SCO’s normative framework; the ways in which SCO norms are operationalized, including through counter-terrorism practices, policies, and cooperation among member states; and impacts on three areas of substantive rights: privacy, non-refoulement and protection of asylees, and due process protections.

In addition to examining human rights impacts on citizens of SCO member states, Human Rights in China also analyzes the SCO’s impact on the international human rights framework and approaches to promotion and protection of human rights while countering terrorism, with a focus on China’s role in advancing an “anti-terrorism policy with Chinese characteristics.”¹² While China is only one of six members of the SCO – and the important roles of other member states, particularly Russia, should not be underestimated – China has played a leading role in the formulation of the SCO framework, policies, and practices. The SCO budget also depends heavily on the contributions of its two largest members, China and Russia. As of 2005, the PRC State Council had approved an SCO budget plan allocating responsibility for 24 percent of the

¹⁰ U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” *supra* n. 8, paras. 26-27, <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.4/2006/98>.

¹¹ *Ibid.*, para. 42.

¹² See Zhao Bing-zhi and Wang Xiu-mei, “Countermeasures against Terrorism through Criminal Justice in China” (paper presented at the First World Conference of Penal Law: Penal Law in the XXIst Century, Guadalajara, Mexico, November 18-23, 2007), 2, <http://www.penal.org/IMG/Guadalajara-Zhao.pdf>.

organization's annual budget to China.¹³ Russia was also allocated 24 percent; while Kazakhstan was allocated 21 percent; Uzbekistan, 15 percent; Kyrgyzstan, 10 percent; and Tajikistan, 6 percent.¹⁴ With its enormous economic, military, and political influence, China has a clear impact on shaping the approach to terrorism by the SCO and its individual member states – an approach that has often failed to adequately ensure that counter-terrorism measures comply with obligations under international law, including international human rights, humanitarian, and refugee law.

Despite the SCO's formal recognition of its international obligations as a regional organization, and despite the international obligations of individual SCO member states, the SCO counter-terrorism framework has instead largely adopted China's domestic approach to counter-terrorism and expanded it throughout Central Asia. This approach links the concept of terrorism to the overbroad, politicized notions of separatism and extremism in a collective campaign to crack down on these "Three Evils," and is used as a vehicle for social and political control over ethnic groups and other vulnerable targets. Such an approach is problematic in light of the Chinese government's history of restricting the legitimate exercise of religious, ethnic, cultural, and other rights perceived by the Communist Party of China as separatist or extremist threats, particularly in the Tibet Autonomous Region and in the Xinjiang Uyghur Autonomous Region (XUAR).¹⁵ The Chinese government and other SCO member states have thus used "counter-terrorism" measures as a tool to secure domestic "social stability," often at the expense of human rights.

While the Three Evils approach has marked China's domestic policy for some time, the SCO has adopted and harmonized this approach throughout Central Asia, in the Asian

¹³ See Guowuyuan guanyu hezhun Shanghai hezuo zuzhi yusuan bianzhi he zhixing xieding he guanyu xiugai 2003 nian 5 yue 29 ri qianshu de Shanghai hezuo zuzhi yusuan bianzhi he zhixing de yidingshu de pifu [国务院关于核准《上海合作组织预算编制和执行协定》和《关于修改二〇〇三年五月二十九日签署的〈上海合作组织预算编制和执行协定〉的议定书》的批复] [Response concerning the approval of the "Agreement on Budget Planning and Implementation of Shanghai Cooperation Organization" and the "Protocol for Revising the 'Agreement on Budget Planning and Implementation of Shanghai Cooperation Organization' signed on May 29, 2003"}, issued by the State Council [国务院], signed July 9, 2005, http://www.gov.cn/xgk/pub/govpublic/mrlm/200803/t20080328_31930.html.

¹⁴ Ibid.

¹⁵ To facilitate a critical examination and substantive discussion of the SCO among governments and in international fora, this whitepaper refers to the territories of the autonomous regions of the People's Republic of China (PRC) using their official designations. Additionally, "East Turkistan" or "East Turkestan," which may be used to refer to the Xinjiang Uyghur Autonomous Region, and is also used by many Uyghurs to designate their homeland, is employed within this whitepaper when appearing in cited source materials or when necessary to understand political context. Both the PRC Ministry of Public Security, and the United Nations in its Consolidated List (see Section III.B, *infra*), employ the phrase East Turkistan (or East Turkestan) when referring to alleged terrorist groups, such as the East Turkistan Islamic Movement, or to alleged extremist or separatist movements. Finally, given that there is no standard form of Romanization for the Uyghur language, Human Rights in China uses the spelling "Uyghur."

region, and more recently through efforts to deepen and expand bilateral cooperation with the UN. This Three Evils approach has also allowed China and the SCO to subsume their efforts into the global war on terror, in which most governments already have a stake, undermining effective scrutiny of national and regional security practices.

The scope of the SCO's impact in the region and beyond the territories of the member states is expansive and continues to develop. The individual governments of the SCO together oversee a cumulative population of over 1.5 billion people across over 30 million square kilometers of territory. The scale is even more staggering when accounting for the officially recognized SCO observer status of Mongolia, India, Iran, and Pakistan, and greater still considering the dialogue partner status of Sri Lanka and Belarus.¹⁶ Each of these countries – occupying geopolitical “hot spots” – are potential permanent SCO members, with both Iran and Pakistan having overtly lobbied for full membership.¹⁷ Moreover, the so-called SCO-Afghanistan Contact Group, designed to

¹⁶ Observer status states do not have “the right to participate in preparation and signing of documents,” nor can they “participate in formulating decisions of the SCO institutions.” *Regulations on Observer Status at the Shanghai Cooperation Organization*, April 24, 2004, Art. 8, <http://www.sectesco.org/EN/show.asp?id=65>. States with observer status at the SCO can attend open meetings of the Council of Ministers of Foreign Affairs of SCO member states as well as conferences of both heads of ministries and heads of departments of SCO member states, participate in discussions relating to issues of their concern so long as they have advance consent of the chairperson of the relevant meeting, and gain access to documents of the SCO institutions mentioned in Article 4 of the *Charter of the Shanghai Cooperation Organization*. Ibid., Art. 7. (For more information on the SCO implementing bodies, which include the Heads of State Council and the Council of Ministers of Foreign Affairs, see *Charter of the Shanghai Cooperation Organization* (hereafter, SCO Charter), June 15, 2001, Art. 4, <http://www.sectesco.org/EN/show.asp?id=69>.) It should also be noted that Article 12 of the *Regulations on Observer Status at the Shanghai Cooperation Organization* specifies that any state with observer status that “commits actions or makes statements targeted against the Organization, the decisions of the SCO institutions or the principles, set out in the Charter . . . can be stripped of its observer status.” *Regulations on Observer Status at the Shanghai Cooperation Organization*, supra, Art. 12. Meanwhile, SCO dialogue partners can participate in meetings of heads of ministries and departments, working groups, and scientific and expert meetings, among others, that pertain to “the subject of partnership” or “areas of cooperation.” *Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organization*, August 8, 2008, Art. 2.2.1, <http://www.sectesco.org/EN/show.asp?id=64>. Dialogue partners are also able to, with the consent of the member states, request that particular documents appear on the SCO Secretariat website, the SCO Regional Economic Cooperation website, or the Regional Anti-Terrorist Structure website. Ibid., Art. 2.2.3. In addition, dialogue partners can take part in an advisory vote on designated issues of cooperation. Ibid., Art. 2.3.3.

¹⁷ As of March 2011, both Iran and Pakistan were presented as having SCO observer status on the SCO's official website. SCO, “The Shanghai Cooperation Organization,” <http://www.sectesco.org/EN/> (accessed March 10, 2011) (listing each country's flag next to “observer states”). Iran has sought to join the SCO since 2008. “Iran's SCO Membership to be Beneficial,” Press TV, November 24, 2010, <http://www.presstv.ir/detail/152492.html>. At its annual summit in Tashkent on June 11, 2010, however, just two days after the UN approved sanctions against Iran, the SCO announced new procedures stipulating that any country under UN sanctions would be barred from becoming a full member of the SCO. “Shanghai Cooperation Organization opens to India and Pakistan, not Iran,” Asia News, June 12, 2010, <http://www.speroforum.com/a/34725/Shanghai-Cooperation-Organization-opens-to-India-and-Pakistan-not-Iran>. With respect to Pakistan, the SCO has been reviewing its application for membership since prior to

strengthen the SCO members' vested interests in the stability of Afghanistan, further expands the SCO's scope of influence into regions of critical and immediate significance.¹⁸

All told, in light of its various dimensions of multilateral interface, the SCO can directly impact the fundamental rights and freedoms of almost a third of the world's population across three-fifths of the Eurasian continent, which includes some of the most economically, politically, and militarily volatile regions in the world. And while the SCO has itself cited as a guiding principle the promotion of human rights and fundamental freedoms in accordance with international obligations,¹⁹ the structure, policies, and practices of the SCO – and the human rights records of its member states – raise serious concerns about compliance with international human rights obligations and the effective implementation of human rights protections.

As documented in relevant UN treaty body reviews and through the UN Human Rights Council's Universal Periodic Review process, the human rights situations in the SCO member states are plagued by systemic problems, such as corruption, lack of independent courts, serious social inequalities, and discrimination against ethnic and national minorities and women, as well as ongoing abuses, such as secret detentions, torture, attacks on human rights defenders and independent civil society organizations, and restrictions on the media, including the Internet. Instead of addressing these

February 2010. "SCO Appraises Membership of Iran, Pakistan," China Daily, February 4, 2010, http://www.chinadaily.com.cn/world/2010-02/04/content_9425076.htm.

¹⁸ Given the SCO's focus on the so-called "Three Evils" of terrorism, separatism, and extremism, it is little surprise that much of its attention has centered on Afghanistan, which borders the SCO member states China, Uzbekistan, and Tajikistan, as well as the SCO observer states Iran and Pakistan. As long as religious extremism, terrorism, and drug trafficking in Afghanistan continue to have regional impacts on SCO-affiliated states, the SCO will continue to have a vested interest in Afghanistan's political and economic stability. The SCO's engagement of Afghanistan has manifested in many ways, including the November 4, 2005 establishment of the SCO-Afghanistan Contact Group, which consists of SCO representatives and senior Afghan diplomats, and is aimed at supporting mutual political, economic, and security-related cooperation. *Protocol on Establishment of the SCO-Afghanistan Contact Group Between the Shanghai Cooperation Organization and the Islamic Republic of Afghanistan*, November 4, 2005, <http://www.sectsc.org/EN/show.asp?id=70>. More recently, the SCO held a Special Conference on Afghanistan in Moscow on March 27, 2009, which focused on mutual efforts to combat the drug trade, transnational terrorism, and organized crime, including the illegal arms trade. SCO, "Declaration of the Special Conference on Afghanistan Convened under the Auspices of the SCO," March 27, 2009, <http://www.sectsc.org/EN/show.asp?id=98>; SCO, "Statement by the SCO Member States and the Islamic Republic of Afghanistan on Combating Terrorism, Illicit Drug Trafficking, and Organized Crime," March 27, 2009, <http://www.sectsc.org/EN/show.asp?id=100>. Notably, the Special Conference was attended by several non-SCO dignitaries, including UN Secretary-General Ban Ki Moon. Office of the U.N. Secretary-General, "Secretary-General, at Special Conference on Afghanistan, Underscores Importance of Unified Action against Terrorism, Drug Trafficking, Organized Crime," March 27, 2009, <http://www.un.org/News/Press/docs/2009/sgsm12153.doc.htm>.

¹⁹ See, e.g., SCO Charter, supra n. 16, Art. 1.

problems in an effective and coherent manner, the international community has readily welcomed the SCO as a regional body into various bilateral and multilateral fora, and turned its attention away from the serious human rights problems of each individual SCO member state. At the same time, as a regional body of member states that have faced common human rights scrutiny, the SCO has provided a mechanism for these states to reject international pressure and counter-balance human rights criticisms from the international community. What is at stake now is the credibility and effectiveness of the international counter-terrorism framework and efforts to promote and protect human rights and fundamental freedoms – the foundation of an effective and sustainable approach to fighting terrorism.

The development of a “bilateral relationship” between the SCO and the UN underscores the timeliness and urgency of these issues and their impact on the UN. Citing the SCO’s commitments to the *UN Charter* and the goals and principles of the UN, the UN has granted the SCO observer status and continues to pursue expanded cooperation, including technical assistance and capacity building. In developing the specific modalities for SCO-UN cooperation, the international community must not contribute to the strengthening of a regional approach that is undermining international human rights, nor should it allow the cloak of a regional organization to conveniently mask serious ongoing human rights problems within each SCO member state.

By presenting this whitepaper, Human Rights in China aims to contribute to advancing greater accountability and transparency of regional frameworks such as the SCO, and to promote compliance by the SCO and its member states with their international human rights obligations. The structure for the remainder of this whitepaper is as follows:

- Part II provides an overview of the SCO’s structure and decision-making bodies, and describes the role of economic cooperation among SCO states and the growing international expansion of SCO influence.
- Part III outlines the international counter-terrorism framework, including key documents and implementation bodies, as a context for Part IV.
- Part IV analyzes the structural challenges within the SCO and specific SCO policies and practices to assess the SCO’s compliance with international human rights law.
- Part V assesses recent developments concerning the SCO’s deepening formal engagement with the UN and outlines key concerns that must be addressed in order to support both SCO accountability on human rights and the sustainable, effective implementation of the UN Global Counter-Terrorism Strategy.

- As a resource for further research and policy engagement, an extensive appendices section presents: a compilation of core SCO normative documents; analysis of SCO member state human rights obligations and implementation records; relevant domestic legislation and official statements of the People's Republic of China; analysis of reported or suspected extraditions and forcible returns of individuals between SCO member states; analysis of military and law enforcement cooperation within the SCO framework; and a select bibliography.

The framework for this whitepaper's analysis draws upon international human rights standards and frameworks, including guidance provided by resolutions, reports, and other documents issued by the UN General Assembly and Security Council, the Office of the High Commissioner for Human Rights, treaty bodies, and the special procedures of the Human Rights Council, particularly the invaluable conceptual, strategic, and practical contributions of the UN Special Rapporteur on counter-terrorism.

Human Rights in China obtained the information contained in this report regarding the substance and activities of the SCO through publicly available English, Chinese, and Russian sources, and through its participation in a June 2009 fact-finding mission of the International Federation for Human Rights (FIDH) to Kazakhstan and Kyrgyzstan.²⁰ However, the lack of transparency regarding the SCO's operations presents ongoing challenges to an effective assessment of its human rights impact.

²⁰ See FIDH, *Kazakhstan/ Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees*, supra n. 5.

II. Overview of the SCO

The SCO is a regional intergovernmental mechanism intended to enhance mutual security and cooperation between its member states – China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. Among its stated goals, the SCO’s primary aims involve coordination against the so-called “Three Evils” of terrorism, separatism, and extremism, and the facilitation of regional economic growth. The SCO was established on June 15, 2001, when the members of the now-defunct Shanghai Five – a multilateral forum for resolving border tensions between China, Russia, Kazakhstan, Kyrgyzstan, and Tajikistan – formally included Uzbekistan in their collaborative security efforts.²¹

One of the first documents adopted by the SCO member states was the 2001 *Shanghai Convention*, which preceded even the SCO’s organizational charter, and signaled that a paramount priority of the regional framework would be national security and counter-terrorism. The *Shanghai Convention* is unique in that it obligates member states to take measures against the “Three Evils”: not only “terrorism,” but also “separatism” and “extremism.” The document is particularly significant because, as the SCO members recognized, “For the first time at the international level, [the *Shanghai Convention*] fixed the definition of separatism and extremism as violent, criminally prosecuted acts.”²²

A. SCO structure and decision-making bodies

The SCO is structured in a way that maximizes cooperation between member state representatives responsible for their nation’s key security functions. In accordance with the *Charter of the Shanghai Cooperation Organization* (“SCO Charter”), the organization’s primary decision-making body is the **Heads of State Council**, consisting of the presidents of the SCO’s six member states; China’s representative is President Hu Jintao.²³ The Heads of State Council meets once a year to adopt resolutions, guidelines on SCO policy, and the issuance of a declaration setting forth the priorities of the SCO for the coming year. These meetings have also resulted in the adoption of various treaties, conventions, and declarations that govern the work of the SCO.

²¹ See *Declaration on the Establishment of the Shanghai Cooperation Organization*, June 15, 2001, http://www.echrts.com/en/normative_documents/2006; Alyson J. K. Bailes et al., *The Shanghai Cooperation Organization: SIPRI Policy Paper No. 17* (SIPRI: Stockholm, May 2007), 4, <http://books.sipri.org/files/PP/SIPRIPP17.pdf>.

²² 2009 SCO Summit in Yekaterinburg, “Yekaterinburg will host 2009 session of Shanghai Cooperation Organization leaders council,” <http://www.shos2009welcome.ru/eng>.

²³ Membership of the Heads of State Council includes President Hu Jintao of China, President Nursultan Nazarbayev of Kazakhstan, President Roza Otunbaeva of Kyrgyzstan, President Dmitry Medvedev of the Russian Federation, President Emomali Rahmon of Tajikistan, and President Islom Karimov of Uzbekistan.

Below the Heads of State Council is the **Council of Heads of Government**, which also meets once a year, but is responsible for the more detailed strategy of cooperation and direction within the SCO, as well as budgetary issues. This council is made up of the prime ministers or premiers of the member states; China's representative is Premier Wen Jiabao. A third council, the **Council of National Coordinators**, coordinates interaction within the SCO framework of the SCO's various ministries and agencies. Regular meetings to exchange on practices and progress are conducted between specific organs of the member states, including defense ministers, general prosecutors, and law enforcement agencies. Secondary leadership bodies include respective councils of prime ministers, national security coordinators, and ministers of foreign affairs, defense, domestic economy, and culture, as well as high court officials, attorneys general, and law enforcement ministers.

The day-to-day operations of the SCO are handled by the **SCO Secretariat based in Beijing** and the **SCO Regional Anti-Terrorist Structure (RATS) based in Tashkent, Uzbekistan**. The Heads of State Council appoints a Secretary-General to lead the Secretariat, and an Executive Committee Director to lead RATS, for a period of three years. Each of these bodies collaborates with their own "institute of permanent representatives of the SCO member states," which appears to ensure that the SCO operational bodies closely track the interests of the states themselves.

The structure of the two bodies is revealing. The SCO Secretariat is the more public, executive face of the SCO. Working with the permanent representatives assigned to it, it drafts documents and proposals, plans activities, arranges consultations, provides briefings and organizational and technical support for meetings, prepares information, carries out assessments, serves as a depositary, and handles other administrative matters.²⁴ Muratbek Imanaliev of Kyrgyzstan was appointed by the Heads of State Council to a three-year term as Secretary-General beginning January 2010.²⁵ The SCO RATS, on the other hand, appears to be the primary vehicle for implementation of

²⁴ SCO, "SCO Secretariat in Brief," <http://www.sectsc.org/EN/secretariat.asp>.

²⁵ See SCO, "Secretary-General of the Shanghai Cooperation Organization," <http://www.sectsc.org/EN/secretary.asp>. The preceding Secretary-General was Bolat Nurgaliev of Kazakhstan, who served from January 2007 through December 2009, and presided over a number of security-related developments within the SCO. Ibid. Notably, Nurgaliev moved on to a role with another regional organization, the Organization for Security and Cooperation in Europe (OSCE). He served as Kazakhstan's Special Representative of the OSCE Chairman-in-Office for Protracted Conflicts during Kazakhstan's OSCE Chairmanship in 2010. See OSCE, "Provisional list of the incoming Kazakh Chairmanship appointments to the positions of Special and Personal Representatives and chairpersons of the three committees," January 8, 2010, <http://www.osce.org/cio/41099>.

member state security cooperation: “its function is to coordinate the activities of SCO states’ law enforcement structures and special services.”²⁶

RATS was established through the *Shanghai Convention* and the *SCO Charter* with a vaguely defined mandate to combat acts of terrorism, separatism, and extremism.²⁷ While RATS currently does not itself deploy special forces,²⁸ “it is a framework for coordination, information and analytical support for the competent agencies in the SCO member countries with relevant material on combating terrorism, extremism, and separatism.”²⁹ Along with its institute of permanent representatives, RATS is comprised of two key units: the **RATS Council** and the **RATS Executive Committee**.

The **RATS Council** has the attributes of a powerful unit, instrumental to overall security cooperation of the member states. Notably, the RATS Council is made up of high-ranking officials of the national security apparatuses of the SCO member states.³⁰ This includes, for Russia, Sergey Smirnov, First Deputy Director of the Federal Security Service³¹ (one of the successor agencies to the KGB, focusing on domestic security), and for Kazakhstan, Adil Shayakhmetov, First Vice Chairman of the Kazakh National Security Committee³² (also a KGB successor institution). Meng Hongwei, China’s Vice Minister of Public Security, is the RATS Council representative for China, and was reportedly appointed to

²⁶ 2009 SCO Summit in Yekaterinburg, “Yekaterinburg will host 2009 session of Shanghai Cooperation Organization leaders council,” supra n. 22.

²⁷ See *Shanghai Convention on Combating Terrorism, Separatism and Extremism* (hereafter, *Shanghai Convention*), June 15, 2001, Art. 10, http://www.ecrats.com/en/normative_documents/2005; *SCO Charter*, supra n. 16, Art. 8.

²⁸ This could change in light of the SCO’s 2009 “Agreement on training personnel for anti-terrorist forces of SCO member states,” which has been ratified by some SCO member states. InfoSCO, “Госдума ратифицирует антитеррористическое соглашение в рамках ШОС” {“State Duma ratifies anti-terrorism agreement in the SCO framework”}, June 11, 2010, <http://infoshos.ru/ru/?idn=6116>; Official Site of the President of Russia, “Speech at Meeting of Shanghai Cooperation Organisation Council of Heads of State,” June 11, 2010, <http://eng.kremlin.ru/transcripts/419>. The language of this agreement, however, is not publicly available.

²⁹ 2009 SCO Summit in Yekaterinburg, “Yekaterinburg will host 2009 session of Shanghai Cooperation Organization leaders council,” supra n. 22.

³⁰ Ibid. When the RATS Council began meeting in 2004, participants included “Bozhko Vladimir Karpovich – the first deputy of the National Security Committee Chairman of the Republic of Kazakhstan, Yan Yuenyin – the deputy of the National Public Security Minister of the People’s Republic China, Mamitov Tokon Bolotbekovich – the deputy of the National Security Service Chairman of the Kyrgyz Republic, Komogorov Victor Ivanovich – the deputy of the Federal Security Service Director of the Russian Federation, Sharipov Muhtor Sharipovich – the deputy of the Security Minister of the Republic of Tajikistan, [and] Inoyatov Rustam Rasulovich – the Chairman of the National Security Service of the Republic of Uzbekistan. The Chairman of the meeting was Mamitov T.B.” RATS, “Meeting of the EC RATS SCO Council,” April 30, 2004, <http://www.ecrats.com/en/news/228>.

³¹ RATS, “Meeting of the EC RATS SCO Council,” supra n. 30.

³² InfoSCO, “A Meeting of the Council of SCO RATS Took Place in Tashkent,” October 20, 2009, <http://infoshos.ru/en/?idn=5002>.

chair the RATS Council in September 2010 for a one-year period.³³ The RATS Council is responsible for recommending a candidate for the position of RATS Executive Committee Director for vote by the Heads of State Council.³⁴ It also “determine[s] the manner in which the fundamental objectives and functions of RATS . . . shall be carried out,” and makes “resolutions of a mandatory nature on all matters of substance, including financial issues.”³⁵ The RATS Council appears to report directly to the Heads of State Council.³⁶

The **RATS Executive Committee**, led by RATS Director Dzhenisbek Dzhumanbekov of Kazakhstan, heads the center’s coordination of operations and data exchange among individual member states. The committee is comprised of representatives from the SCO member states and “is divided into 5 sectors: 1) Coordination and operational activities; 2) Information and analytical activities; 3) International legal support; 4) Administration and financial activities; 5) Security and staffing issues.”³⁷ Its primary activities are “to establish and maintain operation of the SCO RATS data bank; to maintain contacts and

³³ Kforce Government Solutions, “NightWatch for the Night of September 23, 2010,” http://www.kforcegov.com/Services/IS/NightWatch/NightWatch_10000251.aspx (citing reports from the Russian news agency Interfax). According to information released by the Chinese Ministry of Public Security, by 2008, Vice Minister Meng had also served as the Head of China’s National Central Bureau of Interpol, a Duty General Police Commissioner, and a member of the Communist Party of China. “Meng Hongwei tongzhi jianjie” [孟宏伟同志简介] {Background on Comrade Meng Hongwei}, Ministry of Public Security of the People’s Republic of China [中华人民共和国公安部], May 14, 2008, <http://www.mps.gov.cn/n16/n1282/n3463/n3598/1204152.html>. As of 2010, China’s permanent representative to RATS was Qu Yunhai, a diplomatic officer specializing in police liaison matters between China and Uzbekistan. Chinese Embassy in Uzbekistan [驻乌兹别克斯坦使馆], “Shaanxi sheng gong’an ting daibiaotuan fangwen Wuzibiekistan” [陕西省公安厅代表团访问乌兹别克斯坦] {Representatives from Shaanxi Provincial Public Security Department Visit Uzbekistan}, November 15, 2010, <http://www.mfa.gov.cn/chn/pds/wjdt/zwbd/t769165.htm> (describing Qu as a “police liaison officer” at the Chinese embassy in Uzbekistan). Little is known about Qu, although it appears that he had been appointed as both a police liaison officer and permanent representative to the RATS Council as early as 2007. Chinese Embassy in Uzbekistan [驻乌兹别克斯坦使馆], “Zhongguo zhu Wuzibiekistan dashi Yu Hongjun huijian Shanghai hezuo zuzhi diqu fan kongbu jigou zhi-wei-hui zhuren Subannuofu” [中国驻乌兹别克斯坦大使于洪君会见上海合作组织地区反恐机构执委会主任苏班诺夫] {Chinese Ambassador to Uzbekistan Yu Hongjun Meets with RATS Director Subanov}, November 15, 2007, http://www.mfa.gov.cn/chn/pds/gjhdq/gjhdqzz/lhg_59/zwbd/t443613.htm (mentioning Qu as the “permanent RATS representative”).

³⁴ SCO, “The Executive Committee of the Regional Counter-Terrorism Structure,” <http://www.sectsc.org/EN/AntiTerrorism.asp>.

³⁵ Соглашение между государствами – членами ШОС о Региональной антитеррористической структуре {*Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure*} (hereafter, 2002 RATS Agreement), June 7, 2002, Art. 10, http://www.ecrats.com/ru/normative_documents/1557. (Unofficial translation from the original Russian by International Federation for Human Rights; see Appendix A, “Key Normative Documents of the Shanghai Cooperation Organization.”)

³⁶ Ibid. (“The Council shall provide annual reports on the activities of RATS to the Council of Heads of State of the SCO.”)

³⁷ 2009 SCO Summit in Yekaterinburg, “Yekaterinburg will host 2009 session of Shanghai Cooperation Organization leaders council,” supra n. 22.

exchange of materials on the issues of combating terrorism, extremism, and separatism with other international organizations and states; to assist in the detection of terrorist attacks prepared within the SCO member states; to prepare information and analytical reviews on the issues of combating terrorism, extremism, and separatism both within the SCO member states and on the global scale.”³⁸

The RATS Executive Committee reportedly began functioning on January 1, 2004,³⁹ and the official opening of the RATS office in Tashkent took place on June 17 of the same year.⁴⁰ Notably, officers of the RATS Executive Committee are appointed by the Director, with the consent of the RATS Council, “from among the citizens of the Parties, taking into consideration the contributions of the respective Parties to the budget of the SCO”⁴¹ It is therefore probable that China’s influence weighs heavily, in light of its financial contribution.

Publicly-available details on the actual operations of RATS are limited. (Normative documents concerning RATS operations that have been made public are included in Appendix A.) The body has evolved significantly over the past few years, and while the full extent of its operations is unclear, it appears poised to become a major hub for data exchange and counter-terrorism cooperation. (See *Section IV.F infra.*) The *SCO Charter* noted the existence of RATS as a standing body of the SCO, but specifically provided that RATS’s main objectives, functions, constitutive principles, and rules of procedure would be governed by a separate international treaty between the SCO members.⁴² On June 7, 2002, SCO member states entered into an *Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure* (“2002 RATS Agreement”), which lays out these aspects of RATS. According to this agreement, RATS was “intended to assist in the coordination and collaboration of the Parties’ competent agencies in combating terrorism, separatism, and extremism, as these acts are defined in the [Shanghai] Convention.”⁴³ The problematic Three Evils approach of the *Shanghai Convention* is therefore institutionalized within RATS.

As the primary body responsible for implementing counter-terrorism cooperation within the SCO, RATS’s integration of, and compliance with, international human rights norms and standards in its operations are crucial. The limited documentation on the body that

³⁸ Ibid.

³⁹ RATS, “About the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization,” April 5, 2004, <http://www.ecrats.com/en/news/187>.

⁴⁰ RATS, “About the Official Opening Ceremony of the RATS SCO office,” June 17, 2004, <http://www.ecrats.com/en/news/204>.

⁴¹ 2002 RATS Agreement, *supra* n. 35, Art. 11.

⁴² SCO Charter, *supra* n. 16, Art. 8.

⁴³ 2002 RATS Agreement, *supra* n. 35, Art. 3.

is publicly available indicates that RATS's powers of implementation are quite far-reaching, with the potential to impact broadly on human rights. (See Section IV.F *infra*.) The 2002 RATS Agreement tasks the organization with the following:

1. developing of **proposals and recommendations concerning the development of cooperation** in combating terrorism, separatism, and extremism for the relevant SCO structures, including at the request of the Parties;
2. assistance to the competent agencies of the Parties at the request of one of the Parties in combating terrorism, separatism, and extremism, including in accordance with the provisions of the [Shanghai] Convention;
3. **collection and analysis of information** received by RATS from the Parties regarding issues of combating terrorism, separatism, and extremism;
4. **formation of the RATS database**, specifically regarding:
 - international **terrorist, separatist, and other extremist organizations**, their structure, leaders, and members, **other individuals associated with these organizations**, as well as the financing sources and channels of these organizations;
 - status, dynamics, and trends in the spread of terrorism, separatism, and extremism that affect the interests of the Parties;
 - **non-governmental organizations and individuals providing support for terrorism, separatism, and extremism**;
5. providing information upon requests by the competent agencies of the Parties;
6. assistance in preparing and executing **anti-terrorist command and staff exercises and operational and tactical exercises** upon request by the Parties concerned;
7. assistance in the preparation and execution of **operational search and other actions** in combating terrorism, separatism, and extremism upon the request of the Parties;
8. assistance in conducting **international searches for individuals alleged to have committed activities set forth in Article 1(1) of the [Shanghai] Convention in order to criminally prosecute them**;
9. participation in preparing **international legal documents** affecting issues of combating terrorism, separatism, and extremism;

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10. assistance in **training specialists and instructors** for anti-terrorist subdivisions;
 11. participation in preparing and conducting research and practice conferences and seminars, and assistance in **exchanging experience** regarding issues of combating terrorism, separatism, and extremism;
 12. establishment and support of **working contacts with international organizations** engaged in issues of combating terrorism, separatism, and extremism.⁴⁴

In addition to the foundational *2002 RATS Agreement*, in July 2005, RATS operations were further concretized through the adoption of a *Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism* (“*Concept of Cooperation of the SCO Member States*”), which “determine[d] the fundamental goals, objectives, principles, avenues, and forms of cooperation between SCO member states in combating terrorism, separatism and extremism, as well as the mechanism of its implementation.”⁴⁵ According to this concept:

The fundamental forms of cooperation are:

1. Conducting **concerted preventive activities**.
2. Conducting **concerted operational search and investigative actions**.
3. Conducting joint **anti-terrorist** activities.
4. **Exchanging operational search, informational, and forensic information**, including information on acts of terrorism, separatism, and extremism in the course of preparation or that have been committed, the individuals and organizations associated with them, and the creation of specialized databases and communication systems, including a confidential one.
5. Providing **legal assistance**.
6. Organizing and conducting **joint anti-terrorist exercises, personnel development, exchanging work experience** and methodical literature on issues of combating separatism, and extremism, and carrying out

⁴⁴ 2002 RATS Agreement, *supra* n. 35, at Art. 6 (emphasis added).

⁴⁵ Концепция сотрудничества государств – членов ШОС в борьбе с терроризмом, сепаратизмом и экстремизмом {*The Concept of Cooperation Between SCO Member States on Combating Terrorism, Separatism and Extremism*} (hereafter, *Concept of Cooperation*), July 5, 2005, preamble, http://www.ecrats.com/ru/normative_documents/1558 (emphasis added) (unofficial translation from the original Russian by International Federation for Human Rights; see Appendix A, “Key Normative Documents of the Shanghai Cooperation Organization”); see also Declaration of Heads of Member States of the Shanghai Cooperation Organization, July 5, 2005, Art. I, available at http://www1.chinadaily.com.cn/china/2006-06/12/content_6020345.htm.

joint academic research in said field.⁴⁶

The RATS Council has also regularly promulgated programs for cooperation between member states in fighting terrorism, separatism, and extremism, which appear to provide the basis for RATS activities during particular years – the first “plan of organizing cooperation,” for the 2004-2006 period, was approved on April 30, 2004.⁴⁷ Programs of cooperation were subsequently adopted for the 2007-2009 and 2010-2012 periods.⁴⁸ The contents of these programs of cooperation, however, have not been made public.

B. Economic cooperation among SCO member states

The SCO’s mutual security efforts are further bolstered through economic ties facilitated under the SCO framework. This is particularly apparent through recent SCO member interactions in the wake of the global financial crisis that began in 2007. For instance, on June 16, 2009, at the annual SCO summit in Yekaterinburg, President Hu Jintao of China offered economic recovery assistance in the form of a \$10 billion dollar loan to fellow SCO member governments.⁴⁹ SCO members have also launched the so-called *Joint Initiative of Global Economic Crisis Counteraction*, an agreement between SCO members that was adopted on October 14, 2009.⁵⁰ As stated by the SCO, the purpose of the initiative is to enhance multilateral economic cooperation in tackling the consequences

⁴⁶ Concept of Cooperation, supra n. 45, at Art. IV (emphasis added).

⁴⁷ RATS, “Meeting of the EC RATS SCO Council,” supra n. 30.

⁴⁸ See Joint Communiqué of Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation, June 15, 2006, Art. I, <http://www.sectsc.org/EN/show.asp?id=95> (“During the meeting, the heads of state . . . approved a new version of the regulations of the SCO Secretariat and a cooperation programme of SCO members on combating terrorism, separatism, extremism from 2007 to 2009 . . .”); see also Joint Communiqué of Meeting of the Council of Heads of Member States of the Shanghai Cooperation Organisation, August 16, 2007 <http://www.sectsc.org/EN/show.asp?id=93> (“The importance of fulfilling the Cooperation Plan of the SCO member states on combating terrorism, separatism and extremism for 2007-2009 was stressed. Common understanding was expressed over the need to step up counteraction against funding of terrorism and illegal money laundering.”); RATS, “Информационное сообщение о шестнадцатом заседании Совета Региональной антитеррористической структуры Шанхайской организации сотрудничества” [“Announcement of the sixteenth meeting of the Council of the Regional Anti-Terrorism Structure of the Shanghai Cooperation Organization”], April 2, 2010, <http://www.ecrats.com/ru/news/2103>.

⁴⁹ “China Offers Neighbors \$10 Billion Credit,” Voice of America News, June 16, 2009, <http://www.voanews.com/english/2009-06-16-voa13.cfm>.

⁵⁰ Joint Communiqué of Meeting of the Council of the Heads of Government of the Shanghai Cooperation Organization Member States, October 14, 2009, <http://www.sectsc.org/EN/show.asp?id=145>; Government of the Russian Federation, “Prime Minister Vladimir Putin Took Part in the Shanghai Cooperation Organisation’s Heads of Government Council Meeting,” October 14, 2009, <http://www.premier.gov.ru/eng/visits/world/7889/events/7902/>.

of the global financial crisis and ensuring further economic development of the SCO member states.⁵¹

The SCO's economic development agenda provides insight into the uniquely influential role played by the Chinese government within the SCO. As one of the world's biggest and fastest-growing economies, protected by one of the largest military forces in the world, China's clout within the SCO outweighs all other SCO members. In addition to its \$10 billion loan to fellow SCO governments, China is a strong and vocal supporter of the *Joint Initiative of Global Economic Crisis Counteraction*. China has also played a vital role in a number of key SCO-facilitated enterprises in recent years, including the 1,833 kilometer China-Central Asia natural gas pipeline linking China, Kazakhstan, Turkmenistan, and Uzbekistan, officially opened on December 14, 2009.⁵² China's President Hu Jintao marked the occasion by declaring the project a "carrier of goodwill for friendship and mutual benefits of the four countries."⁵³ He similarly described the completion of a 620-mile oil pipeline linking China and Russia: "The smooth completion of the pipeline project is a model for the two countries' mutually beneficial win-win cooperation and a milestone for China-Russia energy cooperation."⁵⁴ 2009 also saw the signing of \$3.5 billion in transactions between Chinese and Russian companies, including inter-bank lending and natural gas sales agreements, during side meetings held in parallel with the October 2009 SCO summit in Beijing.⁵⁵

In addition, Chinese state-owned enterprises can extend the scope and impact of economic activities. For example, the China Metallurgical Group Corporation, a Chinese state-owned conglomerate, has undertaken a \$3.4 billion project to extract up to 11 million tons of copper from SCO contact Afghanistan, amounting to by far the largest

⁵¹ Joint Communiqué of Meeting of the Council of the Heads of Government of the Shanghai Cooperation Organization Member States, supra n. 50.

⁵² "Chinese Turkmen, Kazakh, Uzbek Presidents Unveil Gas Pipeline," People Forum, December 14, 2009, <http://www.peopleforum.cn/viewthread.php?tid=5649>; "Central Asian Gas Pipeline Opens," *Wall Street Journal*, December 15, 2009, <http://online.wsj.com/article/SB126081900045491015.html>.

⁵³ "Chinese Turkmen, Kazakh, Uzbek Presidents Unveil Gas Pipeline," supra n. 52. Relevant here is China's interest in natural resources and an expansion of its export market, specifically to Central Asia, which offers untapped natural resources and investment opportunities. See Richard Weitz, "Afghanistan in China's Emerging Eurasian Transport Corridor," *China Brief* 10, no. 14 (2010), [http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=36604&tx_ttnews\[backPid\]=7&cHash=2df324decf](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=36604&tx_ttnews[backPid]=7&cHash=2df324decf). It has also been emphasized that Central Asian countries are a logical conduit through which the PRC could import and export goods from and to other economically important regions of the world. Ibid. Furthermore, increasing the volume and types of goods available from and to China requires improving the region's means of transportation, something the SCO's activities naturally facilitate. Ibid.

⁵⁴ "China, Russia Mark Completion of China-Russia Crude Oil Pipeline," Xinhua, September 27, 2010, http://news.xinhuanet.com/english2010/china/2010-09/27/c_13532078.htm.

⁵⁵ See "China, Russia Sign Deals Worth Billions of Dollars," Voice of America, October 13, 2009, <http://www1.voanews.com/english/news/a-13-2009-10-13-voa8.html>.

foreign investment project in that country.⁵⁶ These kinds of economic cooperation projects involving actors beyond SCO member states, including partners and others, expand the influence of the SCO's policies and practices.

China has also proposed the creation of an SCO development bank to broaden financing for Central Asian energy exploration and infrastructure projects, including oil and gas pipelines across SCO member state borders.⁵⁷ In December 2010, China reportedly proposed an initial \$8 billion investment in the bank, to be joined with an investment of only \$2 billion from all other SCO members combined.⁵⁸ This raises concerns about the implications of a Central Asian development financing mechanism structured so heavily in China's favor.

C. Expansion of SCO influence internationally

Ten years since its establishment, the SCO's influence has increased, as have its interactions with states and multilateral organizations seeking to benefit from cooperation with the group. Recent developments related to and statements of the international community, as well as the SCO, its member states, observer status states, and dialogue partners, reflect the SCO's desire to expand its scope and several of its constituents' interests in establishing a more prominent position within the SCO. Currently, Belarus and Sri Lanka are dialogue partners; states with observer status at the SCO include India, Iran, Mongolia, and Pakistan.⁵⁹

The SCO appears on track to expand. At the SCO's ninth prime ministers' meeting in Dushanbe on November 25, 2010, Wen Jiabao pointed out:

The global political and economic situation is undergoing profound and complicated changes. We must rely on collective strength to better maintain regional peace and stability and promote comprehensive and balanced economic, social and cultural development. This is not only in the interest of

⁵⁶ Michael Wines, "China Willing to Spend Big on Afghan Commerce," *New York Times*, December 29, 2009, <http://www.nytimes.com/2009/12/30/world/asia/30mine.html>.

⁵⁷ Yidi Zhao, "China Proposes \$10 Billion Regional Bank, 21st Says," Bloomberg News, December 1, 2010, <http://www.businessweek.com/news/2010-12-01/china-proposes-10-billion-regional-bank-21st-says.html>.

⁵⁸ Ibid.

⁵⁹ SCO, "The Shanghai Cooperation Organization," <http://www.sectesco.org/EN/> (accessed March 10, 2011) (listing each country's flag next to either "Observer states" or "Dialogue partners"). The SCO granted observer status to these four countries in 2005. Dilip Hiro, "Shanghai Surprise: The Summit of the Shanghai Cooperation Organisation Reveals How Power is Shifting in the World," *The Guardian*, June 16, 2006, <http://www.guardian.co.uk/commentisfree/2006/jun/16/shanghaisurprise>. See supra n. 16 for further information regarding observer status states and dialogue partners.

member states but will contribute to the enhancement of the SCO's rallying force and appeal.⁶⁰

The SCO has also recently concretized the channels through which multilateral organizations and countries may become involved with the SCO.

i. Membership

At the SCO's 2010 annual summit,⁶¹ SCO leaders approved *Regulations on the Procedure for Admitting New Members to the Shanghai Cooperation Organization ("SCO New Member Regulations")*.⁶² With respect to extending the number of SCO participants, it was also announced that the Council of National Coordinators "will prepare a standard Memorandum and other documents regulating legal, organizational and financial aspects of the membership to the Organization for entering states."⁶³ Neither the *SCO New Member Regulations* nor the Memorandum, however, were made publicly available.⁶⁴ However, given announcements made at the summit, it appears that the *SCO New Member Regulations* will "limit[] membership to countries within the Eurasian continent that have diplomatic relations with other [SCO] members and are either SCO observers or dialogue partners."⁶⁵ In addition, in a declaration announced at the 2010 summit, it was indicated that countries under UN sanctions would be barred from membership.⁶⁶ As SCO Secretary-General Imanaliev indicated in February 2010, "One

⁶⁰ Zhang Jinhai, Feng Jian, and Xu Song [张金海、冯坚及徐松], "Shanghai hezuo zuzhi chengyuanguo di jiu ci zongli huiyi juxing, Wen Jiabao chuxi bing fabiao jianghua" [上海合作组织成员国第九次总理会议举行温家宝出席并发表讲话] {Wen Jiabao Attends and Addresses the Ninth Prime Ministers' Meeting of SCO Member States}, Xinhua News Agency [新华社], November 26, 2010, <http://politics.people.com.cn/GB/1024/13321348.html>.

⁶¹ The summit was held in Tashkent, Uzbekistan from June 10-11, 2010.

⁶² Joint Communiqué of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation, June 11, 2010, <http://www.sectSCO.org/EN/show.asp?id=223>.

⁶³ Ibid.

⁶⁴ As of March 2011, these documents were not publicly available on either the SCO's or RATS's website.

⁶⁵ "Shanghai Cooperation Organization Opens to India and Pakistan, not Iran," Asia News, June 12, 2010, <http://www.speroforum.com/a/34725/Shanghai-Cooperation-Organization-opens-to-India-and-Pakistan-not-Iran>. For further information regarding the rights of observer status states and dialogue partners, see *supra* n. 16.

⁶⁶ "Shanghai Cooperation Organization opens to India and Pakistan, not Iran," Asia News, June 12, 2010, <http://www.speroforum.com/a/34725/Shanghai-Cooperation-Organization-opens-to-India-and-Pakistan-not-Iran>. It is speculated that this requirement regarding UN sanctions is a response to the June 9, 2010 UN sanctions against Iran. Iran applied for full SCO membership on March 24, 2008. "Iran Wants Full SCO Membership," RIA Novosti, March 26, 2008, <http://en.rian.ru/analysis/20080326/102299498.html>. Former Secretary General of the SCO, Bolat Nurgaliyev, welcomed Iran's bid for membership at that time, stating, "Iran's claim for the Shanghai Cooperation Organization full membership will not bring any negative moments in relations with the regional and international organizations." "SCO Chief Welcomes Iran's SCO Membership," Mathaba, March 28, 2008, <http://www.mathaba.net/news/?x=587013>. The SCO had also welcomed the presence of Iran's President Mahmoud Ahmadinejad at SCO summits, and in 2009 SCO

important principle is that the new member should be good for [the] SCO's growth and unification, not the other way round.... Enlarging membership is an important task for [the] SCO at present and for a long time in the future."⁶⁷

The *SCO New Member Regulations* are meant to lay "the foundation for [the SCO's] future expansion,"⁶⁸ which is a noteworthy change of course from the SCO's original charter. Indeed, the *SCO Charter* only provided a generalized foundation for expansion based on a potential member's commitment to the SCO's obligations: "membership shall be open for other States in the region that undertake to respect the objectives and principles of this Charter and to comply with the provisions of other international treaties and instruments adopted in the framework of SCO."⁶⁹

Shortly after the 2010 summit in which the SCO created an institutional framework for expansion, India, Iran, and Pakistan expressed interest in obtaining membership status at the SCO's ninth prime ministers' meeting in Dushanbe. India's External Affairs Minister, S. M. Krishna, said, "We have been playing a role as an observer, and now want to play a bigger role in SCO which has countries as our extended neighbourhood."⁷⁰ Iran has been seeking to join the SCO since 2008. At Dushanbe, Iranian First Vice President Mohammed Reza Rahimi asserted that "Iran is one of the

leaders even congratulated him on his disputed election victory. "Shanghai Cooperation Organization opens to India and Pakistan, not Iran," Asia News, June 12, 2010, <http://www.speroforum.com/a/34725/Shanghai-Cooperation-Organization-opens-to-India-and-Pakistan-not-Iran>. But with respect to the 2010 Summit, which took place shortly after the announcement of the UN sanctions against Iran, Ahmadinejad reportedly declined an invitation to visit. "Iranian President Rejects Invitation to SCO Summit," RIA Novosti, June 11, 2010, <http://en.rian.ru/world/20100611/159381127.html>.

⁶⁷ "SCO Appraises Membership of Iran, Pakistan," China Daily, February 4, 2010, http://www.chinadaily.com.cn/world/2010-02/04/content_9425076.htm.

⁶⁸ SCO, "Chronicle of Main Events at SCO in 2010," December 31, 2010, <http://www.sectesco.org/EN/show.asp?id=255>.

⁶⁹ SCO Charter, supra n. 16, Art. 13. While the *SCO Charter* refers to states "in the region," no definition of region or its limitations was provided. See Bailes, supra n. 21, 17. It is possible that the new requirement that a potential member must be part of the Eurasian continent, and the creation of other membership standards such as those specified at the summit, is meant to fill this gap.

⁷⁰ Shubhajit Roy, "India Closer to SCO Membership," *The Indian Express*, June 12, 2010, <http://www.indianexpress.com/story-print/632922/>. In November 2010, India's Foreign Secretary stated, "India attaches great importance to Shanghai Cooperation Organisation, most of the members of which belong to our extended neighborhood. India has played a constructive and important role in SCO as an observer and has consistently articulated its desire to play an expanded and more meaningful role on the SCO platform. We value the role of the SCO in bringing security, stability and development to our region and stand ready to contribute more to the SCO. The SCO can play a critical role in countering terrorism through collaborative efforts and a greater profile in Afghanistan." India Ministry of External Affairs, "Address by Foreign Secretary at NDC on 'Challenges in India's Foreign Policy,'" November 19, 2010, <http://meaindia.nic.in/mystart.php?id=190016703>. Around the same time as the Secretary's statement, U.S. President Obama endorsed India's bid for a permanent seat on the UN Security Council. "Obama Backs U.N. Security Council Seat for India," NPR News, November 8, 2010, <http://www.npr.org/templates/story/story.php?storyId=131155914>.

influential nations of the region and its membership in the Shanghai Cooperation Organization will be to the benefit of the countries of the region.”⁷¹ And Pakistan’s Prime Minister Yousaf Raza Gilani reiterated his country’s interest in becoming a full member of the SCO given its “great potential to shape the future of our region in terms of security and development.”⁷² (The SCO has been reviewing Pakistan’s application for full membership since prior to February 2010.⁷³)

Given the prospect of additional security, expansive cooperation, and economic development, it is not surprising that countries including Mongolia,⁷⁴ Pakistan,⁷⁵ and Sri Lanka⁷⁶ are involved within the SCO framework. Similarly, countries and multilateral organizations that do not have member status, dialogue partner status, or observer

⁷¹ “Iran’s SCO Membership to be Beneficial,” supra n. 17. Rahimi further asserted that “the member states cannot take any significant measures regarding the transit of goods without Iran’s cooperation,” and stated, “In the meeting, we made some suggestions on accepting Iran’s membership in this organization, creating regional currency (common currency), the transit of goods, and the campaign against drugs and terrorism.” “VP Says Iran Willing to Win Full SCO Membership,” Tehran Times, November 27, 2010, http://www.tehrantimes.com/index_View.asp?code=230930. Rahimi also indicated that “most of the SCO members [were] willing to accept Iran as a full member, but certain countries postpone[d] discussing the issue.” Ibid.

⁷² “Gilani’s Firm Stance at SCO Forum to Benefit Pakistan Seeking Full Membership,” Associated Press of Pakistan, November 28, 2010, http://ftpapp.app.com.pk/en/index.php?option=com_content&task=view&id=123051&Itemid=1. Gilani “stressed the importance of [the] SCO’s framework of cooperation on issues of security, stability, and peace in a comprehensive manner. ‘It must focus on bringing durable peace and stability to the larger SCO region....I want to assure you that Pakistan will always be on your side in the common quest for ensuring a better future for the peoples of our region, as a whole,’ Gilani told the SCO leaders.” Ibid. In a meeting with Tajik President Emomali Rahmon, Gilani emphasized that “Pakistan wanted to play an active role at the SCO and that his country already signed a transit-trade agreement with Afghanistan.” “Shanghai Cooperation Organisation: Pakistan Eyes Full Member Status,” The Express Tribune, November 25, 2010, <http://tribune.com.pk/story/81525/shanghai-cooperation-organisation-pakistan-eyes-full-member-status/>.

⁷³ See “SCO Appraises Membership of Iran, Pakistan,” supra n. 17. Russian Foreign Minister Sergei Lavrov indicated that Russia views the SCO as a useful mechanism to address issues between India and Pakistan, stating, “Our position is that relations between Delhi and Islamabad should be settled gradually . . . I am glad Delhi and Islamabad both are observers (in SCO) and this will be conducive to settlement.” “Russia Backs India, Asks Pak to Stop Infiltration,” Outlook India, November 29, 2010, <http://news.outlookindia.com/item.aspx?703027>.

⁷⁴ One author has asserted that Mongolia’s interest is in having “a new opportunity to multilateralize its own highly asymmetric and sometimes sensitive strategic relations with China,” and that this is in part because “Mongolia is a country with a well-attested commitment to multilateral approaches to peace and confidence building in general.” Bailes, supra n. 21.

⁷⁵ At the UN General Assembly, Pakistani officials asserted that, due to “an accident of history,” Pakistan “was on the frontlines of the global anti-terrorism campaign.” U.N. General Assembly, “With Consensus Resolution, General Assembly Reiterates Unequivocal Condemnation of Terrorism, Reaffirms Support for 2006 UN Global Counterterrorism Strategy,” September 8, 2010, <http://www.un.org/News/Press/docs/2010/ga10977.doc.htm>.

⁷⁶ At the UN General Assembly, a Sri Lankan official emphasized that the country would remain “vigilant about the possibility of [terrorism] rearing its ugly head again via international means.” Ibid. She went on to stress that terrorism “could only be defeated effectively through international cooperation and pragmatic action.” Ibid.

status have expressed interest in developing new ties with the SCO. For example, in September 2010, a Ukrainian diplomat noted that “Ukraine is now considering the possibility of joining the Shanghai Cooperation Organization as a guest.”⁷⁷

ii. Role in regional security and stability

The SCO’s substantial regional appeal derives in part from the framework it offers for improving relations with China, Russia, and key Central Asian states, particularly regarding security. As a security organization, Article 1 of the *SCO Charter* lays out the SCO’s goals of consolidating “multidisciplinary cooperation in the maintenance and strengthening of peace, security and stability”; jointly counteracting “terrorism, separatism and extremism in all their manifestations”; and fighting against “illicit narcotics[,] arms trafficking and other types of criminal activity of a transnational character.”⁷⁸ The response of states in the region and elsewhere to the SCO’s promises on security has been positive. As one Indian official noted, “whatever the perception earlier, India believes that [the] SCO has a major role to play in terms of regional security.”⁷⁹

Additionally, while it must be considered within a broader context of government policy-making processes and debates, a leaked U.S. diplomatic cable from January 2009 provides some insight on the perceived role of regional cooperative frameworks such as the SCO.⁸⁰ The cable emphasized China’s influential leading role in the SCO framework, and the ability of regional frameworks to contribute to global security and economic stability.⁸¹ In particular, it asserted that formal regional mechanisms could serve as an impetus for China to become more vocal in calling out nations with particularly

⁷⁷ “Ukraine, Russia Plan to Ramp Up Efforts in International Arena,” *Bsanna News*, September 7, 2010, <http://bsanna-news.ukrinform.ua/newsitem.php?id=13993&lang=en>. At the same time, China has “pledged closer cooperation in trade, energy and infrastructure” with the Ukraine. “China to Bolster Cooperation with Tunisia, Ukraine, Uzbekistan: Chinese FM,” May 23, 2010, *People’s Daily*, <http://english.peopledaily.com.cn/90001/90776/90883/6995171.html>.

⁷⁸ *SCO Charter*, supra n. 16, Art. 1.

⁷⁹ “India Keen to Become Member of SCO,” *The Times of India*, June 1, 2010, <http://timesofindia.indiatimes.com/india/India-keen-to-become-member-of-SCO/articleshow/5995619.cms>. That official further specified that the SCO “share[s] India’s concerns over [the] rise of the Taliban in Afghanistan.” *Ibid.* It has also been asserted that “India’s interests concerning its security in the Central Asian region strategically coincide with those of Russia, China and other SCO member-states” and that India’s addition to the SCO would significantly expand “the resources and opportunities for anti-terrorist activities and the struggle against the drug trafficking.” “SCO to be Fortified by India,” *The Voice of Russia*, September 24, 2010, <http://english.ruvr.ru/2010/09/24/22167015.html>.

⁸⁰ Embassy of the United States in Beijing, “Looking at the Next 30 Years of the U.S.-China Relationship,” January 6, 2009, paras. 24-26, <http://wikileaks.eu/cable/2009/01/09BEIJING22.html>.

⁸¹ *Ibid.*

troublesome records of conduct, and more meaningfully engaged in global discourse on economic and environmental concerns.⁸²

iii. Role in addressing Afghanistan conflict

States and international organizations have embraced the SCO as a potential partner in resolving the Afghanistan conflict. The international community echoed these themes during the July 2010 International Conference on Afghanistan, attended by more than 40 foreign ministers and international leaders,⁸³ including representatives from NATO⁸⁴ and the United States.⁸⁵ As stated in the Communiqué issued following the conference,⁸⁶ the process of Afghanistan's transition to full independent Afghan leadership and responsibility, known as the Kabul Process, "is built upon deep and broad international partnerships."⁸⁷ According to the Communiqué, "[p]articipants noted the importance of regional cooperation to prosperity, peace and stability, and applauded the recent joint efforts of Afghanistan and its regional partners to combat terrorism by ending support, sustenance and sanctuaries for terrorists from wherever they are, and the drugs trade . . ."⁸⁸ Participants specifically welcomed "the meeting of regional organizations, notably . . . the Shanghai Cooperation Organization (SCO) . . . and commended the agreement by these organizations for a plan for enhanced coordination of Afghanistan's regional engagement."⁸⁹ They also welcomed Afghanistan's "intent to strengthen the cooperation with . . . the SCO in the field of border control."⁹⁰

The UN Security Council, in an October 13, 2010 resolution, also acknowledged the SCO's involvement in Afghanistan by "[r]ecognizing the importance of the contribution of neighbouring and regional partners as well as regional organizations including EU,

⁸² Ibid.

⁸³ "Draft Communiqué Sets 2014 as Target for Afghan Military to Lead," *New York Times*, July 20, 2010, http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html?_r=1&pagewanted=all.

⁸⁴ North Atlantic Treaty Organization, "NATO Supports Roadmap for Transition to Afghan Security Lead," July 20, 2010, http://www.nato.int/cps/en/natolive/news_65030.htm.

⁸⁵ "Clinton's Remarks at the International Conference on Afghanistan, July 2010," Council on Foreign Relations, July 20, 2010, http://www.cfr.org/publication/22662/clintons_remarks_at_the_international_conference_on_afghanistan_july_2010.html. Secretary of State Clinton spoke at the Conference, where she stated, "This conference makes it clear: the world is with Afghanistan. And the world stands in opposition to al Qaeda, the extremist militant Taliban, and to those who are trying to deny Afghanistan the future it deserves." Ibid.

⁸⁶ Kabul International Conference on Afghanistan Communiqué: A Renewed Commitment by the Afghan Government to the Afghan People; A Renewed Commitment by the International Community to Afghanistan, July 20, 2010, <http://www.mfa.gov.af/Final%20English%20Communique%20-%20Kabul%20%20International%20Conference%20on%20Afghanistan%20-%202010%20July%202010.pdf>.

⁸⁷ Ibid., para. 3.

⁸⁸ Ibid., para. 21.

⁸⁹ Ibid., para. 22.

⁹⁰ Ibid., para. 26.

[the Organization for Security and Cooperation in Europe (OSCE)], Shanghai Cooperation Organization and the [Collective Security Treaty Organization (CSTO)] to the stabilization of Afghanistan.”⁹¹

These developments are not surprising given growing ties between Afghanistan and the SCO. On November 4, 2005, the SCO-Afghanistan Contact Group was established with the purpose of “elaborating proposals and recommendations on realization of cooperation between the SCO and Afghanistan on issues of mutual interest.”⁹² In 2010, Afghan President Hamid Karzai delivered a speech at the Tenth SCO Summit in Tashkent,⁹³ and in the Declaration following the Summit,⁹⁴ the SCO explicitly cited Afghanistan:

A continuing escalation of confrontation in Afghanistan, terrorism, drug trafficking and transnational organized crime rooted from this country remain a big source of threats in the region. Achieving peace and stability in the [Islamic Republic of Afghanistan] is a crucial factor in ensuring security that promotes sustainable social and economic development of the region.⁹⁵

The SCO itself has emphasized its support of the UN’s central role in coordinating efforts to resolve the situation in Afghanistan, as well as the efforts of member states in implementing economic projects there.⁹⁶ Indeed, China has become one of the world’s largest investors in Afghanistan.⁹⁷ The SCO has also expressed readiness to cooperate

⁹¹ S.C. Res. 1943, U.N. Doc. S/RES/1943 (2010),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1943%282010%29>. This resolution also stressed “the crucial importance of advancing regional cooperation as an effective means to promote security, governance and development in Afghanistan” and welcomed “the regional efforts in this regard.” Ibid.

⁹² *Protocol on Establishment of the SCO-Afghanistan Contact Group Between the Shanghai Cooperation Organization and the Islamic Republic of Afghanistan*, supra n. 18.

⁹³ Ministry of Foreign Affairs of the People’s Republic of China, “SCO Summit Is Held in Tashkent Hu Jintao Attends and Delivers An Important Speech to the Summit,” June 11, 2010, <http://www.mfa.gov.cn/eng/wjb/zzjg/dozys/xwlb/t708530.htm>.

⁹⁴ Declaration of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation, June 11, 2010, <http://www.sectsc.org/EN/show.asp?id=225>.

⁹⁵ Ibid., Art. 8.

⁹⁶ Ibid.

⁹⁷ See Parag Khanna, “The Road to Kabul Runs Through Beijing (and Tehran),” New America Foundation, February 2009, <http://www.newamerica.net/node/9497>; and Section II.B, supra. For example, in 2007, the state-owned China Metallurgical Group Corporation invested \$3 billion in Afghanistan’s Aynak copper mine. Ian MacWilliam, “China Wins major Afghan Project,” BBC News, November 20, 2007, http://news.bbc.co.uk/2/hi/south_asia/7104103.stm. The corporation also recently agreed to construct a railway corridor from the Aynak copper mine to the eastern Torkham and northern Hyratan border towns of Afghanistan. “China, Afghanistan Sign Agreement on Railway Construction,” China Daily, September 23, 2010, http://www.chinadaily.com.cn/bizchina/2010-09/23/content_11339467.htm#.

with international and regional efforts to counter the drug threat from Afghanistan.⁹⁸ According to a leaked U.S. diplomatic cable, Russia “considers narco-trafficking to be its highest priority vis-à-vis Afghanistan,” and concerns have been raised over the illicit financing of the drug trade at meetings of the SCO.⁹⁹

iv. Cooperation in non-security sectors

The breadth of SCO cooperation in non-security sectors also has appeal to potential SCO members. At the 2010 annual SCO summit, President Hu urged that “the potential of cooperation among SCO members should be fully tapped,”¹⁰⁰ specifying that “[m]embers should work to facilitate customs clearance, quality inspection and transportation, innovate new cooperation models, study ways to establish an SCO regional e-commerce platform and conduct joint studies on agricultural cooperation.”¹⁰¹ This is a logical extension of the statement included in the Joint Communiqué of the SCO Heads of State Council Meeting in Tashkent 2010: “Member states [intend] to carry out close mutually beneficial cooperation in the framework of the SCO *in all spheres* in order to strengthen the role of the Organisation as an effective mechanism to ensure security, stability and prosperity in the region and worldwide as a whole.”¹⁰²

Of course, the sphere of cooperation that facilitates and informs all others is economic development, in areas ranging from financial institutions to energy infrastructure.¹⁰³ As described above in Section II.B, the scope and magnitude of economic cooperation, particularly through cooperative financing of large-scale infrastructure, transportation, and resource extraction projects, and notably led by disproportionately large investments by China, underpin the practical implications of the SCO’s regional influence.

⁹⁸ Declaration of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation, June 11, 2010, <http://www.sectsc.org/EN/show.asp?id=225>, Art. 8. These stances echo similar ones that the SCO member states expressed as early as 2002 in a joint statement. There, the SCO: emphasized Afghanistan “should never again be a center of spread of terrorism, separatism, extremism and narcotics”; agreed to “participate in economic reconstruction projects for Afghanistan”; and supported “the rendering of extensive international humanitarian assistance to the Afghan people.” “Joint Statement by the Ministers of Foreign Affairs of the Member States of the Shanghai Cooperation Organization,” PLA Daily, January 7, 2002, <http://english.chinamil.com.cn/special/5army/txt/5.htm>.

⁹⁹ See Embassy of the U.S. in Moscow, “ASD/ISA Vershbow’s September 30 Visit to Moscow,” October 6, 2009, para. 13, <http://cablesearch.org/cable/view.php?id=09MOSCOW2529&hl=shanghai>.

¹⁰⁰ “Hu Calls for Closer Co-op among SCO Members,” China Daily, June 11, 2010, http://www.chinadaily.com.cn/imqg/china/2010-06/11/content_9970479.htm.

¹⁰¹ Ibid.

¹⁰² Joint Communiqué of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation, supra n. 62 (emphasis added).

¹⁰³ See, e.g., Bailes, supra n. 21 (“The one motive for association with the SCO that may reliably be attributed to all [potential SCO members] is an interest in the opening up of trade across Central Asia in general and joint approaches to (and possible Chinese investments in) trans-Asian energy deliveries and infrastructure links in particular.”).

v. *Cooperation with multilateral organizations*

Finally, the SCO has established ties to a number of multilateral organizations.¹⁰⁴ Emphasis on such ties was reiterated at a May 2010 meeting of the SCO Foreign Ministers Council, during which “[t]he permanent bodies of the SCO were recommended to boost cooperation with the UN, ASEAN and other international organizations and structures on issues of security and stability, as well as economic and social development.”¹⁰⁵ The SCO has been carrying out this work in earnest.¹⁰⁶ For example, at the session of the Foreign Ministers Council of the SCO in Tashkent on May 22, 2010, OSCE Chairman-in-Office and current Secretary of State and Minister of Foreign Affairs of Kazakhstan, Kanat Saudabayev, explained that the SCO and the Conference on Interaction and Confidence-Building Measures in Asia (CICA) “complement each other very well” and “propose[d] to support the proposition of the CICA Secretariat to establish partnership relations with the SCO.”¹⁰⁷ And on October 12, 2010, at a meeting involving the SCO, CSTO, the Commonwealth of Independent States (CIS), and the Eurasian Economic Community (EurAsEC), participants discussed countermeasures to regional crises and new plans to deal with current issues in Central Asia, including security, drug trafficking, and illegal immigrants.¹⁰⁸ Participants also shared their views on security cooperation between the four organizations and “agreed to enhance information exchange, carry out mutual emergency aid, and send delegates for cooperation.”¹⁰⁹ The four sides anticipated creating a mechanism for regular meetings, noting the date of the next meeting as autumn of 2011, in Moscow; and agreed to create a working group on cooperation between the organizations, including among the respective deputy executive secretaries and deputy secretary-generals from each organization.¹¹⁰

¹⁰⁴ See, e.g., SCO, “The development of SCO’s links with international organisations in 2007-2008,” December 31, 2008, <http://www.sectSCO.org/EN/show.asp?id=120>.

¹⁰⁵ “SCO Foreign Ministers Council Meets in Tashkent,” China Daily, May 22, 2010, http://www.chinadaily.com.cn/china/2010sco/2010-06/09/content_9956788.htm.

¹⁰⁶ See Section V *infra* for more information on the SCO’s engagement with the UN.

¹⁰⁷ Embassy of Kazakhstan in Qatar, “SCO, CICA are not Competing Organizations,” May 24, 2010, <http://www.kazembqatar.com/news/1274765907/>.

¹⁰⁸ “Eurasian Organizations Discuss Countermeasures to Regional Crises,” People’s Daily, October 13, 2010, <http://english.peopledaily.com.cn/90001/90777/90856/7165030.html>.

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

III. The International Counter-Terrorism Framework and Human Rights

As a regional organization made up of member states which themselves are parties to a number of important international agreements, the SCO's policies and practices must comply with international obligations, including under human rights, humanitarian, and refugee law. These fundamental obligations are also explicitly recognized and referenced in SCO core documents. In addition, emerging norms of international law reflect consensus on the obligations of international organizations to respect international law, and on the responsibilities of constituent member states for the wrongful acts of international organizations.¹¹¹ This section provides an overview of the international counter-terrorism framework within which relevant policies and practices of the SCO must be assessed.

The international legal framework for promoting and protecting human rights while countering terrorism is enshrined in the *UN Charter*; a number of human rights declarations, conventions, and treaties; and in resolutions promulgated by the General Assembly and by the Security Council – including Security Council resolutions adopted pursuant to Chapter VII of the *UN Charter* on maintenance of international peace and security. As members of the United Nations and the international community, states are required under the *UN Charter* to incorporate human rights into their activities. For example, Article 55 of the Charter provides:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.¹¹²

¹¹¹ See, for example, the work of the International Law Commission (ILC) to identify and codify principles concerning the responsibility of international organizations. See U.N. ILC, "Responsibility of International Organizations," February 12, 2010, http://untreaty.un.org/ilc/summaries/9_11.htm#_ftn22; U.N. ILC, "Seventh Report on Responsibility of International Organizations," U.N. Doc. A/CN.4/610 (2009) (Special Rapporteur, Giorgio Gaja), http://untreaty.un.org/ilc/guide/9_11.htm.

¹¹² Charter of the United Nations (hereafter, U.N. Charter), 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153 (1945), Art. 55, <http://www.un.org/en/documents/charter/index.shtml>.

Article 56 effectuates this principle, requiring that “all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.”¹¹³

The *Universal Declaration of Human Rights*, adopted by the UN General Assembly in 1948, further enumerates a foundational set of individual rights, the protection of which states should strive to incorporate in their counter-terrorism policies.¹¹⁴ These rights include:

- the right to **life, liberty, and security** of the person (Art. 3);
- the right to be free from **torture** and cruel, inhuman or degrading treatment or punishment (Art. 5);
- the right to **equal protection** of the law (Art. 7);
- the right to **effective remedy** (Art. 8);
- the right to be free from **arbitrary arrest or detention** (Art. 9)
- the right to a fair and public hearing by an **independent and impartial tribunal** (Art. 10);
- the right to be **presumed innocent** until proven guilty (Art. 11);
- the right to be free from arbitrary interference with one’s **privacy** (Art. 12);
- the right to seek and to enjoy in other countries **asylum** from persecution (Art. 14)¹¹⁵;
- the right to freedom of **thought, conscience and religion** (Art. 18);
- the right to freedom of **opinion and expression** (Art. 19); and
- the right to freedom of **peaceful assembly and association** (Art. 20).

In addition to these universal principles, the SCO member states are parties to the key international human rights treaties and conventions relevant to counter-terrorism, and as such are responsible for compliance with treaty obligations setting forth relevant human rights norms and principles. As codified in the *Vienna Convention on the Law of Treaties*, “Every treaty in force is binding upon the parties to it and must be performed by them in good faith,”¹¹⁶ and “A party may not invoke the provisions of its internal law

¹¹³ Ibid., Art. 56.

¹¹⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948), <http://www.un.org/en/documents/udhr/index.shtml>.

¹¹⁵ Article 14 notes, however, that “This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.” Ibid., Art. 14.

¹¹⁶ Vienna Convention on the Law of Treaties (hereafter, Vienna Convention), 1155 U.N.T.S. 331, 8 I.L.M. 679 (1969), entered into force May 23, 1969, Art. 26, http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

as justification for its failure to perform a treaty.”¹¹⁷ These treaties include the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (“*Convention against Torture*”), the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), and the 1951 *UN Convention Relating to the Status of Refugees* and its 1967 Protocol (“*UN Refugee Convention*”).

Collectively, these instruments cover the rights to security of the person, due process and access to justice, freedom of opinion and expression, freedom of religion, freedom of association, privacy, and self-determination – rights that are often negatively impacted by counter-terrorism efforts, especially when national security priorities and concerns are invoked.

Under international law, a system of safeguards exists to ensure that states implement human rights obligations to their fullest extent under all but the narrowest of circumstances, and to impose demanding restrictions on state measures that infringe on guaranteed rights in the rare instances when such measures are justified.

For instance, international law permits states to legitimately impose limitations on the exercise of certain rights, including the right to freedoms of opinion and expression, association and assembly, and movement.¹¹⁸ As a matter of law, reflected throughout relevant mechanisms for human rights protection, these limitations must meet three general criteria in order to be justified.¹¹⁹ First, such limitations must be prescribed by law in a manner that is adequately accessible by individuals, formulated with sufficient precision, and non-retroactive.¹²⁰ Second, they must be in pursuance of specific legitimate purposes, generally understood to include national security, public safety, public order, health, morals, and the human rights and freedoms of others.¹²¹ Third, they must be “necessary in a democratic society,” meaning that any limitation on human rights must be necessary in the pursuit of a pressing objective, and that its

¹¹⁷ Ibid., Art. 27.

¹¹⁸ See Office of the United Nations High Commissioner for Human Rights, “Human Rights, Terrorism and Counter-terrorism (Fact Sheet No. 32)” (hereafter, Fact Sheet No. 32) (July 2008), 23, <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>; “Johannesburg Principles on National Security, Freedom of Expression and Access to Information,” U.N. Doc. E/CN.4/1996/39 (1996) <http://www.article19.org/pdfs/standards/joburgprinciples.pdf>; U.N. Commission on Human Rights, “Syracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights,” U.N. Doc. E/CN.4/1985/4 (1985), <http://www.unhcr.org/refworld/docid/4672bc122.html>.

¹¹⁹ See generally Fact Sheet No. 32, supra n. 118, at 22-29.

¹²⁰ Ibid.

¹²¹ Ibid.

human rights impacts are strictly proportional to the nature of that objective.¹²²

In addition to the limitations above, there also exists a set of exceptional circumstances under which states may be permitted to derogate from certain human rights obligations. The opinion of the Human Rights Committee in its General Comment No. 29, on the scope and parameters of state derogation from human rights obligations in times of public emergency under Article 4 of the ICCPR, provides authoritative guidance on precisely when states are permitted to enact measures that potentially threaten the enjoyment of certain rights, and, when permitted, what characteristics those measures must have in order to minimize human rights threats.¹²³

At the threshold, states have the burden to demonstrate that any deviation from their obligation to enforce guaranteed civil and political rights is conditioned on the existence of a genuine “public emergency,” and even then, “only if and to the extent that the situation constitutes a threat to the life of the nation.”¹²⁴ Moreover, any state derogation on these grounds must follow an official, publicly communicated declaration of an emergency state, a condition “essential for the maintenance of the principles of legality and rule of law at times when they are most needed.”¹²⁵

Even in the rare instances when the threshold requirements are met, each and every state measure following from these circumstances is subject to a framework of restrictions intended to minimize threats to guaranteed human rights. For instance, any such measures must be proportional and limited to the extent strictly required by the exigencies of the situation, with attention to the specific duration, geographical coverage, and material scope of the state of emergency and any measures of derogation resorted to because of the emergency.¹²⁶

Additionally, it is a condition for the justifiability of any derogation of human rights obligations that the measures taken do not discriminate on the basis of race, color, sex, language, religion or social origin.¹²⁷ State derogation must also be consistent with the state’s other obligations under international law, including international human rights

¹²² Ibid.

¹²³ U.N. Human Rights Committee, “General Comment No. 29: States of Emergency (Article 4),” U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), [http://www.unhcr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361/\\$FILE/G0144470.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361/$FILE/G0144470.pdf).

¹²⁴ Ibid., para. 3. Importantly, “[n]ot every disturbance or catastrophe qualifies as a public emergency which threatens the life of the nation,” and even during times of armed conflict, rules of international humanitarian law are fully applicable, in addition to principles governing derogation from human rights obligations, to prevent the abuse of a state’s emergency powers. Ibid.

¹²⁵ Ibid., para. 2.

¹²⁶ Ibid., para. 4.

¹²⁷ Ibid., para. 8.

and humanitarian law.¹²⁸ There are also certain fundamental rights from which no derogation may be made, including the right to life; protections against torture or cruel, inhuman or degrading punishment; the right to legality in criminal law and procedure, including “the requirement of both criminal liability and punishment being limited to clear and precise provisions in the law that was in place and applicable at the time the act or omission took place, except in cases where a later law imposes a lighter penalty”; and the freedom of thought, conscience and religion.¹²⁹

One clear guiding principle underpins the system of safeguards governing state limitations on and derogations of fundamental human rights obligations: states are required to substantively and meaningfully articulate clear, valid justifications for any and all deviations from their human rights obligations, not only as a general matter, but in each and every instance when a state measure threatening to violate guaranteed rights is put forth as necessary to achieve a state interest.¹³⁰

To adequately protect human rights in the pursuit of national security, these safeguards and mechanisms under international law must be understood not only as an independent consideration, but as a substantive ingredient of every counter-terrorism measure.

A. The international counter-terrorism framework

Within the framework and principles of the *UN Charter* and international human rights law, the UN, particularly over the past decade, has emphasized the importance of respect for human rights in counter-terrorism efforts, and sought to encourage states to address the promotion and protection of human rights as the key to effective and sustainable counter-terrorism measures. Several key Security Council resolutions govern the counter-terrorism efforts of the international community, including the following:

- In 1999, acting under Chapter VII of the *UN Charter*, the Security Council called on states to take significant action to counter terrorism, including the

¹²⁸ *Ibid.*, para. 9.

¹²⁹ *Ibid.*, para. 7. Additionally, states “may in no circumstances invoke [a state of public emergency under] article 4 of the [ICCPR] as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages, by imposing collective punishments, through arbitrary deprivations of liberty or by deviating from fundamental principles of fair trial, including the presumption of innocence.” *Ibid.*, para. 11.

¹³⁰ *Ibid.*, para. 4. For instance, in the context of derogations, “the mere fact that a permissible derogation from a specific provision may, of itself, be justified by the exigencies of the situation does not obviate the requirement that specific measures taken pursuant to the derogation must also be shown to be required by the exigencies of the situation.” *Ibid.*

requirements of **Security Council Resolution 1267** (and its subsequent clarifications) to target Usama bin Laden, Al-Qaida, the Taliban, and known associates with an assets freeze, travel ban, and arms embargo, in what has become known as the Al-Qaida and Taliban sanctions regime.

- **Security Council Resolution 1373**, adopted shortly after the September 11, 2001 terrorist attacks, went much farther to establish a comprehensive range of activity that states must undertake in order to prevent and punish acts of terrorism, including: freezing funds that could be directed to terrorism; refraining from providing any form of support to those involved in terrorism; providing early warning to other states through exchange of information; denying safe haven to those involved in terrorism; preventing the movement of terrorists by effective border controls; and cooperating with other states in the areas of information exchange and extradition requests.¹³¹ Security Council Resolution 1373 also established the **Security Council Counter-Terrorism Committee** to monitor Resolution 1373's implementation.

- **Security Council Resolution 1456**, adopted in 2003, requires that "States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law."¹³²

- **Security Council Resolution 1624**, adopted in 2005, calls upon states to take the additional step of adopting measures to counteract *incitement* of terrorism, specifically such measures as may be "necessary and appropriate and in accordance with their obligations under international law" to:
 - (a) Prohibit by law incitement to commit a terrorist act or acts;
 - (b) Prevent such conduct;
 - (c) Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct.¹³³

¹³¹ S.C. Res. 1373, U.N. Doc. S/RES/1373 (2001),
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1373%282001%29>.

¹³² S.C. Res. 1456, U.N. Doc. S/RES/1456 (2003), Annex para. 6,
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1456%282003%29>.

¹³³ S.C. Res. 1624, U.N. Doc. S/RES/1624 (2005), para. 1,
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1624%282005%29>.

The Security Council also noted in this resolution that such measures must conform with state obligations under international human rights law and refugee law.¹³⁴

Subsequent General Assembly resolutions reiterated the need to respect human rights in counter-terrorism efforts,¹³⁵ most notably in the **UN Global Counter-Terrorism Strategy**.¹³⁶ The Global Counter-Terrorism Strategy, “recognizing that development, peace and security, and human rights are interlinked and mutually reinforcing,” laid out four pillars for countering terrorism:

- measures to address the conditions conducive to the spread of terrorism;
- measures to prevent and combat terrorism;
- measures to build states’ capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard; and
- measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.¹³⁷

This final pillar, focusing on human rights, describes the promotion and protection of human rights as “essential to all components of the [Global Counter-Terrorism] Strategy,” and reaffirms that states “must ensure that any measures taken to combat terrorism comply with international law, in particular human rights law, refugee law and international humanitarian law.”¹³⁸ In 2009, the General Assembly reiterated that “terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,”¹³⁹ and called upon states to, among other measures, not resort to racial or ethnic profiling¹⁴⁰; respect non-refoulement obligations¹⁴¹; ensure due process guarantees¹⁴²; and ensure that “laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law.”¹⁴³

¹³⁴ Ibid., para. 4.

¹³⁵ See, e.g., G.A. Res. 57/219, U.N. Doc. A/RES/57/219 (2003), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/57/219>. This is the first of many resolutions specifically concerning “Protection of human rights and fundamental freedoms while countering terrorism.”

¹³⁶ United Nations Global Counter-Terrorism Strategy, supra n.7.

¹³⁷ Ibid., Annex Section IV.

¹³⁸ Ibid., Annex para. IV.2.

¹³⁹ G.A. Res. 63/185, U.N. Doc. A/RES/63/185 (2009), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/63/185>.

¹⁴⁰ Ibid., para. 7.

¹⁴¹ Ibid., para. 10.

¹⁴² Ibid., para. 12.

¹⁴³ Ibid., para. 18.

Thirteen international conventions also exist to combat terrorism, including the *International Convention for the Suppression of Terrorist Bombings*, the *International Convention for the Suppression of the Financing of Terrorism* (“*Terrorist Financing Convention*”), and the *International Convention for the Suppression of Acts of Nuclear Terrorism* (“*Nuclear Terrorism Convention*”).¹⁴⁴ China has ratified the first two, and signed the *Nuclear Terrorism Convention*. These instruments require parties to take measures to prevent, prohibit, and cooperate with other states concerning the terrorism-related offences on which the conventions focus, and reflect a scope of offences generally agreed upon by the international community to constitute terrorism. Notably, the *Terrorist Financing Convention* also provides a foundation on which to define terrorism, stating that terrorism includes activities “intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”¹⁴⁵

B. International counter-terrorism bodies and human rights inputs

A number of international bodies exist with mandates focused on counter-terrorism or protection of human rights within counter-terrorism. These bodies were established under the auspices of the UN Security Council, Secretariat, or Human Rights Council. Security Council bodies include:

- **Counter-Terrorism Committee (CTC):** Established in 2001 under Security Council Resolution 1373, the Counter-Terrorism Committee’s mandate is to monitor implementation of Resolution 1373. The Security Council further directed the CTC in 2005 to work with states on implementation of Security Council Resolution 1624,

¹⁴⁴ The thirteen conventions are: (1) the 1963 *Convention on Offences and Certain Other Acts Committed On Board Aircraft*; (2) the 1970 *Convention for the Suppression of Unlawful Seizure of Aircraft*; (3) the 1971 *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*; (4) the 1973 *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons*; (5) the 1979 *International Convention against the Taking of Hostages*; (6) the 1980 *Convention on the Physical Protection of Nuclear Material*; (7) the 1988 *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*; (8) the 1988 *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, and its 2005 Protocol; (9) the 1988 *Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf*, and its 2005 Protocol; (10) the 1991 *Convention on the Marking of Plastic Explosives for the Purpose of Detection*; (11) the 1997 *International Convention for the Suppression of Terrorist Bombings*; (12) the 1999 *International Convention for the Suppression of the Financing of Terrorism*; and (13) the 2005 *International Convention for the Suppression of Acts of Nuclear Terrorism*. A summary of these instruments is available at <http://www.un.org/terrorism/instruments.shtml>.

¹⁴⁵ *International Convention for the Suppression of the Financing of Terrorism*, G.A. Res. 54/109, U.N. Doc. A/RES/54/109 (1999), Art. 2(1)(b), <http://treaties.un.org/doc/db/Terrorism/english-18-11.pdf>.

which calls for prohibition of incitement to terrorism and denial of safe haven to persons involved in terrorist acts.¹⁴⁶

- **Counter-Terrorism Committee Executive Directorate (CTED):** Established in 2004 under Security Council Resolution 1535, CTED's mandate is to further assist the CTC and enhance its ability to monitor implementation of Resolution 1373. CTED carries out the policy decisions of the CTC, conducts expert assessments of each UN member state, and facilitates counter-terrorism technical assistance to countries.¹⁴⁷

It was not until May 2006, however, that the CTC adopted policy guidance for CTED in the area of human rights.¹⁴⁸ Pursuant to this guidance, the CTED provides advice to the CTC on compliance with international human rights, refugee, and humanitarian law in the implementation of Security Council Resolution 1373 and Resolution 1624, and liaises with the Office of the High Commissioner for Human Rights and other human rights organizations in matters related to counter-terrorism.¹⁴⁹ A human rights expert was also appointed to the CTED staff.¹⁵⁰ As a result of Security Council Resolution 1805 in 2008, which recalled that the CTED should continue to advise the CTC on matters concerning human rights, a working group was established to enhance expertise and develop common approaches by CTED staff on human rights issues, as well as to consider ways in which the CTC might more effectively encourage UN member states to comply with their international obligations in this area.¹⁵¹

- **1267 Committee (also known as the Al-Qaida/Taliban Sanctions Committee):** Established in 1999, pursuant to Security Council Resolution 1267, its mandate is to consolidate information concerning state efforts to target Usama bin Laden, Al-Qaida, the Taliban, and known associates with an assets freeze, travel ban, and arms embargo. The 1267 Committee is made up of all 15 members of the Security Council and holds regular meetings in both formal and informal sessions.¹⁵² The committee maintains the UN's Consolidated List of individuals, groups, undertakings, and

¹⁴⁶ S.C. Res. 1624, supra n. 133.

¹⁴⁷ U.N. Security Council Counter-Terrorism Committee (CTC), "Our Mandate," <http://www.un.org/sc/ctc/index.html>.

¹⁴⁸ U.N. Security Council CTC, "Protecting Human Rights While Countering Terrorism," <http://www.un.org/sc/ctc/rights.html>.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² U.N. Security Council 1267 Committee, "General Information on the Work of the Committee," <http://www.un.org/sc/committees/1267/information.shtml>.

entities that are part of or associated with Al-Qaida and the Taliban, and considers listing and delisting requests.

In addition to these bodies, the **Counter-Terrorism Implementation Task Force (CTITF)** was established in 2005 by the **UN Secretary-General** and chaired by his office.¹⁵³ In June 2009, the Secretary-General made initial arrangements to institutionalize the CTITF by establishing a CTITF-Secretariat in the UN Department of Political Affairs.¹⁵⁴ The CTITF, made up of 31 entities and observers and eight working groups,¹⁵⁵ works to ensure overall coordination and coherence among various UN entities involved in counter-terrorism efforts and to provide a platform for information sharing. The UN Global Counter-Terrorism Strategy and CTITF are mutually reinforcing: the Global Counter-Terrorism Strategy gives support to the work of CTITF,¹⁵⁶ and CTITF supports the implementation of the Global Counter-Terrorism Strategy through the activities of the entities that comprise the task force.¹⁵⁷

¹⁵³ See United Nations, “UN Action to Counter Terrorism: Counter-Terrorism Implementation Task Force,” <http://www.un.org/terrorism/cttaskforce.shtml>.

¹⁵⁴ See United Nations Regional Information Centre for Western Europe, “UN Task Force Looks at Legal Aspects of Curtailing Internet Terrorism,” January 28, 2010, <http://www.unric.org/en/latest-news/26087-un-task-force-looks-at-legal-aspects-of-curtailing-internet-terrorism>.

¹⁵⁵ The entities are: Counter-Terrorism Committee Executive Directorate (CTED); Department of Peacekeeping Operations (DPKO); Department of Political Affairs (DPA); Department of Public Information (DPI); Department of Safety and Security (DSS); Expert Staff of 1540 Committee; International Atomic Energy Agency (IAEA); International Civil Aviation Organization (ICAO); International Maritime Organization (IMO); International Monetary Fund (IMF); International Criminal Police Organization (INTERPOL); Monitoring Team of 1267 Committee; Office for Disarmament Affairs (ODA); Office of the High Commissioner for Human Rights (OHCHR); Office of Legal Affairs (OLA); Office of the Secretary-General (OSG); Organization for the Prohibition of Chemical Weapons (OPCW); Special Rapporteur on the promotion and protection of human rights while countering terrorism; United Nations Development Programme (UNDP); United Nations Educational, Scientific and Cultural Organization (UNESCO); United Nations Interregional Crime and Justice Research Institute (UNICRI); United Nations Office on Drugs and Crime (UNODC); World Customs Organization (WCO); World Bank; World Health Organization (WHO). See United Nations, “UN Action to Counter Terrorism: Counter-Terrorism Implementation Task Force,” supra n. 153. The observers are: International Organization for Migration (IOM); Office of the Coordinator for Humanitarian Affairs (OCHA); United Nations Department for Economic and Social Affairs (DESA); United Nations Office of the Special Adviser on Africa (UNOSAA); United Nations High Commissioner for Refugees (UNHCR); United Nations Alliance of Civilizations. Ibid. The working groups focus on: Preventing and Resolving Conflicts; Supporting and Highlighting Victims of Terrorism; Preventing and Responding to WMD Attacks; Tackling the Financing of Terrorism; Countering the Use of the Internet for Terrorist Purposes; Strengthening the Protection of Vulnerable Targets; Protecting Human Rights While Countering Terrorism; Border Management relating to Counter-Terrorism. See United Nations, “UN Action to Counter Terrorism: Working Groups,” <http://www.un.org/terrorism/workinggroups.shtml>.

¹⁵⁶ U.N. Department of Public Information, “United Nations Action to Counter Terrorism: Overview” (October 2009), 1, available at http://www.coe.int/t/dlapil/codexter/3_CODEXTER/Working_Documents/CTITF%20Information%20Package.pdf (“The Strategy also gives support to the practical work of the Counter-Terrorism Implementation Task Force . . .”).

¹⁵⁷ See United Nations, “UN Action to Counter Terrorism: Counter-Terrorism Implementation Task Force,” supra n. 153; United Nations, “UN Action to Counter Terrorism: Coordinating counter-terrorism actions

Finally, the international framework for counter-terrorism includes the work of the **Special Rapporteur on counter-terrorism**. In April 2005, Resolution 2005/80 of the UN Commission on Human Rights established the mandate of the Special Rapporteur on counter-terrorism.¹⁵⁸ Martin Scheinin, Professor of Public International Law at European University Institute (Florence), accepted the appointment as Special Rapporteur on counter-terrorism on August 8, 2005.¹⁵⁹ The Special Rapporteur on counter-terrorism's mandate was initially for three years, but in December 2007, the Human Rights Council extended the mandate for an additional three years under Human Rights Council Resolution 6/28.¹⁶⁰

Since 2005, the Special Rapporteur on counter-terrorism has laid the foundation for analysis of state compliance with international human rights law while countering terrorism. The Special Rapporteur on counter-terrorism's approach incorporates **four key features**:

- **complementarity** with the work of other UN bodies addressing human rights and counter-terrorism;
- **comprehensiveness** of the analysis, both in terms of the full spectrum of human rights and the counter-terrorism measures employed;
- **a proactive nature**, such that the Special Rapporteur on counter-terrorism's advice and reporting is aimed at pending legislation, countries where human rights violations are allegedly occurring, and development of best practices; and

within and beyond the UN system," <http://www.un.org/terrorism/what.shtml> ("CTITF aims to catalyze and mobilize counter-terrorism efforts of various UN system entities to assist Member States in implementing the United Nations Global Counter-Terrorism Strategy."); see also U.N. Department of Public Information, "UN Action to Counter Terrorism: Fact Sheet – Implementing the Global Counter-Terrorism Strategy" (March 2009), 1, http://www.un.org/terrorism/pdfs/CT_factsheet_March2009.pdf ("The United Nations departments, programmes, funds and agencies have been taking actions in a number of areas in line with the four pillars of the Strategy both in their individual capacity and through joint efforts in the framework of the Counter-Terrorism Implementation Task Force.").

¹⁵⁸ U.N. Commission on Human Rights, "Protection of human rights and fundamental freedoms while countering terrorism," Human Rights Res. 2005/80, supra n. 9. The mandate was assumed by the Human Rights Council and extended for one year, subject to the review to be undertaken by the Council. G.A. Res. 60/251, U.N. Doc. A/RES/60/251 (2006),

http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf; U.N. Human Rights Council, "Extension by the Human Rights Council of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights," Decision 2006/102, June 30, 2006, http://www2.ohchr.org/english/issues/terrorism/docs/HRC_decision2006-102.pdf.

¹⁵⁹ U.N. General Assembly, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" (Special Rapporteur, Martin Scheinin), supra n. 9, at para. 1.

¹⁶⁰ U.N. Human Rights Council, "Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering," supra n. 9.

- **a focus on thematic issues**, the substance of which have not been addressed by other bodies, such as the impact of counter-terrorism on freedom of association.¹⁶¹

The Special Rapporteur on counter-terrorism takes “a holistic approach focusing on legislative issues, which [is] complemented by taking up individual cases of alleged victims of human rights violations.”¹⁶²

During his mandate, the Special Rapporteur on counter-terrorism has reported on a number of thematic issues, including: freedom of expression and association; racial, ethnic or other forms of profiling in fighting terrorism; the promotion of economic, social and cultural rights; right to a fair trial for terror suspects; best practices for intelligence agencies; ten areas of best practices for countering terrorism; and the integration of a gender perspective throughout all counter-terrorism measures. The Special Rapporteur on counter-terrorism’s compilation of 35 elements of good practices for intelligence agencies are of special relevance for the SCO and RATS in particular, given its collection and sharing of information practices. It should also be noted that the Special Rapporteur on counter-terrorism’s communications with governments have included communications with four of the six SCO member states (China, Kyrgyzstan, Tajikistan, and Uzbekistan) regarding individual cases of concern; and communications with all six SCO member states raising concerns regarding sharing of data, and for some member states, concerns regarding use of the death penalty and secret detentions, and the rights to due process and compensation and rehabilitation for victims.¹⁶³

The following discussion examines in greater depth the SCO’s formal and structural framework and its compliance with the international framework for promoting and protecting human rights while countering terrorism.

¹⁶¹ U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 9, paras. 6-10.

¹⁶² U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 8, para. 10.

¹⁶³ See Section IV.C *infra*.

IV. SCO Compliance with the International Framework for Promotion and Protection of Human Rights

The SCO, as a regional organization bound by Chapter VIII of the *UN Charter*, and as an organization made up of member states that are themselves party to international human rights agreements, must comply with obligations under the international counter-terrorism framework outlined above, including under international human rights, humanitarian, and refugee law, as the fundamental basis of an effective and sustainable counter-terrorism approach. SCO normative documents, such as the 2002 *SCO Charter* and the 2007 *Treaty on Long-Term Good Neighborliness*, explicitly recognize the supremacy of international obligations and cooperation, and include specific references to international human rights, humanitarian, and refugee law.

International human rights principles, however, are undermined by the more prominent and questionable security principles enumerated in SCO normative documents. Without transparent and effective human rights safeguards and oversight mechanisms, the SCO's policies and actual practices negatively impact rights protected under international law. Further, the formal principles of the SCO and its member states have also underscored the primacy of respect for sovereignty and territorial integrity, security cooperation, and asserted differences in culture, traditions, and political and social systems as justifications for resisting international scrutiny and accountability.

In analyzing the SCO's compliance with the international framework for counter-terrorism, the following sections examine:

- The problematic normative framework of the SCO, based on the organization's imprecise and overbroad definitions of terrorism and the Three Evils doctrine;
- Challenges presented by the SCO's structure and rhetoric, including lack of transparency; the prioritization of regional frameworks over international frameworks; and the re-invocation of "relativism," sovereignty, and territorial integrity as barriers to international scrutiny;
- SCO member states' human rights records;
- China's influence and impact within the SCO, most prominently its role in shaping the SCO's Three Evils approach;
- The SCO's impact on harmonization of counter-terrorism legislation in member states; and
- Specific SCO policies, operations, and practices that negatively impact fundamental rights and freedoms – specifically, the RATS database and blacklist

system, extradition and denial of asylum in violation of non-refoulement principles, and military cooperation efforts.

A. Defining terrorism

In the absence of a clear international definition of terrorism, there is a risk that states may fill the void with politicized, custom-tailored definitions of the term, meant to fit the needs of the regime in power and undermining a necessary global consistency in addressing terrorism. The SCO has gone a step further, by laying the groundwork for an expansive regional approach to the matter – one that relies on a regional consensus regarding domestic threats to the regime. This consensus is evident in the 2001 *Shanghai Convention* and the 2009 *SCO Counter-Terrorism Convention*, which govern counter-terrorism cooperation between SCO member states.

In analyzing the definitions adopted within the SCO framework, this whitepaper takes as its starting point the working formulation of terrorism drawn from Security Council Resolution 1566 and advanced by the Special Rapporteur on counter-terrorism, with a view towards ensuring that “the term ‘terrorism’ is confined in its use to conduct that is of a genuinely terrorist nature.”¹⁶⁴ While not offering a definition of terrorism, this formulation focuses on three cumulative characteristics – a specific intention, purpose, and “trigger offense” level – that together may serve as a basis to establish terrorism:

- (a) Acts, including against civilians, committed with the **intention** of causing death or serious bodily injury, or the taking of hostages; and

- (b) Irrespective of whether motivated by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, also committed for the **purpose** of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act; and

- (c) Such acts constitute **offences** within the scope of and as defined in the international conventions and protocols relating to terrorism.¹⁶⁵

¹⁶⁴ U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 8, para. 42.

¹⁶⁵ S.C. Res. 1566, U.N. Doc. S/RES/1566 (2004), para. 3, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1566%282004%29>; U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and

Under international law and as a matter of effective counter-terrorism, a state may not apply the label of terrorism to random acts at its discretion; at a minimum, the criteria enumerated by the Security Council must exist for an act to genuinely constitute terrorism. The principle of legality – part of customary international law based on Article 15 of the ICCPR¹⁶⁶ – requires that imposition of criminal liability and punishment, including for acts of terrorism, be limited to clear and precise provisions in the law.¹⁶⁷ Moreover, the principle of legality is non-derogable, applying even in times of emergency.¹⁶⁸ Accordingly, the definitions and counter-terrorism structure advanced by the SCO must include precise articulations of the following baseline criteria in order to comply with international standards:

- **intent** to inflict death or serious bodily injury upon members of the population, or to take hostages;
- the **outcome sought** is to provoke a state of terror within or intimidate a population, or to compel action or inaction by a government or international organization; and
- the **act itself** is within the universe of criminality associated by the international community with terrorism, as evidenced by its inclusion in one of the existing international conventions and protocols related to terrorism.¹⁶⁹

The heart of SCO cooperation and its conceptual approach to terrorism, however, is the Three Evils doctrine, a concept with roots in Chinese government policies. (*See Section IV.D infra.*) The Three Evils are the focus of the SCO's key normative agreement – the *Shanghai Convention* – which “recogniz[es] that these phenomena seriously threaten territorial integrity and security of the Parties as well as their political, economic and social stability.”¹⁷⁰ This Three Evils approach presents serious concerns when assessed against the elements and characteristics of terrorism identified by international experts

fundamental freedoms while countering terrorism,” (Special Rapporteur, Martin Scheinin), *supra* n. 8, at paras. 37, 42 (citing Security Council Resolution 1566); see also Fact Sheet No. 32, *supra* n. 118, at 40-41 (noting the three-criteria approach as compatible with the principle of legality).

¹⁶⁶ “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.” International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* March 23, 1976, Art. 15, <http://www2.ohchr.org/english/law/ccpr.htm>.

¹⁶⁷ See, e.g., U.N. General Assembly, “The protection of human rights and fundamental freedoms while countering terrorism: Report of the Secretary-General,” U.N. Doc. A/63/337 (2008), para. 24, n. 2, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/63/337>; Fact Sheet No. 32, *supra* n. 118, at 39-40.

¹⁶⁸ *Ibid.*

¹⁶⁹ For further discussion of the international conventions and protocols related to terrorism, see *supra* n. 144-45 and accompanying text.

¹⁷⁰ Shanghai Convention, *supra* n. 27, at preamble.

and UN bodies and required by the principle of legality. Ultimately, the primary purpose of the SCO normative framework appears to be to protect regimes from threats to their power, rather than individuals from threats to their safety.

Article 1(1) of the *Shanghai Convention* defines the Three Evils as follows:

- 1) “Terrorism” means:
 - a) any act recognized as an offence in one of the treaties listed in the Annex to this Convention (hereinafter referred to as “the Annex”) and as defined in this Treaty;
 - b) any other act intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict or to cause major damage to any material facility, as well as to organize, plan, aid and abet such act, when the purpose of such act, by its nature or context, is to intimidate a population, violate public security or to compel public authorities or an international organization to do or to abstain from doing any act, and prosecuted in accordance with the national laws of the Parties;
- 2) “Separatism” means any act intended to violate territorial integrity of a State including by annexation of any part of its territory or to disintegrate a State, committed in a violent manner, as well as planning and preparing, and abetting such act, and subject to criminal prosecuting in accordance with the national laws of the Parties;
- 3) “Extremism” is an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.¹⁷¹

Article 1(1) presents two key problems: first, the definition of terrorism itself; and second, the intertwining of the concepts of terrorism, separatism, and extremism in a single purported “counter-terrorism” framework.

¹⁷¹ Ibid., Art. 1.1.

The *Shanghai Convention's* definition of terrorism, while referencing a number of elements consistent with the international standard, is overbroad in that it permits inclusion of crimes against the state rather than the population. The **intent** can be to “cause major damage to any material facility,” as opposed to causing death or serious bodily injury to members of a population; and the **outcome sought** can be to “violate public security,” which is a much broader and more ambiguous concept than provoking a state of terror in or intimidating the public, or compelling action or inaction by a government or international organization. While such acts could amount to crimes, they may not rise to the level of genuine terrorism. This ambiguity could permit a state to cast as terrorism those social movements it characterizes as a threat to “public security,” without any evidence of actual or threatened harm to individual members of a population.

Additionally, by linking the concepts of separatism and extremism to terrorism, an individual alleged to have committed *any one* of these acts is within the scope of the SCO counter-terrorism apparatus, as member states are obliged to take the same measures with respect to all three offenses – each offense having equal weight under the *Shanghai Convention*. The *Shanghai Convention* requires the parties to “cooperate in the area of prevention, identification and suppression of acts referred to in Article 1(1) [T]he parties shall consider acts referred to in Article 1(1) of this Convention as extraditable offenses.”¹⁷² It is unclear whether states must specify which of the three acts is at issue when they obtain cooperation through the SCO or pursue particular individuals as security threats.

Such conflation of offenses and blurring of legislation in the name of counter-terrorism contradicts international law and undermines international efforts to combat terrorism. While the Security Council has recognized that extremism may *motivate* acts of terrorism,¹⁷³ neither “separatism” nor “extremism” as defined by the SCO includes the elements necessary to qualify as terrorist activity under international law. Yet, these offenses trigger the same apparatus and cooperative activities that SCO member states use to combat terrorism, creating significant potential for abuse. The Special Rapporteur on counter-terrorism stated that, pursuant to the principle of legality, “it is essential that offences created under counter-terrorist legislation, along with any associated powers of investigation or prosecution, be limited to countering terrorism. *Crimes not having the quality of terrorism, regardless of how serious, should not be the subject of counter-terrorist legislation. Nor should conduct that does not bear the quality of*

¹⁷² *Ibid.*, Art. 2.

¹⁷³ See, e.g., S.C. Res. 1373, *supra* n. 131 (“*Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism*”) (emphasis in original).

*terrorism be the subject of counter-terrorism measures, even if undertaken by a person also suspected of terrorist crimes.*¹⁷⁴

Moreover, the Three Evils doctrine presents the problem of a politicized and vague concept of the targets of the SCO's counter-terrorism and cooperation measures. As such, the SCO framework risks expanding the label of terrorism to acts that do not constitute terrorism under the international framework, and risks legitimizing as counter-terrorism the targeting of a wide array of conduct that governments may perceive as a threat to their political authority. In the case of China, such conduct includes the alleged "separatist" or "extremist" activity of ethnic groups, particularly Uyghurs and Tibetans, advocating for self-determination and religious freedom.

In addition to this normative framework laid out in the *Shanghai Convention*, a recent development that may affect SCO member state counter-terrorism legislation, the implementation of which will require additional monitoring, is the new *SCO Counter-Terrorism Convention*. At the meeting of the SCO Heads of State Council that took place in Yekaterinburg, Russia, in June 2009, member states "signed the *SCO Counter-Terrorism Convention*[,] which cements the legal base for counter-terrorism interaction in the SCO framework[,] and its potential cooperation in this field was taken to a new level."¹⁷⁵ China appears eager to employ the convention, with President Hu Jintao himself "suggest[ing] we take advantage of the signing of the SCO Convention of Counter-terrorism to promote cooperation on joint pursuit and repatriation of suspects among member states."¹⁷⁶ Kazakhstan and Russia have since both publicized their ratification of the convention.¹⁷⁷

The actual text of this document, however, was only made available publicly (in Russian) when it came up for ratification by the Russian State Duma in the fall of 2010 – as of the time of this writing the SCO had yet to include the convention on its own website. (An unofficial English translation of the text of the *SCO Counter-Terrorism Convention* is included in Appendix A.)

¹⁷⁴ U.N. Commission on Human Rights, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," (Special Rapporteur, Martin Scheinin), *supra* n. 8, at para. 47 (emphasis added).

¹⁷⁵ Joint Communiqué of Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organization, June 16, 2009, <http://www.sectsco.org/EN/show.asp?id=88>.

¹⁷⁶ President Hu Jintao, "Join Hands to Deal with the International Financial Crisis and Build a Harmonious and Beautiful Future Together" (address at the ninth meeting of the SCO Heads of State Council, Yekaterinburg, Russia, June 16, 2009), available at <http://lt.china-embassy.org/eng/xwdt/t572628.htm>.

¹⁷⁷ See "Ratification of SCO Counter-Terrorism Convention," Official Site of the President of Russia, October 4, 2010, <http://eng.news.kremlin.ru/news/1055>; "Senate Ratifies SCO Convention against Terrorism," Kazinform, December 23, 2010, <http://engNews.gazeta.kz/art.asp?aid=330023>.

The *SCO Counter-Terrorism Convention* operationalizes more concretely the obligations of the member states, setting forth substantive measures pursuant to which member states are to conduct their counter-terrorism cooperation. The convention “shall apply in cases where detection, prevention, and investigation of offenses covered herein implicate the jurisdiction of more than one Party”¹⁷⁸ – i.e., when cooperation between states is necessary to resolve the matter. It is intended to “promote effective cooperation between contracting states in a common struggle against terrorism.”¹⁷⁹

While the SCO continues to regularly invoke China’s Three Evils rubric, the *SCO Counter-Terrorism Convention* employs a new, separate definition of terrorism that appears based on Russian law, as it incorporates “ideology” as an actionable offense. Article 2 of the *SCO Counter-Terrorism Convention* includes the following relevant definitions:

Terrorism - an **ideology of violence**, and the practice of exerting influence on the decision-making of governments or international organizations by threatening or committing violent and (or) other criminal acts, connected with intimidating the population and aimed at causing injury to private individuals, society or the state;

Terrorist act - any act connected with intimidating the population, endangering human life and well-being, and intended to cause significant property damage, ecological disaster or other grave consequences in order to achieve **political, religious, ideological or other ends** by exerting influence on the decision-making of governments or international organizations, or the threat of committing such acts[.]¹⁸⁰

By comparison, Russia’s domestic law defines terrorism as “the ideology of violence and the practice of influencing the adoption of a decision by state power bodies, local self-government bodies or international organizations connected with frightening the population and (or) other forms of unlawful violent actions.”¹⁸¹

¹⁷⁸ КОНВЕНЦИЯ Шанхайской организации сотрудничества против терроризма {*The Convention on Counter-Terrorism of the Shanghai Cooperation Organization*} (hereafter, *SCO Counter-Terrorism Convention*), June 16, 2009, Art. 3, [http://asozd2.duma.gov.ru/main.nsf/\(ViewDoc\)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B](http://asozd2.duma.gov.ru/main.nsf/(ViewDoc)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B) (emphasis added). (Unofficial translation from the original Russian by Human Rights in China and International Federation for Human Rights; see Appendix A, “Key Normative Documents of the Shanghai Cooperation Organization.”)

¹⁷⁹ *Ibid.*, Art. 1.

¹⁸⁰ *Ibid.*, Arts. 2(1)(2), (3) (emphasis added).

¹⁸¹ Federal Law No. 35-FZ on Counteraction of Terrorism, adopted by the State Duma on February 26, 2006, endorsed by the Federation Council on March 1, 2006, Art. 3(1), available at http://www.medialaw.ru/e_pages/laws/russian/terrorism.htm.

Much like the *Shanghai Convention's* Three Evils definitions, the definitions of the *SCO Counter-Terrorism Convention* suffer from a degree of ambiguity that is contrary to the principle of legality, and have significant potential for abuse. An assessment of these definitions against the international standard presents the following shortcomings:

- The definitions do not require intent to cause death or serious bodily injury to members of the population, or the taking of hostages. Rather, the definition of terrorism covers acts committed with the intent to “caus[e] injury to private individuals, society or **the state.**” This latter phrasing explicitly permits the authorities to include as terrorism acts causing injury to the state rather than the public. Moreover, the intent behind a “terrorist act” can be to “cause significant property damage, ecological disaster or other grave consequences” – property damage may qualify in lieu of death or serious bodily injury. The definition of “terrorist act” also uses the more pliable phrase “endangering human life **and well-being,**” the ambiguity of which could cover any number of acts not involving infliction of death or serious bodily injury.
- Actual perpetration of violence is unnecessary pursuant to the definition of terrorism: “violent **and (or) other criminal acts**” suffice.
- The phrase “connected with” modifies “intimidating a population” in both definitions, and it is unclear how tenuous such a connection can be while still qualifying as terrorism or a terrorist act.
- No trigger offense within the scope of the international conventions countering terrorism is required.

The definitions of the *SCO Counter-Terrorism Convention* also exhibit a clear preoccupation with impact on the state: they designate the outcome sought through terrorism or a terrorist act as exerting influence on the decision-making of the government or international organizations, whereas that is only one of *three* purposes of terrorism enumerated by the Security Council (the other two being to provoke a state of terror or to intimidate a population). The lack of requirement of an impact on or the use of violence against the public is conspicuous.

Perhaps the most questionable aspect of the *SCO Counter-Terrorism Convention's* definitions, however, is the inclusion of “ideology of violence” as a criterion for terrorism. The Special Rapporteur on counter-terrorism identified the similar Russian

definition of terrorism as problematic because of its overreliance on ideology, noting that “terrorism should not be defined through its political or ideological aims, unless the two other conditions [use of deadly or serious violence against the population, and intent to cause fear among the public or compel government action] are also met. . . . While [the Russian] provision sets out the intent and aim as mentioned above, this definition, even read in conjunction with the defined terms of ‘terrorist activity’ and ‘terrorist act’, does not meet the requirement of clear and precise provisions so as to respect the principle of legal certainty of the law.”¹⁸² As the Russian definition failed to enumerate the criteria of use of deadly or serious violence against the population, and instead relied on the vague notion of “ideology of violence,” the Special Rapporteur viewed it as incompatible with the principle of legality. The *SCO Counter-Terrorism Convention* relies upon the same deficiency.

In response to a question about the draft of the *SCO Counter-Terrorism Convention* during an interview in April 2009, then-RATS Director Myrzakan Subanov revealed the following piece of “legislative history” on the reference to ideology:

The need for a new international legal framework on counter-terrorism stems from the growing influence of the ideology of terrorism in its contemporary form. Today there is a real and pressing need to establish a legal framework that will permit us to fight terrorism effectively in the new reality.

It is essential to understand terrorism as a socio-political phenomenon, which will permit us to strike at one of its root causes: an ideology that posits violence and terror as a justified and necessary means to political, social and other ends.¹⁸³

This focus on combating ideology, and understanding terrorism “as a socio-political phenomenon,” is cause for concern. By its very nature, the definition’s ideology component is imprecise, as ideology can refer to beliefs and values that are highly subjective. Moreover, an individual’s ideology typically implicates his or her rights to freedom of expression and freedom of religion. SCO member state efforts to target

¹⁸² U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/10/3/Add.1 (2009) (Special Rapporteur, Martin Scheinin), paras. 182-83, http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.3.Add.1_EFS.pdf.

¹⁸³ “На переднем крае борьбы с ‘тремя силами зла’” {“At the Forefront of the Struggle Against the ‘Three Evils’”}, April 29, 2009, <http://infoshos.ru/ru/?idn=4120>. (Unofficial translation from the original Russian by Human Rights in China.)

ideology could easily spill over into preemptive measures against specific faiths or individuals and groups seeking to promote legitimate political goals.

It is further unclear which concept of “terrorism” – that of the *Shanghai Convention* or the *SCO Counter-Terrorism Convention* – will be utilized in practice as the basis for SCO action. The *Shanghai Convention* and the *SCO Counter-Terrorism Convention* seem intended to exist side-by-side, with the *SCO Counter-Terrorism Convention* providing an *additional* basis on which to criminalize “terrorist” activity.¹⁸⁴ This conclusion is reinforced by the entry of China and the Russian Federation into a bilateral *Agreement between the Russian Federation and the People’s Republic of China on Cooperation in Combating Terrorism, Separatism and Extremism* in September 2010, which explicitly covers acts of terrorism, separatism, and extremism as enumerated in the *Shanghai Convention*.¹⁸⁵ However, it appears that the role of ideology in terrorism as articulated in the *SCO Counter-Terrorism Convention* is poised to become a dominant theme in the SCO framework. Indeed, during the UN’s 65th General Assembly Session, the SCO’s representative raised the matter during discussions of the General Assembly’s Sixth Committee, which addresses questions of international law, on the draft international convention on and definition of terrorism, “emphasiz[ing] that widespread prevention of terrorism, *including countering the ideology that ‘nourishes it’, [is] crucial when developing anti-terrorism partnerships.*”¹⁸⁶

B. Structural and rhetorical challenges

i. Lack of transparency and oversight mechanisms

In order to ensure that SCO member states honor their international human rights law obligations, and their own human rights principles as referenced in SCO normative documents, these states must deploy credible accountability and monitoring mechanisms. Moreover, as a regional organization subject to Chapter VIII, Article 54 of the *UN Charter*, the SCO is obliged to keep the UN Security Council informed of its

¹⁸⁴ See SCO Counter-Terrorism Convention, *supra* n. 178, at preamble (“*Pursuant to the provisions of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001 . . .*”) and Art. 2(2) (“This Article [containing definitions] is without prejudice to any international instrument or national law which does or may contain provisions of wider application of terms used herein.”).

¹⁸⁵ See “Mutual Support for Each Other’s Core Interests Important Part of China-Russia Ties: Joint Statement,” Xinhua, September 28, 2010, http://news.xinhuanet.com/english2010/china/2010-09/28/c_13534063.htm.

¹⁸⁶ U.N. Department of Public Information, “Legal Committee is Told Overall Convention against Terrorism Must Meet International Law, Humanitarian Concerns,” U.N. Doc. GA/L/3386 (2010), <http://www.un.org/News/Press/docs/2010/gal3386.doc.htm> (emphasis added).

efforts to fight terrorism.¹⁸⁷ Yet, the SCO suffers from a lack of transparency, and without independent oversight mechanisms, it is difficult to fully assess international compliance or ensure that SCO states are fully accountable for their impact on human rights.

The SCO itself recognizes the importance of transparency – perhaps due to concern that it not be misunderstood as a “bloc” entity hostile to Western interests. As early as 2001, the SCO stated that it “adheres to the principle of non-alignment, does not target any other country or region, and is open to the outside. It is ready to develop various forms of dialogue, exchanges and cooperation with other countries, international and regional organizations.”¹⁸⁸ And in 2009, SCO Secretary-General Nurgaliev stated, “Everything on the agenda of the SCO main bodies and decisions adopted within the Organisation is transparent. We would like the international community to have a correct understanding of the goals and activities of the SCO, aimed to contribute to the creation of a new architecture of global security”¹⁸⁹ However, the SCO has not yet taken real steps to increase transparency in its dealings with member states’ own citizens, or the international community, for example by making concrete information about its policies and activities publicly available.

In practice, key information necessary to correctly “understand the goals and activities of the SCO” is not publicly available. Certain information is designated confidential or secret according to member state agreement. According to Article 11(4) of the *Shanghai Convention*, “Information about methods of conducting operational search activities, specifications of special forces and means and supporting materials used by central competent authorities of the Parties in order to provide assistance within the framework of this Convention, shall not be subject to disclosure.” Additionally, Article 13 of the *Shanghai Convention* obligates member states to ensure confidentiality of all information exchanged within the SCO framework.

The SCO has not released official statistics regarding extraditions or data exchange actually carried out pursuant to the SCO framework, nor a complete list of individuals and organizations it has designated as terrorist, separatist, or extremist. As for the contents of the RATS database, “the information that is contained in the data bank is

¹⁸⁷ “The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.” U.N. Charter, supra n. 112, at Art. 54.

¹⁸⁸ *Declaration on the Establishment of the Shanghai Cooperation Organization*, June 15, 2001, para. 7, <http://www.sco2011.kz/en/shos/dece.php>.

¹⁸⁹ “Statement of the Secretary-General of the SCO Bolat K. Nurgaliev at the IV International Turkish-Asia Congress ‘Regional Organizations in Asia / Institutionalization and Cooperation,’” May 27, 2009, <http://www.sectSCO.org/EN/show.asp?id=80>.

divided into classified and non-classified. Access to classified information shall be provided only to parties that are members of the Agreement on Protection of Classified Information of [RATS (June 17, 2004)]. The structure of the database, the procedure for handling non-classified information, and access to that information shall be determined by [the RATS Council]. Issues regarding the technical protection of information contained within the data base shall be regulated by a separate agreement.”¹⁹⁰

The Special Rapporteur on counter-terrorism has raised lack of accountability of intelligence operations as a major impediment to protection of human rights in counter-terrorism, which holds true in particular for SCO intelligence cooperation through RATS. As the Special Rapporteur has stated, “lack of oversight and political and legal accountability has facilitated illegal activities by intelligence agencies,” particularly in the context of intelligence cooperation within multilateral frameworks such as the SCO, which incorporate “secrecy and security of information policies [that] . . . provide an insurmountable wall against independent investigations into human rights violations.”¹⁹¹

RATS poses a complex problem because, while it interacts with and draws on information collected by security agencies that are within and presumably accountable to individual member states (such as China’s Public Security Bureau, Russia’s Federal Security Service, etc.), RATS itself operates at a supra-national level, which raises concerns regarding intelligence oversight and usage. Indeed, the *2002 RATS Agreement* between the member states provides that the RATS Director, his deputies, and the RATS Executive Committee “shall not seek or receive instructions from the authorities or officials of the Parties, as well as organizations or individuals external to the SCO.”¹⁹²

Moreover, the *2002 RATS Agreement* grants RATS and its officials immunity – though immunity may be waived by the SCO Heads of State Council – and specifically provides that RATS “archives and documents, including official correspondence, regardless of location, shall be immune from search, requisition and expropriation or any other form of interference that prevents its normal activities.”¹⁹³ And with respect to the RATS database, the *2004 Agreement on the Database of RATS* indicates that oversight of the

¹⁹⁰ Соглашение между государствами – членами ШОС о Региональной антитеррористической структуре {*Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization*} (hereafter, 2004 Agreement on RATS Database), June 7, 2002, Art. 2, http://www.ecrats.com/ru/normative_documents/1557. (Unofficial translation from the original Russian by International Federation for Human Rights; see Appendix A, “Key Normative Documents of the Shanghai Cooperation Organization.”)

¹⁹¹ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/10/3 (2009) (Special Rapporteur, Martin Scheinin) at paras. 25, 49, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/10/3>.

¹⁹² 2002 RATS Agreement, supra n. 35, Art. 11.

¹⁹³ Ibid., Arts. 13, 15.

database and its usage is the responsibility of the RATS Executive Committee – lodging all oversight within the intelligence agency itself rather than an independent body.¹⁹⁴

While a degree of confidentiality is essential to certain forms of information implicating national security, the SCO's practices appear to go well beyond acceptable limitations on transparency. As the UN High Commissioner for Human Rights has noted, "all measures taken by law enforcement agencies must be lawful under national and international law, and compatible with States' human rights obligations. This means that all activities undertaken by intelligence agencies, including intelligence-gathering, covert surveillance activities, searches and data collection must be regulated by law, monitored by independent agencies, and subject to judicial review. . . . States are required to ensure that confined powers, review of accountability and oversight mechanisms are established against the misuse of exceptional powers granted to intelligence, military agencies or special police to counter terrorism."¹⁹⁵ Such regulation and review does not appear to exist within the SCO framework generally, or within RATS specifically.

To address these structural problems and better protect human rights, SCO member states will need to take steps to incorporate into the SCO framework the best practices for intelligence cooperation recommended by the Special Rapporteur on counter-terrorism.¹⁹⁶ In particular, these steps should include incorporation of the following practices:

- Intelligence sharing among the intelligence agencies of SCO member states, including within RATS, should have **clear basis in national law**, which should indicate the parameters for intelligence exchange, including criteria on the purposes for which intelligence may be shared, the entities with which it may be shared, and the procedural safeguards that apply to intelligence-sharing. In addition, the details of intelligence sharing within RATS should be further articulated by **written agreements** between the member states specifying **rules** governing the use of shared information and a **statement of human rights compliance**. (Practice 31)¹⁹⁷

¹⁹⁴ 2004 Agreement on RATS Database, supra n. 190, Art. 5.

¹⁹⁵ U.N. Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism," U.N. Doc. A/HRC/13/36 (2010), para. 28, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-36.pdf>.

¹⁹⁶ See U.N. Human Rights Council, "Compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism," U.N. Doc. A/HRC/14/46 (2010) (Special Rapporteur, Martin Scheinin), <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.46.pdf>.

¹⁹⁷ Ibid., para. 45.

- National law should outline the **process for government authorization** of intelligence sharing, with **requirements for executive approval** of any sharing with foreign entities. (Practice 32)¹⁹⁸
- Intelligence sharing among the intelligence agencies of SCO member states, including within RATS, should be necessary, and preceded by an assessment of the counterpart's **record on human rights and data protection**, and the **legal safeguards and controls** to which it is subject, as "intelligence received from a foreign entity may have been obtained in violation of international human rights law." (Practice 33)¹⁹⁹
- Assessment of the **impact on individuals** of the sharing of data should also be undertaken, and such sharing should be **explicitly prohibited when it could lead to violation of an individual's rights**. (Practice 33)²⁰⁰
- All outgoing data should be screened for **accuracy and relevance** to avoid dissemination of flawed information, and exchanged pursuant to written agreement. (Practice 33)²⁰¹

Moreover, measures to ensure transparency and access to relevant and accurate information by independent monitoring bodies are crucial – for both the SCO itself and for each of its member states – to effective oversight and accountability for human rights obligations mandated under international and relevant domestic law. Such measures are also in line with the clear public commitments of the SCO's leadership to openness and accessibility in achieving genuine international cooperation and exchange in matters of global security.

ii. Regional and international frameworks

In addition to the structural challenges of transparency and lack of oversight mechanisms within the SCO framework, the SCO as a regional organization implicates a number of difficult theoretical and practical issues regarding the relationship between regional and international frameworks. The international community recognizes the special role of regional organizations, with their local experience and expertise, in the promotion of international peace and security. However, UN bodies including the General Assembly, the Security Council, and the Human Rights Council and its various mechanisms, have clearly stated that obligations under international law, especially human rights, refugee, and humanitarian law, must be respected to ensure effective and sustainable counter-terrorism efforts. Beyond public statements and principles, the

¹⁹⁸ Ibid., para. 46.

¹⁹⁹ Ibid., paras. 47-48.

²⁰⁰ Ibid.

²⁰¹ Ibid.

policies and actual practices of any regional organization such as the SCO must be assessed with critical attention not only to conformity with international norms and obligations, but also to the impacts of the regional framework on international human rights standards and norms.

A number of normative SCO documents recognize the supremacy of member states' international obligations over those contained in the regional framework, and include references to human rights and fundamental freedoms. (See Appendix A.) For example, the *Shanghai Convention* notes that, "In the course of implementation of this Convention with regard to issues concerning extradition and legal assistance in criminal cases, the Parties shall cooperate in conformity with international treaties to which they are parties and national laws of the Parties."²⁰² It further states that the *Shanghai Convention* will not "affect the rights and obligations of the Parties under other international treaties to which they are Parties."²⁰³ This is in line with international principles concerning priority of treaty obligations, as articulated under the *Vienna Convention*, which provides, "When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail."²⁰⁴

While the SCO has carefully asserted its conformity with international law and cooperation in the international arena, it also emphasizes the principles of respect for sovereignty, non-interference in internal affairs, and territorial integrity. The poor human rights records of the SCO member states and the policies and practices of the SCO underscore the need for careful scrutiny to ensure that the invocation of such principles are not strategically and selectively invoked to evade international accountability of member states or of the SCO as a regional organization.

With respect to cooperation and combating the Three Evils, the 2005 *Concept of Cooperation of the SCO Member States* provided that one principle guiding member state cooperation is "acknowledgment of the priority of joint decisions on combating terrorism, separatism, and extremism."²⁰⁵ Such acknowledgement of priority of SCO decisions in counter-terrorism efforts raises concerns about the SCO's impact on the international obligations of the member states related to counter-terrorism. The SCO has also specifically asserted the primacy of the more politically-conducive regional

²⁰² Shanghai Convention, supra n. 27, at Art. 2(3).

²⁰³ Ibid., Art. 16. See also *Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization* (hereafter, Treaty on Long-Term Good-Neighborliness), August 16, 2007, Art. 20, <http://www.sectSCO.org/EN/show.asp?id=71>.

²⁰⁴ Vienna Convention, supra n. 116, Art. 30(2).

²⁰⁵ Concept of Cooperation, supra n. 45, Art. II.3.

framework, stating, “What specific means and mechanism should be adopted to safeguard security of the region is the right and responsibility of countries in the region.”²⁰⁶ Furthermore, SCO heads of state have emphasized that “stability and security in Central Asia can be provided first and foremost by the forces of the region’s states on the basis of international organizations already established in the region.”²⁰⁷

In effect, the SCO has engendered a policy of selective displacement: SCO member states rely on the regional framework to provide international legitimacy for their cooperation, at the same time that it provides an “alternative,” preferred set of obligations – which may better suit certain existing practices of the states, but may not fully incorporate international human rights protections. Indeed, a June 2009 interview by FIDH with then-Deputy General Prosecutor of Kyrgyzstan, S. Nasiza, confirmed that in practice, officials have consciously decided to prioritize their SCO obligations over international ones. Nasiza indicated that the Kyrgyz government’s decision to return Uzbeks fleeing the 2005 Andijan crackdown – despite the likelihood that they would be tortured or executed upon their return – took place after he had weighed the extradition requirements of the SCO treaties against the prohibitions of the *Convention against Torture*.²⁰⁸ In the face of these conflicting obligations, the Kyrgyz government had concluded that the SCO framework took precedence.²⁰⁹

The SCO has also advocated respect for sovereignty and territorial integrity – non-interference in internal affairs – above all else. As set forth in the *Declaration on the Establishment of the Shanghai Cooperation Organization*:

The SCO member states shall abide by strictly the purposes and principles of the Charter of the United Nations, mutually respect independence, sovereignty and territorial integrity, not interfere in each other’s internal affairs, not use or

²⁰⁶ Declaration on the Fifth Anniversary of Shanghai Cooperation Organization, June 15, 2006, Art. III, <http://www.sectsc.org/EN/show.asp?id=94>. The *Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization* also provides that SCO member states, “respecting principles of state sovereignty and territorial integrity, shall take measures to prevent on their territories any activity incompatible with these principles.” Treaty on Long-Term Good-Neighborliness, supra n. 203, Art. 4. This language serves to further emphasize the SCO’s preoccupation with perceived threats to domestic control and interference with “internal affairs.” See also “China, Kazakhstan to Enhance Cooperation on Economy, Anti-Terrorism,” Xinhua, March 30, 2009, http://news.xinhuanet.com/english/2009-03/30/content_11101743.htm (“Kazakhstan gives high priority to ties with China and firmly adheres to the one-China policy and supports China’s principle stance on the issues relating to Taiwan and Tibet.”).

²⁰⁷ SCO, Bishkek Declaration of the Heads of the Member States of the Shanghai Cooperation, August 16, 2007, <http://www.sectsc.org/EN/show.asp?id=92>.

²⁰⁸ See FIDH, *Kazakhstan/ Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees*, supra n. 5, 23.

²⁰⁹ Ibid.

threaten to use force against each other, adhere to equality and mutual benefit, resolve all problems through mutual consultations and not seek unilateral military superiority in contiguous regions.²¹⁰

This position is elaborated upon in the *Declaration on the Fifth Anniversary of the Shanghai Cooperation Organization*, which states:

[The] SCO will make constructive contribution to the establishment of a new global security architecture of mutual trust, mutual benefit, equality and mutual respect. Such an architecture is based on the widely recognized principles of international law. It discards “double standards” and seeks to settle disputes through negotiation on the basis of mutual understanding. It respects the right of all countries to safeguard national unity and their national interests, pursue particular models of development and formulate domestic and foreign policies independently and participate in international affairs on an equal basis. . . .

Differences in cultural traditions, political and social systems, values and model of development formed in the course of history should not be taken as pretexts to interfere in other countries’ internal affairs. . . .

[SCO member states] support each other in their principled positions on and efforts in safeguarding sovereignty, security and territorial integrity. They will not join any alliance or international organization that undermines the sovereignty, security and territorial integrity of SCO member states. They do not allow their territories to be used to undermine the sovereignty, security or territorial integrity of other member states, and they prohibit activities by organizations or gangs in their territories that are detrimental to the interests of other member states.²¹¹

This assertion of state sovereignty and cultural, political, and social differences – especially in light of the lack of appropriate SCO human rights safeguards and oversight mechanisms – presents serious challenges to effective promotion of human rights. The impact of asserting the principles of sovereignty, non-interference, and territorial integrity can be clearly seen in disputes where the SCO has firmly supported the member states’ domestic priorities, policies, and actions – for example, concerning allegations of extremism, separatism or splittism, and terrorism in the context of events

²¹⁰ *Declaration on the Establishment of the Shanghai Cooperation Organization*, supra n. 188, at para. 5. See also SCO Charter, supra n. 16, Art. 2.

²¹¹ *Declaration on the Fifth Anniversary of Shanghai Cooperation Organization*, supra n. 206, Sections III-IV.

in Andijan in May 2005, the Tibet Autonomous Region in March 2008, and XUAR in July 2009; the Georgia-Ossetia conflict and the situation in Chechnya throughout the 2000s; and ongoing tensions between China and Taiwan.²¹² (See discussion at Section IV.C *infra*.)

Some illustrative SCO statements include:

- “Extremism is [a] current and actual danger, threatening friendly relations among nations. I referred to this in the context of the recent [March 2008] events in the Tibet Autonomous Region of the People’s Republic of China and acts of extreme hooliganism during the Olympic torch relay in some of the cities along the route. . . . We, in the SCO resolutely support the efforts of the Chinese government to maintain public order and rule of law.” – *Speech by SCO Secretary-General Bolat Nurgaliev at the International Conference on Security for Beijing Olympic Games, April 25, 2008*²¹³
- “Reaffirming that Taiwan represents an inseparable part of China, the SCO member states consistently support the position of the Government of the PRC on the Taiwan issue, resolutely oppose any form of ‘independence of Taiwan,’ and deem its attempts to join the United Nations Organisation and other international organisations to be counterproductive and dangerous.” – *Statement by SCO in connection with referendum of the Taiwanese authorities on joining the United Nations, March 17, 2008*²¹⁴
- “The latest reports of disturbances in the Tibet Autonomous Region of the People’s Republic of China cannot remain unnoticed by the Shanghai Cooperation Organisation. The government of the PRC is known to have taken the necessary measures to prevent unlawful actions and normalise the situation

²¹² In addition to the SCO statements concerning Taiwan, the Tibet Autonomous Region, and XUAR outlined in this section, see also RATS, “About new displays of religious-extremist organization of «Hizb-ut-Tahrir» and its followers,” June 29, 2005, <http://www.ecrats.com/en/news/226> (condemning “religious-extremist organizations” for “skillfully exploiting the world mass-media” following the 2005 Andijan uprising and supporting Uzbekistan’s “corresponding actions on normalizing the situation in the country and suppressing the actions of terrorists, separatists and extremists”); RATS, “Hu Jintao and V.V.Putin about fighting with terrorism and the role of the SCO in strengthening the regional security,” February 11, 2004, <http://www.ecrats.com/en/news/185> (joint statement from Chinese President Hu and Russian President Putin reaffirming that “international terrorism, separatism and extremism posed a serious threat and threatened to stability of the entire world,” and that “China understands undertaken acts by Russia upon restoration of a constitutional order in the Chechen Republic,” while “Russia supports all measures of China towards terrorists and separatists of ‘East Turkistan’”).

²¹³ SCO, “Speech by SCO Secretary-General at the International Conference on Security for Beijing Olympic Games,” April 25, 2008 (on file with Human Rights in China).

²¹⁴ SCO, “Chronicle of Main Events at SCO in 2008,” December 31, 2008, <http://www.sectSCO.org/EN/show.asp?id=66> (indicating the SCO issued this statement on March 17, 2008, in connection with the Taiwanese authorities’ referendum on joining the United Nations).

in this autonomous region...The SCO member states consider Tibet to be an inalienable part of China, and proceed from the fact that settlement of the situation in the TAR is an internal affair of China.” – *Statement by SCO Secretary-General Bolat Nurgaliev in connection with March 2008 events in the Tibet Autonomous Region*, March 21, 2008²¹⁵

- “The SCO member states consider the XUAR to be an inalienable part of the People’s Republic of China and believe whatever happens there is a solely internal affair of the PRC. We hope that the measures of the Chinese authorities to maintain public order in Xinjiang being taken within the framework of the law will bring calm and restore normal life there as soon as possible. The SCO member states stand ready to further deepen practical cooperation in the field of fighting against terrorism, separatism, extremism and transnational organised crime for the sake of the regional security and stability.” – *Statement by SCO Secretary-General Bolat Nurgaliev in connection with July 2009 events in Urumqi, XUAR*, July 10, 2009²¹⁶

The SCO’s unequivocal support for China’s stance on the 2010 Nobel Peace Prize is another high profile example of the SCO’s assertion of non-interference in internal affairs and its commitment to solidarity with member states’ positions. On October 8, 2010, the Norwegian Nobel Committee announced that the 2010 Nobel Prize for Peace would be given to Liu Xiaobo – an activist and writer serving an 11-year prison sentence in China – “for his long and non-violent struggle for fundamental human rights in China.” The Chinese government angrily and publicly responded, calling Liu a criminal. It then made threats to discourage foreign governments from attending the ceremony in Oslo, accused the U.S. government, including the U.S. Central Intelligence Agency, of instigating the decision to award Liu the prize, and even launched an alternate “peace prize” – the “Confucius Peace Prize.” China’s outraged rhetoric also asserted that the Nobel Prize decision was an insult to China and the Chinese people.

Taking up China’s argument, the SCO demonstrated that it would serve as a voice in defense of SCO member state failures to respect human rights, again invoking the principle of non-interference in internal affairs. SCO Secretary-General Imanaliev, echoing official Chinese rhetoric, “voiced his opposition to the politicization of the Nobel Peace Prize . . . saying the award should not be used as a tool to interfere in [an]other

²¹⁵ Ibid. (indicating SCO Secretary-General Bolat Nurgaliev issued this statement on March 21, 2008, regarding the events in the Tibet Autonomous Region).

²¹⁶ SCO Secretary-General Bolat Nurgaliev, “SCO Secretary-General issues statement in connection with events in Chinese city of Urumqi,” July 10, 2009, <http://infoshos.ru/en/?idn=4531>.

country's internal affairs."²¹⁷ In the Secretary-General's words, "It is very regrettable that the [Nobel] Prize was awarded to a criminal who is now in prison."²¹⁸ Joining China in its refusal to send any official representatives to the Nobel Peace Prize ceremony, two other SCO member states – Russia and Kazakhstan – were absent from the event. The remaining SCO members – Kyrgyzstan, Tajikistan, and Uzbekistan – do not maintain official diplomatic offices in Norway and were therefore not in a position to accept or decline an invitation. Such support for China among the SCO member states raises strong concerns about the SCO's commitment to and respect for international principles of freedom of expression, thought, and conscience, as enshrined in the *Universal Declaration of Human Rights* – and in the international obligations of the SCO member states.

Human Rights References of the SCO

"The main goals and tasks of SCO are ... [among others,] to promote human rights and fundamental freedoms in accordance with the international obligations of the member States and their national legislation."

- *Charter of the SCO*, Article 1 (June 7, 2002)

"In the area of human rights it is necessary to respect strictly and consecutively historical traditions and national features of every people, sovereign equality of all states."

- *Declaration of Heads of Member States of the SCO ("Astana Declaration")*, Section II, Paragraph 3 (July 5, 2005)

"The [SCO member states] shall develop cooperation in such fields as promoting the implementation of human rights and fundamental freedoms in accordance with their international obligations and national legislations."

"The [SCO member states] in accordance with their international obligations as well as national legislations, shall guarantee in their territories the observance of legitimate rights and interests of citizens of the other [SCO member states] residing in their territories, and shall facilitate the provision of necessary mutual legal assistance."

- *Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation between the Member States of the SCO*, Article 11 (August 16, 2007)

²¹⁷ "SCO Voices Opposition to 'Politicization' of Nobel Peace Prize," Xinhua, October 15, 2010, http://news.xinhuanet.com/english2010/world/2010-10/15/c_13559300.htm.

²¹⁸ Ibid.

“The member states of the SCO reaffirming their commitment to basic documents and standards in the field of protection and encouragement of human rights:

- *promote the observance of basic human rights and civil liberties in accordance with international obligations and national legislation;*
- *share experience in enforcing international treaties on human rights;*
- *implement existing agreements in the framework of multilateral and bilateral treaties in the field of social and cultural cooperation;*
- *launch active consultations and cooperation at the UN on human rights issues;*
- *maintain interaction of the SCO with other regional organisations and integration-oriented associations on issues of social and cultural cooperation and human rights encouragement.”*

- Dushanbe Declaration of the Heads of the Member States of the SCO, Article 10 (August 28, 2008)

“Understanding the need for ever-expanding efforts in counter-terrorism, and reaffirming that all such efforts must abide by the rule of law, democratic values, fundamental human rights and freedoms, as well as the precepts of international law . . .”

- Convention on Counter-Terrorism of the Shanghai Cooperation Organization, Preamble (June 16, 2009)

iii. National conditions and relativism

Finally, while invoking international human rights obligations on paper and occasionally in their rhetoric, SCO member states also claim that implementation of human rights obligations and assessment of progress are subject to the different histories, national conditions, resources and capacities, and cultures of the member states. The SCO is therefore invoking these differences *both* as an argument *for* member states’ heavy-handed practices of social and political control and *against* “interference in internal affairs.” This strategic invocation of relative national differences is very much in line with the statist arguments raised, by Asian states in particular, during the cultural relativism debates at the end of the twentieth century, which are now resurfacing in various international fora.²¹⁹

²¹⁹ See, e.g., Sharon Hom, “Commentary: Re-Positioning Human Rights Discourse on ‘Asian’ Perspectives,” *Buffalo Journal of International Law* 3, (1996), 209-34.

In addition to specific international obligations to respect fundamental rights and freedoms, the SCO and its member states must also respect cultural diversity as a core value and as a “living process.” For example, a group of United Nations experts issued a statement that warns against the inappropriate invocation of cultural diversity and explores the value of promoting and respecting cultural diversity:

No one may invoke cultural diversity as an excuse to infringe on human rights guaranteed by international law or limit their scope, nor should cultural diversity be taken to support segregation and harmful traditional practices which, in the name of culture, seek to sanctify differences that run counter to the universality, indivisibility and interdependence of human rights.

Cultural rights include the right to question the existing parameters of ‘culture’, to opt in or out of particular cultural entities, and to continuously create new culture. Individuals have multiple plural identities and inhabit societies which are also pluralistic. **Promoting cultural diversity is thus the preservation of a living process**, a renewable treasure for the benefit of present and future generations that guarantees everyone’s human rights as an adaptive process nurturing the capacity for expression, creation and innovation.²²⁰

When viewed against the realities of regimes that target and suppress ethnic, religious, and other vulnerable groups, and impose social and political control through censorship, information control, and repressive laws, the assertion of different national conditions and an implicit relativism in the context of fundamental human rights obligations is suspect, partial, and problematic.

²²⁰ U.N. Office of the High Commissioner for Human Rights, “Human Rights are Essential Tools for an Effective Intercultural Dialogue: Statement by a Group of United Nations Experts on the World Day for Cultural Diversity for Dialogue and Development,” May 21, 2010, available at <http://www.wluml.org/node/6325> (experts included: Farida Shaheed, Independent Expert in the field of cultural rights, http://www2.ohchr.org/english/issues/cultural_rights/index.htm; Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, <http://www2.ohchr.org/english/issues/opinion/index.htm>; Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, <http://www2.ohchr.org/english/issues/racism/rapporteur/index.htm>; James Anaya, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, <http://www2.ohchr.org/english/issues/indigenous/rapporteur/>; Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences, <http://www2.ohchr.org/english/issues/women/rapporteur/index.htm>; Vernor Muñoz Villalobos, Special Rapporteur on the right to education, <http://www2.ohchr.org/english/issues/education/rapporteur/index.htm>; and Asma Jahangir [replaced by Heiner Bielefeldt on August 1, 2010], Special Rapporteur on freedom of religion or belief, <http://www2.ohchr.org/english/issues/religion/index.htm>) (emphasis added).

C. Human rights records of SCO member states

All six SCO member states have signed or ratified core international human rights treaties, including treaties addressing torture, racial discrimination, civil and political rights, and economic, social and cultural rights. There are only two exceptions to SCO member state ratification of or accession to key international human rights instruments: China has signed – not yet ratified – the ICCPR, but as a signatory is still “obliged to refrain from acts which would defeat the object and purpose of [the] treaty”²²¹; and Uzbekistan is not a party to the *UN Refugee Convention*. (A chart of SCO member state obligations under international human rights treaties and progress in their implementation is included at Appendix B.) To account for these member state obligations, activities and cooperation undertaken through the regional mechanism of the SCO must protect the individual rights enumerated in the treaties.

In accordance with key international human rights treaties, independent expert bodies monitor and assess compliance of states, and issue findings, observations, and recommendations on state implementation of treaty obligations to protect human rights. For example, all six SCO states have undergone reviews by the Committee against Torture; the Committee on the Elimination of Racial Discrimination; and the Committee on Economic, Social and Cultural Rights; while all member states except China have undergone review by the Human Rights Committee. These bodies have identified a wide range of serious human rights concerns and abuses that exist across the six SCO member states: lack of domestic legal definitions for torture, racial discrimination, and terrorism; corruption; widespread reports of torture and its use to extract confessions; secret detention centers; lack of independent judiciaries; attacks on lawyers, human rights defenders, and independent civil society groups; restrictions on media and the Internet; and systemic inequalities in access to healthcare, education, work, and housing, with disparate impacts on women and ethnic groups. (See Appendix B.)

While the Special Rapporteur on counter-terrorism has made only one unofficial visit to an SCO member state (Kazakhstan in May 2006), he has sent to SCO member states numerous communications on individual cases and thematic issues of concern, including lack of due process, practice of secret detentions, inadequate definitions of terrorism, and lack of access to data on death penalty and executions.²²² With respect to individual

²²¹ Vienna Convention, supra n. 116, Art. 18.

²²² For examples of relevant thematic issues raised in government communications from the Special Rapporteur, see U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Addendum: Communications with Governments,” U.N. Doc. E/CN.4/2006/98/Add.1 (2005) (Special Rapporteur, Martin Scheinin), paras. 26-27, <http://www2.ohchr.org/english/issues/terrorism/rapporteur/reports.htm>

cases, the Special Rapporteur inquired about the targeting of individuals, including members of ethnic and other vulnerable groups (such as Uyghurs, Tibetans, and Chechens, as well as women), opposition politicians, and alleged organizers of the May 2005 Andijan events in Uzbekistan.²²³ The responses of individual SCO member states have included statements disputing the Special Rapporteur's findings and concerns,

(highlighting communications to the Uzbekistan government [issued jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture] regarding the trial of 15 individuals accused of organizing the 2005 Andijan incident, as well as 106 other detainees expected to face trial on similar charges, with concerns about due process and minimum fair trial standards guaranteed under international law); U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Addendum: Communications with Governments," U.N. Doc. A/HRC/4/26/Add.1 (2007) (Special Rapporteur, Martin Scheinin), paras. 20-21, <http://www2.ohchr.org/english/issues/terrorism/rapporteur/reports.htm> (highlighting communications to the Chinese government [issued jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture] regarding the treatment of Ismail Semed, alleged to be at imminent risk of execution following confession extracted through torture); U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection human rights and fundamental freedoms while countering terrorism, Addendum: Communications with Governments," U.N. Doc. A/HRC/10/3/Add.1 (2009) (Special Rapporteur, Martin Scheinin), paras. 28-41, 180-220, http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.3.Add.1_EFS.pdf (highlighting communications to the Chinese government regarding the treatment of Ismail Semed, Husein Dzhelil, Mukhtar Setiwaldi, and Abduweli Imin, raising concerns about the practice of extracting confessions through torture, definition of terrorism under Chinese law, denial of due process rights, and the practice of public executions; also highlighting communications to the Russian Federation concerning a definition of terrorism under domestic law, the existing legal regime of counter-terrorism operations, lawful infliction of damage against terrorist suspects under domestic law, trials *in absentia* of terrorist suspects, and compensation and social rehabilitation of victims of terrorism).

²²³ For examples of the types of targeted groups and individuals that are the subject of the Special Rapporteur's government communications, see *ibid.*, U.N. Commission on Human Rights, U.N. Doc. E/CN.4/2006/98/Add.1, paras. 13-14, 26 (highlighting communications to the Tajikistan government with concerns about the trial of opposition politician Mahmadrusi Iskandarov, as well as to the Uzbekistan government regarding the alleged organizers of the 2005 Andijan incident); U.N. Human Rights Council, U.N. Doc. A/HRC/4/26/Add.1, paras. 72-73 (highlighting communication to the Kyrgyzstan government concerning the deaths of Mohammadrafiq Kamoluddin, Ayubkhodja Shahobidinov, and Fathullo Rahimo [issued jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on freedom of religion and belief], followers of Islam targeted as "terrorists" by the Kyrgyzstan government); U.N. Human Rights Council, U.N. Doc. A/HRC/10/3/Add.1, paras. 28-41 (highlighting communications to the Chinese government regarding the treatment of ethnic Uyghurs Ismail Semed, Husein Dzhelil, Mukhtar Setiwaldi, and Abduweli Imin). For the Special Rapporteur's attention to the incorporation of gender perspectives into his mandate, see U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," U.N. Doc. A/HRC/6/17 (2007) (Special Rapporteur, Martin Scheinin), paras. 21 and 73(c), <http://www2.ohchr.org/english/issues/terrorism/rapporteur/reports.htm> (echoing concerns about "violence against women [and] the economic, social and cultural rights of Chechnyan women in the context of military operations described by the [government of the Russian Federation] as counter-terrorism measures," and recommending "attention be paid systematically to the rights of women and gender issues in the context of combating terrorism, including by securing the effective enjoyment by women of economic, social and cultural rights as another cornerstone in sustainable long-term strategies for the prevention of terrorism").

accusing the Special Rapporteur of “prejudgment,” or simply long delays or no response at all.²²⁴

In addition to these reviews and inquiries by independent expert bodies and mechanisms, the Human Rights Council (which replaced the UN Commission on Human Rights in 2006) is mandated to review under the Universal Periodic Review (UPR) procedure “fulfillment by each of the United Nations’ 192 Member States of their human rights obligations and commitments.” With the exception of Tajikistan (scheduled for review in October 2011), all remaining SCO member states have each undergone UPR – the Russian Federation and Uzbekistan in 2008, China and Kazakhstan in 2009, and Kyrgyzstan in 2010.

As part of the UPR process, the UN member state under review engages in an exchange with the Human Rights Council and responds to human rights concerns and recommendations raised by other UN member states. The UN member state under review then responds as to which concerns and recommendations it accepts, rejects, views as already implemented, or are in the process of being addressed. Such reviews have raised significant human rights concerns. China, for example, rejected recommendations made by UN member states to implement specific measures and reforms including those that would advance freedom of information and expression, ensure independence of the judiciary and lawyers, safeguard detainees’ access to counsel, protect lawyers from attacks and harassment, and protect the freedoms of religion and movement of ethnic groups such as Tibetans and Uyghurs. China also took the opportunity to repudiate the work of the UN Committee against Torture by rejecting their 2008 recommendation regarding the inadmissibility in court of statements made under torture.²²⁵

²²⁴ For examples of the types of government responses to the Special Rapporteur’s communications, see *ibid.*, U.N. Commission on Human Rights, U.N. Doc. E/CN.4/2006/98/Add.1, paras. 26-27 (describing response of the Uzbekistan government, concerning alleged organizers of the 2005 Andijan incident, claiming that the Special Rapporteur had “prejudged the matter by doubting the competence of the investigative and judicial bodies of the sovereign State of Uzbekistan”); U.N. Human Rights Council, U.N. Doc. A/HRC/4/26/Add.1, paras. 20-21, 39-40, 73-74 (highlighting the Chinese government’s response concerning the treatment of Ismail Samed, which included additional case information, but which did not address allegations of torture; also pointing out that neither the Kyrgyzstan government nor the Uzbekistan government had responded concerning the cases of Mohammadrafiq Kamoluddin, Ayubkhodja Shahobidinov, and Fathullo Rahimo as of the publication of the Special Rapporteur’s report); U.N. Human Rights Council, U.N. Doc. A/HRC/10/3/Add.1, paras. 180-220 (describing the Russian Federation’s response to concerns about domestic counter-terrorism law, including claims disputing the Special Rapporteur’s findings on the basis of asserted particularities of domestic law and adherence to international legislative instruments – including the *Shanghai Convention*).

²²⁵ See Human Rights in China, “China Rejects UN Recommendations for Substantive Reform to Advance Human Rights; HRIC Summary,” February 11, 2009, <http://www.hrichina.org/public/contents/128130>.

In sum, while the international legal human rights framework is extensive, there are serious challenges presented for promoting full respect by SCO member states for international human rights and cooperation with human rights bodies, mechanisms, and special procedures, including the many Special Rapporteurs established to monitor and promote implementation of these rights. As the SCO pursues expanded cooperation with the UN, any cooperation modality must reference the SCO's and its member states' cooperation with UN human rights bodies and procedures, including member states' responsiveness to treaty body recommendations and communications or requests for information from the Special Rapporteur on counter-terrorism and other independent expert mechanisms.

The remainder of this whitepaper focuses on specific human rights challenges presented by the SCO's formal structure, policies, and practices. However, in any assessment of the compliance of the SCO with its international obligations as a regional organization, the individual human rights policies and practices of the SCO's member states must also be addressed to avoid the concealment of these human rights problems under the mask of a regional body. The specific human rights issues documented by independent expert UN bodies need to also be addressed in international cooperation, including in expanded SCO-UN cooperation. Otherwise, the international community will risk allowing these cooperation efforts to actually undermine, rather than build, the capacity of states concerned.

D. China's influence and impact within the SCO

i. The Three Evils doctrine: Counter-terrorism with Chinese characteristics

China has played a leading role in shaping the SCO's approach to countering terrorism, especially in the SCO's adoption of the Three Evils doctrine – which links terrorism, separatism, and extremism as co-equal targets. From its inception, the SCO adopted the Chinese government's approach, with the June 15, 2001 *Shanghai Convention* and its targeting of acts ascribed to the Three Evils. Indeed, according to former Kyrgyz Foreign Minister Kadyrbek Sarbaev, “The fight against the ‘East Turkestan’ forces has been ‘the top priority of the SCO since it was established, and we are confident that we will emerge the winner.’”²²⁶ In the context of China's extensive use of the Three Evils rhetoric to cast ethnic groups who express discontent with official policies or seek greater autonomy as proponents of terrorism, separatism, and extremism, this

²²⁶ “The terrorist nature of ‘East Turkestan’ separatists,” Xinhua, July 23, 2009, http://www.chinadaily.com.cn/china/2009-07/23/content_8466072.htm.

expansion of the influence of the Three Evils doctrine to the SCO raises serious human rights concerns. In its vagueness and politicized application to target ethnic groups, the doctrine violates the principle of legality and has compromised freedoms of expression, religion, and association.

China has applied the Three Evils approach in particular to the ethnic Uyghur population concentrated in XUAR. Uyghurs and international human rights monitoring groups have voiced strong concerns regarding policies and practices of the Chinese government, including Han settlement in XUAR, and the resulting impact on Uyghurs' distinct culture, language, and practice of Islam.²²⁷ China has characterized Uyghur demands for greater autonomy and resulting tensions in the region as a threat to social stability and national security.

While the concept of the Three Evils has existed in official parlance for some time, the Chinese government has intensified its reliance on this concept since July 5, 2009, when ethnic tensions between Uyghurs and Han Chinese erupted as widespread riots broke out in Urumqi, capital of XUAR. Official estimates indicate that the July 5 riots and subsequent backlash resulted in 197 lives lost, 1,700 injuries, and extensive property damage.²²⁸ The government vociferously argued that the riots "were masterminded by terrorist, separatist and extremist forces both inside and outside China"²²⁹ – relying on the Three Evils doctrine to defend against international criticism and justify additional repressive measures.²³⁰ One entity accused by Chinese authorities of "instigating" the July 5 riots was the World Uyghur Congress, the U.S.-based NGO and critic of Chinese government policies in XUAR, headed by Uyghur activist and spokeswoman Rebiya Kadeer, whom the Chinese government has labeled a "separatist." Official media have even gone so far as to assert that the World Uyghur Congress is connected to the East

²²⁷ See generally Human Rights in China and Minority Rights Group International, *China: Minority Exclusion, Marginalization and Rising Tensions* (Human Rights in China and Minority Rights Group International: 2007), http://www.hrichina.org/public/contents/article?revision_id=36063&item_id=36055; Human Rights in China and Human Rights Watch, *Devastating Blows: Religious Repression of Uighurs in Xinjiang* (Human Rights in China and Human Rights Watch: 2005), <http://www.hrichina.org/public/contents/21518>.

²²⁸ Information Office of the State Council of the People's Republic of China, "Development and Progress in Xinjiang," September 21, 2009, section VII, <http://english.people.com.cn/90001/90776/90785/6763708.html>.

²²⁹ *Ibid.*

²³⁰ For example, the XUAR Standing Committee passed the "Information Promotion Bill" in September 2009, banning people in the region from using the Internet to undermine national unity or incite ethnic separatism, and requiring establishment of information communications technology monitoring systems. See "Xinjiang authorities ban online separatist talk: state media," Agence France Press, September 27, 2009, http://www.google.com/hostednews/afp/article/ALeqM5gTLP1delqZHXJr5F6EqfGwFfu_Q.

Turkestan Islamic Movement²³¹ – an entity designated as a terrorist organization associated with Al-Qaida by the UN Security Council.²³²

The linking of unrest in XUAR to terrorism has facilitated the government’s failure to acknowledge the underlying grievances of Uyghurs that contributed to the July 5 riots. This observation has been made by independent monitors, including the UN Committee on the Elimination of Racial Discrimination, which in August 2009 urged the Chinese government to “carefully consider the root causes of [the July 2009] events, including inter-ethnic violence, and the reasons why the situation escalated.”²³³ As one Uyghur reportedly stated, illustrating the source of much anger against the government, “Give us jobs, stop holding our passports hostage, and let us worship the way we want to . . . That would solve these problems. That is all it would take.”²³⁴ Instead, the government has responded by severely restricting the civil and political rights of Uyghurs (*see Section IV.D.ii infra*), while prioritizing unsustainable economic development that risks exacerbating inequalities in the region.

The Three Evils doctrine thus presents the problem of a politicized and vague concept of the targets of the SCO’s counter-terrorism and cooperation measures. The principle of legality mandates that criminal liability may only be imposed pursuant to clear and precise provisions of law – provisions that may not be interpreted to unduly broaden the scope of proscribed conduct. Yet China – both domestically and regionally through the SCO – has relied on the catch-all concept of the Three Evils to avoid having to limit the scope of its crackdowns, which can target not only criminal acts, but also acts as varied as participation in a peaceful protest or communication via the Internet. By tying political dissent to “scare words” such as terrorism, extremism, and separatism, the government has attempted to promote its crackdowns as legitimate security measures and perpetuate policies that serve the interests of the Communist Party of China (CPC) at the expense of citizens. In violation of the principle of legality, China’s domestic law is broad enough to permit terrorism, separatism, and extremism to apply to anything perceived by the Chinese government as a “threat” to its control, whether violent or not.

²³¹ See, e.g., Li Li, “Terrorist Gang Smashed,” Beijing Review, July 8, 2010,

http://www.bjreview.com.cn/nation/txt/2010-07/05/content_282980.htm.

²³² See “The Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them,” March 10, 2011, <http://www.un.org/sc/committees/1267/consolist.shtml> (listing the Eastern Turkistan Islamic Movement under entry “QE.E.88.02”).

²³³ U.N. Committee on the Elimination of Racial Discrimination, “Concluding observations of the Committee on the Elimination of Racial Discrimination: China,” U.N. Doc. CERD/C/CHN/CO/10-13 (2009), para. 17, <http://www.un.org/Docs/journal/asp/ws.asp?m=CERD/C/CHN/CO/10-13>.

²³⁴ Lauren Keane, “One year later, China’s crackdown after Uighur riots haunts a homeland,” *Washington Post*, June 15, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/14/AR2010061405054.html>.

Official Chinese government references to the Three Evils terminology appeared as early as March 15, 2001, prior to the establishment of the SCO in June of that year, in the *Tenth Five Years Planning Outline of the People's Republic of China's Development on National Economy and Society*.²³⁵ Chapter 23 of the document, on “Rule by Law, Building a Socialist Country Governed According to Law,” sets out the following priorities: “seriously study the new situations and new issues threatening social stability, correctly handle the inner conflicts among people during the new period, ensure social stability,” and “crack down on *ethnic splitting activities, religious extremist forces, violent terrorist activities*, cults and illegal activities conducted in the name of religion.”²³⁶

Reference appears again, this time after the creation of the SCO, in the State Council's September 5, 2001 *Opinions on Further Strengthening the Comprehensive Management of Social Order* (“*State Council Opinion on Social Order*”), which states:

Our country still faces intertwined and complicated environments both within and overseas; factors affecting social stability continue to exist. Mainly: hostile forces intensify the infiltrating and destroying activities against our country; *ethnic splitting forces within and outside the country, religious extremist forces and violent terrorist forces collude together, using so-called issues of ethnicity, religion and human rights, etc., to create problems, attempting to destroy the social stability of our country.*²³⁷

In these documents, the Three Evils doctrine – connected explicitly with ethnic groups, religion, and human rights in the *State Council Opinion on Social Order* – is clearly tied to CPC fears surrounding social stability. In China, social stability depends to a great extent on how popular discontent with official policies is managed or channeled – particularly when those policies implicate marginalized ethnic and religious groups. Indeed, in the explicit language of the *State Council Opinion on Social Order*, the qualifiers surrounding the politically-charged terms “terrorism,” separatism (“splitting”), and “extremism” are revealing, suggesting the true focus of the government's concern: “*ethnic splitting*

²³⁵ Zhonghua Renmin Gongheguo guomin jingji he shehui fazhan dishige wunian jihua gangyao [中华人民共和国国民经济和社会发展第十个五年计划纲要] {Tenth Five Years Planning Outline of the People Republic of China's Development on National Economy and Society}, submitted by the State Council [国务院] and approved by the National People's Congress [全国人民代表大会], promulgated and effective on March 15, 2001, <http://www.people.com.cn/GB/historic/0315/5920.html>.

²³⁶ Ibid. (emphasis added).

²³⁷ Jin yi bu jiaqiang shehui zhian zonghe zhili de yijian [进一步加强社会治安综合治理的意见] {Opinions on Further Strengthening the Comprehensive Management of Social Order}, issued by the Central Committee of the Communist Party of China and the State Council [中共中央及国务院], promulgated and effective on September 5, 2001, <http://www.china.com.cn/chinese/2001/Nov/77140.htm>.

forces” and “religious extremist forces,” equated rhetorically with “violent terrorist forces” under the Three Evils doctrine.

At the same time, clear and precise definitions of each of the Three Evils – as required by the principle of legality in order to impose criminal liability – do not exist domestically. China’s domestic legislation on counter-terrorism is actually quite limited,²³⁸ providing ample room for official (and unofficial) policy to take its place. While China has made statements about its efforts to draft an anti-terrorism law,²³⁹ such efforts have yet to come to fruition. The key provision under Chinese domestic law applicable to terrorism is Article 120 of the *Criminal Law*, which was amended on December 29, 2001, to state:

Whoever forms, leads or actively participates in a terrorist organization shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever, in addition to the crime mentioned in the preceding paragraph, commits other crimes of homicide, bombing or kidnapping shall be punished in accordance with the provisions on combined punishment for multiple crimes.²⁴⁰

The focus of the *Criminal Law* is participation in an organization – reflecting the CPC’s preoccupation with organized opposition – without including a definition of what constitutes a “terrorist” or “terrorism.” Article 4 of the *State Security Law* could also apply to acts of terrorism as linked under the Three Evils to extremism and splittism, as it broadly states, “Any organization or individual that has committed any act of endangering state security of the People’s Republic of China shall be prosecuted

²³⁸ See generally Zhao Bing-zhi and Wang Xiu-mei, *supra* n. 12 (noting, “Chinese criminal law does not explicitly regulate the concept of ‘terrorism crime’, [such that] the terrorism crime must be presented in [the] form of ordinary crime,” including such criminal acts as murder, arson, etc.; the intent to commit terrorism “is usually ignored due to lacking of legal provisions;” and the identification of “terrorist organizations” per se is under the authority of both the People’s Court [judicial identification] and the Ministry of Public Security [administrative identification]).

²³⁹ U.N. Security Council, “Fifth report by China on the implementation of Security Council resolution 1373 (2001),” U.N. Doc. S/2006/470 (2006), para. 2.5, available at <http://www.un.org/en/sc/ctc/resources/1373.html>.

²⁴⁰ Criminal Law of the People’s Republic of China [中华人民共和国刑法], issued by the National People’s Congress [全国人民代表大会], promulgated July 1, 1979, effective January 1, 1980; revised March 14, 1997, effective October 1, 1997; amended on December 25, 1999, August 31, 2001, December 29, 2001, December 28, 2002, February 28, 2005, June 29, 2006, February 28, 2009, and on February 25, 2011 (Art. 120 was amended in 2001).

according to law.”²⁴¹ An “act of endangering state security” includes “conspiring to overthrow the government, splitting the country or overthrowing the socialist system.”²⁴² Finally, China’s Supreme People’s Procuratorate and Ministry of Public Security recently promulgated a regulation outlining the prosecution standards for the crime of financing terrorism, but the regulation does not provide a definition of terrorism itself.²⁴³

ii. The Three Evils doctrine in practice: Targeting of and impact on Uyghurs

In practice, counter-terrorism in China is left largely to the Ministry of Public Security (MPS) and other public security organs. The MPS has made three major statements concerning terrorism since 2001, each one focusing on East Turkestan-related entities and individuals of Uyghur ethnicity. The first was issued on December 15, 2003, when the MPS released a list of four alleged terrorist organizations – the East Turkistan Islamic Movement (ETIM), East Turkistan Liberation Organization, World Uyghur Youth Congress, and East Turkistan Information Center – as well as eleven alleged individual terrorists,²⁴⁴ all of whom were also tied to East Turkestan. At that time, the MPS also released guidance on identification of terrorist organizations and terrorists, in the form of a circular list that, while lacking clear definitions for the terms “terrorist” or “terrorism,” included the following as “Specific Criteria for Identification of Terrorist Organizations”:

(1) A group (regardless of whether the headquarters is within the country or overseas) which, *through violent terrorist means, engages in acts that endanger national security, destruct social stability, and endanger lives and properties of the people;*

²⁴¹ State Security Law of the People’s Republic of China [中华人民共和国国家安全法], issued by the Standing Committee of the National People’s Congress [全国人民代表大会常务委员会], promulgated and effective February 22, 1993, Art. 4.

²⁴² Ibid.

²⁴³ Guanyu gong’an jiguan guanxia de xingshi anjian li’an zhuisu biao zhun de guiding (2) [关于公安机关管辖的刑事案件立案追诉标准的规定(二)] {Regulations on the Standards for the Filing and Prosecuting of Criminal Cases under the Jurisdiction of Public Security Agencies (2)}, issued by the Supreme People’s Procuratorate and the Ministry of Public Security [最高人民检察院及公安部], promulgated and effective May 7, 2010, <http://www.mps.gov.cn/n16/n1282/n3493/n3778/n4303/2417768.html>; “Law Fine-tuned against Terror Financing,” *China Daily*, May 19, 2010, http://www.chinadaily.com.cn/china/2010-05/18/content_9865096.htm.

²⁴⁴ “China seeks cooperation worldwide to fight ‘East Turkistan’ terrorists,” Xinhuanet, December 15, 2003, available at <http://big5.fmprc.gov.cn/gate/big5/www.china-un.ch/eng/zt/zgfk/t89062.htm>. The identified terrorists were Hasan Mahsum, Muhanmetemin Hazret, Dolqun Isa, Abudujelili Kalakash, Abudukadir Yapuquan, Abudumijit Muhammatkelim, Abudula Kariaji, Abulimit Turxun, Hudaberdi Haxerbik, Yasen Muhammat, and Atahan Abuduhani. Ibid.

(2) has a certain degree of structure, leading division of work, or work division system;

(3) satisfying the above criteria, and with any of the following circumstances:

- (i) organized, planned, incited, implemented or participated in implementing terrorist acts, or is in the process of organizing, planning, inciting, implementing or participating in implementation of terrorist acts;
- (ii) subsidizes, or supports terrorist acts;
- (iii) establishes a base for terrorist activity; or recruits, trains, or cultivates terrorists systematically;
- (iv) in collusion with other international terrorist organizations, accepts subsidy, training, cultivation of other international terrorist organizations, or participates in the activities thereof.²⁴⁵

While the phrase “through violent terrorist means” is vague and circular as guidance for defining terrorism, the criteria do indicate that an act is considered indicative of terrorism if its effect is the endangerment of national security, destruction of social stability, or endangerment of the lives and property of the people. Unlike the characteristics of terrorism laid out by the UN Security Council, however, or even the definition of terrorism contained within the *Shanghai Convention*, the MPS criteria do not include the element of intent. Moreover, endangerment of national security and destruction of social stability are overbroad, subjective elements that the government can assert when facing political threats that would not objectively qualify as terrorism. These criteria therefore do not sufficiently comply with the principle of legality. (An English translation of the criteria released by the MPS is included in Appendix C.)

In October 2008, the MPS released another list of eight individuals wanted for terrorism;²⁴⁶ again, all of these individuals were allegedly tied to East Turkestan forces, specifically, ETIM (the only East Turkestan entity noted as a terrorist organization on the UN Security Council’s Consolidated List – see Section IV.F.i.1 *infra*). Notably, the MPS

²⁴⁵ Zhao Lei and Quan Xiaoshu [赵磊、全晓书], “Zhongguo rending kongbu zuzhi he kongbu fenzi de juti biao zhun” [中国认定恐怖组织和恐怖分子的具体标准] {China Sets Out Specific Criteria for Identifying Terrorist Organizations and Terrorists}, Xinhua News Agency [新华社], December 15, 2003, http://news.xinhuanet.com/legal/2003-12/15/content_1232510.htm (emphasis added).

²⁴⁶ Ministry of Public Security [公安部], “Gong’anbu tongbao di-er pi rending de ba ming ‘Dong-tu’ kongbu fenzi mingdan” [公安部通报第二批认定的8名“东突”恐怖分子名单] {Ministry of Public Security Announces Second List of Eight Identified “East Turkestan” Terrorists}, October 21, 2008, <http://www.mps.gov.cn/n16/n983040/n1988498/1988569.html>.

indicated that this second list was based on, *inter alia*, China's implementation of UN Security Council resolutions 1267, 1373, 1456, and 1624.²⁴⁷ (An English translation of this MPS statement is included in Appendix C.) The MPS thus explicitly tied its efforts targeting East Turkestan forces to international counter-terrorism efforts, which could serve to enhance the legitimacy of such crackdowns.

Finally, on June 24, 2010, the MPS announced that it had broken up a major terrorist plot of ETIM.²⁴⁸ This incident raised a number of questions concerning China's compliance with its human rights obligations in counter-terrorism. The vaguely-worded announcement indicated that Chinese public security agencies had "recently" captured "more than ten" leaders, agents, and members of a "terrorist organization," including two individuals asserted to be plot leaders – Abdurixit Ablet (an alleged member of ETIM) and Imin Semai'er (simply noted as "a key actor in the East Turkestan terrorist forces"). The identities of the other captured individuals were not revealed. The MPS statement did indicate, however, that the information leading to this arrest was obtained through the investigation of "twenty individuals of Chinese citizenship" who were deported to China on December 20, 2009, after an illegal border crossing – facts that exactly match reports of Cambodia's deportation in December 2009 of 20 Uyghurs who had sought refuge in the country after the July 2009 unrest.²⁴⁹ Additionally, the MPS statement indicated that Abdurixit Ablet, Imin Semai'er, "and others" confessed to participating in a wide array of terrorist activities during interrogation.

Serious issues therefore exist concerning China's treatment of these Uyghurs, including the principle of non-refoulement and potential use of torture during the interrogations, which require additional investigation. Yet, again, the MPS asserted compliance with international law, stating, "Chinese public security agencies will firmly uphold and fulfill the resolutions of the United Nations General Assembly and the Security Council, striking a serious blow to every type of terrorist activity according to the law, and conscientiously uphold social stability."²⁵⁰ (An English translation of this MPS statement is included in Appendix C.)

²⁴⁷ Ibid.

²⁴⁸ "Gong'an jiguan pohuo 'Dong-yi-yun' kongbu zuzhi anjian (shilu)" [公安机关破获“东伊运”恐怖组织案件(实录)] {Public Security Agencies Foil "East Turkestan Islamic Movement" Terrorist Plot (Transcript)}, China Online [中国网], June 24, 2010, http://news.china.com.cn/txt/2010-06/24/content_20337837.htm.

²⁴⁹ See *infra* n. 372.

²⁵⁰ "Gong'an jiguan pohuo 'Dong-yi-yun' kongbu zuzhi anjian (shilu)" [公安机关破获“东伊运”恐怖组织案件(实录)] {Public Security Agencies Foil "East Turkestan Islamic Movement" Terrorist Plot (Transcript)}, *supra* n. 248.

In addition to these national-level efforts, regulations specific to XUAR have become a key part of China's domestic counter-terrorism legal framework, and it is here that the Three Evils doctrine is most fully incorporated. As part of enhanced security efforts, the XUAR People's Congress Standing Committee made revisions to the *XUAR Regulation on the Comprehensive Management of Social Order* on December 29, 2009 ("2009 XUAR Regulation Amendment"), which took effect on February 1, 2010.²⁵¹ (An English translation of the text of the revised regulation is included in Appendix C.) The 2009 XUAR Regulation Amendment was designed specifically to crack down against the three forces of terrorism, separatism, and extremism in XUAR after the July 5 riots, and includes multiple references to "ethnic separatist forces, violent terrorist forces, and religious extremist forces." These regional changes appear to be unique to XUAR, with the "new emphasis on state security [] largely unseen in other localities as well as in the XUAR's own previous social order provisions."²⁵²

Such singular focus by the Chinese government on the "East Turkestan threat" in its counter-terrorism efforts, and its crackdown in response to the July 5 riots, suggests that the concept of terrorism has been applied in a biased fashion, with the Uyghur community the subject of intense scrutiny and suspicion. China, like other states, does face real threats of terrorism, as demonstrated to some degree by attacks launched against public targets in the run-up to the 2008 Olympics in Beijing.²⁵³ It has also been reported that some individuals of Uyghur ethnicity, and groups such as the Turkestan Islamic Party, were involved in terrorist activities linked to Al-Qaida.²⁵⁴ Yet the limited

²⁵¹ Xinjiang Weiwuer zizhiqu shehui zhi'an zonghe tiaoli [新疆维吾尔自治区社会治安综合治理条例] {Regulations of the Xinjiang Uyghur Autonomous Region on Comprehensive Management of Social Order}, issued by the Standing Committee of Xinjiang Uyghur Autonomous Regional People's Congress [新疆维吾尔自治区人民代表大会常务委员会], adopted January 21, 1994; amended December 11, 1997; revised December 29, 2009; revision promulgated December 29, 2009; and effective February 1, 2010 (as revised 2009), <http://www.xinjiang.gov.cn/10100/10160/10001/10000/2009/66254.htm>. (Unofficial translation from the original Chinese by Human Rights in China; see Appendix C, "People's Republic of China Domestic Law and Official Statements.")

²⁵² Congressional-Executive Commission on China, "Revised Social Order Regulation in Xinjiang Places New Emphasis on State Security," February 26, 2010, <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=135388>.

²⁵³ Notably, initial reports of some instances of pre-Olympics violence having "terrorist" connections were later dispelled by Chinese officials. See, e.g., Jim Yardley and Ian Urbina, "China Doubts Bus Blasts Are Linked to Separatists," *New York Times*, July 27, 2008, <http://www.theledger.com/article/20080727/znyt03/807270480> (citing statement by Chinese official that a bus bombing initially attributed to an alleged separatist group called the Turkestan Islamic Party in fact "had nothing to do with terrorist attacks"); Andrew Jacobs, "China Says Man Confessed to Bus Bombings," *New York Times*, November 28, 2008, <http://www.nytimes.com/2008/12/29/world/asia/29iht-29china.18964187.html> (reporting that Chinese investigators dismissed the claims of a Uyghur Muslim separatist group that tried to take responsibility for the bombing).

²⁵⁴ See, e.g., Edward Wong, "Chinese Separatists Tied to Norway Bomb Plot," *New York Times*, July 9, 2010, <http://www.nytimes.com/2010/07/10/world/asia/10uighur.html> (noting the arrest in Norway of a Chinese Uyghur on the charge of orchestrating a terrorist bomb plot, and detailing the death in January 2010 of 13

involvement of Uyghurs in terrorist acts cannot serve as justification of widespread repression throughout XUAR or the labeling of peaceful Uyghur activists under the rubric of the Three Evils.

As China's Ministry of Foreign Affairs itself noted in 2002, "China holds that all actions against terrorism should have solid proof and a clear target and adhere to the purposes and principles of the *UN Charter*. China opposes arbitrarily widening the scope of strikes in the name of fighting terrorism and it also opposes identifying terrorism with any specific country, ethnic group or religion."²⁵⁵ The Three Evils doctrine undermines this principled approach and, in doing so, compromises human rights guaranteed under international law, and international counter-terrorism efforts as a whole.

E. Harmonization of legislation in SCO member states

Despite the inherent dangers of the SCO's Three Evils approach – exemplified in China – the SCO has promoted the spread of legislation designed to combat terrorism, extremism, and separatism within individual member states. Incorporation of the Three Evils doctrine into the domestic law of member states both extends the control of China and Russia, the SCO's dominant regimes, and provides a counterweight to international influence and pressure on human rights. The SCO's clear support for, and perpetuation and extension of, the Three Evils doctrine – which has had drastic effect on the rights of the Uyghur populace in XUAR – suggests a lack of political will to respect, protect, and promote essential human rights.

Harmonization of security-related domestic legislation on the basis of the Three Evils has been identified by the SCO repeatedly as a key area for work and a priority for resolution – which the SCO is coming closer and closer to attaining.²⁵⁶ The *Shanghai Convention* requires member states to "take such measures as can prove necessary, including, as appropriate, in the field of their domestic legislation, in order to ensure that in no circumstances acts referred to in Article 1 (1) of this Convention [terrorism, separatism, and extremism] should be subject to acquittal based upon exclusively

Uyghurs in Afghanistan who were members of the Turkestan Islamic Party); "US drone attack kills al-Qaida-linked top Chinese militant in Pak," *Times of India*, March 2, 2010,

<http://timesofindia.indiatimes.com/world/pakistan/US-drone-attack-kills-al-Qaida-linked-top-Chinese-militant-in-Pak/articleshow/5631876.cms> (noting death of Uyghur Abdul Haq al-Turkistani, who had appeared in a video in August 2009 threatening to attack Chinese interests around the world).

²⁵⁵ "China active in global counter-terrorism," Xinhuanet, September 10, 2002, available at <http://www.china-un.ch/eng/zt/zgfk/t89060.htm>.

²⁵⁶ See, e.g., Roger McDermott, "Kyrgyz Instability Presents Challenges for Russia, China and the SCO," *Eurasia Daily Monitor* 7, no. 86 (2010),

[http://www.jamestown.org/programs/edm/single/?tx_ttnews\[tt_news\]=36345&tx_ttnews\[backPid\]=27&cHash=80708294dc](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=36345&tx_ttnews[backPid]=27&cHash=80708294dc).

political, philosophical, ideological, racial, ethnic, religious or any other similar considerations and that they should entail punishment proportionate to their gravity.”²⁵⁷ Regional consensus on rejecting justifications for acts characterized as one of the Three Evils was thus of paramount importance from the SCO’s inception.

As early as 2004, in a meeting between the RATS Director and Russian officials, the need to “adjust[] national legislations of SCO country members in accordance with the policy of fighting terrorism, extremism, and separatism [was] noted.”²⁵⁸ As later set forth under the 2005 *Concept of Cooperation of SCO Member States*, fundamental objectives of SCO cooperation include “developing and harmonizing the legislation of SCO member states in the realm of combating terrorism, separatism, and extremism,” and “assisting in the strengthening of international anti-terrorist cooperation and in the creation of a world atmosphere that completely rejects terrorism, separatism, and extremism.”²⁵⁹ The 2005 *Concept of Cooperation of SCO Member States* also enumerated that a guiding principle for member states is the “reciprocal recognition of a terrorist, separatist, or extremist act *regardless of whether the legislation of SCO member states includes a corresponding act in the same category of crimes or whether the act is described using the very same terms.*”²⁶⁰ These provisions indicate that a primary obligation of SCO membership is to target any individual designated terrorist, extremist, or separatist by another member state, irrespective of differences in the states’ characterizations of such threats. Indeed, the ultimate goal appears to be *elimination* of differences in member state characterizations of and responses to such threats.

The *SCO Counter-Terrorism Convention* of 2009 further advanced efforts to harmonize domestic approaches to counter-terrorism by identifying a number of legislative and other measures that all parties should implement on a national level.²⁶¹ Many of these measures raise human rights concerns, including:

- Encouraging public participation in identifying terrorist threats by means of payment to informers, “assisting non-governmental organizations, groups, and private individuals in countering terrorism and promoting non-acceptance of terrorism in society,” and “educating the public regarding the dangers and negative effects of terrorism, as well as the legal consequences of offenses

²⁵⁷ Shanghai Convention, *supra* n. 27, Art. 3.

²⁵⁸ RATS, “About visit of the EC RATS SCO Director, Kasimov V.T., to the Russian Federation,” May 31, 2004, <http://www.ecrats.com/en/news/230>.

²⁵⁹ *Concept of Cooperation*, *supra* n. 45, Art. II.2.

²⁶⁰ *Ibid.*, Art. II.3 (emphasis added).

²⁶¹ See *SCO Counter-Terrorism Convention*, *supra* n. 178, Arts. 7-10.

covered” under the *SCO Counter-Terrorism Convention*.²⁶² Each of these approaches may promote state interference in civil society and creation of incentives to characterize legitimate activities as terrorism – a strong possibility in light of the convention’s ambiguous definition of the term.

- Requiring criminalization of “public calls to terrorism or public justification of terrorism,” namely, “the dissemination of any appeal to the public for the purpose of inciting the commission of” certain offenses enumerated under the *SCO Counter-Terrorism Convention*, or “public declarations calling for the support and emulation of terrorism.”²⁶³ This approach to criminalization for incitement to terrorism includes only two of three elements required by international law, and puts legitimate expression at risk.

While the UN Security Council has recognized the role that incitement could play in the commission of terrorist acts and called for its prohibition,²⁶⁴ the UN has reiterated that incitement to terrorism should be understood as having all of the following elements:

- a direct call to engage in terrorism (an act of communication);
- with the intention that this will promote terrorism (subjective intent);
- in a context in which the call is directly causally responsible for increasing the actual likelihood of a terrorist act occurring (objective danger that the conduct will incite terrorism).²⁶⁵

The *SCO Counter-Terrorism Convention’s* approach, however, does not include the element of objective danger of increasing the actual likelihood of commission of a

²⁶² Ibid., Arts. 7(2)(5), (11), (12). Notably, such measures are quite similar to those outlined in the *XUAR Regulation on the Comprehensive Management of Social Order*. See Xinjiang Weiwuer zizhiqu shehui zhi’an zonghe tiaoli [新疆维吾尔自治区社会治安综合治理条例] {Regulations of the Xinjiang Uyghur Autonomous Region on Comprehensive Management of Social Order}, supra n. 251, Arts. 38-42 (available in English translation in Appendix C).

²⁶³ Ibid., Art. 9(1)(4).

²⁶⁴ S.C. Res. 1624, U.N. Doc. S/RES/1624 (2005), preamble, paras. 1, 3, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1624%282005%29> (“The Security Council . . . Deeply concerned that incitement of terrorist acts motivated by extremism and intolerance poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all States, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all States . . . Calls upon all States to . . . [p]rohibit by law incitement to commit a terrorist act or acts [and] . . . to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance . . .”).

²⁶⁵ U.N. General Assembly, “The protection of human rights and fundamental freedoms while countering terrorism: Report of the Secretary-General,” supra n. 167, paras. 61-62; Fact Sheet No. 32, supra n. 118, 42-43 (drawing on the Council of Europe’s *Convention on the Prevention of Terrorism*).

terrorist act. Moreover, criminalization of “public justification of terrorism” and “public declarations calling for the support and emulation of terrorism” goes beyond permissible prohibitions on incitement to terrorism. Incitement must not be equated with the mere glorification or promotion of terrorism, or the expression of support for past acts, as such activity does not possess the three elements of incitement outlined above.²⁶⁶ As stated by the UN Secretary-General, “[I]t is important that vague terms of uncertain scope such as ‘glorifying’ or ‘promoting’ terrorism not be used when restricting expression.”²⁶⁷

In requiring harmonization of the legislation of SCO member states on these matters, the SCO framework risks perpetuating counter-terrorism practices that do not fully integrate human rights principles and safeguards.

F. SCO policies, operations, and practices: The fourth pillar meets the Three Evils

Given the fundamental problems presented by the formal SCO framework and the lack of transparency and accountability in its actual practices, it is no surprise that counter-terrorism cooperation within that framework has compromised member states’ compliance with international law. The SCO has significant potential to impact individual rights that are protected by international law, including security of the person, freedom of expression, freedom of religion, freedom of association, privacy, and fair treatment under the law. While publicly-available information on the operations of the SCO is limited (*see Section IV.B.i supra*), SCO trends documented thus far raise concerns regarding the widespread acceptance of the targeting of legitimate organizations and individuals who have voiced dissent against member state policies. SCO member states have relied on the Three Evils doctrine as the basis for severe restrictions on and violations of the human rights of SCO member states’ citizens.

The SCO framework has greatly expanded the reach of SCO member state governments to effectuate domestic policies and priorities in the region. The impact of this reach on individuals is significant, as the SCO structure obligates all member state governments throughout the Eurasian region to track, target, and punish persons or organizations identified as threats, no matter where they are located within that region. The 2009 SCO

²⁶⁶ See U.N. General Assembly, “The protection of human rights and fundamental freedoms while countering terrorism: Report of the Secretary-General,” *supra* n. 167, para. 61; U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Ten areas of best practices in countering terrorism,” *supra* n. 3, paras. 29-32.

²⁶⁷ U.N. General Assembly, “The protection of human rights and fundamental freedoms while countering terrorism: Report of the Secretary-General,” *supra* n. 167, para. 61.

Counter-Terrorism Convention codified the bases for a member state’s jurisdiction over “terrorist” offenses – and control over the individuals or entities alleged to have committed them – as follows:

1. Each Party shall take the necessary measures to establish its jurisdiction over the offenses covered by this Convention in the following cases:

- 1) when the offense has been committed in the territory of that Party;
- 2) when the offense has been committed on board a vessel flying the flag of that Party or an aircraft registered under the laws of that Party;
- 3) when the offence has been committed by a national of that Party.

2. Each Party may also establish its jurisdiction over offenses covered by this Convention in the following cases:

- 1) when the **offense was aimed at or resulted in the commission of a terrorist act** inside the territory or against a national of that Party;
- 2) when the offense was aimed at or has been committed against a Party’s facility abroad, including its diplomatic missions or consular premises;
- 3) when the **offense was aimed at or resulted in the commission of a terrorist act for the purpose of compelling that Party to do or abstain from doing any act;**
- 4) when the offense has been committed by a stateless person with habitual residence in the territory of that Party;
- 5) when the offense has been committed on board a vessel operated by that Party.²⁶⁸

According to the *SCO Counter-Terrorism Convention*, the jurisdiction of a state is not confined to that state’s own citizens. Nor is jurisdiction confined to offenses committed on that state’s territory or against its overseas facilities. Instead, the *SCO Counter-Terrorism Convention* permits member states to claim jurisdiction whenever the alleged offense is “aimed at” commission of a terrorist act on the state’s territory or against one of its citizens, regardless of the location of the citizen or the perpetrator, and regardless

²⁶⁸ *SCO Counter-Terrorism Convention*, supra n. 178, Art. 5 (emphasis added).

of whether the terrorist act ultimately transpired. Most disturbingly, a state may also claim jurisdiction by asserting that an offense was “aimed at” commission of a terrorist act that had as its purpose an impact on that state’s decision-making (an act with the “the purpose of compelling [an SCO member state] to do or abstain from doing any act”). For example, pursuant to this formulation, China could assert that it had jurisdiction over Kazakh citizens of Uyghur ethnicity, located in Kazakhstan and alleged to be plotting a terrorist act *in Kazakhstan* – so long as China asserts that such act, which may or may not have even transpired, is intended to send a message to China.

Such an amorphous basis for jurisdiction raises considerable doubts about the safeguarding of individuals’ due process rights in the SCO framework. Combined with the *SCO Counter-Terrorism Convention’s* loose, politicized definition of terrorism, the provisions above give states jurisdictional authority over virtually any perceived threat in which they have an interest. Should member states disagree as to who may properly exercise jurisdiction, they shall “consult with a view to determine the most appropriate jurisdiction.”²⁶⁹ This raises serious concerns that outcomes of such consultations would weigh heavily in favor of China or Russia – the SCO member states with the greatest economic and political clout.

Taking into account the extended reach of SCO member states in this framework, three specific areas of cooperation are of particular concern for their negative impact on human rights: exchange of information on individuals; extradition or returns of, and denial of asylum to, member state citizens; and joint military and law enforcement exercises.

i. Impact of exchange of individual information on the right to privacy and due process

Law enforcement bodies of SCO member states are obligated to share a great deal of information and data that have been identified as related to terrorism, separatism, and extremism. The *Shanghai Convention* indicates that the “central competent authorities of the Parties shall exchange information of mutual interest” on planned or committed terrorist, separatist, or extremist acts, as well as information about “*organizations, groups and individuals preparing and/or committing acts referred to in Article 1(1) of this Convention or otherwise participating in those acts, including their purposes, objectives, ties and other information.*”²⁷⁰ Such cooperation has deepened over time: in June 2009, SCO Secretary-General Nurgaliev stated that the SCO member states “have a

²⁶⁹ *Ibid.*, Art. 5(5).

²⁷⁰ Shanghai Convention, *supra* n. 27, Art. 7 (emphasis added).

legal obligation to share information about terrorists and terrorist organizations so that competent services will be able to trace them on the territory of any member state. This proved to be an effective mechanism resulting in the achievement of specific goals. Cooperation in this field will be intensifying. All six members of the SCO are determined to prevent terrorists and extremists of different kinds from destabilizing the situation in the region.”²⁷¹ The *SCO Counter-Terrorism Convention* reiterated that “competent agencies of the Parties, upon request or on their own initiative, shall exchange information (documents, materials, or other information) regarding issues covered by this Convention for the purpose of preventing or combating terrorism.”²⁷² The SCO’s RATS is the operational center that makes this happen.

The SCO’s establishment and operation of RATS raises serious human rights concerns with its multilateral approach to targeting organizations, groups, and individuals deemed threats by any one of the six SCO member state governments. Of the tasks with which RATS is charged, its activities to assist in the search for persons alleged to have committed acts of terrorism, separatism or extremism, as well as to exchange individual identifying and NGO information through the RATS database – the parameters of which are governed by separate agreement – raise serious questions as to conformity with international law.

In an April 2009 interview, the Director of the Executive Committee of RATS provided the following insight into RATS and its role in member states’ national security measures:

Our organization is not directly involved in counter-terror operations. We were, however, actively engaged in *facilitating security measures* implemented at the 2008 Olympic Games [in Beijing]. Documents prepared by our organization formed the legal framework for inter-agency cooperation in this field. As far as I know nothing like this has ever been done: there is no international precedent for it. To be frank, it was not an easy task, but we were able to accomplish our goals. The joint efforts of SCO member states in facilitating security at the 2008 Olympic Games fully reflects the “Shanghai spirit” and offers the international community a working model of cooperation between states on a global scale.

When it comes to the Sochi Olympics [site of the 2014 Winter Olympics in Russia], I believe that we will be able to build on our past experiences to develop effective strategies in facilitating security. Needless to say, our

²⁷¹ “Statement of the SCO Secretary-General Bolat K. Nurgaliev at the Security Forum of the Euro-Atlantic Partnership Council,” June 25, 2009, <http://www.sectSCO.org/EN/show.asp?id=104>.

²⁷² SCO Counter-Terrorism Convention, supra n. 178, Art. 12(1).

organization could never replace Russia’s law enforcement agencies, but we are certainly capable of *assisting their efforts with relevant and strategic information*.²⁷³

In light of the ever more powerful technology tools that SCO member states have at their disposal, “assisting [] efforts with relevant and strategic information” is perhaps the most potent form of cooperation these states can supply in the modern era. Technology deployed by these governments can track and expose the activities, identities, and other significant details of individuals and organizations, as well as predict and analyze patterns of behavior – to eliminate “problems” before they even materialize.

The aforementioned coordination by RATS of national security measures in connection with “mega-events” (large-scale public events) is a good example of such capacity, which will continue to develop into the future, and not only with respect to the Sochi Olympic Games. At a RATS meeting in October 2009, “complex measures of assistance to the People’s Republic of China and the Republic of Kazakhstan in the maintenance of security at World Expo 2010 in Shanghai (PRC), 2010 Guangzhou Asian Games and Asian Winter Games in Kazakhstan in 2011 have been approved.”²⁷⁴ It is worth noting, however, that security for the Beijing Olympic Games in 2008, in which RATS was “actively engaged,” included crackdowns on human rights defenders, massive surveillance operations, and restrictions on peaceful dissent.²⁷⁵ As this approach was deemed a success, it is likely to be exported and repeated among the SCO member states.

Under the *Shanghai Convention* and the *SCO Counter-Terrorism Convention*, information exchange can be initiated at the request of one member state to another, or a member state can offer information on its own initiative.²⁷⁶ The required elements of a request are surprisingly minimal, the most complicated under the *Shanghai Convention* being “purposes of and grounds for the request,”²⁷⁷ and under the *SCO Counter-Terrorism Convention*, a summary of facts upon which the operation, investigation, or proceeding

²⁷³ “На переднем крае борьбы с ‘тремя силами зла’” {“At the Forefront of the Struggle Against the ‘Three Evils’”}, supra n. 183 (emphases added).

²⁷⁴ “A Meeting of the Council of SCO RATS Took Place in Tashkent,” October 20, 2009, <http://infoshos.ru/en/?idn=5002>.

²⁷⁵ See, e.g., Human Rights in China, “2008 Beijing Olympics: The Price of National Glorification,” August 24, 2008, <http://www.hrichina.org/public/contents/67911>; Human Rights in China, “Human Rights Situation in China Worsens as Bush Calls for a More Open Society,” August 7, 2008, <http://www.hrichina.org/public/contents/67871>.

²⁷⁶ Shanghai Convention, supra n. 27, Art. 8(1); SCO Counter-Terrorism Convention, supra n. 178, Art. 12(1).

²⁷⁷ Shanghai Convention, supra n. 27, Art. 8(3).

is based, and statement that the requested measure is in accordance with relevant legislation.²⁷⁸ There is no indication that a request for individual data must be accompanied by any evidence of criminality or specification of the act or charge for which an individual is wanted. The *Shanghai Convention* does, however, provide that a request for information may be refused on the ground that “it contradicts the legislation or international obligations of the requested Party.”²⁷⁹ Likewise, the *SCO Counter-Terrorism Convention* permits refusal if compliance “threatens the sovereignty or national security of the requested Party or contravenes its laws.”²⁸⁰ Whether or not such a request has ever been denied on these grounds is unknown.

Over the years the SCO and RATS have developed two key forms of information exchange with serious implications for individual rights: SCO “blacklists” and the RATS counter-terrorism database.

1. **Blacklists**

Within the international community, there is a growing awareness of the human rights risks of blacklists developed for counter-terrorism purposes. The due process questions are significant – for instance: What evidence is used to place individuals and entities on the list? Who makes the listing decision? Are such decisions subject to oversight? Can they be challenged through a legitimate delisting procedure? Can an individual or entity wrongfully placed on the list receive reparation?

All of these questions have surfaced in connection with the work of the UN Security Council’s 1267 Committee (also known as the Al-Qaida/Taliban Sanctions Committee), established pursuant to Security Council Resolution 1267 to impose a sanctions regime against individuals and entities associated with Al-Qaida, the Taliban, and Usama Bin Laden, wherever located.²⁸¹ These sanctions measures include assets freezing, travel

²⁷⁸ SCO Counter-Terrorism Convention, supra n. 178, Art. 14.

²⁷⁹ Shanghai Convention, supra n. 27, Art. 9(6).

²⁸⁰ SCO Counter-Terrorism Convention, supra n. 178, Art. 17(2).

²⁸¹ See Security Council Resolution 1267 and subsequent Security Council resolutions modifying that framework: S.C. Res. 1267, U.N. Doc. S/Res/1267 (1999),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1267%281999%29>; S.C. Res. 1333, U.N. Doc. S/Res/1333 (2000), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1333%282000%29>; S.C. Res. 1390, U.N. Doc. S/Res/1390 (2002),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1390%282002%29>; S.C. Res. 1455 U.N. Doc.

S/Res/1455 (2003), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1455%282003%29>; S.C. Res. 1526 U.N. Doc. S/Res/1526 (2004),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1526%282004%29>; S.C. Res. 1617, U.N. Doc.

S/Res/1617 (2005), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1617%282005%29>; S.C. Res. 1735, U.N. Doc. S/Res/1735 (2006),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1735%282006%29>; S.C. Res. 1822, U.N. Doc.

bans, and arms embargoes; the measures have no expiry date.²⁸² All states are required under Chapter VII of the *UN Charter* to impose sanctions against individuals and entities that have been designated as “associated with”²⁸³ Al Qaida, the Taliban or Usama Bin Laden and placed on the Security Council’s consolidated list, known as the 1267 Consolidated List. Clearly, the consequences of inclusion on the 1267 Consolidated List are immense – yet due process protections associated with listing and delisting are lacking. The 1267 Committee considers listing and delisting requests and reaches its decisions by consensus of its members – the 15 member states of the Security Council. There are no appeal procedures, no standard of proof, no public hearings, and no right to answer, and no reasons need to be given for listing and delisting decisions. In fact, a criminal charge or conviction is not necessary for inclusion on the 1267 Consolidated List “as the sanctions are intended to be preventive in nature.”²⁸⁴

In response to arguments that the Security Council Resolution 1267 sanctions regime does not adequately incorporate due process and transparency,²⁸⁵ the Security Council passed Resolution 1904, establishing an independent ombudsperson with human rights credentials to assist in the consideration of delisting requests and implement more transparent procedures.²⁸⁶ The resolution also laid out a deadline for completion of the 1267 Committee’s first review for accuracy of the 1267 Consolidated List, and requirements for further review and updating of the list.²⁸⁷ Even so, Resolution 1904 reiterated that the sanctions regime was “preventative in nature and [] not reliant upon criminal standards set out under national law”²⁸⁸; and, despite completion of review of

S/Res/1822 (2008), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1822%282008%29>; and S.C. Res. 1904, U.N. Doc. S/RES/1904 (2009),

<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1904%20%282009%29>.

²⁸² United Nations Analytical Support and Sanctions Monitoring Team for Al-Qaida and the Taliban, “The Al-Qaida/Taliban Sanctions Regime,” October 29, 2007, para. 4,

<http://www.un.org/en/sc/ctc/specialmeetings/2007-nairobi/docs/sanctionsR.pdf>.

²⁸³ The definition of “associated with” includes the following elements: “participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; supplying, selling or transferring arms and related materiel to; recruiting for; or otherwise supporting acts or activities of; Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof.” S.C. Res. 1617, supra n. 281, para. 2.

²⁸⁴ U.N. Security Council 1267 Committee, “Fact Sheet on Listing,”

http://www.un.org/sc/committees/1267/fact_sheet_listing.shtml.

²⁸⁵ See, e.g., Thomas Hammarberg, “Arbitrary Procedures for Terrorist Black-listing Must Now be Changed,” Council of Europe Commissioner for Human Rights, December 1, 2008,

http://www.coe.int/t/commissioner/Viewpoints/081201_en.asp (“Arbitrary procedures for terrorist black-listing must now be changed... the measures have affected a number of rights of the targeted individuals, including the right to privacy, the right to property, the right of association, the right to travel or freedom of movement. Moreover, there has been no possibility to appeal or even know all the reasons for the blacklisting, eliminating the right to an effective remedy and due process . . .”).

²⁸⁶ S.C. Res. 1904, supra n. 281.

²⁸⁷ Ibid.

²⁸⁸ Ibid., preamble.

the Consolidated List in July 2010,²⁸⁹ the list still evidences problems. Notably, the one individual connected with XUAR who is currently included on the list – Abdul Haq, entry QI.H.268.09, alleged “overall leader and commander of the Eastern Turkistan Islamic Movement” – was reportedly killed in the North Waziristan region of Pakistan in February 2010.²⁹⁰

While acknowledging progress by the Security Council, the Special Rapporteur on counter-terrorism has continued to voice serious concern over the framework engendered by Security Council Resolutions 1267 and 1373, arguing that the Security Council has exceeded the powers conferred by it by the *UN Charter*, and that its practices have posed risks to the protection of international human rights standards.²⁹¹ He recommends that the Security Council replace these key counter-terrorism resolutions with a new, single resolution, not adopted under Chapter VII of the *UN Charter*, that incorporates a proper human rights clause and extinguishes the problematic aspects of the old framework, while still maintaining States’ reporting duties, which should fully address human rights questions. Additionally, he asserts that, as the 1267 regime amounts to *ultra vires* action, all UN-listed individuals and entities should have access to domestic judicial review before sanctions are applied – i.e., the 1267 Consolidated List should no longer be considered “proof” of the terrorist nature of an entity or individual, such as the Eastern Turkistan Islamic Movement.

The SCO’s regional version of a counter-terrorism blacklist presents the same problems that the UN system itself is building momentum to address – but, unlike the UN, the SCO does not yet appear to have tackled the due process issues inherent in blacklisting. Indeed, the ability to obtain multilateral, uncritical acceptance of the state’s specific designation of enemies within the SCO framework is a valuable tool for SCO members. This multilateral acceptance has served as a platform for member states to rebut the criticism of Western nations about domestic human rights records and targeted groups, providing a legitimized counterpoint for defending state actions. It also has the effect of expediting mutual legal assistance in the elimination of state enemies when such enemies are outside of the state’s borders and direct control. Moreover, this regional

²⁸⁹ See U.N. Department of Public Information, “Security Council Al-Qaida and Taliban Sanctions Committee Concludes Review of Its Consolidated List, Pursuant to Resolution 1822 (2008),” August 2, 2010, <http://www.un.org/News/Press/docs/2010/sc9999.doc.htm>.

²⁹⁰ “Top militant calling for attacks on China killed,” China Daily, March 2, 2010, http://liaoning.chinadaily.com.cn/china/2010-03/02/content_9524701.htm; “US drone attack kills al-Qaida-linked top Chinese militant in Pak,” *Times of India*, March 2, 2010, <http://timesofindia.indiatimes.com/world/pakistan/US-drone-attack-kills-al-Qaida-linked-top-Chinese-militant-in-Pak/articleshow/5631876.cms>.

²⁹¹ U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/65/258 (2010) (Special Rapporteur, Martin Scheinin), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/65/258>.

blacklist, administered through RATS, has its foundations in the concept of the Three Evils.

Under Article 14 of the ICCPR, however, SCO member states are required to respect and protect individuals' rights to equality before the courts and tribunals, presumption of innocence until proven guilty, a fair trial, minimum due process guarantees, and review by a higher tribunal.²⁹² The UN High Commissioner for Human Rights elaborated that inclusion on a blacklist denies an individual the right to a fair hearing, and often lacks the following essential aspects: uniformity in evidentiary standards and procedures; proper notice to individuals concerning the listing and reasons behind it; an expiration date; methods to challenge the listing; and the right to a remedy.²⁹³ The Special Rapporteur on counter-terrorism also noted that blacklisting may infringe on the right to property, freedom of association, and political rights.²⁹⁴ He highlighted that blacklisting must comply with the principles of legality and legal certainty, proportionality, and necessity.²⁹⁵ He further stressed that any inclusion on a blacklist must be subject to procedural guarantees, including the right to be informed of grounds for inclusion and delisting procedures, the right to judicial review, the right to a remedy, and humanitarian exemptions.²⁹⁶

Publicly-available documents of the SCO and RATS do not indicate incorporation of any such safeguards in the SCO's blacklisting process. What is known is that the blacklist has evolved since 2005, when RATS identified the creation of a list as a main direction of SCO cooperation. The 2005 *Concept of Cooperation of the SCO Member States* specified as a guiding principle the "inescapability of punishment" for organizations and individuals wanted for terrorism, separatism, and extremism,²⁹⁷ and noted one of the desired results of blacklisting as confiscation of assets.²⁹⁸ These planned measures directly implicate the right to property, freedom of association, and political rights as articulated by the Special Rapporteur on counter-terrorism. The "fundamental avenues of cooperation" laid out in the 2005 *Concept of Cooperation of the SCO Member States* include:

²⁹² International Covenant on Civil and Political Rights, supra n. 166, Art. 14.

²⁹³ U.N. Human Rights Council, "Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled 'Human Rights Council': Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism," U.N. Doc. A/HRC/4/88 (2007), paras. 23-26, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/4/88>.

²⁹⁴ U.N. General Assembly, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," U.N. Doc. A/61/267 (2006) (Special Rapporteur, Martin Scheinin), para. 31, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/61/267>.

²⁹⁵ Ibid., paras. 32-33.

²⁹⁶ Ibid., paras. 38-41.

²⁹⁷ Concept of Cooperation, supra n. 45, Art. II.3.

²⁹⁸ Ibid., Art. III.2.

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1. The formation of a *single policy* by SCO member states in the realm of combating terrorism, separatism, and extremism and the effectuation of inter-state coordination of this activity.
 2. The development of *unified approaches* to stopping the activity of terrorist, separatist, and extremist organizations prohibited in SCO member states, including the *creation of a unified list of such organizations* with subsequent confiscation of their property and financial resources.
 3. The development and implementation of the anti-terrorist capacity of SCO member states.
 4. The *inevitability of punishment* for terrorism, separatism, and extremism.
 5. Creating and maintaining a single *search registry of individuals wanted internationally* for committing crimes of a terrorist nature or who are suspected of committing crimes of a terrorist nature.²⁹⁹

The exact contents of the SCO blacklist are unknown, and it appears to remain a work in progress for RATS. According to publicly available information, in early 2006, the RATS Council agreed on a first common list of 15 designated terrorist organizations, which included Al-Qaida, the Congress of Peoples of Chechnya and Dagestan, Hizb ut-Tahrir, and the Islamic Party of Turkestan.³⁰⁰ A list of 400 alleged individual terrorists was reportedly also agreed upon, but not publicly released.³⁰¹

In May 2007, at a meeting of Secretaries of Security Councils of SCO member states, “the meeting heard a report on preparing a single list of terrorist, separatist and extremist organizations whose activity on the territory of the SCO member states are prohibited, as well as a single list of individuals wanted by the special services and law enforcement agencies of the SCO member states for committing or being suspected of

²⁹⁹ Ibid., Art. III (emphases added).

³⁰⁰ See Mikhail Vinogradov, “Борцы с терроризмом договорились о сотрудничестве” {“Anti-terrorist fighters have agreed on cooperation”}, Izvestia, April 3, 2006, <http://www.izvestia.ru/politic/article3091651/index.html>. The full list identified the following 15 organizations: Supreme Military Majlisul Mujahideen Shura United Forces of the Caucasus (Russia); Riyadh al-Salihin (Russia); Al-Qaida; Congress of Peoples of Chechnya and Dagestan (Russia); Asbat al-Ansar (Lebanon); Al-Jihad (Egypt); The Islamic Group (Egypt); Muslim Brotherhood; Hizb ut-Tahrir; Lashkar-e-Taiba (Pakistan); Taliban (Afghanistan); The Islamic Party of Turkestan; Jamiat al Islam al Idzhtimai (Kuwait); Jamiat Ihyat-Turaz al-Islami (Kuwait); and Al-Haramain (Saudi Arabia).

³⁰¹ Mikhail Vinogradov, “Борцы с терроризмом договорились о сотрудничестве” {“Anti-terrorist fighters have agreed on cooperation”}, supra n. 300.

committing the crimes of terrorist, separatist and extremist nature.”³⁰² Reports indicate that this meeting produced a list of 39 terrorist, separatist, and extremist organizations – including Al-Qaida, the Taliban, the Islamic Movement of Uzbekistan, Hizb ut-Tahrir, and the East Turkestan Islamic Movement – and a most-wanted list of 944 individuals.³⁰³ RATS indicated that it was continuing its work on such a list in 2009.³⁰⁴

In April 2010, RATS Director Dzhenisbek Dzhumanbekov noted that RATS maintains within its database a list of 42 organizations “the activities of which pose a potential threat to certain SCO member states, and have accordingly been outlawed in those countries,” as well as a list of over 1100 persons “sought internationally in connection with acts of terrorist, separatist, or extremist nature.”³⁰⁵ Thus, regional consensus appears to be growing concerning which organizations and individuals represent terrorist, separatist, and extremist threats.

Echoing the SCO’s approach to the definition of terrorism, however, member states appear to have neglected the principle of legality in maintaining the blacklist. No mention is made of a need to specify which of the Three Evils an individual is blacklisted for, nor the nature of his or her connection to an alleged criminal act. Official RATS documentation from 2006 noted some of the overriding considerations behind the blacklist:

- [T]here can be no double standards when it comes to terrorism;
- we must evolve a consistent definition of “terrorism” and establish a legal framework to *ensure that a subject identified as a terrorist in one country will be regarded as such in other countries, thus becoming ineligible for political asylum*;
- there is a need for an international accord on counter-terrorism, adopted by all SCO member states, setting out the criteria that must be met before an entity may be designated as a terrorist organization, and the sanctions that may be applicable to it or its individual members.

³⁰² SCO, “Chronicle of Main Events at SCO in 2007,” December 31, 2007, <http://www.sectesco.org/EN/show.asp?id=97> (see entry for May 25, 2007).

³⁰³ Yu Bin, “China-Russia Relations: Partying and Posturing for Power, Petro, and Prestige . . .,” *Comparative Connections* 9, No. 2, (2007), 164, 169, http://csis.org/files/media/isis/pubs/0702qchina_russia.pdf; see also Roger McDermott, “SCO Prepares List of Banned Radical Groups,” *Eurasia Daily Monitor* 4, No. 148, (2007), [http://www.jamestown.org/programs/edm/single/?tx_ttnews\[tt_news\]=32910&tx_ttnews\[backPid\]=171&no_cache=1](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=32910&tx_ttnews[backPid]=171&no_cache=1) (noting meeting held to develop list of international “religious extremist” organizations currently banned within member states).

³⁰⁴ “На переднем крае борьбы с ‘тремя силами зла’” {“At the Forefront of the Struggle Against the ‘Three Evils’”}, *supra* n. 183.

³⁰⁵ RATS, “ПАТС ШОС: сообща против терроризма” {“SCO RATS: United Against Terrorism”}, April 29, 2010, <http://infoshos.ru/ru/?idn=5810>. (Unofficial translation from the original Russian by Human Rights in China.)

These conclusions should serve as a precondition for any Register of Terrorist Organizations adopted by all SCO member states. . . .

Expert delegates of the RATS Executive Committee and SCO member states are working together to bring our countries closer in a common struggle against international terrorism, and making first steps toward creating such a register. This will permit us to hasten the process of establishing a legal framework for a Single Register of Terrorist Organizations that may include such entities as Al-Qaida, the Taliban Movement of Afghanistan, the Islamic Movement of Uzbekistan, Hizb ut-Tahrir al-Islami, and the East Turkestan Islamic Movement.³⁰⁶

Through the use of such blacklists, an SCO member state may bypass the step of independently determining according to law whether an individual has committed an act of terrorism; rather, another country's identification of the individual as a terrorist will suffice. Any blacklist based on such identification, particularly in light of the Three Evils doctrine, the human rights records of SCO member states, and the RATS reference to preventing political asylum, may serve as a tool for states to guarantee the "inevitable" punishment of individuals and entities targeted for domestic crackdown. While RATS noted the need for "criteria that must be met before an entity may be designated as a terrorist organization" – which criteria the *SCO Counter-Terrorism Convention* has now supplied – the SCO framework does not indicate whether a member state's evaluation of, and blacklisting based upon, such criteria should include human rights safeguards, such as independent oversight mechanisms or appeal procedures. It is therefore probable that the member states' politicized application of the Three Evils labels – including that of China to Uyghur groups – carries over to the regional blacklist as well.

While no official and complete list of SCO-recognized terrorists, separatists, or extremists is presently available, SCO member states do appear to rely heavily on blacklisting in their cooperation, including with respect to border control, surveillance, and extradition (*see Section IV.F.ii infra*). These areas of cooperation are laid out in the 2005 *Concept of Cooperation of the SCO Member States*, which, in addition to requiring coordinated denial of asylum,³⁰⁷ indicates that member states should develop "legal,

³⁰⁶ See RATS, "О проблемах работы и состоянии создания Единого перечня террористических организаций" {"On the Progress and the Obstacles in the Development of a Single Register of Terrorist Organizations"}, May 19, 2006, http://www.ecrats.com/ru/terrorist_organizations/1677 (emphasis added). (Unofficial translation from the original Russian by Human Rights in China.)

³⁰⁷ *Concept of Cooperation*, supra n. 45, at Art. II.3.

organizational and other measures aimed at strengthening border and customs control with the goal of preventing terrorists, separatists and extremists from penetrating SCO territory, and halting the illegal transfer across the borders of SCO member states of resources used to commit terrorism, separatism and extremism.”³⁰⁸ Both Kazakhstan and Uzbekistan have confirmed in reports to the UN Security Council that they utilize SCO lists as a basis for monitoring, denying entry to, and sharing intelligence on specific individuals.³⁰⁹ As the Special Rapporteur on counter-terrorism has stated, such practices may violate individuals’ freedom of movement as protected under ICCPR Article 12,³¹⁰ as well as the principle of non-refoulement.³¹¹

2. RATS Database

Compounding the problem of regional blacklisting is the creation of a comprehensive, well-financed, and well-sourced database within RATS, with the potential to augment SCO member states’ powers of surveillance and control, but lacking mechanisms for accountability.³¹² Publicly available sources are vague on what specific information is

³⁰⁸ Ibid., Art. III.8.

³⁰⁹ See U.N. Security Council, “National Report of the Republic of Kazakhstan on the implementation of Security Council resolution 1624 (2005),” U.N. Doc. S/2008/337 (2008), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2008/337> (“The Republic of Kazakhstan is taking action to enhance the protection of the State border. An adequate passport and visa system is in place. The entry and exit of persons whose names are included in the following lists are monitored: . . . – Rosters of persons sought by the special services and law enforcement agencies of the member States of the Shanghai Cooperation Organization and the Commonwealth of Independent States because they have committed or are suspected of committing crimes of a terrorist and extremist nature. Intensive efforts are made in the context of the Shanghai Cooperation Organization to prevent the entry of persons involved in terrorism. As part of the implementation of the agreements signed by Kazakhstan in the context of that organization, a Government decision of 5 June 2007 confirmed an Agreement on cooperation in identifying and blocking the routes by which persons involved in terrorist, extremist and separatist activities enter the territory of SCO member States.”); U.N. Security Council, “Fifth report of Uzbekistan on the implementation of Security Council resolution 1373 (2001) and responses to Security Council resolution 1624 (2005),” U.N. Doc. S/2006/837 (2006), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/2006/837> (“With the framework of the Shanghai Cooperation Organization (SCO), Uzbekistan is taking part in measures to detect and block the routes by which persons involved in terrorist, separatist and extremist activities enter the territory of SCO member States. . . . With a view to strengthening its own borders, Uzbekistan is actively cooperating with its neighbouring States, Kazakhstan, Kyrgyzstan and Tajikistan. Information is continuously exchanged between the border control agencies of the four countries about persons involved in terrorism. The details of all citizens crossing the border at the checkpoints are carefully checked against wanted person databases.”).

³¹⁰ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/13/37 (2009) (Special Rapporteur, Martin Scheinin), para. 37, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/13/37>.

³¹¹ U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/62/263 (2007) (Special Rapporteur, Martin Scheinin), paras. 38, 70, available at <http://www2.ohchr.org/english/bodies/GA/62documents.htm>.

³¹² For more discussion regarding accountability, see supra Section IV.B.i.

circulated through RATS, what stage of development and implementation the database and its data-mining capabilities are at, and how member states use or contribute to the database. The SCO member states' own domestic practices concerning surveillance and data collection, however, suggest cause for serious concern. The member states have track records of failing to respect international human rights in the monitoring of their own citizens, such that the pooling of these member states' resources into a single database creates the potential for large-scale, widespread abuse.

The practice of collecting, sharing, and data-mining information on individuals suspected of terrorism, separatism or extremism implicates a number of human rights obligations. These include the principle of **non-discrimination** embodied in UDHR Articles 1 and 2, ICERD, and ICCPR Article 26; the **right to privacy** embodied in UDHR Article 12 and ICCPR Article 17; and **due process** rights.³¹³ States may compromise such rights when they employ an overbroad approach to the collection and use of individual data, lacking structured human rights protections.³¹⁴

The Special Rapporteur on counter-terrorism raised the following due process concerns regarding the impact of multilateral intelligence databases:

When profiles and watch lists are developed using information from a variety of sources with varying reliability, individuals may have no knowledge of the source of the information, may not question the veracity of this information, and have no right to contest any conclusions drawn by foreign authorities. A mosaic of data assembled from multiple databases may cause data-mining

³¹³ For an overview of SCO member state human rights obligations, see Appendix B.

³¹⁴ As a step toward redressing this problem, the UN General Assembly adopted "Guidelines for the regulation of computerized personal data files," which laid out a number of minimum guarantees applicable to the use of individual data. See U.N. Commission on Human Rights, "Human Rights and Scientific and Technological Developments: Revised version of the guidelines for the regulation of computerized personal data files prepared by Mr. Louis Joinet, Special Rapporteur," U.N. Doc. E/CN.4/1990/72 (1990), <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.4/1990/72>; G.A. Res. 45/95, U.N. Doc. A/RES/45/95 (1990), para. 3, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/45/95> (adopting the revised guidelines). The guidelines elaborate that minimum guarantees should be based on the following principles, inter alia: lawfulness and fairness ("Information about persons should not be collected or processed in unfair or unlawful ways, nor should it be used for ends contrary to the purposes and principles of the Charter of the United Nations"); accuracy ("entities maintaining databases have the obligation to regularly check their accuracy"); purpose-specification ("The purpose which a file is to serve and its utilization in terms of that purpose should be specified, legitimate and, when it is established, receive a certain amount of publicity or be brought to the attention of the person concerned . . ."); interested-person access; and non-discrimination (except in limited circumstances, entities should not compile "data likely to give rise to unlawful or arbitrary discrimination, including information on racial or ethnic origin, . . . political opinions, religious, philosophical and other beliefs . . ."). See also U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" (Special Rapporteur, Martin Scheinin), supra n. 182, para. 35.

algorithms to identify innocent people as threats. . . . One of the most serious effects of surveillance measures is that they may lead to miscarriages of justice and violate due process guarantees. The challenge of gaining access to judicial review is that some legal regimes may prevent access to the courts unless individuals can show that interference has taken place, which is precluded by the secretive nature of the surveillance programmes.³¹⁵

Additionally, collection and usage of data must not be based on, or result in the perpetuation of, impermissible profiling³¹⁶ that incorporates assumptions concerning ethnic origin or religion, which “may lead to practices that are incompatible with the principle of non-discrimination.”³¹⁷ Moreover, failure to incorporate protections for these rights may actually have the effect of *weakening* state efforts to counter terrorism.³¹⁸

A brief survey of the current domestic information practices of the SCO member states reveals that, in maintaining the RATS database, SCO member states may draw on an extensive network of data, including digital and biometric data. China’s efforts are particularly advanced, based in large part on the Golden Shield project – “a nationwide digital surveillance network, linking national, regional and local security agencies with a panoptic web of surveillance.”³¹⁹ Such surveillance encompasses vast amounts of information transmitted through the Internet, mobile phones, and video cameras; co-opts the participation of Internet service providers and other information and communications technology businesses; and employs data-mining systems to make

³¹⁵ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), supra n. 310, paras. 37-38.

³¹⁶ The Special Rapporteur on counter-terrorism defines profiling as “the systematic association of sets of physical, behavioural or psychological characteristics with particular offences and their use as a basis for making law-enforcement decisions.” U.N. Human Rights Council, “Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled ‘Human Rights Council:’ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/4/26 (2007) (Special Rapporteur, Martin Scheinin), para. 33, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/4/26>.

³¹⁷ Ibid., para. 34. The Special Rapporteur on counter-terrorism elaborated that profiling on the basis of ethnic origin or religion could only be permissible if such profiling pursues a legitimate aim, and there exists proportionality between the difference in treatment and the legitimate aim sought to be realized. He noted that this test would be difficult to meet, as profiling on the basis of ethnicity or religion is regularly inaccurate and over- and under-inclusive. Ibid., paras. 45-55.

³¹⁸ Ibid., paras. 56-62.

³¹⁹ Greg Walton, *China’s Golden Shield: Corporations and the Development of Surveillance Technology in the People’s Republic of China* (International Centre for Human Rights and Democratic Development: 2001), 15, http://www.ichrdd.ca/site/PDF/publications/globalization/CGS_ENG.PDF.

sense of the resulting wealth of information.³²⁰ In XUAR alone, the Chinese government has deployed an extensive network of security cameras: in the run-up to the one-year anniversary of the July 2009 unrest, approximately 40,000 cameras with protective shells were installed throughout XUAR – with approximately 17,000 installed in Urumqi – including in buses, bus stations, schools, markets, and along roads.³²¹ Moreover, reliable sources indicate that the figure of 40,000 significantly undercounts the true scale of deployment.

Russia has also taken aggressive steps towards comprehensive surveillance, passing the Law on Systems for Operational Investigation Activity (SORM) in 1995 to authorize Federal Security Service (FSB) monitoring of telecommunication transmissions, and enacting SORM-II in 1999, which expanded permissible FSB surveillance to monitoring of Internet traffic.³²² The law requires Internet service providers to “install monitoring devices on their servers and route all transmissions in real time through the FSB’s local offices,” as well as turn over to the FSB individual user data.³²³ Following Russia’s lead, Kazakhstan, Tajikistan, and Uzbekistan have developed similar practices.³²⁴ With such comprehensive information regularly obtained for political purposes at their disposal, the prospect of the SCO member states combining their efforts and data unchecked raises serious concerns regarding rights to privacy and due process, especially in light of the significant consequences flowing from the use of this data.

As for the RATS database itself, according to a 2004 *Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization (“Agreement on the RATS Database”)*, the database “function[s] on the basis of an automated information system with the use of computer technology.” The agreement outlines the following data for inclusion, including information on:

international terrorist, separatist, and extremist organizations, their structures, forms, and methods of action, their leaders, members, and other individuals

³²⁰ See *ibid.*; “Country Profile: China,” in Ronald Deibert, John Palfrey, Rafal Rohozinski, and Jonathan Zittrain, eds., *Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (hereafter, *Access Controlled*) (Cambridge: MIT Press, 2010), 463-467; Naomi Klein, “The Olympics: Unveiling Police State 2.0,” August 7, 2008, <http://www.naomiklein.org/articles/2008/08/olympics-unveiling-police-state-2-0>; Naomi Klein, “China’s All-Seeing Eye,” May 14, 2008, <http://www.naomiklein.org/articles/2008/05/chinas-all-seeing-eye>.

³²¹ “Restive Chinese city to be under full surveillance,” Associated Press, January 25, 2011, http://news.yahoo.com/s/ap/20110125/ap_on_re_as/as_china_xinjiang_2; “40,000 cameras keep watch on China’s Urumqi,” Agence France Presse, July 2, 2010, <http://www.france24.com/en/20100702-40000-cameras-keep-watch-chinas-urumqi>.

³²² See “Country Profile: Russia,” in *Access Controlled*, 218-19.

³²³ *Ibid.*, 219.

³²⁴ See “Country Profile: Kazakhstan,” in *Access Controlled*, 183-90; “Country Profile: Tajikistan,” in *Access Controlled*, 227-235; “Country Profile: Uzbekistan,” in *Access Controlled*, 265-275.

affiliated with these organizations, as well as on the funding sources and channels of these organizations, including illegal trafficking in narcotic substances, psychotropic substances, and their precursors;

the status, dynamics, and trends in the spread of terrorism, separatism, and extremism;

organizations and individuals providing support to terrorist, separatist, and extremist organizations;

countermeasures to terrorism, separatism, and extremism;

the legislation of each of the Parties, including that regulating the activity of the competent agencies that collaborate with the Regional Anti-Terrorist Structure;

terrorist acts committed, and their forms and methods of commission; [and]

the use of explosive devices (components of explosive devices), weapons, ammunition, and poisonous and other substances in the commission of terrorist acts.³²⁵

Additionally, “[w]ith a view of promoting effective intelligence exchange between counterpart enforcement agencies,” RATS has explored “the prospect of creating a dedicated database (DDB), tracking weapons, ammunition, and explosive substances (WAEs) in illegal circulation, within the larger framework of the existing RATS Executive Committee Database. The criteria for tracking WAEs used in terrorist acts are presently being formulated.”³²⁶

Information flow into the database can take place at the direction of member state security organs, or on the initiative of the RATS Executive Committee, which “may send requests to one or several competent agencies, both upon the initiative of any of them and upon its own initiative.”³²⁷ Concerning the scope of database sourcing, the 2004 *Agreement on the RATS Database* notes that the database “shall be formed on the basis of information related to the competence of [RATS] and that is received from the competent agencies of the Parties, from the agencies of the [SCO], and from other sources, among which shall be the mass media (including print publications), telecommunications systems, and the Internet.”³²⁸

³²⁵ 2004 Agreement on RATS Database, supra n. 190, Arts. 1, 3.

³²⁶ “На переднем крае борьбы с ‘тремя силами зла’” (“At the Forefront of the Struggle Against the ‘Three Evils’”), supra n. 183.

³²⁷ 2004 Agreement on RATS Database, supra n. 190, Art. 4.

³²⁸ Ibid., Art. 3.

It has taken a few years for the SCO to realize the RATS database and expanded powers, but it appears the database is currently functional. References to progress have been made over time since the establishment of RATS. In August 2004, Uzbekistan’s president, I. Karimov, explained that “the Regional Anti-Terrorist Structure had not reached an appropriate level to work out the recommendations, giving a chance to prevent acts of terrorism, and it was premature to demand it. For achieving expected results from the RATS one needed to create a database, where the appropriate materials from the competent services should flow in with the aim of further analyses and giving proposals with predicting features to work out the models of joint measures of the SCO member countries.”³²⁹

The following years saw RATS making progress towards that goal. On May 12, 2005, the RATS Executive Committee updated members on the status of the database and the list of terrorist, separatist, and extremist organizations.³³⁰ As of 2006, it was reported that over 250 “terrorist acts” on the territories of SCO members were avoided as a result of RATS’s efforts.³³¹ Most recently, RATS has been reported to have the capacity to analyze and compare information in the database – in multiple languages – to target specific individuals.

According to an interview with RATS Executive Committee Director Dzhenisbek Dzhumanbekov in April 2010:

Work on one of the most useful and essential of RATS projects – the Secure Database (SDB) and the Single Tracking Register (STR) – is already yielding positive results in international counter-terrorism efforts and promoting greater efficiency in cooperation within the Organization. [...]

Thanks to the STR, we have seen improved levels of cooperation between counterpart tactical agencies in the course of a series of operations, *aimed at establishing up-to-date locations of individuals listed in the register*. [...]

With a view to promoting cooperation between member states in their common struggle against principal threats, in 2010 the SCO RATS Executive Committee

³²⁹ RATS, “President I.Karimov about terrorism, extremism and the role of the RATS SCO,” September 2, 2004, <http://www.ecrats.com/en/news/208>.

³³⁰ RATS, “In the contact with ambassadors of the SCO member states,” May 12, 2005, <http://www.ecrats.com/en/news/197>.

³³¹ Mikhail Vinogradov, “Борцы с терроризмом договорились о сотрудничестве” {“Anti-terrorist fighters have agreed on cooperation”}, supra n. 300.

prepared a comparative table of registers in Russian, Chinese, and English, allowing for more targeted enforcement actions against listed organizations. [...]

Generally speaking, a timely collection and assessment of intelligence on the current state of and the emerging trends in the spread of international terrorism, as well as other manifestations of religious extremism, gives law enforcement agencies an upper hand in *identifying and neutralizing individuals intent on perpetrating grievous crimes, sooner rather than later.*³³²

The statement suggests that the RATS database is used in a predictive and preventive manner, to “identify” and “neutralize” individuals who possess the “intent” to engage in criminal activity, “sooner rather than later.”³³³ This usage creates due process concerns, as “preventive measures that deprive a person of his or her liberty must not be based solely on intelligence. In these cases, intelligence has to be turned into concrete evidence and proof after a period of time so that the affected person can challenge the evidence against him or her. If intelligence cannot be transformed into evidence over time, or the State fails to obtain new evidence, the preventive measures need to cease.”³³⁴ It is unknown whether RATS takes such measures to establish concrete evidence on individuals of concern to the SCO member states – no such function is specified in publicly-available normative documents.

Such a database is a powerful tool for the coordination and exchange of individual data between member states regarding their citizens, and accordingly requires legal parameters and oversight to ensure that the inclusion of information in the database does not violate an individual’s right to privacy as enshrined in ICCPR Article 17. Any restrictions on the right to privacy must be necessary, proportionate, and legitimate, and “every instance of interference needs to be subject to critical assessment.”³³⁵ There is no apparent limit, however, to what type of information RATS can gather, and it is not clear what laws have been applied to collection and protection of the information on individuals in the RATS database, whether the information was collected in a manner

³³² RATS, “PATC ШОС: сообща против терроризма” {“SCO RATS: United Against Terrorism”}, April 29, 2010, <http://infoshos.ru/ru/?idn=5810> (emphases added). (Unofficial translation from the original Russian by Human Rights in China.)

³³³ Ibid.

³³⁴ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/10/3 (2009) (Special Rapporteur, Martin Scheinin), para. 37. <http://www2.ohchr.org/english/issues/terrorism/rapporteur/docs/A.HRC.10.3.pdf>.

³³⁵ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), supra n. 310, paras. 13, 16-19.

that did not employ discriminatory racial or ethnic profiling, or how that information is now being used by SCO members.

The Special Rapporteur on counter-terrorism has voiced concern specifically with respect to these practices of the SCO, stating that within the SCO framework, “sharing of data and information is not subject to any meaningful form of oversight and there are no human rights safeguards attached to data and information sharing.”³³⁶ Moreover, any mining of such data – of which RATS appears fully capable – “should not be allowed to include variables that result in compromising the right to non-discrimination.”³³⁷ Yet if the RATS database draws on information collected and transmitted by member states such as China, the surveillance practices of which are incredibly broad and well-known to incorporate profiling, it is inevitable that the RATS database will also compromise human rights unless steps are taken to filter that data.

The trend of coordinated data exchange has advanced rapidly, within the SCO and other contexts, yet states’ consideration of the human rights impact of such measures have not kept pace. Notably, another database has emerged in tandem with that of RATS, the “International Counterterrorism Database” (ICTDB), which appears to be a broader but related system – in that it is also led by Russia’s FSB – for information exchange among numerous states’ security and intelligence agencies. The database is a product of the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Organization, a “Russian FSB initiative of creating a mechanism of multilateral co-operation among security / intelligence and law enforcement agencies,” which is designed to provide “high level officials, responsible for the decision-making in the sphere of their countries’ national security, with an opportunity to conduct round-table discussions. . . . Besides that, law-enforcement and security heads usually enjoying confidence and authority on the highest level of government, are in the ability to influence directly the process of shaping national security policies in their respective countries . . . [which] facilitate[s] the consolidation of anti-terrorist efforts of the entire global community.”³³⁸

As the FSB has held these meetings annually for the past eight years, it can be presumed that such consolidation has matched Russia’s own preferences for global counter-

³³⁶ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 191, para. 35.

³³⁷ *Ibid.*, para. 33.

³³⁸ “Presentation Report of the Head of the Working Group of the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Organizations,” February 22, 2007, http://www.un.org/en/sc/ctc/docs/statements/2007_02_22_cwg_brief.pdf.

terrorism policy. RATS delegations as well have participated in these meetings.³³⁹ According to official documentation, the ICTDB consists of two segments: unclassified data, which has been accessible since fall 2007, and classified data, which was to become available in late 2009.³⁴⁰ As of March 2009, the ICTDB was accessed by “authorized security / intelligence subscribers in 16 countries.”³⁴¹ And while reports concerning the work of the Russian-led group have been made regularly to the UN Security Council Counter-Terrorism Committee – including significant details on the proposed contents and purpose of the ICTDB³⁴² – accountability for use of the ICTDB has not been publicly discussed.

The SCO, as well as the international community, must assess and implement protections for individual information incorporated within databases that are used for multilateral intelligence cooperation, in order to prevent serious damage to individuals and intelligence efforts themselves. Moreover, vetting of information added to multilateral databases – prior to making the information available to intelligence services of all member states – is essential to ensure not only that the facts are accurate, but also that the information was obtained legally and without the use of torture. The Special Rapporteur on counter-terrorism has provided clear and useful standards towards implementation of such safeguards in his recommended best practices for intelligence agencies.³⁴³

³³⁹ See “Briefing on meeting of heads of special services, security agencies and law enforcement organizations,” March 5, 2009, http://www.un.org/en/sc/ctc/docs/statements/2009_03_05_heads_brief.pdf; “Report by the Head of the Working Group of the Meeting of Heads of Special Services, Security Agencies, and Law-Enforcement Organizations presented at the UNSC CTC Session,” January 24, 2008, http://www.un.org/en/sc/ctc/docs/statements/2008_01_24_heads-report.pdf.

³⁴⁰ “Briefing on meeting of heads of special services, security agencies and law enforcement organizations,” supra n. 339.

³⁴¹ Ibid.

³⁴² The types of data shared via the ICTDB include categories ripe for abuse: identifying information of watch-listed individuals; “specific activities carried out by terrorism ideologists under the umbrella of different nongovernmental organizations, that could be resulting in the general increase of community radicalization (conferences, open discussions, demonstrations, rallies, and other public events involving ideological indoctrination of the participants, advocating terrorist methods of action, and iconizing terrorists); and “data on the involvement of nongovernmental organizations and educational institutions located in different regions of the world in terrorist propaganda.” U.N. Security Council CTC, “The International Counterterrorism Database Briefing Presentation at the UNSC CTC Working Session: Supplementary Report,” January 24, 2008, http://www.un.org/en/sc/ctc/docs/statements/2008_01_24_database.eng.pdf. At the operational level, Russian technical experts are responsible for the input and security of the data, which is ultimately intended to fulfill “analytical requests in order to find possible links between different subjects.” See *ibid.*

³⁴³ See supra Section IV.B.i.

ii. Impact of extradition and denial of asylum on security of the person, due process rights, and non-refoulement

Perhaps the most serious consequence to individuals under the SCO framework is its potential to undermine their fundamental rights to liberty and physical security, without sufficient legal cause, through extraditions, forcible returns, or denials of asylum. The SCO member state practice of denying asylum to and extraditing or returning individuals designated by member states as “terrorist, separatist or extremist” calls into question compliance with the fundamental, binding principle of non-refoulement under international law, as well as explicit protections under the *UN Refugee Convention* and the *Convention against Torture*.

Under the *Shanghai Convention*, member states are obligated to implement measures to prevent, identify, and suppress acts of terrorism, extremism, and separatism in their territories,³⁴⁴ and to consider any such acts extraditable offences.³⁴⁵ RATS appears to be the SCO body that addresses “the question of extradition of all detainees to face justice in their respective countries.”³⁴⁶ Later agreements of the member states elaborated further on SCO extradition- and asylum-related obligations, requiring member states to cooperate on border control,³⁴⁷ and to “build up their interaction in searching, apprehending, extraditing and transferring persons suspected of, charged with or sentenced for committing crimes related to terrorist, separatist, extremist activities or other crimes.”³⁴⁸ Such cooperation is particularly effective given the geographical proximity and shared borders of the states – it is highly probable that any individuals exiting their home country will cross the border into another member state. In 2005, the SCO member states even went so far as to agree to deny asylum to all individuals *accused* or even *suspected* by other member states of terrorism, separatism, or extremism.³⁴⁹

This last initiative was made public in the *Declaration of the Heads of Member States of the Shanghai Cooperation Organization (“Astana Declaration”)* at their annual meeting in Astana, Kazakhstan, on July 5, 2005. According to the *Astana Declaration*:

³⁴⁴ See Shanghai Convention, supra n. 27, at Art. 6.

³⁴⁵ Ibid., Art. 2.

³⁴⁶ RATS, “ПАТС ШОС: сообща против терроризма” {“SCO RATS: United Against Terrorism”}, supra n. 305.

³⁴⁷ “The Contracting Parties shall develop cooperation in the field of state border security and customs control” Treaty on Long-Term Good-Neighborliness, supra n. 203, Art. 8.

³⁴⁸ Ibid.

³⁴⁹ Concept of Cooperation, supra n. 45, Arts. I, II.3; Declaration of Heads of Member States of the Shanghai Cooperation Organization, supra n. 45, Art. III.

The SCO member states will prevent any attempts on their territories to prepare and commit acts of terror, including those aimed against the interests of other countries, not provide asylum for individuals, *accused or suspected of* conducting terrorist, separatist and extremist activity, and extradite such individuals at respective requests on the part of another SCO member state in strict accordance with the current legislation of the member states.³⁵⁰

This pronouncement on asylum appears to be based on the 2005 *Concept of Cooperation of the SCO Member States*, adopted on the same day, which states as one of its guiding principles the “non-provision of asylum to individuals associated with terrorist, separatist and extremist activity” – including persons “accused or suspected of committing such acts.”³⁵¹

The 2009 *SCO Counter-Terrorism Convention* further elaborated member state obligations concerning extradition³⁵² and prevention of granting of asylum status.³⁵³ Pursuant to this agreement, the scope of cooperation includes not only extradition, but also detention of individuals,³⁵⁴ “questioning persons suspected or accused of crimes, witnesses, victims, or other persons,”³⁵⁵ and “locating persons suspected of committing any one of the offenses covered by th[e] Convention.”³⁵⁶ The agreement also contemplates authorization for cross-border law enforcement entry in pursuit of suspects within other member states’ territories.³⁵⁷ Should an SCO member state reject a request to extradite an individual “solely on the grounds that that person is its national” – and here the default position suggested by the language of the *SCO Counter-Terrorism Convention* is that an extradition of the requested state’s own citizen should take place – that state “is obliged to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party.”³⁵⁸

Such broad cooperation on the basis of the Three Evils framework, combined with application of the *SCO Counter-Terrorism Convention’s* overbroad definition of terrorism, has serious potential to contravene the fundamental, non-derogable principle of non-

³⁵⁰ Declaration of Heads of Member States of the Shanghai Cooperation Organization, supra n. 45, Art. III (emphasis added).

³⁵¹ Concept of Cooperation, supra n. 45, Arts. I, II.3.

³⁵² SCO Counter-Terrorism Convention, supra n. 178, Arts. 11, 15.

³⁵³ Ibid., Art. 23 (“The Parties shall take the necessary measures to prevent the granting of refugee status and corresponding documents to persons complicit in offenses covered by this Convention.”).

³⁵⁴ Ibid., Art. 15(1)(2).

³⁵⁵ Ibid., Art. 15(1)(3)(b).

³⁵⁶ Ibid., Art. 15(1)(6).

³⁵⁷ Ibid., Art. 18.

³⁵⁸ Ibid., Art. 11(9).

refoulement, as well as undermine the protections contained within the *UN Refugee Convention* and the *Convention against Torture*. As the Special Rapporteur on counter-terrorism has stated:

Vague or broad definitions of terrorism are extremely problematic. For example, persons seeking international protection are in fact prosecuted for “terrorist-related” offences in their countries of origin when it may actually be that such persons and such prosecutions fall within the definitions of a “refugee” and the concept of “persecution” in the meaning of article 1 A (2) of the 1951 Refugee Convention. Therefore, careful examination of the legislation and practice of countries of origin of asylum-seekers is necessary to accurately assess the possible application of exclusion clauses in the consideration of applications for refugee status or other status of international protection.³⁵⁹

Within the SCO, however, no guidance exists publicly as to what evidence, if any, states must provide in designating the particular individuals accused or suspected of terrorist, separatist, or extremist activity, or what assessments should take place concerning conditions in the state of origin. It therefore would again seem that one state’s characterization of a “terrorist” (or a “separatist” or “extremist”) is accepted by all, to the point of refusing protection to individuals who may be persecuted for political reasons. Indeed, as noted previously, one of the main enumerated functions of the SCO blacklists is to preclude the possibility of obtaining political asylum in a neighboring country.

With respect to any individuals seeking asylum within their respective territories, every SCO member state is obligated to uphold the binding, fundamental principle of non-refoulement under international law.³⁶⁰ At a minimum, as a matter of binding

³⁵⁹ U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 311, para. 67.

³⁶⁰ There is broad consensus that, at a minimum, the principle of non-refoulement has the status of binding customary international law. For instance, the Office of the UN High Commissioner for Refugees takes the position that “the prohibition of refoulement of refugees, as enshrined in Article 33 of the [UN Refugee Convention] and complemented by non-refoulement obligations under international human rights law ... constitutes a rule of customary international law” because it satisfies the criteria of “consistent State practice and *opinio juris*, that is, the understanding held by States that the practice at issue is obligatory due to the existence of a rule requiring it.” Office of the U.N. High Commissioner for Refugees, “Advisory Opinion on the Extraterritorial Application of *Non-Refoulement* Obligations under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol,” January 26, 2007, paras. 14-15, <http://www.unhcr.org/refworld/pdfid/45f17a1a4.pdf>. Therefore, “it is binding on all States, including those which have not yet become party to the [UN Refugee Convention] and/or its 1967 Protocol.” *Ibid.* Moreover, there is growing consensus that the principle of non-refoulement has, over time, attained the rank of a preemptory norm of international law, or *jus cogens*, making it non-derogable as a matter of law. See, e.g.,

international law, the principle of non-refoulement “imposes an absolute ban on any form of forcible return [of asylum-seekers] to a danger of torture,” as well as “an inherent obligation not to send any person to a country where there is a real risk that he or she may be exposed” to “arbitrary deprivation of life.”³⁶¹ These binding principles of international law are also enshrined and articulated in international agreements, which create additional, independent bases upon which states are bound under international law to respect and uphold the principle of non-refoulement. These include the *UN Refugee Convention* and the *Convention against Torture*.

For example, the *UN Refugee Convention* provides under Article 33(1), “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” SCO member states are therefore prohibited from returning individuals to their country of origin on the basis of SCO agreements when it is clear that the individual will be subjected to imprisonment, torture, or execution on account of their political opinions or ethnic or religious identity. It is well-documented that certain categories of people, such as Uyghurs, Chechens, and Uzbeks, face exactly this risk in SCO member states.³⁶² Indeed, the Special Rapporteur on counter-terrorism noted the impermissible practice of legislating exclusion of “broad categories of asylum-seekers from being granted refugee or other protected status.”³⁶³ Yet such is the practical effect of banning asylum on the basis of the Three Evils doctrine, which overwhelmingly targets ethnic groups.

Perpetrators of genuine acts of terrorism, however, are excluded from the *UN Refugee Convention’s* protections concerning non-refoulement – an exception that may prompt over-reliance by states on counter-terrorism and national security as the basis asserted for denials of asylum and extraditions. Exceptions to the prohibition on non-refoulement are established in Article 1(F) and Article 33(2) of the *UN Refugee Convention*. Article 1(F) provides, “The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: (a) He has committed a crime against peace, a war crime, or a crime against humanity, as

Jean Allain, “The *Jus Cogens* Nature of Non-Refoulement,” *International Journal of Refugee Law* 13, no. 4 (2001), 53; Alice Farmer, “Non-Refoulement and *Jus Cogens*: Limiting Anti-Terror Measures that Threaten Refugee Protection,” *Georgetown Immigration Law Journal* 23, no. 1 (2008), 1.

³⁶¹ U.N. High Commissioner for Refugees, “Advisory Opinion on the Extraterritorial Application of *Non-Refoulement* Obligations under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol,” *supra* n. 360, paras. 21-22.

³⁶² For examples of observations and recommendations by independent UN human rights treaty bodies on these issues, see Appendix B.

³⁶³ U.N. General Assembly, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 311, para. 68.

defined in the international instruments drawn up to make provision in respect of such crimes; (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) He has been guilty of acts contrary to the purposes and principles of the United Nations.” Individuals who have committed the acts laid out in Article 1(F) are thus wholly outside the scope of the protections of the *UN Refugee Convention*.

The Security Council has explicitly declared that “acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations.”³⁶⁴ As such, no protection is afforded by the *UN Refugee Convention* to individuals who have committed acts of or incited terrorism. Moreover, Article 33(2) states, “The benefit of the present provision [on non-refoulement] may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”

However, by its terms, this limitation under the *UN Refugee Convention* is strictly limited to individuals regarding whom there exists some clearly demonstrable basis to conclude that they pose a real, legitimate danger to national security. Moreover, nothing in the *UN Refugee Convention* may be deemed to impair any other guaranteed rights and benefits originating from outside the *UN Refugee Convention*.³⁶⁵ This includes general principles of non-refoulement and the explicit prohibition under the *Convention against Torture* of extraditions and forcible returns in circumstances of risk of torture.

In order to act on a basis of danger to national security as grounds to deny asylum to or return an individual, therefore, an SCO member state must have real cause for asserting the individual’s commission of terrorist or other serious non-political criminal acts. States must account for due process considerations, including evidentiary standards. The UN General Assembly has noted that states should “fully respect non-refoulement obligations under international refugee and human rights law, while at the same time, [] review, *with full respect for these obligations and other legal safeguards*, the validity of a refugee status decision in an individual case if *credible and relevant evidence* comes to light that indicates that the person in question has committed any criminal acts,

³⁶⁴ S.C. Res. 1373, supra n. 131, para. 5.

³⁶⁵ U.N. Convention Relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954, Art. 5, <http://www2.ohchr.org/english/law/pdf/refugees.pdf>.

including terrorist acts, falling under the exclusion clauses under international refugee law.”³⁶⁶

The Counter-Terrorism Committee Executive Directorate has noted that appropriate legal safeguards include the right to respond to evidence or information, right to legal assistance, right to an interpreter, right to appeal and to protection against removal until all legal remedies have been exhausted.³⁶⁷ SCO procedures, however, do not indicate the requirement of any of these safeguards. Nor do they specify what evidence, if any, a state must supply in cooperating to extradite or refuse asylum to individuals. The SCO also does not require member states to assert which of the “Three Evils” an individual is charged with prior to cooperating on his or her return; yet, depending on the circumstances, acts of extremism or separatism could be considered political crimes, and – unlike terrorism – have not been explicitly designated as contrary to the purposes and principles of the UN, such that the aforementioned limitations to the protections of the *UN Refugee Convention* may not apply. This lack of procedural safeguards and legal precision is impermissible under principles of international refugee and human rights law, including the principle of legality.

Moreover, even when the basis for extradition or denial of asylum is genuine suspicion of involvement in a terrorist act, SCO member states still may not return individuals to any state where they would face a risk of torture, pursuant to the *Convention against Torture*. The *Convention against Torture* provides, “No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”³⁶⁸ In a 2008 resolution on the “Protection of human rights and fundamental freedoms while countering terrorism,” the General Assembly noted with concern “the return of suspects [of acts of terrorism] to countries without *individual assessment of the risk* of there being substantial grounds for believing that they would be in danger of subjection to

³⁶⁶ G.A. Res. 60/158, A/RES/60/158 (2006), para. 5, <http://www.undemocracy.com/A-RES-60-158.pdf>. Cf. U.N. Convention Relating to the Status of Refugees, supra n. 365, Art. 32 (Indicating that expulsion of refugees on national security grounds “shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.”).

³⁶⁷ U.N. Counter-Terrorism Committee Executive Directorate, “Technical Guide to the Implementation of Security Council Resolution 1373,” 2009, 42, http://www.un.org/en/sc/ctc/docs/technical_guide_2009.pdf.

³⁶⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987, Art. 3, <http://www2.ohchr.org/english/law/cat.htm>.

torture” and went on to emphasize the importance of “properly interpreting and implementing” obligations under the *Convention against Torture*.³⁶⁹

The following year, in an apparent attempt to make this message crystal clear, the General Assembly specifically called upon states to “refrain from returning persons, *including in cases related to terrorism*, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law . . . including in cases where there are *substantial grounds for believing* that they would be in danger of subjection to torture, or where their life or freedom would be threatened in violation of international refugee law on account of their race, religion, nationality, membership of a particular social group or political opinion, bearing in mind obligations that States may have to prosecute individuals not returned.”³⁷⁰

Extraditions between SCO member states have failed to comply with the provisions of the *Convention against Torture*. The UN Committee against Torture has expressed serious concerns about widespread reports of torture of detainees in each and every SCO member state, giving member states significant reason for conducting a full evaluation of the treatment likely to await an individual who is returned to his or her home state.³⁷¹ Indeed, the circumstances surrounding the Cambodian government’s deportation of 20 asylum-seeking Uyghurs to China in 2009 confirms cause for alarm.³⁷²

³⁶⁹ G.A. Res. 62/159, U.N. Doc. A/RES/62/159 (2008),

<http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/62/159>.

³⁷⁰ G.A. Res. 63/185, U.N. Doc. A/RES/63/185 (2009), <http://www.undemocracy.com/A-RES-63-185.pdf>.

³⁷¹ For further information about the concerns raised by the UN Committee against Torture and other international human rights treaty monitoring bodies regarding the policies and practices of the SCO member states, see Appendix B.

³⁷² In December 2009, the Cambodian government deported to China 20 Uyghurs who had fled the country and sought asylum in Cambodia from the UN High Commissioner for Refugees. The Chinese government urged that these 20 individuals had been involved in crimes related to the July 2009 ethnic rioting in XUAR. Despite their pending asylum applications, Cambodian officials deported the individuals, including two infants, immediately before a visit to Cambodia by Chinese Vice President Xi Jinping. See Edward Wong, “China Hints at Trials for 20 Seeking Asylum,” *New York Times*, February 13, 2010, http://www.nytimes.com/2010/02/14/world/asia/14uighur.html?ref=uighurs_chinese_ethnic_group. An editorial in the official newspaper *China Daily* subsequently indicated that “official sources have identified seven of the 20 deported Uyghurs [sic] as fugitives on the run after the July 5 massacre in Urumqi.” See “The case for disquiet,” *China Daily*, December 24, 2009, http://www.chinadaily.com.cn/opinion/2009-12/24/content_9222949.htm. On June 24, 2010, the Ministry of Public Security (MPS) announced that it had broken up a major terrorist plot of the East Turkestan Islamic Movement. The vaguely-worded announcement indicated that Chinese public security agencies had “recently” captured “more than ten” leaders, agents, and members of a “terrorist organization,” including two individuals asserted to be plot leaders, Abdurixit Ablet (an alleged member of ETIM) and Imin Semai’er (simply noted as “a key actor in the East Turkestan terrorist forces”). The statement did indicate, however, that the information leading to these arrests was obtained through the investigation of “twenty individuals of Chinese citizenship” who were deported to China on December 20, 2009, after an illegal border crossing – facts that exactly match the reports of the Uyghur deportation from Cambodia. See “Gong’an jiguan pohuo ‘Dong-yi-yun’ kongbu zuzhi

Additionally, it is well-established that diplomatic assurances from the receiving state are insufficient to protect against torture, and cannot substitute for an independent evaluation of the real risk posed to an individual by his or her return.³⁷³

The numbers of extraditions and denials of asylum made pursuant to SCO agreement are difficult to assess, given the lack of transparency surrounding SCO operations. As documented in a June 2009 mission by FIDH to Kazakhstan and Kyrgyzstan, however, member states have in fact executed these obligations, and have done so in highly questionable situations.³⁷⁴ One such instance was Kyrgyzstan's return of Uzbeks who had fled the country after the Andijan crackdown in 2005 – with the virtually certain prospect of torture or execution upon their return. The Deputy General Prosecutor of Kyrgyzstan, S. Nasiza, “in responding to an FIDH inquiry about the documented refoulement of Uzbeks from the country, stated that the decision to return the

anjian (shilu)” [“公安机关破获”东伊运”恐怖组织案件(实录)"] (Public Security Authorities Foil “East Turkestan Islamic Movement” Terrorist Plot (Transcript)), supra n. 248.

This announcement reveals the following troubling issues. First, the MPS explicitly linked the discovery of the alleged “terrorist plot” to information obtained from the deported Uyghurs, thus attempting to justify Cambodia's deportation – which violated the principle of non-refoulement – as a necessary counter-terrorist measure. Second, it stated that “the Chinese police quickly released one woman and two children among those [returned] individuals, in line with humanitarian sentiment, and set up living arrangements for them. The remaining 17 were investigated according to the law, which revealed that three of them were fugitive terrorist suspects wanted by the police, all of whom were core members of the terrorist organization.” The fact that 20 people were deported and 17 were subjected to investigation on the basis of their ethnicity and their attempt to acquire asylum in Cambodia is disturbing, particularly when considering that at the end of such investigation, the MPS only considered three of the 20 returned individuals “terrorist suspects.” (This also contradicts the *China Daily* editorial, which stated that seven of the returned individuals were fugitives. See “The case for disquiet,” *China Daily*, December 24, 2009, http://www.chinadaily.com.cn/opinion/2009-12/24/content_9222949.htm.) Third, the announcement notes that Abdurixit Ablet, Imin Semai'er, “and others” confessed to participating in a wide array of terrorist activities during interrogation. The MPS announcement therefore raises serious issues concerning non-refoulement, due process, lack of transparency, and the possible use of torture in detention and interrogation. Indeed, both the UN Special Rapporteur on torture and the Committee Against Torture have found that the use of torture is widespread in China and pervasive in the criminal justice system, including for the purpose of obtaining confessions. See U.N. Commission on Human Rights, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: MISSION TO CHINA,” U.N. Doc. E/CN.4/2006/6/Add.6 (2006) (Special Rapporteur, Manfred Nowak), <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.4/2006/6/Add.6>; U.N. Committee Against Torture, “Concluding Observations of the Committee Against Torture,” U.N. Doc. CAT/C/CHN/CO/4 (2008), para. 11, <http://www.un.org/Docs/journal/asp/ws.asp?m=CAT/C/CHN/CO/4>. Credible reports of torture in detention have also continued to surface since these UN reports were issued. See, e.g., Ng Tze-wei, “Lawyer Reveals Grim Details of Client's Torture,” *South China Morning Post*, July 29, 2010. Accordingly, the cases raised in the MPS announcement require further explanation and investigation to ensure that the human rights of the individuals involved were and are respected.

³⁷³ See U.N. Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/8/13 (2008), paras. 32-33, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/8/13>.

³⁷⁴ See FIDH, *Kazakhstan/ Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees*, supra n. 5.

individuals to Uzbekistan was a difficult one, because he had to consider whether to apply the extradition requirements of the Shanghai Cooperation Organization treaties or the prohibitions of the UN *Convention against Torture*. In the end, regional commitments on security trumped international obligations concerning human rights.³⁷⁵

Aside from the constant risk of forcible return to countries where individuals may face the gravest human rights abuses, refugees and asylum seekers also endure harsh conditions in the countries to which they have fled, often implicating serious human rights violations by those countries as well. For example, as documented by FIDH and other observers, Uzbek and Uyghur individuals that have fled to Kazakhstan and Kyrgyzstan seeking refuge or asylum often face extreme conditions, including regular police harassment and brutality, and the legitimate risk of extrajudicial methods of forcible return, including kidnapping and disappearance at the hands of Kazakhstan and Kyrgyzstan authorities.³⁷⁶ These refugees and asylum seekers and their families also endure threats to economic, social, and cultural rights in their host countries. These include burdens arising from a lack of official status, such as lack of legitimate employment opportunities; restricted access to social benefits such as medical care, education and training, housing, and family support; and lack of access to judicial or administrative redress for injuries and violations. Moreover, all these threats are compounded by severe social stigmas, often invoking racial and ethnic intolerance and hatred against refugees and asylum seekers.³⁷⁷

Statistics and information that *are* available regarding extraditions and denials of asylum between SCO member states also suggest that the practice is widespread. (A chart of reported or suspected extraditions or returns between member states is contained in Appendix D.) In the past few years, it has been publicly reported that at least 78 people have been extradited or returned, or are at risk of being extradited or returned, to China from other SCO member states.³⁷⁸ This number likely under-represents the true scope of cooperation, but the SCO itself has not released statistics or facts regarding such cooperation.

Such cooperation confirms the trend that member states may be using regional frameworks to circumvent or undermine international frameworks of which they are a part. Indeed, an obligation to deny asylum without further inquiry, *based on member state labeling*, on its very face contradicts the *UN Refugee Convention*, the *Convention*

³⁷⁵ Ibid., 23.

³⁷⁶ Ibid., 54-74.

³⁷⁷ Ibid.

³⁷⁸ See Appendix D.

against Torture, and the fundamental, non-derogable principle of non-refoulement. Mechanisms to increase the accountability and transparency of this form of cooperation, including clear legal guidelines regarding the process for review of asylum-seeker applications and extradition requests, are essential to ensure SCO member state compliance with international law.

iii. Chilling messages sent by military cooperation

Joint military and law enforcement exercises have taken place within the framework of the SCO since 2002, when China and Kyrgyzstan staged a joint military exercise within their border areas.³⁷⁹ Notably, this intra-SCO cooperation marked the first time China's People's Liberation Army (PLA) held a joint military maneuver with a foreign army,³⁸⁰ and China has participated in nearly every SCO joint exercise staged since,³⁸¹ signaling the importance of the exercises to Chinese authorities. SCO members have staged two primary types of operations: military joint exercises and coordinated exercises of law enforcement and special services.³⁸² At least thirteen such joint exercises have occurred among SCO member states, including the full-fledged SCO "Peace Missions" involving thousands of troops. The largest such operation, Peace Mission 2005, included approximately 10,000 troops, with at least 8,000 of those from China. Military exercises have also involved a wide array of equipment, including armored vehicles, aircraft, naval ships and submarines, and surface-to-air missiles. (A table detailing each of the SCO's joint exercises is included in Appendix E).

³⁷⁹ "Recap: Major PLA-related joint anti-terror military exercises and trainings," CCTV International, December 21, 2007, <http://www.cctv.com/english/20071221/107164.shtml>.

³⁸⁰ Ibid.

³⁸¹ China did not participate in the 2008 Volgograd Antiterror Exercises, nor in the 2010 law enforcement exercises. See Appendix E, "Military and Law Enforcement Cooperation between Member States of the Shanghai Cooperation Organization."

³⁸² There have been other joint SCO exercises focusing on border protection and disaster relief, rather than training for joint deployment of military or special forces. For example, from May 19 to May 22, 2009, China, Kazakhstan, Russia, and Tajikistan participated in the Bogorodsk Joint Disaster Relief Exercise. The exercise took place in Noginsk, a province of Moscow, Russia, and involved reconnaissance and inspection, leak repairs, as well as rescuing individuals from high rise buildings and with multi-functional stretchers. "Chinese servicemen attending SCO joint disaster relief exercise return," PLA Daily, August 25, 2009, http://english.chinamil.com.cn/site2/special-reports/2009-05/25/content_1777399.htm; Roy Kamphausen et al., *The PLA at Home and Abroad: Assessing the Operational Capabilities of China's Military* (Strategic Studies Institute: June 2010), 399-400, <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB995.pdf>. There have also been border protection exercises including an unnamed training event involving China and Russia that took place along the Heilongjiang border in January 2003. It was aimed at the "apprehension of illegal border crossers." Kamphausen, *ibid.*, 384. Another exercise, the "Border Blockade Exercise," also involved China and Russia, this time on February 26, 2009, in the Heihe-Blagoveschensk border area. *Ibid.*, 428.

The SCO member states' rhetoric concerning their military and law enforcement cooperation, as delivered to international audiences, has emphasized preparation for and deterrence of threats billed as "terrorism." The actual staging of such exercises, however, suggests that another critical purpose of engagement may be the targeting of "problem" populations. As with other forms of SCO cooperation, application of the Three Evils doctrine to military and law enforcement cooperation clouds the fundamental, necessary question – crucial in a context implicating the potential use of force – of what constitutes genuine and permissible counter-terrorism activity. In SCO member states, the concept of terrorism is so closely linked to "separatist" and "extremist" threats that military and law enforcement counter-terrorism exercises have quickly brought control of internal populaces within their rubric – essentially militarizing and multilateralizing state efforts to enforce "social stability" in domestic environments. SCO joint exercises have not only improved member states' capacity to coordinate their armed forces and law enforcement personnel against perceived threats to stability; at the same time, the sheer display of troops, equipment, and power in troubled regions has sent a chilling message to the populace that threats deemed terrorist, separatist, or extremist in nature will be met with heavy-handed force.

SCO military and law enforcement cooperation is conducted under the auspices of RATS, pursuant to the 2002 *RATS Agreement*³⁸³ and the 2008 *Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization ("Joint Exercises Agreement")*.³⁸⁴ (Translations of these agreements are provided in Appendix A.) The *Joint Exercises Agreement* codified the procedures and logistical protocols for handling issues relevant to joint military exercises, such as organizational systems, troop transit, provisions, and legal jurisdiction and liability waivers.³⁸⁵

Notably, the language of the *Joint Exercises Agreement* is confined to countering terrorism – without mention of separatism or extremism – and articulates the goal of the joint exercises as "the preparation of special anti-terrorist units for joint activities of the Parties upon the commission or arising of a threat of commission of a terrorist act

³⁸³ 2002 RATS Agreement, supra n. 35, Art. 6(6) ("The fundamental objectives and functions of RATS shall be: . . . assistance in preparing and executing anti-terrorist command and staff exercises and operational and tactical exercises upon request by the Parties concerned.").

³⁸⁴ Соглашение о порядке организации и проведения совместных антитеррористических учений государствами-членами Шанхайской организации сотрудничества (*Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization*), August 28, 2008, Art. 4, http://www.ecrats.com/ru/normative_documents/1666. (Unofficial translation from the original Russian by International Federation for Human Rights; see Appendix A, "Key Normative Documents of the Shanghai Cooperation Organization.")

³⁸⁵ Ibid.

on their territories.”³⁸⁶ The fact that the 2008 *Joint Exercises Agreement* focused exclusively on terrorism instead of incorporating the broader concept of the Three Evils suggests that member states may have had some reluctance to characterize their military cooperation and use of force as anything other than pure counter-“terrorism” in their normative documents.

In practice, however, SCO member states have developed their military and law enforcement cooperation well beyond “terrorism” per se, and have emphasized the role that joint exercises play in dealing with “separatist” and “extremist” threats. (See “Stated Objectives,” Military and Law Enforcement Cooperation Chart, Appendix E.) The goals of these exercises, as publicly reported and as articulated by the SCO member states, demonstrate their potential to devolve into government enforcement actions aimed at control of their own populations. For example, joint exercises conducted in 2007 – staged in XUAR – were officially described as demonstrating “how to deal with non-traditional threats such as terrorists, secessionist forces and extreme religious groups.”³⁸⁷ Concerning Peace Mission 2005, it was reported that deterrence of not only terrorists, but also “national separatists” and “religious extremists” was the main concern of SCO member states:

To be more specific, the war game showcasing the two countries’ military might is aimed to help them get ready for a joint fight against international terrorists, national separatists and religious extremists, said Sergey N. Goncharov, charge d’affaires of the Russian Embassy in China, in an exclusive interview with Xinhua in Beijing on Thursday.

According to the Russian diplomat, the forces of terrorism, extremism and separatism have conducted activities in both China and Russia, and have been growing in the member countries of the Shanghai Cooperation Organization

“Let them have a look at our joint military exercises and think it over whether it is worth continuing their activities,” said Goncharov, adding, “We hope the joint military exercises could help cool down the ‘fervor’ of these terrorists, separatists and extremists.”³⁸⁸

³⁸⁶ Ibid., Art. 2.

³⁸⁷ SCO, “Chronicle of Main Events at SCO in 2007,” December 31, 2007, <http://www.sectsc.org/EN/show.asp?id=97> (see entry for July 2, 2007).

³⁸⁸ “China, Russia starts joint military exercises,” Xinhua, August 18, 2005, http://news.xinhuanet.com/english/2005-08/18/content_3372446.htm.

Major General Meng Guoping, deputy commander of the Chinese military participating in the Peace Mission 2010 exercises, echoed these words, stating, “Through many years of joint exercises, we have clearly understood that these (SCO) exercises could not only showcase power and deter the ‘three evil forces (of terrorism, separatism and extremism)’, but also serve as an important way to train our armed forces.”³⁸⁹ Joint exercises thus support domestic social control by preparing multilateral forces for dispatch to troubled regions, and demonstrating to the public for deterrent effect the SCO member states’ joint military and law enforcement capacity.

The SCO has also apparently rejected any consideration of the human rights ramifications of the joint exercises. During the Peace Mission 2010 joint military exercise, China’s official media outlet *Xinhua* noted:

[T]he participating troops revealed their determination and strength to combat the “Three Evil Forces” – terrorism, separatism and extremism – and maintain peace, security and stability in the region. . . . Despite the overall stable situation in Central Asia, the “Three Evil Forces” still make frequent appearances, with international illegal drug groups, external forces and terrorism organizations colluding to produce disturbances and destroy stability in the region, such as the Uzbekistan riots, which claimed 169 deaths in 2005, and the Urumqi riot in July 2009 in China’s Xinjiang region.

All of these show the “Three Evil Forces” remain a common threat to the member states, who need to make concerted efforts to fight them.³⁹⁰

It is noteworthy that the two examples cited by *Xinhua* as “appearances” of the “three evil forces” – the May 2005 Andijan crisis in Uzbekistan³⁹¹ and the July 2009 Urumqi

³⁸⁹ “China tries long-distance air attack mode in SCO drill,” *Xinhua*, September 20, 2010, http://news.xinhuanet.com/english2010/china/2010-09/20/c_13522041.htm.

³⁹⁰ “Peace Mission 2010 concludes, opens new page for SCO cooperation,” *Xinhua*, September 25, 2010, available at <http://www.sectesco.org/EN/show.asp?id=236>; see also Fu Wen, “Drills around China raise temp,” *Global Times*, September 26, 2010, <http://china.globaltimes.cn/chinanews/2010-09/577093.html> (quoting Rear Admiral Yin Zhuo, a senior researcher at the Chinese Navy’s Equipment Research Center: “The strategy behind the SCO anti-terror military drill is to unite countries in Central Asia and help them crack down on extremists who conduct terrorist activities through international organizations that may pose a threat to the safety of a legitimate government.”).

³⁹¹ The crisis in Andijan involved the deaths of at least 176 but possibly as many as several hundred people, after government forces opened fire on thousands of civilians who had gathered in the city square to demonstrate, after the violent storming of a prison earlier that day to release businessmen whom many felt had been wrongfully accused of Islamic extremism by the government. See “How the Andijan Killings Unfolded,” *BBC News*, May 17, 2005, <http://news.bbc.co.uk/2/hi/4550845.stm>; U.N. Commission on Human Rights, “Report of the Mission to Kyrgyzstan by the Office of the United Nations High Commissioner for Human Rights (OHCHR) Concerning the Events in Andijan, Uzbekistan, 13-14 May 2005,” U.N. Doc.

riots in XUAR, China³⁹² – were incidents of domestic unrest initially prompted by citizen grievances and lacking substantiated ties to terrorism, but on which the member states cracked down severely, resulting in significant human rights violations, including deaths, disappearances, and a multitude of due process violations for those arrested and detained.

Perhaps the most disturbing indication of the likelihood of misuse of military cooperation within the SCO framework was Peace Mission 2007, which SCO member states reportedly modeled on the events that took place in Uzbekistan's Andijan region in 2005.³⁹³ The scenario for the exercises incorporated a group of simulated "terrorists" capturing a town, in reaction to which SCO forces, including air support and artillery, eliminated the "terrorists" and retook the town. Russian forces were subsequently

E/CN.4/2006/119 (2006), available at <http://www2.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm>; U.N. Committee Against Torture, "Conclusions and recommendations of the Committee against Torture: Uzbekistan," U.N. Doc. CAT/C/UZB/CO/3 (2008), <http://www.un.org/Docs/journal/asp/ws.asp?m=CAT/C/UZB/CO/3>; U.N. General Assembly, "Situation of Human Rights in Uzbekistan: Report of the Secretary-General," U.N. Doc. A/61/526 (2006), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/61/526>; see also Human Rights Watch, "Saving its Secrets": Government Repression in Andijan (Human Rights Watch: May 2008), <http://www.hrw.org/reports/2008/uzbekistan0508/>. Despite concern voiced in all sectors of the international community, including by UN independent experts, about the government's use of lethal force against demonstrators, many of whom were women and children, in what amounted to mass killings, the SCO rejected all criticism concerning the Uzbek government's response to the situation. See, e.g., RATS, "About new displays of religious-extremist organization of «Hizb-ut-Tahrir» and its followers," June 29, 2005, <http://www.ecrats.com/en/news/226> ("Such kind [of] information organized and coordinated by the certain centers is inherently pressur[ing] upon the governmental structures of Uzbekistan which take corresponding actions on normalizing the situation in the country and suppressing the actions of terrorists, separatists and extremists. Practically, mass-media which distorted the events in Uzbekistan [in] May protected the terrorist and extremist organizations who attempted to seize the power in the Republic of Uzbekistan. . . . The Executive Committee of the RATS SCO having authentic information about the events in the Andijan area completely shares the point of view of authorities of Uzbekistan upon happened events on May 13, 2005. It confirms the data about victims during the acts of terrorism and the provoked mass disorders in Andijan presented by law enforcement bodies. It considers that [the] operation on suppression of criminal activities of bandits and terrorist formations in the Andijan area is successfully carried out by forces of Uzbekistan.").

³⁹² See supra Section IV.D.i.

³⁹³ Alexander Gabuev, "Maneuvers to Outflank US: The Shanghai Cooperation Organization launches military exercises," *Kommersant*, August 9, 2007, http://www.kommersant.com/p793960/r_527/Shanghai_Manuevers/ ("Russian military drafted a plan for the maneuvers based on developments in Uzbekistan's Andizhan in 2005 when authorities violently suppressed an opposition uprising. Officials say that the exercises would see a group of terrorists capturing a town with SCO forces, warplanes and artillery eliminating the insurgents and freeing the town. After that, Russia's plenipotentiary officers will be arresting surviving terrorists. The exercises' press center confirmed that drafters of the drills' scenario largely relied on Andizhan developments."); see also "Russian soldiers act as 'terrorists' in 1st joint exercise (4)," *People's Daily Online*, August 13, 2007, <http://english.peopledaily.com.cn/90002/91786/6238454.html> (photo: "'Terrorists' occupy a town during a rehearsal in Russia's Chelyabinsk, August 6, 2007"); Roger McDermott, *The Rising Dragon: SCO Peace Mission 2007*, (Jamestown Foundation: October 2007), 16-17, <http://www.jamestown.org/uploads/media/Jamestown-McDermottRisingDragon.pdf>.

tasked with arresting the surviving “terrorists.”³⁹⁴ The concept of the exercise was reported as follows: “[U]nder the support of an international terrorist organization based in the north border of country N, a terrorist organization of country A launched an *anti-government movement*. At the headquarters of the joint drill, commanders from the six SCO members decide to annihilate the terrorists.”³⁹⁵ The fact that Peace Mission 2007 drew on the Andijan crisis to develop plans for military cooperation suggests that SCO member states equate the concept of “terrorists” capturing a town with the gathering of large crowds demonstrating against the government, with little concern for the human rights implications of such cooperation.

Finally, the context surrounding the various joint exercises is instructive as to China’s own priorities within the SCO. Three joint military exercises have been staged at least in part in XUAR, including along borders with Kazakhstan and Kyrgyzstan, and in XUAR’s capital, Urumqi. Additionally, one law enforcement and special service exercise has taken place in XUAR. (See Military and Law Enforcement Cooperation Chart, Appendix E.) These SCO military and law enforcement maneuvers within XUAR have provided a complement to China’s existing domestic measures to enforce social stability and government control over the region.

Since 1954, the Chinese government has maintained a special semi-military force in XUAR, the Xinjiang Production and Construction Corps (XPCC, or “*bingtuan*”). The *bingtuan* is a governmental organization with administrative jurisdiction over areas within XUAR in the place of normal government, and functions as an economic and semi-military organization composed of over 2 million personnel.³⁹⁶ The *bingtuan*’s presence in XUAR has been increased in recent years to “combat separatism and attempts at ‘sabotage and infiltration,’”³⁹⁷ but it is considered a source of tension within XUAR due to its control over resources and land.³⁹⁸ Additionally, the government maintains People’s Armed Police (PAP) units in XUAR, an elite paramilitary force organized for the purpose of maintaining social stability and order, increasingly in response to “growing instances of demonstrations and uprisings.”³⁹⁹

³⁹⁴ McDermott, *The Rising Dragon: SCO Peace Mission 2007*, supra n. 393, 16.

³⁹⁵ “SCO conducts final stage of joint anti-terror drill,” Xinhua, August 17, 2007, http://news.xinhuanet.com/english/2007-08/17/content_6553596.htm (emphasis added).

³⁹⁶ Human Rights in China and Minority Rights Group International, *China: Minority Exclusion, Marginalization and Rising Tensions*, supra n. 227, at 24-25.

³⁹⁷ *Ibid.*, 25.

³⁹⁸ *Ibid.*

³⁹⁹ *Ibid.*

The domestic effect of such a significant military presence in XUAR is to demonstrate that political control of the region is a “priority” for the central government.⁴⁰⁰ It is also worth noting that the timing of PLA exercises in relation to those of the SCO has, on occasion, suggested that China is using SCO exercises as a means to bolster its domestic agenda with respect to XUAR in particular. One example is China’s staging of a domestic counter-terrorism exercise in XUAR on August 23, 2003, just eleven days after the conclusion of the SCO joint exercise Coalition 2003.⁴⁰¹ Given this track record, China’s regular involvement in SCO exercises and staging in XUAR, irrespective of how tenuous the connection to terrorism, suggest that China views the exercises as another component of its social stability efforts.

The climate of fear maintained through SCO joint exercises in targeted regions thus has broad potential to intimidate and compromise domestic populations, particularly ethnic groups such as Uyghurs, by deterring them from exercising their legitimate rights, including freedoms of association, expression, and religion – activities that officials regularly characterize as “separatism” or “extremism.” Moreover, the SCO is well-positioned to magnify the role and impact of its joint exercises in the future, including in the context of cooperation with the UN Security Council, as “agreements [between RATS and the Security Council’s CTED] have been reached on conducting coordination over the issues of sharing information, *staging counter-terrorism exercises*, conferences and seminars on the fight against terrorism, separatism and extremism.”⁴⁰²

⁴⁰⁰ Ibid., 25.

⁴⁰¹ “Exercises to crack down on terrorists,” PLA Daily, September 3, 2003, <http://english.chinamil.com.cn/special/5army/txt/65.htm>; “SCO joint anti-terror drill concludes in Xinjiang,” PLA Daily, August 13, 2003, <http://english.chinamil.com.cn/special/5army/txt/59.htm>.

⁴⁰² U.N. General Assembly, “United Nations Global Counter-Terrorism Strategy: Activities of the United Nations System in Implementing the Strategy – Report of the Secretary-General,” U.N. Doc. A/64/818 (2010), 92, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/818>.

V. The SCO's Engagement with the UN and the Global Counter-Terrorism Strategy

As the UN moves forward with the Global Counter-Terrorism Strategy adopted in 2006, its reliance on regional organizations such as the SCO for the maintenance of international peace and security is growing.⁴⁰³ The UN has long recognized that regional organizations have a useful role to play in counter-terrorism.⁴⁰⁴ In 2005, the Security Council adopted Resolution 1631, focused exclusively on the contribution that regional organizations could make to maintaining international peace and security.⁴⁰⁵ In it, the Security Council noted that the UN should promote the development of regional organizations' capacities to prevent and settle conflicts, deploy peacekeeping forces, and counter the illicit arms trade, under Chapter VIII of the *UN Charter*. The Security Council also stated that it:

Welcomes the efforts undertaken by its subsidiary bodies with responsibilities in counter-terrorism to foster cooperation with regional and subregional organizations, *notes with appreciation* the efforts made by an increasing number of regional and subregional organizations in the fight against terrorism and *urges all* relevant regional and subregional organizations to enhance the effectiveness of their counter-terrorism efforts within their respective mandates, including with a view to develop their capacity to help Member States in their efforts to tackle the threats to international peace and security posed by acts of terrorism.⁴⁰⁶

Moreover, as part of the Global Counter-Terrorism Strategy adopted in 2006, the UN “encourage[d] relevant regional and subregional organizations to create or strengthen counter-terrorism mechanisms or centres,” and indicated that the CTC and the CTED would cooperate with and provide assistance to regional organizations in order to

⁴⁰³ See, e.g., Security Council Report, “UN Cooperation with Regional and Subregional Organisations in the Maintenance of International Peace and Security,” *Security Council Report Update Report 2*, January 8, 2010, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Update%20Report%208%20January%202010%20Regional_Subregional_Organisations.p](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Update%20Report%208%20January%202010%20Regional_Subregional_Organisations.pdf)

⁴⁰⁴ See, e.g., G.A. Res. 51/210, U.N. Doc. A/RES/51/210 (1997), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/51/210> (“Stressing the need further to strengthen international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed . . . Noting, in this context, all regional and international efforts to combat international terrorism . . .”).

⁴⁰⁵ S.C. Res. 1631, U.N. Doc. S/RES/1631 (2005), <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1631%282005%29>.

⁴⁰⁶ *Ibid.*, para. 6.

achieve that goal.⁴⁰⁷ The Global Counter-Terrorism Strategy also included, as a capacity-building measure, “tak[ing] advantage of the framework provided by relevant international, regional and subregional organizations to share best practices in counter-terrorism capacity-building, and [] facilitat[ing] their contributions to the international community’s efforts in this area.”⁴⁰⁸ Regional organizations such as the SCO are thus an important part of the international framework to counter terrorism.⁴⁰⁹

Notably, the Security Council indicated in Resolution 1631 that the regional organizations originally envisioned as the targets of expansive cooperation were those working on the African continent.⁴¹⁰ Successes through certain regional frameworks, such as the African Union, may have resulted in a level of trust and credibility bestowed on regional organizations by the international system well beyond that which would be afforded to an individual state. Yet regional organizations such as the SCO, operating in other contexts and with member states with weak human rights records, present serious challenges to this assumed level of trust and credibility.

On the initiative of individual SCO member states – with China in particular exerting its influence, including as a permanent member of the Security Council – the SCO has taken this opportunity to rapidly expand its collaboration with the UN.⁴¹¹ Formal collaboration

⁴⁰⁷ United Nations Global Counter-Terrorism Strategy, supra n. 7, Art. II.8.

⁴⁰⁸ Ibid., Art. III.2.

⁴⁰⁹ See also G.A. Res. 64/118, U.N. Doc. A/RES/64/118 (2010), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/64/118> (referencing the SCO and “noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of, and adherence to, regional conventions”).

⁴¹⁰ S.C. Res. 1631, supra n. 405.

⁴¹¹ The SCO member states have identified the UN and other international fora as key conduits for propagation of the SCO Three Evils-based counter-terrorism strategy. Indeed, “main directions of cooperation” specifically detailed in the 2005 RATS concept of cooperation include “[a]lignment of positions for participation in international organizations and forums regarding issues of combating terrorism, separatism, and extremism” and “[p]articipat[ion] in uniting the forces of the world community in formulating a global strategy for counteracting terrorism, separatism, and extremism.” See Concept of Cooperation, supra n. 45, Arts. III.16-17. Note that the global strategy referred to is not simply the fight against terror, but also against “separatism” and “extremism” – essentially, an effort to obtain international consensus on these politicized notions. Additionally, RATS Executive Committee Dzhenisbek Dzhumanbekov indicated that a main activity of RATS for the 2010-2012 period is to develop contacts and cooperation with Interpol, other regional organizations (OSCE, CIS, CSTO, ASEAN), and UN bodies, including the Regional Mission in Central Asia; the Office on Drugs and Crime; and the Security Council CTC – with which RATS seeks to collaborate regarding “the ratification of a comprehensive convention on international terrorism,” and to which RATS has submitted a proposal for “a series of joint operations, aimed at strengthening the counter-terrorist potential of SCO member states.” See RATS, “ПАТС ШОС: сообща против терроризма” (“SCO RATS: United Against Terrorism”), April 29, 2010, <http://infoshos.ru/ru/?idn=5810>. RATS and the CTED have already “consider[ed] signing a memorandum of understanding,” and “agreements have been reached on conducting coordination over the issues of sharing information, staging counter-terrorism exercises, conferences and seminars on the fight against terrorism, separatism and extremism.” See U.N.

between the SCO and the UN began in 2004, when the Permanent Representative of China to the UN requested that the General Assembly include on its agenda the issue of observer status for the SCO.⁴¹² The explanatory memorandum of the SCO Secretariat, included with the request, highlighted the SCO's organizational emphasis on security and economic cooperation.⁴¹³ Disturbingly, it raised the Three Evils doctrine as a strength of the organization, noting that "SCO security cooperation focuses on the fight against three forces, namely, terrorism, separatism and extremism, in order to maintain regional peace and stability. *As the first international organization that explicitly advocates combating the above-mentioned 'three forces,'* SCO adopted the Shanghai Convention against Terrorism, Separatism and Extremism upon its inception."⁴¹⁴

The UN General Assembly allocated the question of SCO observer status to its Sixth Committee,⁴¹⁵ which deals with legal questions.⁴¹⁶ During the meeting of the Sixth Committee on the topic, the only representatives who spoke on the matter were representatives of SCO member states China, Kyrgyzstan, Russia, and Kazakhstan – all in favor of granting observer status, and reiterating the SCO's role in maintaining peace and security and combating the Three Evils, particularly terrorism.⁴¹⁷ The draft resolution granting observer status was adopted by the Sixth Committee without a

General Assembly, "United Nations Global Counter-Terrorism Strategy: Activities of the United Nations System in Implementing the Strategy – Report of the Secretary-General," supra n. 402, 92.

⁴¹² U.N. General Assembly, "Request for the inclusion of an item in the provisional agenda of the fifty-ninth session: Observer status for the Shanghai Cooperation Organization in the General Assembly," U.N. Doc. A/59/141 (2004), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/141>. China's request was made pursuant to rule 13 of the General Assembly rules of procedure, which indicates, "The provisional agenda of a regular session shall include: . . . (e) All items proposed by any Member of the United Nations." See U.N. General Assembly, "Rules of Procedure," Rule 13, http://www.un.org/ga/ropga_agenda.shtml.

⁴¹³ U.N. General Assembly, "Request for the inclusion of an item in the provisional agenda of the fifty-ninth session: Observer status for the Shanghai Cooperation Organization in the General Assembly," supra n. 412, Annex I.

⁴¹⁴ Ibid., 3 (emphasis added).

⁴¹⁵ See U.N. General Assembly, "Organization of the fifty-ninth regular session of the General Assembly, adoption of the agenda and allocation of items," U.N. Doc. A/59/250 (2004), 30, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/250>; U.N. General Assembly, "Official Records: 2nd plenary meeting, Friday, 17 September 2004," U.N. Doc. A/59/PV.2 (2004), 2, 4, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/PV.2>; U.N. General Assembly, "Observer status for the Shanghai Cooperation Organization in the General Assembly: Report of the Sixth Committee," U.N. Doc. A/59/517 (2004), para. 2, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/517>.

⁴¹⁶ See generally U.N. General Assembly, "Sixth Committee (Legal)," <http://www.un.org/ga/sixth/index.shtml>.

⁴¹⁷ U.N. General Assembly, "Official Records: Sixth Committee - Summary record of the 2nd meeting [5 October 2004]," U.N. Doc. A/C.6/59/SR.2 (2005), paras. 65-70, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/C.6/59/SR.2>.

vote.⁴¹⁸ The General Assembly granted the SCO observer status on the basis of the Sixth Committee's recommendation in December 2004 – without discussion or a vote.⁴¹⁹

Since that time the SCO has participated in a variety of meetings and discussions at the UN, and ultimately sought to formalize its cooperation with the UN in a resolution during the fall session of the General Assembly in 2009. The representatives of the six individual SCO member states to the UN jointly requested inclusion of “cooperation between the United Nations and the Shanghai Cooperation Organization” on the General Assembly's agenda.⁴²⁰ Unlike the themes raised when the SCO first sought observer status, the explanatory memorandum and draft resolution included as annexes to this request did not emphasize security – rather, they focused on the SCO's potential to work with the UN in development-related areas, such as the economy, humanitarian problems, environmental and social issues, etc. As the explanatory memorandum stated, “in order to enhance the practical component of this cooperation and ensure its synergy for the purpose of addressing tasks in the *socio-economic field*, it is necessary to make relations between the Organization and the United Nations more systematic. *This would be the aim of the General Assembly resolution.*”⁴²¹ The explanatory memorandum also noted the SCO's partnership with the development-oriented UN Economic and Social Commission for Asia and the Pacific (ESCAP), with which the SCO had signed a memorandum of understanding in January 2008 to cooperate in the areas of economy, trade, environment, energy, and transportation infrastructure.⁴²² This time, the General Assembly's General Committee allocated the agenda item “cooperation between the United Nations and the Shanghai Cooperation Organization” to the plenary session, rather than a specific committee, under heading “I (organizational, administrative and other matters).”⁴²³

⁴¹⁸ U.N. General Assembly, “Official Records: Sixth Committee - Summary record of the 3rd meeting [7 October 2004],” U.N. Doc. A/C.6/59/SR.3 (2005), para. 57, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/C.6/59/SR.3>.

⁴¹⁹ G.A. Res. 59/48, U.N. Doc. A/RES/59/48 (2004), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/59/48>; U.N. General Assembly, “Official Records: 65th plenary meeting, Thursday, 2 December 2004,” U.N. Doc. A/59/PV.65 (2004), 12, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/59/PV.65>.

⁴²⁰ U.N. General Assembly, “Request for the inclusion of an item in the provisional agenda of the sixty-fourth session: Cooperation between the United Nations and the Shanghai Cooperation Organization,” U.N. Doc. A/64/141 (2009), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/141>.

⁴²¹ *Ibid.*, 4 (emphasis added).

⁴²² *Ibid.*; *Memorandum of Understanding between the Secretariat of the Shanghai Cooperation Organization and the Secretariat of the United Nations Economic and Social Commission for Asia and the Pacific*, January 21, 2008, http://www.unescap.org/pmd/documents/mou/MoU_SCO_21Jan08.pdf.

⁴²³ U.N. General Assembly, “Agenda of the sixty-fourth session of the General Assembly,” U.N. Doc. A/64/251 (2009), para. 124, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/251>; U.N. General Assembly, “Organization of the sixty-fourth regular session of the General Assembly, adoption of the agenda and allocation of items,” U.N. Doc. A/64/250 (2009), 27, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/250>; U.N. General Assembly, “Official Records: 2nd

Yet, while the resolution's original incarnation focused on interaction in the socio-economic field, between February and December 2009 – after “informal consultations”⁴²⁴ – the resolution was recalibrated to again emphasize the SCO's security credentials. Uzbekistan, which held the chairmanship of the SCO during 2009, took the lead in pushing the issue forward. In a September 2009 plenary meeting of the General Assembly, Uzbekistan's Minister of Foreign Affairs urged, “The interdependence of regional and global problems necessitates close cooperation between the United Nations and such regional structures as the [SCO]. In its capacity as the current Chair of the [SCO], Uzbekistan intends to intensify interaction between the United Nations and the [SCO] by turning the cooperation into a real partnership.”⁴²⁵ He went on to note as priority areas of interaction not only “economic, social and humanitarian development,” but also “security and stability,” and called upon UN member states to support the cooperation resolution.⁴²⁶

Uzbekistan's representative to the UN also urged closer partnership between the UN and SCO in discussions of the Sixth Committee on measures to eliminate international terrorism – noting in particular that the “chief focus of the work of SCO was on combating international terrorism, illicit drug trafficking and organized crime,” and that “regular contact should be established between the Regional Anti-Terrorist Structure of SCO in Tashkent and the relevant United Nations bodies, such as the Counter-Terrorism Committee.”⁴²⁷

On December 7, 2009, the SCO member states introduced a *revised* draft resolution, which added language that the SCO “has become an essential forum for addressing security in the region in all its dimensions,” taking note of SCO activity “aimed at strengthening peace, security, and stability in the region, countering terrorism, separatism and extremism”⁴²⁸ The six SCO member states were joined by Pakistan (which has SCO observer status) and the Dominican Republic as sponsors of the draft

plenary meeting, Friday, 18 September 2009,” U.N. Doc. A/64/PV.2 (2009), 2, 4, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/PV.2>.

⁴²⁴ See U.N. General Assembly, “Official Records: 65th plenary meeting, Friday, 18 December 2010 [sic],” U.N. Doc. A/64/PV.65 (2009), 28, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/PV.65>.

⁴²⁵ U.N. General Assembly, “Official Records: 12th plenary meeting, Monday, 28 September 2009,” U.N. Doc. A/64/PV.12 (2009), 10, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/PV.12>.

⁴²⁶ *Ibid.*

⁴²⁷ See U.N. General Assembly, “Official Records: Sixth Committee, Summary record of the 2nd meeting [6 October 2009],” U.N. Doc. A/C.6/64/SR.2 (2009), paras. 45, 48, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/C.6/64/SR.2>.

⁴²⁸ U.N. General Assembly, “China, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan and Uzbekistan: draft resolution - Cooperation between the United Nations and the Shanghai Cooperation Organization,” U.N. Doc. A/64/L.34 (2009), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/L.34>.

resolution.⁴²⁹ The General Assembly adopted the revised resolution by consensus,⁴³⁰ apparently without consideration of the dangers of the SCO framework that this whitepaper outlines – including the Three Evils approach enshrined in both the *Shanghai Convention* and the language of the cooperation resolution itself.

Instead, the cooperation resolution “not[ed] with satisfaction that the declaration on the establishment of the Shanghai Cooperation Organization confirms the commitment of its States to the principles of the Charter of the United Nations,” proposed that the UN Secretary-General hold regular consultations with the Secretary-General of the SCO, and further proposed that “the specialized agencies, organizations, programmes and funds of the United Nations system cooperate with the Shanghai Cooperation Organization with a view to jointly implementing programmes to achieve their goals.”⁴³¹ The resolution took into consideration that some SCO member states have “economies in transition” – a priority target of support for the UN.⁴³² Again, however, during the meeting of the General Assembly in which the resolution was considered, only representatives associated with the SCO spoke: the representative of Uzbekistan, who introduced the resolution on behalf of the SCO member states, and the Secretary-General of the SCO itself, given that the SCO could now participate in meetings of the General Assembly as an intergovernmental organization with observer status.⁴³³

The SCO, RATS, and China in particular have used this momentum as an opportunity to advance the objectives and standing of the SCO on the international stage. Notably, when China assumed its Security Council presidency in January 2010, it took the opportunity “to convene a thematic debate to explore ideas and measures for strengthening the cooperation between the United Nations and regional and subregional organizations in the maintenance of international peace and security.”⁴³⁴ This was the *first time* that China ever organized a thematic debate on its own initiative

⁴²⁹ U.N. General Assembly, “China, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan and Uzbekistan: draft resolution - Cooperation between the United Nations and the Shanghai Cooperation Organization - Addendum,” A/64/L.34/Add.1 (2009), <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/L.34/Add.1>.

⁴³⁰ See G.A. Res. 64/183, U.N. Doc. A/RES/64/183 (2010),

<http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/64/183>; U.N. General Assembly, “Official Records: 65th plenary meeting, Friday, 18 December 2010 [sic],” U.N. Doc. A/64/PV.65 (2009), 27-29, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/64/PV.65>.

⁴³¹ G.A. Res. 64/183, *supra* n. 430, preamble, paras. 2-3.

⁴³² *Ibid.*

⁴³³ U.N. General Assembly, “Official Records: 65th plenary meeting, Friday, 18 December 2010 [sic],” *supra* n. 430, 27-29.

⁴³⁴ U.N. Security Council, “Letter dated 4 January from the Permanent Representative of China to the United Nations addressed to the Secretary-General,” U.N. Doc. S/2010/9 (2010), para. 1, <http://www.un.org/Docs/journal/asp/ws.asp?m=%20S/2010/9> (transmitting China’s concept paper, “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security,” for the thematic debate).

during its presidency.⁴³⁵ Thus, in January 2010, a two-day retreat took place that brought together officials from 11 regional organizations,⁴³⁶ including the SCO, and the UN Secretary-General. The retreat was followed by the Security Council's thematic debate.

As initially laid out in China's concept paper for the debate, however, the premise of the discussion was that regional organizations offer clear advantages, and that synergies should be formed between regional organizations and the UN.⁴³⁷ The debate and presidential statement that followed accepted that regional organizations – due to their proximity to the problems – were inherently beneficial; no examination of the risks or particular biases of regional organizations appears to have been undertaken.⁴³⁸ During the discussion, the representative of the Russian Federation asserted that “regional organizations had better awareness of situations in their areas and had tailored preventive mechanisms.”⁴³⁹ Moreover, the representative from Lebanon stated that it was a strength that “regional organizations were close to the conflicts and had historical and cultural bonds with the parties involved.”⁴⁴⁰

At the conclusion of the debate, the representative of China issued a Presidential Statement, in which the Security Council “recall[ed] that cooperation with regional and subregional organizations in matters relating to the maintenance of international peace and security, consistent with Chapter VIII of the Charter of the United Nations, can improve collective security.”⁴⁴¹ It also “acknowledge[d] the important contribution of regional and subregional organizations to the peaceful settlement of local disputes and preventive diplomacy, as they are well positioned to understand the root causes of many conflicts and other security challenges.”⁴⁴²

⁴³⁵ Security Council Report, “UN Cooperation with Regional and Subregional Organisations in the Maintenance of International Peace and Security,” supra n. 403.

⁴³⁶ The participating regional organizations were the SCO, the League of Arab States, the African Union Commission, the Association of Southeast Asian Nations, the Collective Security Treaty Organization, the European Union Delegation to the United Nations, the North Atlantic Treaty Organization, the Organization of American States, the Organization of the Islamic Conference, the Organization for Security and Cooperation in Europe, and the Pacific Islands Forum. See U.N. Department of Public Information, “Security Council to Promote Closer, More Operational Cooperation Between United Nations, Regional Organizations in Early Warning, Peacekeeping, Peacebuilding,” U.N. Doc. SC/9840 (2010), <http://www.un.org/News/Press/docs/2010/sc9840.doc.htm>.

⁴³⁷ See U.N. Security Council, “Letter dated 4 January from the Permanent Representative of China to the United Nations addressed to the Secretary General,” supra n. 434.

⁴³⁸ See U.N. Security Council, “Security Council to Promote Closer, More Operational Cooperation Between United Nations, Regional Organizations in Early Warning, Peacekeeping, Peacebuilding,” supra n. 436.

⁴³⁹ Ibid.

⁴⁴⁰ Ibid.

⁴⁴¹ U.N. Security Council, “Statement by the President of the Security Council,” U.N. Doc. S/PRST/2010/1 (2010), 1, <http://www.un.org/Docs/journal/asp/ws.asp?m=S/PRST/2010/1>.

⁴⁴² Ibid.

On April 5, 2010, the SCO and the UN issued a *Joint Declaration on SCO/UN Secretariat Cooperation*.⁴⁴³ The declaration emphasized continuing cooperation in the fight against terrorism and developing information sharing and capacity building.⁴⁴⁴ In signing the declaration, UN Secretary-General Ban Ki-moon stated as a given the key assumptions underlying the issue of regional partnership: “Regional problems demand regional solutions . . . This is part of the United Nations’ efforts to increase its partnership with regional organizations like the SCO. *The United Nations and the Shanghai Cooperation Organization share the same principles and goals in peace, security, development and human rights and all the important principles of the United Nations.*”⁴⁴⁵ On April 7, just two days after the declaration was signed, SCO Secretary-General M. Imanaliev met in Beijing with Cheng Guoping of China’s Ministry of Foreign Affairs to discuss “the issues of regional security, international cooperation and the current activity of the SCO”⁴⁴⁶ – further suggesting China’s hand in the process.

Finally, a recent opportunity that has emerged for the SCO to influence the UN Global Counter-Terrorism Strategy is an initiative sponsored by the European Commission (EC) and Norway to “establish” a Central Asian regional counter-terrorism plan – an effort that seems to neglect the fact that such a “plan” already exists in the form of the well-developed and problematic SCO framework. Announced in September 2010, the goals of the EC-Norway initiative are to “help Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan establish a regional counter-terrorism plan in line with the UN Global Counter-Terrorism Strategy” and “boost cooperation against the threat posed by terrorism and build consensus on common solutions to fight the scourge.”⁴⁴⁷ The program will involve cooperation with the UN Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA), and will “pave the way for a ministerial-level conference [in 2011] to lead to the *adoption of a joint action plan for the implementation of the UN Global Counter-Terrorism Strategy by Central Asian nations.*”⁴⁴⁸

Already, RATS Executive Committee Director Dzhenisbek Dzhumanbekov has indicated that RATS is taking part in drafting this action plan on implementation of the UN Global

⁴⁴³ Joint Declaration on SCO/UN Secretariat Cooperation, April 5, 2010, <http://www.sectesco.org/EN/show.asp?id=198>.

⁴⁴⁴ Ibid., paras. 2-3.

⁴⁴⁵ U.N. Office of the Spokesperson for the Secretary-General, “Secretary-General’s press conference before leaving Uzbekistan,” April 5, 2010, <http://www.un.org/apps/sg/offthecuff.asp?nid=1414> (emphasis added).

⁴⁴⁶ SCO, “Chronicle of Main Events at SCO in 2010,” December 31, 2010, <http://www.sectesco.org/EN/show.asp?id=255> (see entry for April 7, 2010).

⁴⁴⁷ “UN unveils new scheme to boost Central Asia’s fight against terrorism,” UN News Service, September 7, 2010, <http://www.un.org/apps/news/story.asp?NewsID=35854&Cr=terror&Cr1>.

⁴⁴⁸ Ibid.

Counter-Terrorism Strategy.⁴⁴⁹ Its influence on the Central Asian states in this process, given the economic and other support made available to them through the SCO, is likely to be significant. If the goal of the EC-Norway initiative is to support all four pillars of the UN Global Counter-Terrorism Strategy, however, the program must assess and address the SCO counter-terrorism framework's negative impact on the fourth pillar of the Global Counter-Terrorism Strategy: "Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism."⁴⁵⁰

In sum, the approach of the UN and the international community has thus far failed to address the political biases and human rights risks that a regional organization like the SCO may bring to security cooperation, or to recognize that regional mechanisms may not be able to offer necessary impartiality, particularly in the protection of internationally-recognized human rights. As demonstrated in this whitepaper, regional organizations such as the SCO may count as members states that have reached political consensus on national security issues in which the compromise of human rights is considered wholly acceptable – if not expedient – for national and regional purposes. Regional organizations have the potential to gather like-minded states into a forum that actually reinforces practices that violate international law in order to achieve political objectives.

Coordination of counter-terrorism measures across fora, particularly within the UN, is essential to preventing abuses or the spread of bad policies. The Security Council has reiterated "the obligation for regional organizations, under article 54 of the [UN] Charter, to keep the Security Council fully informed of their activities for the maintenance of international peace and security."⁴⁵¹ Counter-terrorism cooperation, which is a significant part of the SCO's mission, qualifies as an activity aimed at the maintenance of international peace and security, and is therefore an area of which the Security Council should be kept apprised. The lack of transparency that the SCO has demonstrated thus far, however, suggests the organization has not met this Chapter VIII obligation.

The UN and the governments of its member states must insist on compliance with international human rights obligations in any UN cooperation or assistance programs involving the SCO. Otherwise, they risk not only aiding and abetting member states in actions that violate the human rights of their citizens, but also missing a critical opportunity to promote the key pillar for advancing effective and sustainable counter-terrorism measures – respect for human rights.

⁴⁴⁹ "SCO RATS to improve anti-terror work through joint efforts of its member states, Dzhumanbekov," Kazinform, February 9, 2011, <http://www.inform.kz/eng/article/2349905>.

⁴⁵⁰ United Nations Global Counter-Terrorism Strategy, supra n. 7.

⁴⁵¹ S.C. Res. 1631, supra n. 405, para. 9.

VI. Conclusion

Despite a broad international consensus that the promotion and protection of international human rights, including rights enumerated under humanitarian and refugee law, is not only the legal and moral obligation of states, but also an essential pillar in the international counter-terrorism framework, the effective promotion and protection of human rights and fundamental freedoms remains a critical challenge. In its efforts to address this challenge since 2001, the international community has made substantial and necessary progress in integrating human rights with counter-terrorism measures, as reflected in the fourth pillar of the UN Global Counter-Terrorism Strategy, and due in large part to the sustained efforts of the Special Rapporteur on counter-terrorism and other UN bodies. This progress includes the development of best practices in countering terrorism and in intelligence cooperation, recommended by the Special Rapporteur on counter-terrorism.

To contribute to the international progress underway toward developing a more coherent, effective, and sustainable approach to counter-terrorism and promoting the key pillar of human rights, this whitepaper assesses the impact of the Shanghai Cooperation Organization on the rights of member state citizens and the international human rights framework. It also advances a number of concrete policy and practice recommendations directed to the SCO and its member states, as well as to UN bodies and national governments.

This whitepaper argues that the SCO approach to counter-terrorism, modeled on China's Three Evils doctrine, and highlighting principles of territorial integrity, non-interference in internal affairs, and social stability, contributes to supporting repressive regimes at the expense of national, regional, and global human rights. The international community, and the UN in particular as it deepens and expands its engagement with the SCO, must address in a more effective and coherent manner the human rights risks posed by each SCO member state and by the collective SCO framework, policies, and practices.

Each of the six SCO member states has individually ratified or signed core international human rights treaties, committing themselves to obligations for national implementation of human rights under international law. As parties to these important instruments, each SCO member state must undergo regular periodic assessment of its progress implementing treaty-based human rights obligations. However, this whitepaper's examination of the observations of and conclusions drawn by the various human rights assessment bodies and mechanisms reveals wide-ranging human rights

abuses in every member state, including what appears to be a systematic targeting of disadvantaged groups, including rural and ethnic groups.

Specifically, these international expert reviews reveal stark patterns of abuses common to all SCO member states, including the use of politically-motivated judicial and administrative procedures that lack minimum due process requirements, such as the right of accused individuals to legal representation; systematic arbitrary arrests and detentions; the practice of torture and other unlawful treatment to extract confessions or gather evidence in criminal investigations, and the forced extradition of individuals to states likely to inflict such treatment upon an individual's return; the practice of enforced or involuntary disappearances; and the occurrence of summary and arbitrary executions without minimum due process requirements.

The SCO, however, has a unique and unparalleled opportunity to exercise regional leadership in advancing compliance with international human rights obligations – both in its own efforts and by its individual member states. As a regional body with rapidly growing influence at the national, regional, and international levels, it is up to the SCO to lead by example, and to demonstrate the positive impact that integration of human rights protections will have on the effectiveness of counter-terrorism measures and on the lives of member state citizens. Human Rights in China urges the SCO and its member states to seize this opportunity.

At the same time, as the UN and individual governments move forward to deepen their cooperation with the SCO, they must also take concrete steps to ensure that any cooperation modalities – including technical assistance, training initiatives, and joint exercises – integrate adequate human rights benchmarks, indicators, and accountability mechanisms. Instead of uncritically contributing to strengthening a regional approach that is undermining international human rights – and ignoring the serious ongoing human rights problems in each SCO member state – international cooperation with the SCO must address these human rights challenges. Failure of the international community to demand accountability from regional frameworks such as the SCO will only compromise the effectiveness and integrity of the international system in countering terrorism and advancing rule of law, peace, and security.

At stake are the peace and security of the region, the human rights of over 1.5 billion people, and the credibility and effectiveness of the international counter-terrorism framework.

Appendices

APPENDIX A

Key Normative Documents of the Shanghai Cooperation Organization

Declaration on the Establishment of the Shanghai Cooperation Organization – June 15, 2001 ¹	129
The Shanghai Convention on Combating Terrorism, Separatism and Extremism – June 15, 2001 ²	132
Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure – June 7, 2002 ³	140
Protocol on Amendments to the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure – August 16, 2007 ⁴	149
Charter of the Shanghai Cooperation Organization – June 7, 2002 ⁵	150
The Regulations on Observer Status at the Shanghai Cooperation Organisation – April 24, 2004 ⁶	160
Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization – June 28, 2004 ⁷	162
Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism – June 5, 2005 ⁸	166

¹ Shanghai Cooperation Organization [SCO], *Declaration on the Establishment of the Shanghai Cooperation Organization*, June 15, 2001, http://www.ecrats.com/en/normative_documents/2006.

² SCO, *The Shanghai Convention on Combating Terrorism, Separatism and Extremism*, June 15, 2001, <http://www.sectSCO.org/EN/show.asp?id=68>.

³ SCO, *Соглашение между государствами – членами ШОС о Региональной антитеррористической структуре {Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure}*, June 7, 2002, http://www.ecrats.com/ru/normative_documents/1557. Unofficial translation from the original Russian by International Federation for Human Rights.

⁴ SCO, *Протокол о внесении изменений в Соглашение между государствами-членами Шанхайской организации сотрудничества о Региональной {Protocol on Amendments to the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure}*, August 16, 2007, http://www.ecrats.com/ru/normative_documents/1659. Unofficial translation from the original Russian by International Federation for Human Rights.

⁵ SCO, *Charter of the Shanghai Cooperation Organization*, June 7, 2002, <http://www.sectSCO.org/EN/show.asp?id=69>.

⁶ SCO, *The Regulations on Observer Status at the Shanghai Cooperation Organisation*, April 24, 2004, <http://www.sectSCO.org/EN/show.asp?id=65>.

⁷ SCO, *Соглашение о банк данных Региональной антитеррористической структуре Шанхайской организации сотрудничества {Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization}*, June 28, 2004, http://www.lawrussia.ru/texts/legal_123/doc123a379x562.htm. Unofficial translation from the original Russian by International Federation for Human Rights.

Protocol on Establishment of the SCO-Afghanistan Contact Group between the Shanghai Cooperation Organisation and the Islamic Republic of Afghanistan – November 4, 2005 ⁹	172
Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization – August 16, 2007 ¹⁰	173
Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organisation – August 8, 2008 ¹¹	179
Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization – August 28, 2008 ¹²	183
The Convention on Counter-Terrorism of the Shanghai Cooperation Organization – June 16, 2009 ¹³	196

⁸ SCO, Концепция сотрудничества государств – членов ШОС в борьбе с терроризмом, сепаратизмом и экстремизмом {*Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism*}, June 5, 2005, http://www.ecrats.com/ru/normative_documents/1558. Unofficial translation from the original Russian by International Federation for Human Rights.

⁹ SCO, *Protocol on Establishment of the SCO-Afghanistan Contact Group between the Shanghai Cooperation Organisation and the Islamic Republic of Afghanistan*, November 4, 2005, <http://www.sectSCO.org/EN/show.asp?id=70>.

¹⁰ SCO, *Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization*, August 16, 2007, <http://www.sectSCO.org/EN/show.asp?id=71>.

¹¹ SCO, *Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organisation*, August 8, 2008, <http://www.sectSCO.org/EN/show.asp?id=64>.

¹² SCO, Соглашение о порядке организации и проведения совместных антитеррористических учений государствами-членами Шанхайской организации сотрудничества {*Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization*}, August 28, 2008, http://www.ecrats.com/ru/normative_documents/1666. Unofficial translation from the original Russian by International Federation for Human Rights.

¹³ SCO, КОНВЕНЦИЯ Шанхайской организации сотрудничества против терроризма {*The Convention on Counter-Terrorism of the Shanghai Cooperation Organization*}, June 16, 2009, [http://asozd2.duma.gov.ru/main.nsf/\(ViewDoc\)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B](http://asozd2.duma.gov.ru/main.nsf/(ViewDoc)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B). Unofficial translation from the original Russian by Human Rights in China and International Federation for Human Rights. Signatures appearing at the conclusion of this document are taken from and reflect their inclusion in the original Russian source.

Declaration on the Establishment of the Shanghai Cooperation Organization

The heads of state of the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan,

Highly appraise the positive role played by the "Shanghai Five", in the five years since its founding, in promoting and deepening mutual trust, relations of friendship and good-neighborliness among the member states, consolidating regional security and stability and facilitating common development;

Unanimously recognize that the founding and development of the "Shanghai Five" have conformed to the post cold-war historic trend that mankind aspires to peace and development, shown the great potentiality of peaceful and friendly coexistence, unity and cooperation realized through mutual respect and confidence by countries with different civilization backgrounds and traditional cultures;

Point out, in particular, that the two agreements signed by the five heads of state of the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan respectively in Shanghai in 1996 and in Moscow in 1997, on confidence-building in the military sphere in border areas and on mutual reduction of military forces in the border areas, and the summary documents signed during their meetings in Alma-Ata (1998), Bishkek (1999), Dushanbe (2000), have made important contributions to preserving regional and world peace, security and stability, greatly enriched contemporary diplomatic and regional cooperation practices and exerted extensive and positive influence in the international society;

Firmly believe that against a background of the rapid development of the process of political multipolarization and information globalization in the 21st century, it is conducive to the member states more effectively jointly making use of the opportunities and replying to the new challenges and threats;

And hereby solemnly declare:

1. The Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan have founded the Shanghai Cooperation Organization (SCO).
2. The purposes of the SCO are: strengthening mutual trust and good-neighborly friendship among the member states; encouraging effective cooperation among the member states in political, economic and trade, scientific and technological, cultural, educational, energy, communications, environment and other fields; devoting themselves jointly to preserving and safeguarding regional peace, security and stability; and establishing a democratic, fair and rational new international political and economic order.
3. The SCO shall hold a formal meeting of heads of state of the member states a year, hold meetings of heads of government regularly; the meetings shall be held in rotation among the member states. With a view to expanding and strengthening cooperation in all fields, in addition to the established meeting mechanisms for the leaders of the relevant departments, new meeting mechanisms may be set up in accordance with circumstances, and permanent

and temporary experts' groups may be formed to study work plans and proposals for further developing cooperation.

4. The "Shanghai Spirit" formed during the "Shanghai Five" process, with "mutual trust, mutual benefit, equality, consultation, respect for multicivilizations, striving for common development" as its basic contents, has been precious treasure accumulated in the cooperation among the countries of the region in recent years. This spirit should be carried forward so that it will become the norm governing relations among the SCO member states in the new century.
5. The SCO member states shall abide by strictly the purposes and principles of the Charter of the United Nations, mutually respect independence, sovereignty and territorial integrity, not interfere in each other's internal affairs, not use or threaten to use force against each other, adhere to equality and mutual benefit, resolve all problems through mutual consultations and not seek unilateral military superiority in contiguous regions.
6. The SCO has been evolved on the basis of the two agreements signed respectively in 1996 in Shanghai and in 1997 in Moscow on confidence-building in the military sphere in the border areas and on mutual reduction of military forces in border areas. Its cooperation has been expanded to political, economic and trade, cultural, scientific and technological, and other areas. The principles embodied in the above-mentioned agreements have determined the basis of the mutual relations among the SCO member states.
7. The SCO adheres to the principle of non-alignment, does not target any other country or region, and is open to the outside. It is ready to develop various forms of dialogue, exchanges and cooperation with other countries, international and regional organizations. On the basis of consensus, it shall admit as its new members those countries which recognize the cooperation purposes and tasks within the framework of the organization, the principles expounded in Article 6 of the this declaration and other articles, and whose joining will facilitate the realization of cooperation.
8. The SCO sets special store by and makes all necessary efforts to ensure regional security. The member states will cooperate closely to implement the Shanghai Convention on Combating Terrorism, Separatism and Extremism, including setting up an Anti-terrorist Center of the SCO in Bishkek. Moreover, relevant multilateral cooperation documents will be formulated to restrain illegal weapons and narcotics smuggling, illegal immigration and other criminal activities.
9. The SCO will make use of the huge potential and extensive opportunities in the mutually beneficial cooperation in economic and trade fields among its member states, strive to enhance further development of both bilateral and multilateral cooperation among the member states and plurality of this cooperation. For this purpose, a negotiating process on trade and investment facilitation will be initiated within the framework of the SCO to formulate an outline of long-term, multilateral economic and trade cooperation and relevant documents will be signed.
10. The SCO member states will strengthen their consultations and coordination of activities in regional and international affairs, support and cooperate with each other closely on major international and regional issues, and jointly promote and consolidate peace and stability of the region and the world. In the current international situation, it is of particular significance to

preserve global strategic balance and stability.

11. To coordinate the cooperation of the departments in charge of the SCO member states and organize their mutual collaboration, a State Coordinators' Council of the SCO member states is hereby set up and foreign ministers of the SCO member states will approve the council's temporary rules to regulate its activities.

The heads of state instruct the State Coordinators' Council, on the basis of this declaration and the documents signed by the heads of state of the "Shanghai Five", to start drafting the Charter of the Shanghai Cooperation Organization which, among other things, shall clearly enunciate the purposes, goals and tasks of future cooperation of the SCO, the principle and procedures for the admission of new members, legal effect of the decisions made and the way to conduct mutual coordination with other international organizations. The document will be signed at the 2002 meeting of heads of state.

Summarizing the past and looking forward into the future, the heads of state firmly believe that the founding of the SCO marks the entry into a brand new development phase for the cooperation of the member states. This is in conformity with the trend of the times, the realities of this region and the fundamental interests of the peoples of the member states.

President of the Republic of Kazakhstan N. Nazarbayev (signed)

President of the People's Republic of China Jiang Zemin (signed)

President of the Kyrgyz Republic A. Akayev (signed)

President of the Russian Federation V. Putin (signed)

President of the Republic of Tajikistan I. Rakhmonov (signed)

President of the Republic of Uzbekistan I. Karimov (signed)

The Shanghai Convention on Combating Terrorism, Separatism and Extremism

The Republic of Kazakhstan, the Peoples' Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan, and the Republic of Uzbekistan (hereinafter referred to as “the Parties”),

guided by the purposes and principles of the Charter of the United Nations concerning primarily the maintenance of international peace and security and the promotion of friendly relations and cooperation among States;

aware of the fact that terrorism, separatism and extremism constitute a threat to international peace and security, the promotion of friendly relations among States as well as to the enjoyment of fundamental human rights and freedoms;

recognizing that these phenomena seriously threaten territorial integrity and security of the Parties as well as their political, economic and social stability;

guided by the principles of the Almaty Joint Statement of 3 July 1998, the Bishkek Declaration of 25 August 1999, the Dushanbe Declaration of 5 July 2000 and the Declaration on the Establishment of the Shanghai Cooperation Organization of 15 June 2001;

firmly believing that terrorism, separatism and extremism, as defined in this Convention, regardless their motives, cannot be justified under any circumstances, and that the perpetrators of such acts should be prosecuted under the law;

believing that joint efforts by the Parties within the framework of this Convention are an effective form of combating terrorism, separatism and extremism,

have agreed as follows:

Article 1

1. For the purposes of this Convention, the terms used in it shall have the following meaning:
 - 1) “terrorism” means:
 - a) any act recognized as an offence in one of the treaties listed in the Annex to this Convention (hereinafter referred to as “the Annex”) and as defined in this Treaty;
 - b) any other act intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict or to cause major damage to any material facility, as well as to organize, plan, aid and abet such act, when the purpose of such act, by its nature or context, is to intimidate a population,

violate public security or to compel public authorities or an international organization to do or to abstain from doing any act, and prosecuted in accordance with the national laws of the Parties;

2) "separatism" means any act intended to violate territorial integrity of a State including by annexation of any part of its territory or to disintegrate a State, committed in a violent manner, as well as planning and preparing, and abetting such act, and subject to criminal prosecuting in accordance with the national laws of the Parties;

3) "Extremism" is an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.

2. This Article shall not affect any international treaty or any national law of the Parties, provides or may provide for a broader application of the terms used in this Article.

Article 2

1. The Parties, in accordance with this Convention and other international obligations and with due regard for their national legislations, shall cooperate in the area of prevention, identification and suppression of acts referred to in Article 1 (1) of this Convention.
2. In their mutual relations, the Parties shall consider acts referred to in Article 1 (1) of this Convention as extraditable offences.
3. In the course of implementation of this Convention with regard to issues concerning extradition and legal assistance in criminal cases, the Parties shall cooperate in conformity with international treaties to which they are parties and national laws of the Parties.

Article 3

The Parties shall take such measures as can prove necessary, including, as appropriate, in the field of their domestic legislation, in order to ensure that in no circumstances acts referred to in Article 1 (1) of this Convention should be subject to acquittal based upon exclusively political, philosophical, ideological, racial, ethnic, religious or any other similar considerations and that they should entail punishment proportionate to their gravity.

Article 4

1. Within 60 days after the Depositary has been notified about the completion of internal procedures necessary for the entry into force of this Convention, a Party shall provide to the Depositary, through diplomatic channels, in writing a list of its central competent authorities responsible for the implementation of this Convention, and the Depositary shall transmit the above list to other Parties.

2. Central competent authorities of the Parties in charge of issues relating to implementation of the provisions of this Convention shall directly communicate and interact with each other.
3. In case of any amendments to the list of central competent authorities of a Party, that Party shall send an appropriate notification to the Depositary who shall inform the other Parties accordingly.

Article 5

Upon mutual consent, the Parties can hold consultations, exchange views and coordinate their positions on issues of combating acts referred to in Article 1 (1) of this Convention, including within international organizations and at international fora.

Article 6

In accordance with this Convention, the central competent authorities of the Parties shall cooperate and assist each other through:

- 1) exchange of information;
- 2) execution of requests concerning operational search actions;
- 3) development and implementation of agreed measures to prevent, identify and suppress acts referred to in Article 1 (1) of this Convention, as well as mutual information on the results of their implementation;
- 4) implementation of measures to prevent, identify and suppress, in their territories, acts referred to in Article 1 (1) of this Convention, that are aimed against other Parties;
- 5) implementation of measures to prevent, identify and suppress financing, supplies of weapons and ammunition or any other forms of assistance to any person and/or organization for the purpose of committing acts referred to in Article 1 (1) of this Convention;
- 6) implementation of measures to prevent, identify, suppress, prohibit or put an end to the activities aimed at training individuals for the purpose of committing acts referred to in Article 1 (1) of this Convention;
- 7) exchange of regulatory legal acts and information concerning practical implementation thereof;
- 8) exchange of experience in the field of prevention, identification or suppression of acts referred to in Article 1 (1) of this Convention;
- 9) various forms of training, retraining or upgrading of their experts;
- 10) conclusion, upon mutual consent of the Parties, of agreements on other forms of cooperation, including, as appropriate, practical assistance in suppressing acts

referred to in Article 1 (1) of this Convention and mitigating consequences thereof. Such agreements shall be formalized in appropriate protocols that shall form an integral part of this Convention.

Article 7

The central competent authorities of the Parties shall exchange information of mutual interest, *inter alia*, on:

- 1) planned and committed acts referred to in Article 1 (1) of this Convention, as well as identified and suppressed attempts to commit them;
- 2) preparations to commit acts referred to in Article 1 (1) of this Convention, aimed against heads of state or other statesmen, personnel of diplomatic missions, consular services and international organizations, as well as other persons under international protection and participants in governmental visits, international and governmental political, sports and other events;
- 3) organizations, groups and individuals preparing and/or committing acts referred to in Article 1 (1) of this Convention or otherwise participating in those acts, including their purposes, objectives, ties and other information;
- 4) illicit manufacturing, procurement, storage, transfer, movement, sales or use of strong toxic, and poisonous substances, explosives, radioactive materials, weapons, explosive devices, firearms, ammunition, nuclear, chemical, biological or other types of weapons of mass destruction, as well as materials and equipment which can be used for their production, for the purpose of committing acts referred to in Article 1 (1) of this Convention;
- 5) identified or suspected sources of financing of acts indicated in Article 1 (1) of this Convention;
- 6) forms, methods and means of committing acts indicated in Article 1 (1) of this Convention.

Article 8

1. Cooperation among central competent authorities of the Parties within the framework of this Convention shall be carried out in a bilateral or multilateral format on the basis of a request for assistance as well as by way of providing information upon the initiative of the central competent authority of a Party.
2. Requests or information shall be forwarded in writing. In case of urgency, the requests or information can be transmitted orally but within 72 hours thereafter they should be confirmed in writing and with the use of technical means of text transmission, as necessary. If there are any doubts about the authenticity of a request or information or the contents thereof additional confirmation or clarification of the above documents can be requested.

3. A request should contain the following:
 - a) the name of the requesting and requested central competent authorities;
 - b) purposes of and grounds for the request;
 - c) description of the contents of the assistance required;
 - d) any other information which could be useful for a timely and appropriate execution of the request;
 - e) degree of confidentiality, as necessary.
4. Requests or information transmitted in writing shall be signed by the head of the requesting central competent authority or his or her deputies or shall be certified by the official seal of that central competent authority.
5. Requests and documents transmitted therein, as well as information shall be provided by the central competent authority in one of the working languages mentioned in Article 15 of this Convention.

Article 9

1. The requested central competent authority shall take all necessary measures to ensure a prompt and most complete execution of the request and, within the shortest possible time, shall provide information on the results of its consideration.
2. The requesting central competent authority shall be notified, without delay, about the circumstances that prevent or significantly hamper the execution of a request.
3. If the execution of a request is outside the competence of the requested central competent authority that authority shall transmit the request to another central competent authority of its State, which has the competence to execute it and shall without delay notify the requesting central competent authority accordingly.
4. The requested central competent authority can request additional information which it considers necessary for the execution of the request.
5. Requests shall be executed on the basis of the legislation of the requested Party. Upon request by the requesting central competent authority, the legislation of the requesting Party may be applied if this does not contradict fundamental legal principles or international obligations of the requested Party.
6. Execution of a request can be postponed or denied completely or in part in case the requested central competent authority considers that its execution could prejudice the sovereignty, security, public order or other substantial interests of its State or that it contradicts the legislation or international obligations of the requested Party.
7. Execution of a request can be denied if the act in connection with which the request was made does not constitute an offence under the legislation of the requested Party.

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8. If, in accordance with paragraph 6 or 7 of this Article, the execution of a request is denied in full or in part or if it is postponed, the requesting central competent authority shall be notified accordingly in writing.

Article 10

The Parties will conclude a separate agreement and will adopt other necessary documents in order to establish and provide for functioning of a Parties' Regional Counter-terrorist Structure with the headquarters in Bishkek, the purpose of which would be to effectively combat the acts referred to in Article 1 (1) of this Convention.

Article 11

1. For the purposes of implementation of this Convention, central competent authorities of the Parties may establish emergency lines of communication and hold regular and extraordinary meetings.
2. For the purposes of implementation of the provisions of this Convention, the Parties may, as necessary, provide technical and material assistance to each other.
3. Materials, special means, facilities and technical equipment received by a Party on the basis of this Convention from another Party shall not be subject to transfer without a prior written consent of the providing Party.
4. Information about methods of conducting operational search activities, specifications of special forces and means and supporting materials used by central competent authorities of the Parties in order to provide assistance within the framework of this Convention, shall not be subject to disclosure.

Article 12

The central competent authorities of the Parties may conclude specific agreements among them governing modalities for the implementation of this Convention.

Article 13

1. Each Party shall assure the confidential nature of the information and documents received if they are sensitive or if the providing Party considers their disclosure undesirable. The degree of sensitiveness of such information and documents shall be determined by the providing Party.
2. Without a written consent of the providing Party, the information or response to the request received pursuant to this Convention, may not be used for purposes other than those for which they were requested or provided.
3. The information and documents received by a Party pursuant to this Convention from another Party shall not be transmitted without a prior written consent of the providing Party.

Article 14

Each Party shall bear independently the costs of the implementation of this Convention, unless otherwise agreed.

Article 15

The working languages to be used by the central competent authorities of the Parties in their cooperation within the framework of this Convention shall be Chinese and Russian.

Article 16

This Convention shall not limit the right of the Parties to conclude other international treaties on matters that constitute the subject of this Convention and do not contradict its purposes and object, nor shall it affect the rights and obligations of the Parties under other international treaties to which they are Parties.

Article 17

Any disputes, concerning interpretation or application of this Convention shall be settled through consultation and negotiation between the interested Parties.

Article 18

1. This Convention shall be deposited with the People's Republic of China. Official copies of this Convention shall be sent by the Depositary to other Parties in the course of 15 days after its signing.
2. This Convention shall enter into force on the thirtieth day following the receipt by the Depositary the last notification in writing from the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan, or the Republic of Uzbekistan informing it of the completion of national procedures necessary for this Convention to enter into force.

Article 19

1. Following the entry into force of this Convention other States may, subject to the consent of all the Parties, accede to it.

This Convention shall enter into force for each acceding State on the thirtieth day following the receipt by the Depositary of a notification in writing informing it of the completion of national procedures necessary for this Convention to enter into force. On this date, the acceding State shall become Party to this Convention.

Article 20

1. Amendments and additions may, subject to the consent of all Parties, be made to the text of this Convention, which shall be effected by Protocols being an integral part of this Convention.

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2. Any Party may withdraw from this Convention by notifying in writing the Depositary of the decision 12 months prior to the date of anticipated withdrawal. The Depositary shall inform the other Parties of this intention within a 30-day period following the receipt of the notification of withdrawal.

Article 21

1. When forwarding to the Depositary its notification of the completion of internal procedures necessary for this Convention to enter into force, a Party which does not participate in one of the treaties enumerated in the Annex may declare that this Convention shall be applied to the Party with that treaty regarded as not included in the Annex. Such declaration shall cease to be effective after notifying the Depositary of the entry of that treaty into force for the Party.
2. When one of the treaties listed in the Annex ceases to be effective for a Party, the latter shall make a declaration as provided for in paragraph 1 of this Article.
3. The Annex may be supplemented by treaties that meet the following conditions:
 - 1) they are open for signature to all States;
 - 2) they entered into force; and
 - 3) they were ratified, accepted, approved or acceded to by at least three Parties to this Convention.
4. After the entry into force of this Convention, any Party may propose an amendment to the Annex. The proposal for amending the Annex shall be forwarded to the Depositary in written form. The Depositary shall notify all the proposals that meet the requirements of paragraph 3 of this Article to the other Parties and seek their views on whether the proposed amendment should be adopted.
5. The proposed amendment shall be considered adopted and shall come into force for all the Parties 180 days after the Depositary has circulated the proposed amendment, except when one-third of the Parties to this Convention inform in writing the Depositary of their objections to it.

Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure

The member states of the Shanghai Cooperation Organization, being members of the Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001 (hereinafter Parties), guided by the goals and principles of the United Nations concerning the maintenance of international peace, security, and the promotion of good-neighborly and friendly relations and cooperation between states,

recognizing that terrorism, separatism, and extremism constitute a threat to international peace and security, to the development of friendly relations between states, and the enjoyment of fundamental human rights and freedoms,

being convinced of the necessity of mutually agreeable actions in the interests of ensuring the territorial integrity, security, and stability of the Parties, including through the strengthening of cooperation in combating terrorism, separatism, and extremism,

proceeding from the Declaration on the Establishment of the Shanghai Cooperation Organization of 15 June 2001, the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001 (hereinafter the Convention), and the Charter of the Shanghai Cooperation Organization of 7 June 2002,

have agreed as follows:

Article 1

For the purposes of the present Agreement the following concepts shall mean:

official – an individual sent by a Party to work at the Executive Committee of RATS and appointed to a corresponding position by the Director;

representative – an individual whom the sending Party has entrusted with the duty to act in this capacity at the Council of RATS;

associate – an individual sent by a Party to perform functions connected with the activities of the representative;

premises – the buildings or portions of buildings regardless of their owner and form of ownership, and including the parcel of land or portion thereof ancillary thereto;

host state – a Party on whose territory the headquarters or a division of RATS is located.

Article 2

The Parties shall found the Regional Anti-Terrorist Structure (hereinafter RATS) of the Shanghai Cooperation Organization (hereinafter SCO). The headquarters of RATS shall be located in the city of Bishkek in the Kyrgyz Republic.

Upon necessity the Council of Heads of Member States of the SCO may establish divisions of RATS on the territories of the Parties.

The status of a division of RATS and the individuals working in it shall be determined by an agreement between the SCO and the government of the host state.

Article 3

RATS shall be a permanent body of the SCO and is intended to assist in the coordination and collaboration of the Parties' competent agencies in combating terrorism, separatism, and extremism, as these activities are defined in the Convention.

Article 4

RATS shall have the status of a juridical person, and in this capacity has right, in particular:

- to conclude agreements;
- to acquire and dispose of real and movable property;
- to open and operate bank accounts in any currency;
- to initiate complaints in courts and participate in court proceedings.

The rights provided by the present Article shall be implemented in the name of RATS by the Director of the Executive Committee of RATS (hereinafter Director).

Article 5

The activity of RATS shall be funded from the budgetary resources of the SCO. The procedure for funding RATS shall be determined by documents that regulate issues of the SCO's budget.

Article 6

The fundamental objectives and functions of RATS shall be:

1. developing of proposals and recommendations concerning the development of cooperation in combating terrorism, separatism, and extremism for the relevant SCO structures, including at the request of the Parties;

2. assistance to the competent agencies of the Parties at the request of one of the Parties in combating terrorism, separatism, and extremism, including in accordance with the provisions of the Convention;
3. collection and analysis of information received by RATS from the Parties regarding issues of combating terrorism, separatism, and extremism;
4. formation of the RATS database, specifically regarding:
 - international terrorist, separatist, and other extremist organizations, their structure, leaders, and members, other individuals associate with these organizations, as well as the financing sources and channels of these organizations;
 - status, dynamics, and trends in the spread of terrorism, separatism, and extremism that affect the interests of the Parties;
 - non-governmental organizations and individuals providing support for terrorism, separatism, and extremism;
5. providing information upon requests by the competent agencies of the Parties;
6. assistance in preparing and executing anti-terrorist command and staff exercises and operational and tactical exercises upon request by the Parties concerned;
7. assistance in the preparation and execution of operational search and other actions in combating terrorism, separatism, and extremism upon the request of the Parties;
8. assistance in conducting international searches for individuals alleged to have committed activities set forth in Article 1(1) of the Convention in order to criminally prosecute them;
9. participation in preparing international legal documents affecting issues of combating terrorism, separatism, and extremism;
10. assistance in training specialists and instructors for anti-terrorist subdivisions;
11. participation in preparing and conducting research and practice conferences and seminars, and assistance in exchanging experience regarding issues of combating terrorism, separatism, and extremism;
12. establishment and support of working contacts with international organizations engaged in issues of combating terrorism, separatism, and extremism.

Article 7

RATS shall be guided in its activities by documents and resolutions concerning combating terrorism, separatism, and extremism adopted within the framework of the SCO.

RATS shall collaborate with the competent authorities of the Parties, including exchanging information, and shall prepare relevant materials upon the request of other SCO agencies.

The procedure for the creation and functioning of the RATS database, as well as issues concerning the provision, exchange, use, and protection of the relevant information shall be regulated by separate agreements.

Article 8

The Parties shall determine a list of their competent agencies that shall collaborate with RATS.

The Parties shall provide written notice of this to the Depositary within 30 days after the internal procedures necessary for the entry into force of this Agreement have been completed.

In case of any amendments to a Party's list of central competent authorities, that Party shall send written notification to the Depositary.

Article 9

The authorities of RATS are the Council of RATS (hereinafter Council) and the Executive Committee established by the present Agreement. The Council may create the necessary auxiliary authorities.

Article 10

The Council shall consist of the Parties to the present Agreement.

The Council shall be organized to function on a standing basis. For this purpose each party must always (continually) be represented where RATS is located.

The Council shall meet periodically for sessions at which each Party may, at its discretion, be represented either by the leader of the relevant competent authority or by another specially-appointed representative.

The Council shall determine the manner in which the fundamental objectives and functions of RATS set forth in Article 6 of the present Agreement shall be carried out.

In accordance with the powers of RATS stated in the present Agreement, the Council shall adopt resolutions of a mandatory nature on all matters of substance, including financial issues.

The Council shall provide annual reports on the activities of RATS to the Council of Heads of State of the SCO.

A resolution in the Council on any issue shall be considered adopted if none of the Parties have objected to it.

The Council shall establish its procedural rules, including the order of selecting its chairperson.

Article 11

The Executive Committee shall consist of the Director and such personnel as may be required to ensure the normal functioning of RATS.

The Director shall be the chief administrative officer of the Executive Committee and shall act in that capacity at all sessions of the Council, as well as fulfilling other functions entrusted to him by this authority.

The Director and his deputy (deputies) shall be appointed by the Council of Heads of State of the SCO upon the recommendation of the Council.

The procedure for replacing the Director and his deputy (deputies) shall be established by the Council.

The Director has the right to bring to the attention of the Council any issues within the framework of the competence of RATS that in his opinion require examination by that authority.

The Director with the consent of the Council shall appoint the officials of the Executive Committee from among the citizens of the Parties, taking into consideration the contributions of the respective Parties to the budget of the SCO and/or shall hire them by contract from among the citizens of the Parties.

The structure of the Executive Committee, as well as its staffing structure, shall be confirmed by the Council of Heads of State of the SCO on the basis of the Director's proposals approved by the Council.

In fulfilling his obligations, the Director, his deputy (deputies), and the officials of the Executive Committee must not request or accept instructions from the government agencies or officials of the Parties, nor from organizations or private individuals outside the SCO.

The Parties are obligated to respect the international nature of the Director's obligations and those of his deputy (or deputies) and of the officials of the Executive Committee, and not to exert influence on them during the performance of their official duties.

Article 12

The Executive Committee of RATS shall be composed of individuals sent by the Parties to work at the Executive Committee of RATS in accordance with the procedure provided for by their domestic legislation.

Labor relations between administrative and technical personnel and the Executive Committee of RATS shall be regulated by the legislation of the relevant host state of RATS.

Article 13

The property and assets of RATS shall enjoy immunity from any form of administrative or judicial interference.

The premises and transportation conveyances of RATS, as well as its archives and documents, including official correspondence, regardless of location, are not subject to search, requisition, confiscation, or any other form of interference that would impede its normal activity.

The chairpersons of the relevant government agencies and the administration of the host state may not enter the premises of RATS other than with the consent of the Director or an individual replacing him and upon conditions approved by him.

The performance of other acts by decision of the relevant government agencies and the administration of the host state may occur on the premises of RATS only with the consent of the Director or an individual replacing him.

The host state shall take appropriate measures to protect the premises of RATS from any incursion or damage.

The premises of RATS may not provide asylum for individuals pursued according to the laws of any of the Parties or subject to extradition to any of the Parties or to a third state.

The inviolability of the premises of RATS does not provide the right to use them for purposes incompatible with the functions or objectives of the SCO.

RATS has the right to use ciphers, couriers, and other means of communication ensuring the confidentiality of information transmission. RATS has the right to receive and to send correspondence using couriers or bags, which shall enjoy the same immunities and privileges as diplomatic couriers and bags.

All items comprising official correspondence must have visible external markings indicating their nature and may contain only official documents and objects intended for official use.

A courier must be provided with an official document indicating his status and the number of items comprising the official correspondence.

Article 14

RATS shall be free from all direct taxes, duties, customs, and other payments imposed on the territory of the host state with the exception of those that are payments for concrete types of support (services).

The property and objects intended for the official use of RATS shall be free on the territories of the Parties from the assessment of customs duties, taxes, and the duties and payments connected with them, with the exception of duties for transportation, storage, or customs processing outside the place designated for these or outside the working hours of the relevant customs agencies or a similar service in the manner provided for international organizations.

Article 15

The Council of Heads of States of SCO may waive in the name of the SCO the privileges and immunities provided to RATS in a clearly expressed form.

Article 16

1. The Director, his deputy (deputies), representatives, associates, as well as the members of their families dwelling with them shall enjoy the privileges and immunities envisioned by the 1961 Vienna Convention on Diplomatic Relations, to the corresponding extent and manner, except as otherwise established by the present Agreement.
2. Officials and their family members dwelling with them shall have equivalent status to diplomatic personnel and to family members of diplomatic personnel of the Party's embassy whose citizens they are or where they permanently reside.
3. The Director, with the consent of the Council, may waive the immunity of an official in situations when in his opinion immunity will impede the administration of justice and a waiver of immunity will not harm the goals in connection with which it was granted.

A decision regarding the waiver of immunity of the Director or his deputy (or deputies) shall be taken by the Council.

A waiver of immunity must be explicitly stated.

4. Provisions 1, 2, and 3 of the present Article shall be effective until the date a separate agreement enters into force regulating issues of privileges and immunities of the SCO and its authorities and which will specify the privileges and immunities of RATS, the Director, his deputy (deputies), officials, representatives, and associates, as well as their family members dwelling with them.

Article 17

Upon completion of their work at RATS, the Director, his deputy (deputies), and officials shall be assigned at the direction of the Party agencies that sent them.

Article 18

All individuals enjoying privileges and immunities in accordance with the present Agreement shall be obligated to respect the legislation of the state of residence without harm to their privileges and immunities. They are also obligated not to interfere in that state's internal affairs.

Article 19

The Parties shall recognize the official documents, seals, and stamps of RATS.

Article 20

Credit for labor in length of service years, the pension security of the Director, his deputy (deputies), an official, representative, and associate, as well as that of their family members dwelling with them shall occur in the manner and upon the conditions specified by the legislation of the sending Party.

The procedure for medical and health resort service for the director, his deputy (deputies), an official, representative, and associate, as well as their family members dwelling with them shall be determined by an agreement between the SCO and the government of the host state.

The Director, his deputy (deputies), an official, representative, and associate, as well as the members of their families dwelling with them shall enjoy the corresponding rights of citizens of the host state on issues of payment for communal and household, residential, medical, hotel, transportation, and other types of service.

Article 21

The official languages of RATS shall be Russian and Chinese, and the working language shall be Russian.

Article 22

With the consent of all the Parties, amendments and additions may be made to the text of the present Agreement in the form of Protocols which shall constitute an integral part of this Agreement.

Article 23

The present Agreement shall not limit the right of the Parties to conclude other international treaties on matters that constitute the subject of this Convention and do not run counter to its purposes and object, nor shall it affect the rights and obligations of the Parties arising from any other international treaties of which they are members.

Article 24

Any disputes concerning the interpretation or application of the present Agreement shall be resolved through consultation and negotiation between the Parties concerned.

Article 25

The Depositary for the present Agreement shall be the People's Republic of China. Official copies of the present Agreement shall be distributed by the Depositary to the other Parties within 15 days of the date it is signed.

Article 26

The present Agreement is subject to ratification and shall enter into force on the thirtieth day from the date the fourth instrument of ratification is deposited.

The present Agreement shall be open for accession by states that are members of the Convention.

For each acceding State this Agreement shall enter into force on the thirtieth day from the date the Depositary receives the instrument of accession.

Any of the Parties may withdraw from this Agreement by notifying the Depositary in writing 12 months prior to the date of anticipated withdrawal. The Depositary shall notify the other Parties of said intention within 30 days from the date it receives notification of the withdrawal. Done in the city of St. Petersburg on 7 June 2002 in one original copy in the Russian and Chinese languages, both texts having equal validity.

**Protocol on Amendments to the Agreement Between Member States
of the Shanghai Cooperation Organization on the Regional Anti-
Terrorist Structure**

The member states of the Shanghai Cooperation Organization have concluded the present Protocol regarding the following:

Article 1

To make the following amendments to the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Terrorist Structure:

Paragraph 3 of Article 11 of the Agreement shall read as follows:

“The Director shall be appointed by the Council of Heads of State of the SCO upon the recommendation of the Council. The Director’s deputies shall be appointed and removed from their positions by the Council upon the proposal of the Parties to which said positions pertain.”;

Article 21 of the Agreement shall read as follows: “The official and working languages of RATS shall be Russian and Chinese.”

Article 2

The present Protocol shall take effect in the manner provided for in Article 26 of the Agreement.

The present Protocol shall be provisionally adopted from the date of its signing.

Done in the city of Bishkek on 16 August 2007 in one original copy in the Russian and Chinese languages, both texts having equal validity.

Charter of the Shanghai Cooperation Organization

The People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan being the founding states of the Shanghai Cooperation Organization (hereinafter SCO or the Organization),

Based on historically established ties between their peoples;

Striving for further enhancement of comprehensive cooperation;

Desiring to jointly contribute to the strengthening of peace and ensuring of security and stability in the region in the environment of developing political multipolarity and economic and information globalization;

Being convinced that the establishment of SCO will facilitate more efficient common use of opening possibilities and counteracting new challenges and threats;

Considering that interaction within SCO will promote the realization of a huge potential of good neighborliness, unity and cooperation between States and their peoples;

Proceeding from the spirit of mutual trust, mutual advantage, equality, mutual consultations, respect for cultural variety and aspiration for joint development that was clearly established at the meeting of heads of six States in 2001 in Shanghai;

Noting that the compliance with the principles set out in the Agreement between the People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan on Strengthening Confidence in the Military Field in the Border Area of 26 April, 1996, and in the Agreement between the People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation and the Republic of Tajikistan on Mutual Reductions of Armed Forces in the Border Area of 24 April, 1997, as well as in the documents signed at summits of heads of the People's Republic of China, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan in the period from 1998 to 2001, has made an important contribution to the maintenance of peace, security and stability in the region and in the world;

Reaffirming our adherence to the goals and principles of the Charter of the United Nations, other commonly acknowledged principles and rules of international law related to the maintenance of international peace, security and the development of good neighborly and friendly relations, as well as the cooperation between States;

Guided by the provisions of the Declaration on the Creation of the Shanghai Cooperation Organization of 15 June, 2001,

Have agreed as follows:

Article 1

Goals and Tasks

The main goals and tasks of SCO are:

- to strengthen mutual trust, friendship and good neighborliness between the member States;
- to consolidate multidisciplinary cooperation in the maintenance and strengthening of peace, security and stability in the region and promotion of a new democratic, fair and rational political and economic international order;
- to jointly counteract terrorism, separatism and extremism in all their manifestations, to fight against illicit narcotics and arms trafficking and other types of criminal activity of a transnational character, and also illegal migration;
- to encourage the efficient regional cooperation in such spheres as politics, trade and economy, defense, law enforcement, environment protection, culture, science and technology, education, energy, transport, credit and finance, and also other spheres of common interest;
- to facilitate comprehensive and balanced economic growth, social and cultural development in the region through joint action on the basis of equal partnership for the purpose of a steady increase of living standards and improvement of living conditions of the peoples of the member States;
- to coordinate approaches to integration into the global economy;
- to promote human rights and fundamental freedoms in accordance with the international obligations of the member States and their national legislation;
- to maintain and develop relations with other States and international organizations;
- to cooperate in the prevention of international conflicts and in their peaceful settlement;
- to jointly search for solutions to the problems that would arise in the 21st century.

Article 2

Principles

The member States of SCO shall adhere to the following principles:

- mutual respect of sovereignty, independence, territorial integrity of States and inviolability of State borders, non-aggression, non-interference in internal affairs, non-use of force or threat of its use in international relations, seeking no unilateral military superiority in adjacent areas;
- equality of all member States, search of common positions on the basis of mutual understanding and respect for opinions of each of them;
- gradual implementation of joint activities in the spheres of mutual interest;
- peaceful settlement of disputes between the member States;

SCO being not directed against other States and international organizations;
prevention of any illegitimate acts directed against the SCO interests;
implementation of obligations arising out of the present Charter and other documents adopted within the framework of SCO, in good faith.

Article 3

Areas of Cooperation

The main areas of cooperation within SCO shall be the following:

- maintenance of peace and enhancing security and confidence in the region;
- search of common positions on foreign policy issues of mutual interest, including issues arising within international organizations and international fora;
- development and implementation of measures aimed at jointly counteracting terrorism, separatism and extremism, illicit narcotics and arms trafficking and other types of criminal activity of a transnational character, and also illegal migration;
- coordination of efforts in the field of disarmament and arms control;
- support for, and promotion of regional economic cooperation in various forms, fostering favorable environment for trade and investments with a view to gradually achieving free flow of goods, capitals, services and technologies;
- effective use of available transportation and communication infrastructure, improvement of transit capabilities of member States and development of energy systems;
- sound environmental management, including water resources management in the region, and implementation of particular joint environmental programs and projects;
- mutual assistance in preventing natural and man-made disasters and elimination of their implications;
- exchange of legal information in the interests of development of cooperation within SCO;
- development of interaction in such spheres as science and technology, education, health care, culture, sports and tourism.

The SCO member States may expand the spheres of cooperation by mutual agreement.

Article 4

Bodies

1. For the implementation of goals and objectives of the present Charter the following bodies shall operate within the Organization:

The Council of Heads of State;
The Council of Heads of Government (Prime Ministers);
The Council of Ministers of Foreign Affairs;
Meetings of Heads of Ministries and/or Agencies;
The Council of National Coordinators;
The Regional Counter-terrorist Structure;
Secretariat.

2. The functions and working procedures for the SCO bodies, other than the Regional Counter-terrorist Structure, shall be governed by appropriate provisions adopted by the Council of Heads of State.
3. The Council of Heads of State may decide to establish other SCO bodies. New bodies shall be established by the adoption of additional protocols to the present Charter which enter into force in the procedure, set forth in Article 21 of this Charter.

Article 5

The Council of Heads of State

The Council of Heads of State shall be the supreme SCO body. It shall determine priorities and define major areas of activities of the Organization, decide upon the fundamental issues of its internal arrangement and functioning and its interaction with other States and international organizations, as well as consider the most topical international issues.

The Council shall hold its regular meetings once a year. A meeting of the Council of Heads of State shall be chaired by the head of State organizing this regular meeting. The venue of a regular meeting of the Council shall generally be determined in the Russian alphabetic order of names of the SCO member States.

Article 6

The Council of Heads of Government (Prime Ministers)

The Council of Heads of Government (Prime Ministers) shall approve the budget of the Organization, consider and decide upon major issues related to particular, especially economic, spheres of interaction within the Organization.

The Council shall hold its regular meetings once a year. A meeting of the Council shall be chaired by the head of Government (Prime Minister) of the State on whose territory the meeting takes place.

The venue of a regular meeting of the Council shall be determined by prior agreement among heads of Government (Prime Ministers) of the member States.

Article 7

The Council of Ministers of Foreign Affairs

The Council of Ministers of Foreign Affairs shall consider issues related to day-to-day activities of the Organization, preparation of meetings of the Council of Heads of State and holding of consultations on international problems within the Organization. The Council may, as appropriate, make statements on behalf of SCO.

The Council shall generally meet one month prior to a meeting of the Council of Heads of State. Extraordinary meetings of the Council of Ministers of Foreign Affairs shall be convened on the initiative of at least two member States and upon consent of ministers of foreign affairs of all other member States. The venue of a regular or extraordinary meeting of the Council shall be determined by mutual agreement.

The Council shall be chaired by the minister of foreign affairs of the member State on whose territory the regular meeting of the Council of Heads of State takes place, during the period starting from the date of the last ordinary meeting of the Council of Heads of State to the date of the next ordinary meeting of the Council of Heads of State.

The Chairman of the Council of Ministers of Foreign Affairs shall represent the Organization in its external contacts, in accordance with the Rules of Procedure of the Council.

Article 8

Meetings of Heads of Ministries and/or Agencies

According to decisions of the Council of Heads of State and the Council of Heads of Government (Prime Ministers) heads of branch ministries and/or agencies of the member States shall hold, on a regular basis, meetings for consideration of particular issues of interaction in respective fields within SCO.

A meeting shall be chaired by the head of a respective ministry and/or agency of the State organizing the meeting. The venue and date of a meeting shall be agreed upon in advance.

For the preparation and holding meetings the member States may, upon prior agreement, establish permanent or ad hoc working groups of experts which carry out their activities in accordance with the regulations adopted by the meetings of heads of ministries and/or agencies. These groups shall consist of representatives of ministries and/or agencies of the member States.

Article 9

The Council of National Coordinators

The Council of National Coordinators shall be a SCO body that coordinates and directs day-to-day activities of the Organization. It shall make the necessary preparation for the meetings of the Council of Heads of State, the Council of Heads of Government (Prime Ministers) and the Council of Ministers of Foreign Affairs. National coordinators shall be appointed by each member State in accordance with its internal rules and procedures.

The Council shall hold its meetings at least three times a year. A meeting of the Council shall be chaired by the national coordinator of the member State on whose territory the regular meeting of the Council of Heads of State takes place, from the date of the last ordinary meeting of the Council of Heads of State to the date of the next ordinary meeting of the Council of Heads of State.

The Chairman of the Council of National Coordinators may on the instruction of the Chairman of the Council of Ministers of Foreign Affairs represent the Organization in its external contacts, in accordance with the Rules of Procedure of the Council of National Coordinators.

Article 10

Regional Counter-Terrorist Structure

The Regional Counter-terrorist Structure established by the member States of the Shanghai Convention to combat terrorism, separatism and extremism of 15 June, 2001, located in Bishkek, the Kyrgyz Republic, shall be a standing SCO body.

Its main objectives and functions, principles of its constitution and financing, as well as its rules of procedure shall be governed by a separate international treaty concluded by the member States, and other necessary instruments adopted by them.

Article 11

Secretariat

Secretariat shall be a standing SCO administrative body. It shall provide organizational and technical support to the activities carried out in the framework of SCO and prepare proposals on the annual budget of the Organization.

The Secretariat shall be headed by the Executive Secretary to be appointed by the Council of Heads of State on nomination by the Council of Ministers of Foreign Affairs.

The Executive Secretary shall be appointed from among the nationals of member States on a rotational basis in the Russian alphabetic order of the member States' names for a period of three years without a right to be reappointed for another period.

The Executive Secretary deputies shall be appointed by the Council of Ministers of Foreign Affairs on nomination by the Council of National Coordinators. They cannot be representatives of the State from which the Executive Secretary has been appointed.

The Secretariat officials shall be recruited from among nationals of the member States on a quota basis.

The Executive Secretary, his deputies and other Secretariat officials in fulfilling their official duties should not request or receive instructions from any member State and/or government, organization or physical persons. They should refrain from any actions that might affect their status as international officials reporting to SCO only.

The member States shall undertake to respect the international character of the duties of the Executive Secretary, his deputies and Secretariat staff and not to exert any influence upon them as they perform their official functions.

The SCO Secretariat shall be located at Beijing (the People's Republic of China).

Article 12

Financing

SCO shall have its own budget drawn up and executed in accordance with a special agreement between member States. This agreement shall also determine the amount of contributions paid annually by member States to the budget of the Organization on the basis of a cost-sharing principle.

Budgetary resources shall be used to finance standing SCO bodies in accordance with the above agreement. The member States shall cover themselves the expenses related to the participation of their representatives and experts in the activities of the Organization.

Article 13

Membership

The SCO membership shall be open for other States in the region that undertake to respect the objectives and principles of this Charter and to comply with the provisions of other international treaties and instruments adopted in the framework of SCO.

The admission of new members to SCO shall be decided upon by the Council of Heads of State on the basis of a representation made by the Council of Ministers of Foreign Affairs in response to an official request from the State concerned addressed to the acting Chairman of the Council of Ministers of Foreign Affairs.

SCO membership of a member State violating the provisions of this Charter and/or systematically failing to meet its obligations under international treaties and instruments, concluded in the framework of SCO, may be suspended by a decision of the Council of Heads of State adopted on the basis of a representation made by the Council of Ministers of Foreign Affairs. If this State goes on violating its obligations, the Council of Heads of State may take a decision to expel it from SCO as of the date fixed by the Council itself.

Any member State shall be entitled to withdraw from SCO by transmitting to the Depository an official notification of its withdrawal from this Charter no later than twelve months before the date of withdrawal. The obligations arising from participation in this Charter and other instruments adopted within the framework of SCO shall be binding for the corresponding States until they are completely fulfilled.

Article 14

Relationship with Other States and International Organizations

SCO may interact and maintain dialogue, in particular in certain areas of cooperation, with other States and international organizations.

SCO may grant to the State or international organization concerned the status of a dialogue partner or observer. The rules and procedures for granting such a status shall be established by a special agreement of member States.

This Charter shall not affect the rights and obligations of the member States under other international treaties in which they participate.

Article 15

Legal Capacity

As a subject of international law, SCO shall have international legal capacity. It shall have such a legal capacity in the territory of each member State, which is required to achieve its goals and objectives.

SCO shall enjoy the rights of a legal person and may in particular:

- conclude treaties;
- acquire movable and immovable property and dispose of it;
- appear in court as litigant;
- open accounts and have monetary transactions made.

Article 16

Decisions-Taking Procedure

The SCO bodies shall take decisions by agreement without vote and their decisions shall be considered adopted if no member State has raised objections during the vote (consensus), except for the decisions on suspension of membership or expulsion from the Organization that shall be taken by “consensus minus one vote of the member State concerned”.

Any member State may expose its opinion on particular aspects and/or concrete issues of the decisions taken which shall not be an obstacle to taking the decision as a whole. This opinion shall be placed on record.

Should one or several member States be not interested in implementing particular cooperation projects of interest to other member States, nonparticipation of the above said member States in these projects shall not prevent the implementation of such cooperation projects by the member States concerned and, at the same time, shall not prevent the said member States from joining such projects at a later stage.

Article 17

Implementation of Decisions

The decisions taken by the SCO bodies shall be implemented by the member States in accordance with the procedures set out in their national legislation.

Control of the compliance with obligations of the member States to implement this Charter, other agreements and decisions adopted within SCO shall be exercised by the SCO bodies within their competence.

Article 18

Permanent Representatives

In accordance with their domestic rules and procedures, the member States shall appoint their permanent representatives to the SCO Secretariat, which will be members of the diplomatic staff of the embassies of the member States in Beijing.

Article 19

Privileges and Immunities

SCO and its officials shall enjoy in the territories of all member States the privileges and immunities which are necessary for fulfilling functions and achieving goals of the Organization.

The volume of privileges and immunities of SCO and its officials shall be determined by a separate international treaty.

Article 20

Languages

The official and working languages of SCO shall be Russian and Chinese.

Article 21

Duration and Entry into Force

This Charter shall be of indefinite duration.

This Charter shall be subject to ratification by signatory States and shall enter into force on the thirtieth day following the date of the deposit of the fourth instrument of ratification.

For a State which signed this Charter and ratified it thereafter it shall enter into force on the date of the deposit of its instrument of ratification with the Depositary.

Upon its entering into force this Charter shall be open for accession by any State.

For each acceding State this Charter shall enter into force on the thirtieth day following the date of receiving by the Depositary of appropriate instruments of accession.

Article 22

Settlement of Disputes

In case of disputes or controversies arising out of interpretation or application of this Charter member States shall settle them through consultations and negotiations.

Article 23

Amendments and Additions

By mutual agreement of member States this Charter can be amended and supplemented. Decisions by the Council of Heads of State concerning amendments and additions shall be formalized by separate protocols which shall be its integral part and enter into force in accordance with the procedure provided for by Article 21 of this Charter.

Article 24

Reservations

No reservations can be made to this Charter which contradict the principles, goals and objectives of the Organization and could prevent any SCO body from performing its functions. If at least two thirds of member States have objections the reservations must be considered as contradicting the principles, goals and objectives of the Organization or preventing any body from performing its functions and being null and void.

Article 25

Depositary

The People's Republic of China shall be the Depositary of this Charter.

Article 26

Registration

Pursuant to Article 102 of the Charter of the United Nations, this Charter is subject to registration with the Secretariat of the United Nations.

Done at Saint-Petersburg the seventh day of June 2002 in a single original in the Chinese and Russian languages, both texts being equally authoritative.

The original copy of this Charter shall be deposited with the Depositary who will circulate its certified copies to all signatory State.

The Regulations on Observer Status at the Shanghai Cooperation Organisation

The present Regulations on Observer Status at the Shanghai Cooperation Organisation (hereinafter referred to as the SCO or the Organisation) in accordance with Article 14 of the Shanghai Cooperation Organisation Charter signed on June 7, 2002 (hereinafter referred to as the Charter), determine the order of granting observer status at the SCO to an interested state or an intergovernmental international organisation (forum) (hereinafter referred to as a state or an organisation respectively).

1. A state or an organisation, wishing to receive observer status at the SCO (hereinafter referred to as observer status), proceeding from respect for the sovereignty, territorial integrity and equal rights of the member states, recognition of the main objectives, principles and actions of the Organisation, forwards a letter, signed by a head of state or a head of organisation respectively, through the Secretary-General to the Council of Heads of SCO Member States (hereinafter referred to as the Heads of State Council – HSC).
2. The SCO Secretary-General notifies the Council of National Coordinators of SCO Member States (hereinafter referred to as the CNC) of receiving the letter from a state or an organisation containing a request to obtain observer status. If necessary, the SCO Secretary-General has the right to ask them for additional information. The CNC submits the issue with relevant proposals to the Council of Foreign Ministers of SCO Member States (hereinafter referred to as the MFA Council) for consideration.
3. While considering the application for observer status, official representatives of the relevant state or the organisation can be invited to attend the MFA Council meeting.
4. The decision to grant (to annul) observer status is adopted by the HSC on the recommendation of the MFA Council.
5. The decision of the HSC on granting observer status is within a week forwarded by the SCO Secretary-General to the relevant state or the organisation, which within a month sends the SCO Secretary-General a written notification of receiving the decision.
6. A state or an organisation with observer status can be invited to attend open meetings of the HSC and/or the Council of Heads of Government (Prime Ministers) of SCO Member States.
7. A state or an organisation with observer status has the following rights:
 - 1) to attend open meetings of the MFA Council and Conferences of Heads of Ministries and/or Departments of SCO Member States;
 - 2) to participate in discussions over issues lying within the competence of the SCO institutions without the right to vote and with advance consent of the chairperson, to circulate through the SCO Secretary-General statements, written in the working languages of the SCO, on issues of their concern lying within the competence of the SCO;

3) to gain access to documents and decisions of the SCO institutions, mentioned in Article 4 of the Charter, if the relevant institutions of the SCO do not impose restrictions on their dissemination.

8. Observer status does not give the right to participate in preparation and signing of documents of the Organisation. Observers do not participate in formulating decisions of the SCO institutions and do not bear responsibility for such decisions as well.

9. A state or an organisation with observer status informs the SCO Secretariat of its intention to participate, deliver a speech and/or circulate written statements at meetings of the SCO institutions not later than 10 working days before the start of the meeting.

The level of representation of observers must correspond to the level of representation of SCO member states.

The SCO Secretary-General gives participants of meetings advance notification of observers' attendance. As a rule, observers who participate in meetings sit at a separate table with a sign bearing the name of the relevant state or the organisation.

10. If necessary and with the consent of the SCO Secretariat, observers translate documents and statements from and into the working languages of the SCO on their own.

11. Observers bear all expenses with regard to their participation in meetings of the SCO institutions.

12. If a state or an organisation with observer status commits actions or makes statements targeted against the Organisation, the decisions of the SCO institutions or the principles, set out in the Charter, such a state or an organisation can be stripped of its observer status in accordance with Paragraph 4 of the present Regulations. The respective decision is within a week forwarded by the SCO Secretary-General to the relevant state or the organisation.

13. A state or an organisation, wishing to give up the granted observer status, forwards respective notification to the SCO Secretary-General, who informs the MFA Council and the HSC about it through the CNC. Observer status becomes invalid on the day of the notification, if the latter does not contain another intention.

14. If changes are made to the form of ties (legal relations) of the SCO with other states and organisations, provided by the Charter, their observer status automatically loses validity.

15. Diplomatic representatives of states with observer status, as well as delegations of international organisations with the same status, accredited to the People's Republic of China, can maintain regular contacts with the SCO Secretariat over issues related to observer status.

16. Changes and/or additions can be made to the present Regulations in accordance with the decision of the HSC. Respective decisions are issued in the form of protocols and take effect on the day of their signing.

17. The present Regulations take effect on the day of their approval by the HSC.

DECREE of 24 July 2004 #310 On Signing the Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization

The government of the Russian Federation **decrees**:

The draft “Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization” (appended), which was presented by the Ministry of Foreign Affairs of the Russian Federation, agreed upon by the General Procuracy of the Russian Federation and the interested federal executive agencies, and preliminarily developed with the Parties Kazakhstan, Kyrgyzstan, China, Tadjikistan, and Uzbekistan, is approved.

The Ministry of Foreign Affairs of the Russian Federation is ordered to sign the present Agreement in the name of the Russian Federation, non-essential changes to the appended project having been made.

M. Fradkov

Chairman of the Government of the Russian Federation

Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization

The member states of the Shanghai Cooperation Organization that are members of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001, hereinafter Parties, guided by the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure of 7 June 2002, aspiring to ensure appropriate conditions for the effective activity of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization (hereinafter Regional Anti-Terrorist Structure), have agreed as follows:

Article 1

The parties in the interests of ensuring and increasing information collaboration by the Parties’ competent agencies, as well as providing information to the Parties on issues related to the competence of the Regional Anti-Terrorist Structure, shall create the database of the Regional Anti-Terrorist Structure (hereinafter database) within the Executive Committee of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization (hereinafter Executive Committee) and utilize the information contained within it.

The database shall function on the basis of an automated information system with the use of computer technology and by accumulating materials in hard paper form and other media.

Article 2

The Parties shall designate the competent agencies that shall collaborate on issues of the database’s functioning and shall inform the Executive Committee of it within 60 days after the

completion of internal governmental procedures necessary for the present Agreement to enter into force.

In the event a competent agency is substituted, written notice of this shall be sent to the Executive Committee within 10 days after the substitution.

The information contained in the database is divided into classified and non-classified.

Access to classified information shall be provided only to parties that are members of the Agreement on Protection of Classified Information within the framework of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization of 17 June 2004.

The structure of the database, the procedure for handling non-classified information, and access to that information shall be determined by the Council of the Regional Anti-Terrorist Structure.

Issues regarding the technical protection of information contained within the database shall be regulated by a separate agreement.

Article 3

The database shall be formed on the basis of information related to the competence of the Regional Anti-Terrorist Structure and that is received from the competent agencies of the Parties, from the agencies of the Shanghai Cooperation Organization, and from other sources, among which shall be the mass media (including print publications), telecommunications systems, and the Internet.

The database shall contain information on:

international terrorist, separatist, and extremist organizations, their structures, forms, and methods of action, their leaders, members, and other individuals affiliated with these organizations, as well as on the funding sources and channels of these organizations, including illegal trafficking in narcotic substances, psychotropic substances, and their precursors;

the status, dynamics, and trends in the spread of terrorism, separatism, and extremism;

organizations and individuals providing support to terrorist, separatist, and extremist organizations;

countermeasures to terrorism, separatism, and extremism;

the legislation of each of the Parties, including that regulating the activity of the competent agencies that collaborate with the Regional Anti-Terrorist Structure;

terrorist acts committed, and their forms and methods of commission;

the use of explosive devices (components of explosive devices), weapons, ammunition, and poisonous and other substances in the commission of terrorist acts.

Article 4

For the purpose of obtaining information for the database, the Executive Committee may send requests to one or several competent agencies, both upon the initiative of any of them and upon its own initiative.

Upon corresponding requests by competent agencies, the Executive Committee shall provide the necessary information contained in the database within 30 days.

The Executive Committee shall send a register of data and materials contained in the database to the competent agencies on a quarterly basis.

The procedure for fulfilling requests for information by the Executive Committee shall be regulated by the legislation of the responding Party. Requests shall be fulfilled within 30 days.

Requests for information shall be made in the languages specified by Article 7 of the present Agreement.

The competent agencies shall submit information to the database as it is received, ensuring the information's maximum possible completeness and reliability. The information provided shall be utilized by the competent agencies without harm to the interests of the Parties and of the Regional Anti-Terrorist Structure.

Article 5

The Executive Committee shall provide organizational and technical support for the functioning of the database, including:

- the administration and use of the database;

- the development and execution of instructions on the procedure for access to the database, its use, the handling of storage media for the database, and the protection of information, which shall be approved by the Council of the Regional Anti-Terrorist Structure;

- the protection of information and monitoring of information exchange within the framework of the database.

Article 6

Expenses connected with the creation, operating support, and development of the database and with the implementation of measures to protect the information contained within it shall be covered by funds allocated from the budget of the Shanghai Cooperation Organization for the operation of the Regional Anti-Terrorist Structure.

Article 7

The database may be formed in the Russian and Chinese languages.

Article 8

With the consent of the Parties, amendments may be made to the present Agreement in the form of Protocols, which shall constitute an integral part of this Agreement and shall enter into force according to the procedure established by Article 10 of the present Agreement.

Article 9

Any disputes concerning the interpretation or application of the present Agreement shall be settled through consultation and negotiation between the Parties concerned.

Article 10

The present Agreement shall be concluded for an indefinite period and shall enter into force on the thirtieth day from the date the Depositary receives the fourth written notification informing it of the completion of internal procedures necessary for the present Agreement to enter into force.

The Depositary for the present Agreement shall be the Secretariat of the Shanghai Cooperation Organization.

The present Agreement is open for accession by states that are members of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001. For an acceding state, the present Agreement shall enter into force on the thirtieth day from the receipt by the Depositary of a document regarding its accession.

Any of the Parties may withdraw from this Agreement by notifying the Depositary in writing 12 months prior to the date of anticipated withdrawal. The Depositary shall inform the Parties of this intention within 30 days from the date it receives the notification of withdrawal.

Done at _____ on _____ 200_ in one original copy in the Russian and Chinese languages, both texts having equal validity.

For the Republic of Kazakhstan
For the Kyrgyz Republic
For the People's Republic of China
For the Russian Federation
For the Republic of Tajikistan
For the Republic of Uzbekistan

Moscow
28 June 2004
N 1020

Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism, and Extremism

*Adopted by Resolution No. 1
of 5 June 2005
of the Council of Heads
of SCO Member States*

The member states of the Shanghai Cooperation Organization (hereafter SCO member states) shall accept the Concept of Cooperation Between Member States of the Shanghai Cooperation Organization in Combating Terrorism, Separatism, and Extremism (hereinafter Concept), which is fundamental for the development of a joint strategy and system of measures for combating terrorism, separatism, and extremism as they are defined by the Shanghai Convention on Combating Terrorism, Separatism and Extremism of 15 June 2001, within the framework of the Shanghai Cooperation Organization (hereinafter SCO).

The present Concept shall determine the fundamental goals, objectives, principles, avenues, and forms of cooperation between SCO member states in combating terrorism, separatism, and extremism, as well as the mechanism of its implementation.

I. General Provisions

The SCO member states proceed on the basis that terrorism, separatism, and extremism:

- constitute a threat to international peace and security and impede the development of friendly relations between states and the enjoyment of fundamental human rights and freedoms;
- threaten the territorial integrity and security of SCO member states and their political, economic, and social stability;
- cannot be justified under any circumstances, regardless of their motives, and the perpetrators of such acts must be prosecuted under the law.

The SCO member states are convinced that the UN is the main center for the regulation of international relations and for developing cooperation in the realm of ensuring international security.

The SCO member states emphasize their adherence to the goals and principles of the United Nations and to other generally-recognized principles and norms of international law concerning the maintenance of international peace, security, and the promotion of good-neighborly and friendly relations and cooperation between states.

The SCO member states intend to actively participate in anti-terrorist actions conducted both under the aegis of the UN and within the framework of regional organizations. The necessity and degree of participation shall be in proportion to their national interests and international obligations.

The SCO member states intend to take all possible measures in combating terrorism, separatism, and extremism within SCO territory and shall not provide asylum to individuals accused or suspected of committing such acts.

The SCO member states view combating terrorism, separatism, and extremism within the framework of the SCO as a foreign policy objective of the greatest importance and consider that the development of additional mechanisms of international cooperation in this area must become an appropriate step in increasing and modernizing the capacity for swift anti-crisis reaction and must facilitate the effective joint use of opening possibilities and the countering of new challenges and threats.

SCO member states proceed on the basis that combating terrorism, separatism, and extremism on SCO territory using their own forces has a priority significance.

II. Fundamental Goals, Objectives, and Principles of Cooperation

1. The fundamental goals of cooperation shall be:

- protecting SCO member states, their citizens, and other individuals on their territories from the threats of terrorism, separatism, and extremism;
- developing the anti-terrorist capacity of SCO member states.

2. The fundamental objectives of cooperation are:

- developing common approaches of SCO member states toward combating terrorism, separatism, and extremism;
- improving the legal bases of cooperation, as well as developing and harmonizing the legislation of SCO member states in the realm of combating terrorism, separatism, and extremism;
- uncovering and eliminating the reasons and conditions that promote terrorism, separatism, and extremism, and mitigating their consequences on SCO member territories;
- preventing and halting terrorism, separatism, and extremism on SCO member territories;
- counteracting the financing of terrorism, separatism, and extremism in any form;
- increasing the effectiveness of the collaboration between the competent agencies of SCO member states in preventing, uncovering, halting, and investigating terrorism, separatism, and extremism, and in uncovering and halting the activities of organizations and individuals associated with them;

- assisting in the strengthening of international anti-terrorist cooperation and in the creation of a world atmosphere that completely rejects terrorism, separatism, and extremism.

3. The SCO member states are guided by the following principles in accomplishing the fundamental goals and resolving the fundamental objectives of cooperation in combating terrorism, separatism, and extremism:

- the observation of generally-recognized principles and norms of international law;
- mutual trust;
- mutual respect for sovereignty, equality, and territorial integrity;
- the impermissibility of applying double standards in international efforts to combat terrorism, separatism, and extremism;
- reciprocal recognition of a terrorist, separatist, or extremist act regardless of whether the legislation of SCO member states includes a corresponding act in the same category of crimes or whether the act is described using the very same terms;
- the uncompromising nature of combating and the inescapability of punishment of individuals and organizations for terrorism, separatism, and extremism:
- complex approach to combating terrorism, separatism, and extremism using preventative, legal, political, social and economic, propagandistic, and other measures;
- the impermissibility of attributing combating terrorism to confessional and other overtones;
- non-provision of support in any form to organizations and individuals associated with terrorist, separatist, and extremist activity;
- non-provision of asylum to individuals associated with terrorist, separatist, and extremist activity;
- unity of approach to the opportunity for taking adequate measures should threats arise from terrorism, separatism, and extremism to the security of SCO member states;
- mutual protection of confidential information received in the process of cooperation;
- acknowledgment of the priority of joint decisions on issues of combating terrorism, separatism, and extremism;

III. Fundamental Avenues of Cooperation

The fundamental avenues of cooperation shall be:

1. The formation of a single policy by SCO member states in the realm of combating terrorism,

separatism, and extremism and the effectuation of inter-state coordination of this activity.

2. The development of unified approaches to stopping the activity of terrorist, separatist, and extremist organizations prohibited in SCO member states, including the creation of a unified list of such organizations with subsequent confiscation of their property and financial resources.
3. The development and implementation of the anti-terrorist capacity of SCO member states.
4. The inevitability of punishment for terrorism, separatism, and extremism.
5. Creating and maintaining a single search registry of individuals wanted internationally for committing crimes of a terrorist nature or who are suspected of committing crimes of a terrorist nature.
6. Improving the legal basis of cooperation in combating terrorism, separatism, and extremism.
7. Developing and implementing a multinational system of measures for combating terrorism, separatism, and extremism.
8. Developing legal, organizational, and other measures aimed at strengthening border and customs control with the goal of preventing terrorists, separatists, and extremists from penetrating SCO territory, and halting the illegal transport across the borders of SCO member states of resources used to commit terrorism, separatism, and extremism.
9. Research and technological, informational, and analytical support for combating terrorism, separatism, and extremism.
10. Providing assistance in mitigating consequences and in rehabilitating individuals injured by terrorism, separatism, and extremism.
11. Prohibiting access by terrorists, separatists, and extremists to weapons of mass destruction and to the means of acquiring them, and to radioactive, toxic, and other dangerous substances, materials and the technologies for producing them.
12. Counteracting all forms of financing terrorism, separatism, and extremism.
13. Combating terrorism at facilities of national importance, vital facilities, critical infrastructure, and on all forms of transportation.
14. Preventing the use or threatened use of local and global computer networks for purposes of terrorism (combating cyberterrorism).
15. Collaboration with civil society and the mass media for purposes of counteracting terrorism, separatism, and extremism.
16. Alignment of positions for participation in international organizations and forums regarding issues of combating terrorism, separatism, and extremism.

17. Participating in uniting the forces of the world community in formulating a global strategy for counteracting terrorism, separatism, and extremism.
18. Assisting third countries in combating terrorism, separatism, and extremism.
19. Improving the material and technical basis for combating terrorism, separatism, and extremism, including the development of special items, technology, and equipment for supplying special anti-terrorist units.
20. Compiling and circulating experiences on joint combating of terrorism, separatism, and extremism.
21. Training, retraining, and further specialized training of personnel for competent agencies of SCO member states.
22. Shaping public consciousness of the necessity of uncompromising struggle with terrorism, separatism, and extremism.

IV. Fundamental Forms of Cooperation

The fundamental forms of cooperation are:

1. Conducting concerted preventive activities.
2. Conducting concerted operational search and investigative actions.
3. Conducting joint anti-terrorist activities.
4. Exchanging operational search, informational, and forensic information, including information on acts of terrorism, separatism, and extremism in the course of preparation or that have been committed, the individuals and organizations associated with them, and the creation of specialized databases and communication systems, including a confidential one.
5. Providing legal assistance.
6. Organizing and conducting joint anti-terrorist exercises, personnel development, exchanging work experience and methodical literature on issues of combating separatism, and extremism, and carrying out joint academic research in said field.

V. Mechanism for Implementing the Concept

SCO member states shall develop international treaties, joint programs and plans of action within the framework of the SCO, and other documents for the purposes of implementing the provisions of the present Concept.

The Executive Committee of the Regional Anti-Terrorist Structure of the SCO shall carry out operational coordination, international legal activity, and information analysis in implementing the concerted decisions concerning the cooperation of SCO member states in combating terrorism, separatism, and extremism, and shall prepare proposals and recommendations to the Council of the SCO Regional Anti-Terrorist Structure for report to the Council of Heads of State and to the Council of Heads of Government of SCO Member States.

Individual provisions of the present Concept may be amended and supplemented taking into account the further development of integrated processes and the strengthening of cooperation between SCO member states.

Protocol on Establishment of the SCO-Afghanistan Contact Group between the Shanghai Cooperation Organisation and the Islamic Republic of Afghanistan

The Contact Group between the Shanghai Cooperation Organisation (hereinafter the SCO) and the Islamic Republic of Afghanistan (hereinafter Afghanistan) is established with the purpose of elaborating proposals and recommendations on realisation of cooperation between the SCO and Afghanistan on issues of mutual interest.

The Contact Group consists of Permanent representatives of member states to the SCO Secretariat, Secretariat officers and senior diplomats of the Embassy of the Islamic Republic of Afghanistan to the People's Republic of China.

If necessary, meetings of the Contact Group can involve representatives of other SCO bodies, as well as experts of SCO member states and the Islamic Republic of Afghanistan.

The Contact Group conducts its activity in the form of consultations, which are held by mutual agreement on the premises of the SCO Secretariat and/or the Embassy of Afghanistan to the People's Republic of China. By mutual agreement, meetings can be held in other places.

Coordination is carried out:

- on the part of the SCO – by an SCO Secretariat officer;
- on the part of Afghanistan – by an authorised senior diplomat of the Embassy of Afghanistan to the People's Republic of China.

If necessary, under mutual coordination, Contact Group members can travel to Afghanistan for consultations with competent Afghan institutions. Dispatching parties cover the expenses, related to trips by the Contact Group members to Afghanistan.

The working languages of the Contact Group are Chinese, Russian and English.

The Contact Group stops its activity by mutual agreement.

By mutual agreement, amendments and supplements can be made to the document. They are then formalised by separate protocols, which come into force from the date of their signature.

Signed in Beijing 2005, November 4 in two copies in the Chinese, Russian and English languages, all texts being equally authentic. This Protocol comes into force from the date of its signature.

Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization

Member States of the Shanghai Cooperation Organization (hereinafter referred to as “the SCO”, or “Organization”): the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan, the Republic of Uzbekistan, hereinafter referred to as “the Contracting Parties”;

Bound by historical ties of good-neighborliness, friendship and cooperation;

Guided by the goals and principles of the Charter of the United Nations, universally recognized principles and norms of international law, as well as by the Charter of the Shanghai Cooperation Organization of 7 June 2002;

Convinced that strengthening and deepening relations of good-neighborliness, friendship and cooperation between the Member States of the Organization corresponds to the fundamental interests of their peoples and contributes to peace and development in the SCO space and in the whole world;

Recognizing that globalization processes increase interdependence of States, as a result of which their security and prosperity are becoming inextricably intertwined;

Believing that contemporary challenges and threats to security have a global nature and can only be effectively met through joint efforts and adherence to the agreed principles and interaction mechanisms;

Mindful of the need to respect cultural and civilizational variety of the contemporary world;

Reaffirming their readiness to expand mutually beneficial cooperation between them and with all interested States and international organizations to promote a just and rational world order creating favorable conditions for a sustainable development of the Organization's Member States;

Reaffirming further that this Treaty shall not be directed against any States or organizations, and that the Contracting Parties shall follow the principle of openness to the other countries of the world;

Seeking to make the SCO space a region of peace, cooperation, prosperity and harmony;

Guided by the intention to contribute to more democratic international relations and to the establishment of a new architecture of global security on the basis of equality, mutual respect, mutual trust and benefit, as well as abrogation of a bloc-based and ideological division;

Determined to strengthen friendly relations between the Organization's Member States so that friendship between their peoples is handed down from generation to generation;

Have agreed as follows:

Article 1

The Contracting Parties shall develop long-term relations of good-neighborliness, friendship and cooperation in the areas of mutual interest for the Contracting Parties in accordance with universally recognized principles and norms of international law.

Article 2

The Contracting Parties shall settle differences between them peacefully, using, as a guidance, the Charter of the United Nations and universally recognized principles and norms of international law, as well as the Charter of the Shanghai Cooperation Organization of 7 June 2002.

Article 3

The Contracting Parties shall respect each other's right to choose ways of political, economic, social and cultural development, taking into account the historical background and national peculiarities of each State.

Article 4

The Contracting Parties, respecting principles of state sovereignty and territorial integrity, shall take measures to prevent on their territories any activity incompatible with these principles.

The Contracting Parties shall not participate in alliances or organizations directed against other Contracting Parties and shall not support any actions hostile to other Contracting Parties.

Article 5

The Contracting Parties shall respect the principle of inviolability of borders and make active efforts to build confidence in border regions in the military sphere, determined to make the borders with each other borders of eternal peace and friendship.

Article 6

In case of a situation threatening its security, a Contracting Party may hold consultations within the Organization with other Contracting Parties to provide an adequate response to the situation that emerged.

Article 7

The Contracting Parties shall make efforts within the framework of the SCO to maintain and strengthen international peace and security, and shall promote coordination and cooperation in such areas as safeguarding and strengthening the role of the United Nations, maintaining global and regional stability, advancing international arms control process, preventing the proliferation of weapons of mass destruction and their delivery means; they shall also hold regular consultations on those issues.

Article 8

The Contracting Parties, in accordance with their national legislations and on the basis of observing generally recognized principles and norms of international law, international treaties, to which they are parties, shall actively develop cooperation to counteract terrorism, separatism and extremism; illegal trafficking in drugs, psychotropic substances and their precursors and arms; other forms of transnational criminal activity; as well as illegal migration.

The Contracting Parties, in accordance with their national legislations and on the basis of international treaties, to which they are parties, shall build up their interaction in searching, apprehending, extraditing and transferring persons suspected of, charged with or sentenced for committing crimes related to terrorist, separatist, extremist activities or other crimes.

The Contracting Parties shall develop cooperation in the field of state border security and customs control, regulation of labor migration, and provision of financial and information security.

Article 9

The Contracting Parties shall promote contacts and cooperation between law enforcement and judicial authorities of the Contracting Parties.

Article 10

The Contracting Parties shall develop various forms of cooperation between their Defense Ministries.

Article 11

The Contracting Parties shall develop cooperation in such fields as promoting the implementation of human rights and fundamental freedoms in accordance with their international obligations and national legislations.

The Contracting Parties in accordance with their international obligations as well as national legislations, shall guarantee in their territories the observance of legitimate rights and interests of citizens of the other Contracting Parties residing in their territories, and shall facilitate the provision of necessary mutual legal assistance.

Article 12

The Contracting Parties shall recognize and protect each other's legitimate rights and interests relative to the property possessed by a Contracting Party in the territory of another Contracting Party.

Article 13

The Contracting Parties shall strengthen economic cooperation on the basis of equality and mutual benefit and shall create favorable conditions for developing trade, encouraging investments and exchanging technologies within the framework of the SCO.

The Contracting Parties shall facilitate economic activities including the provision of legal conditions for activities, in their territories, of natural and legal persons of other Contracting Parties, who are engaged in a legal economic activity, as well as the protection in their territory of legitimate rights and interests of such natural and legal persons.

Article 14

The Contracting Parties shall develop cooperation in international financial institutions, economic organizations and fora, of which they are members, and shall facilitate membership of other Contracting Parties in those organizations in accordance with the statutory provisions of such institutions, organizations and fora.

Article 15

The Contracting Parties shall develop cooperation in the sphere of industry, agriculture, finance, energy, transport, science and technology, innovation, information, telecommunications, air space, and other spheres of mutual interest to them and shall encourage various forms of regional projects.

Article 16

The Contracting Parties shall take all possible measures to promote cooperation in the legal sphere; hold regular exchanges of information on the legislation under development, adopted or in force; and cooperate in the development of international legal instruments.

The Contracting Parties shall encourage contacts and cooperation between their legislative authorities and their representatives.

Article 17

The Contracting Parties shall develop cooperation in providing environmental protection, ecological security and sound environmental management and shall take necessary measures to develop and implement special programs and projects in these fields.

Article 18

The Contracting Parties shall render mutual support and assistance in preventing natural and technogenic emergencies and mitigating consequences thereof.

Article 19

The Contracting Parties shall develop mutual exchanges and cooperation in the fields of culture, art, education, science, technologies, health, tourism, sport and other social and humanitarian spheres.

The Contracting Parties shall mutually promote and support direct links between cultural, educational, scientific and research institutions; joint scientific and research programs and projects; as well as cooperation in training, exchange of students, scientists and specialists.

The Contracting Parties shall actively contribute to creating favorable conditions for studying the languages and cultures of other Contracting Parties.

Article 20

This Treaty shall not affect the rights and obligations of the Contracting Parties under other international treaties to which they are parties.

Article 21

To implement this Treaty, the Contracting Parties may conclude international agreements in specific fields of mutual interest.

Article 22

Disputes related to the interpretation or implementation of the provisions of this Treaty shall be settled through consultations and negotiations between the Contracting Parties.

Article 23

This Treaty shall be subject to ratification by the Contracting Parties -Signatories to it.

This Treaty shall be indefinite and shall enter into force from the date of deposit of the last instrument of ratification to the Depositary.

This Treaty shall remain in force for any Contracting Party while it is a Member State of the Organization. Participation of a Contracting Party in this Treaty shall cease automatically from the date of the termination of its membership in the SCO.

Upon entry into force of this Treaty, it shall be open for accession by any State that has become a member of the Organization. For the accessing State this Treaty shall enter into force on the thirtieth day from the date of deposit of the relevant instrument of accession to the Depositary.

Article 24

This Treaty may be amended and supplemented by separate protocols as agreed upon by all the Contracting Parties.

Article 25

The original copy of this Treaty shall be deposited with the Depositary. The Secretariat of the Shanghai Cooperation Organization shall be the Depositary of this Treaty and shall transmit to the Contracting Parties certified copies thereof within fifteen days from the date of its signature.

Article 26

This Treaty shall be subject to registration with the United Nations Secretariat in accordance with Article 102 of the UN Charter.

Done in the city of Bishkek on 16 August 2007 in one copy in the Russian and Chinese languages, both texts being equally authentic.

Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organisation

The present Regulations on the status of dialogue partner of the Shanghai Cooperation Organisation (hereinafter referred to as the SCO or the Organisation) in accordance with Article 14 of the SCO Charter of 7 June 2002 (hereinafter referred to as the Charter) determine the legal status of dialogue partner (hereinafter referred to as the Partner), as well as the order and procedure of its granting to an interested state or an international intergovernmental organisation (hereinafter referred to as a state or an organisation).

I. General provisions

- 1.1. The status of Partner is granted to a state or an organisation who shares the goals and principles of the SCO and wishes to establish relations of equal mutually beneficial partnership with the Organisation.
- 1.2. The status of Partner is granted to a state or an organisation who cooperates with the SCO in specific areas of activity envisaged by the Charter and other treaty documents in the framework of the Organisation.

II. Legal status of Partner

- 2.1. The procedure of granting the status.
 - 2.1.1. A state or an organisation who wishes to obtain the status of Partner forwards a letter addressed to the SCO Secretary-General which contains a request to be granted such status and is signed by the minister of foreign affairs or the head of the executive body of an organisation.

The letter outlines areas in which a state or an organisation intends to interact with the SCO.
 - 2.1.2. The SCO Secretary-General notifies the Council of national coordinators of the SCO member states (hereinafter referred to as the CNC) of receiving such letter. The CNC submits the issue with relative proposals to the Council of ministers of foreign affairs of the SCO member states (hereinafter referred to as the CMFA) for consideration.
 - 2.1.3. The letter containing the request to be granted the status of Partner is considered at a CMFA meeting. If necessary, official representatives of a respective state or an organisation can be invited to attend the meeting.

- 2.1.4. A decision to grant the status of Partner is taken by the Council of heads of member states of the SCO (hereinafter referred to as the CHS) on the recommendation of the CFMA.
- 2.1.5. Granting of the status of Partner is finalised in the form of a Memorandum between the SCO and a state or an organisation on conferring the status of Partner on a state or an organisation (hereinafter referred to as the Memorandum). The Memorandum outlines areas in which a state or an organisation will interact with the SCO.
- 2.2. The rights of Partner.
- 2.2.1. The Partner is entitled to participate in:
- a) Meetings of heads of ministries and/or departments of the SCO member states responsible for areas of cooperation outlined in the Memorandum;
 - b) Meetings of working groups, commissions of senior officials and other mechanisms set up by the SCO member states with the aim of conducting cooperation in areas being the subject of partnership;
 - c) Scientific and expert meetings (forums, conferences, workshops), days of culture, festivals, exhibitions, contests, sports competitions and other activities related to areas being the subject of partnership.
- 2.2.2. During the activities envisaged by Paragraph 2.2.1. of the present Regulations the Partner is entitled to make statements on issues being the subject of partnership, to receive documents and materials circulated among participants of the activities (provided these documents and materials are not for limited circulation), to circulate their materials and documents with the consent of the SCO member states.
- 2.2.3. At the Partner's request and with the consent of the member states of the Organisation the text of a statement of its official representative or documents envisaged by Paragraph 2.2.2. of the present Regulations can be posted on the website of the SCO Secretariat, the SCO Regional Economic Cooperation website and/or the website of the Regional Antiterrorist Structure of the SCO (hereinafter referred to as the RATS) together with other materials of a relevant activity.
- 2.3. The order of interaction with the Partner.
- 2.3.1. Upon mutual agreement of the SCO member states and the Partner(s) meetings can be held in the format "SCO member states + Partner(s)" at the level of ministers or plenipotentiary representatives.
- Upon completion of meetings a Protocol is adopted which is signed by relevant representatives of the SCO member states and the Partner(s).
- 2.3.2. The SCO Secretariat and/or the Executive Committee of the SCO RATS sends the Partner on a regular basis copies of open documents of the activities

mentioned in Paragraph 2.2.1. of the present Regulations. A relevant decision takes effect on the day of its signing.

The Partner has a right to request the SCO Secretariat to be given documents and decisions of the SCO bodies mentioned in Article 4 of the Charter, provided they are not for limited circulation.

2.3.3. The status of Partner does not give the right to participate in preparation and signing of documents of the Organisation. The Partner does not participate in formulation of decisions of the SCO bodies and does not bear responsibility for such decisions. During the activities envisaged by Paragraph 2.2.1. of the present Regulations the Partner is entitled to an advisory vote on issues of cooperation enlisted in the Memorandum.

2.3.4. The Partner can maintain regular contacts with the SCO Secretariat and/or the Executive Committee of the SCO RATS through official correspondence.

III. Financial issues

3.1. The Partner bears all expenses with regard to its participation in activities in the SCO framework.

3.2. Issues of financial involvement of the Partner in staging exhibitions, days of culture, festivals, contests, sports competitions and other activities of this kind are regulated by the Memorandum.

3.3. Expenses related to conducting an expert assessment of joint multilateral projects in the SCO framework with the Partner's involvement as well as for other purposes agreed by the parties are covered in accordance with the Memorandum.

3.4. Allocation for partnership purposes of the funds of non-governmental institutions operating in the SCO framework is conducted in accordance with basic documents of such institutions.

3.5. Financial involvement of the Partner in the implementation of joint economic projects in the SCO framework is regulated by respective documents which are concluded separately in each particular case.

IV. Termination of the status of Partner

4.1. A state or an organisation who intends to abandon the status of Partner forwards respective notification to the SCO Secretary-General. The status of Partner becomes invalid on the day of receiving the mentioned notification by the SCO Secretary-General.

4.2. If a state or an organisation with the status of Partner commits actions targeted against the Organisation as well as contradicting decisions of the SCO bodies or the principles set out in the Charter, such a state or an organisation can be stripped of its status of

Partner in accordance with the decision of the CHS, the Memorandum can be terminated by the SCO unilaterally.

The SCO Secretary-General notifies a state or an organisation of a relevant decision.

V. Final provisions

- 5.1. The present Regulations take effect on the day of their approval by the CHS.
- 5.2. Changes and/or additions can be made to the present Regulations in accordance with the decision of the CHS. A respective decision takes effect on the day of its signing

Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization

The member states of the Shanghai Cooperation Organization, hereinafter Parties,

guided by the Charter of the Shanghai Cooperation Organization of 7 June 2002, the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001, the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Terrorist Structure of 7 June 2002, and the Concept of Cooperation Between Member States of the Shanghai Cooperation Organization in Combating Terrorism, Separatism, and Extremism of 5 July 2005,

guided by their national legislation, by generally-recognized principles, and by norms of international law,

aspiring to create a legal basis for conducting joint anti-terrorist exercises on the Parties' territories,

have agreed as follows:

Article 1

For the purposes of the present Agreement the concepts employed in it shall mean:

- 1) exercises – joint anti-terrorist exercises conducted by competent agencies of the Parties on the territory of one or several Parties;
- 2) exercise participants – the personnel of detachments of special anti-terrorist units, individuals included in the personnel of a command authority for exercises, and other individuals engaged in conducting exercises;
- 3) special anti-terrorist units – groups of specialists formed by each Party in accordance with its national legislation to conduct exercises;
- 4) special items and supplies – arms and military technology, weapons and ammunition, equipment, means of communication, munitions for special anti-terrorist units; technical, transport, and other special items and materials used during the course of conducting anti-terrorist exercises;
- 5) receiving Party – the Party receiving the exercise participants and the special items and supplies of the sending Parties on its territory for the period the exercises are conducted;
- 6) sending Party – the Party sending the exercise participants and the special items and supplies to the territory of the receiving Party for the conducting of exercises;

- 7) transit Party – the Party through whose territory the exercise participants and the special items and supplies of the sending Party are transported to the territory of the receiving Party and back;
- 8) third party – a state that is not a sending Party, a receiving Party, or a transit Party, its natural and/or legal persons, and international inter-governmental organizations;
- 9) performing official duties by exercise participants – presence at deployment sites and other places upon agreement with the receiving Party, proceeding (transit) to these regions (places) and back, including through the territory of a transit Party, and actions performed in the exercise area in fulfilling objectives related to the exercises, with the exception of: ‘
- 10) unauthorized departure from deployment sites or exercise areas,
- 11) voluntary intoxication by narcotics, alcohol, or toxic substances;
- 12) damage – physical, moral, material, and other forms of damage, the responsibility for causing which is provided for by the national legislation of each of the Parties;
- 13) exercise area – local areas within the borders of the receiving Party’s territory designated for the conducting of exercises;
- 14) deployment site – territory designated by the receiving Party for accommodating the exercise participants of the Parties;
- 15) Council of SCO RATS – the Council of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization;
- 16) Executive Committee of SCO RATS – the Executive Committee of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization;
- 17) competent agency – a state body of a Party that combats terrorism in accordance with the Party’s legislation;

Article 2

The goal of conducting exercises is the preparation of special anti-terrorist units for joint activities of the Parties upon the commission or arising of a threat of commission of a terrorist act on their territories.

Article 3

The fundamental objectives of the exercises are:

- 1) increasing the level of cohesiveness of government agencies within the leadership by the use of special anti-terrorist units;
- 2) improving the practical capabilities of exercise participants and producing effective forms and

methods of conducting joint anti-terrorist activities;

- 3) practical development of issues of coordinating the actions of special anti-terrorist units
- 4) development of new approaches and methods, and exchanging experience in conducting anti-terrorist activities.

Article 4

A resolution on conducting exercises shall be adopted by the Council of SCO RATS. The duration of conducting exercises shall be determined by the Council of SCO RATS, taking into account the opinion of the Parties whose participation in the forthcoming exercises is anticipated.

After adoption of a resolution on conducting exercises, the coordination of issues connected with their preparation shall take place in the course of consultations of the Parties. The results of the consultations shall be formulated as a protocol.

The Parties shall organize and conduct exercises on their territories according to the order of their names in the Russian alphabet.

The Executive Committee of SCO RATS shall assist in their collaboration in preparing and conducting exercises at the request of the SCO member states concerned.

Each Party has the right to submit a request to the Council of SCO RATS that exercises be conducted on its territory out of sequence.

In the event a Party cannot or will not participate in exercises, the Party shall inform the Executive Committee of SCO RATS of this in written form no later than two months before the exercises begin with an explanation of the reasons preventing participation in the exercises.

Article 5

An exercise commander and his deputies shall be appointed for the preparation and conducting of the exercises and a command authority for exercises shall be created.

The exercise commander shall be appointed from the leaders (representatives) of the receiving Party's competent agencies. His deputies shall be appointed from the representatives of the sending Party's competent agencies.

The staff and structure of the command authority for exercises and the procedure for conducting exercises shall be determined by agreement of the receiving Party and the sending Party;

Article 6

The Parties, upon the agreement of the command authority for exercises, shall determine the degree of their participation, their staff, and the number of exercise participants;

With the consent of the Parties, representatives of third parties may be invited by the Executive Committee of SCO RATS to the exercises as observers.

Article 7

The receiving Party shall designate the exercise area and shall create the conditions for:

- 1) producing the plan of exercises, which shall be coordinated with the sending Party through the Executive Committee of SCO RATS and confirmed by agreement of the Parties;
- 2) preparation of summarizing documents and other documents connected with the exercises;
- 3) providing access to its territory and to that territory's use in accordance with its national legislation;
- 4) the entrance, movement, and exit of exercise participants, their accommodations at the deployment site, the transport of special items and supplies through its territory, and the crossing of state borders (including clearing customs and border procedures);
- 5) taking necessary measures for the guarding and protection of the exercise participants and the special items and supplies, and for arranging the cordoning of the exercise area;
- 6) freeing the sending Party from payment of tax, customs, and insurance fees, and other obligatory payments.

Article 8

The sending Party:

- 1) shall respect the sovereignty and customs of the receiving Party and/or the transit Party;
- 2) shall observe the legislation of the receiving Party and/or the transit Party;
- 3) shall not interfere in the internal affairs of the receiving Party and/or the transit Party;
- 4) shall not participate in political activities on the territory of the receiving Party and/or the transit Party;
- 5) shall follow the border and customs procedures of the receiving Party and/or the transit Party;
- 6) shall follow the routes agreed upon with the receiving Party and/or transit Party for moving exercise participants and transporting special items and supplies;
- 7) shall assist the receiving Party and/or the transit Party in adopting necessary measures to protect and defend the exercise participants and the special items and supplies;

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- 8) shall ensure the safety of the property utilized, the natural resources, and the cultural, historical, and other facilities of the receiving Party and/or the transit Party;
 - 9) shall observe environmental safety standards on the territory of the receiving Party and/or transit Party;

Article 9

The transit Party:

- 1) shall grant permission and assist the entrance, travel, and exit of exercise participants, as well as the import, transport, and export of special items and supplies by the sending Party through its territory;
- 2) shall free the sending Party from payment of tax, customs, insurance fees, and other obligatory payments.

Article 10

No later than two months before exercises begin, the sending Party shall notify the receiving Party of the real property necessary for accommodating the exercise participants at the deployment site and of the necessary special items and supplies.

The receiving Party shall provide the sending Party's exercise participants with real property, water, and electricity, and shall ensure medical service and create living conditions and daily life to the extent necessary for them to fulfill their assigned objectives. When necessary special items and supplies shall be provided by the receiving Party upon mutual agreement.

Transportation and other services shall be provided upon agreement between the Parties' competent agencies.

Article 11

The receiving Party and/or the transit Party shall recognize as valid the national driver's license of the sending Party's exercise participants.

Article 12

Exercise participants shall cross the state border at crossing points agreed upon by the Parties in a visa-free procedure according to nominal rolls upon producing documents that verify their identity.

The form and procedure for compiling the nominal roll of the sending Party's exercise participants and the list of special items and supplies shall be determined upon the agreement of the Parties;

The nominal roll of exercise participants must include information about the individuals and must indicate last names, first names, patronymic, gender, date of birth, the series and number of the

document verifying identity, the purpose of the entrance, and the period of time that will be spent on the territory of the receiving Party.

The list of special items and supplies must include the name, number, and make of special items and supplies.

The nominal roll of exercise participants and the list of special items and supplies shall be issued by the sending Party in the Chinese and Russian languages and shall be presented to the receiving Party and the transit Party no later than 30 days before the planned date of border crossing by the receiving Party and/or the transit Party.

Article 13

Items for personal use by individuals included in the personnel of the sending Party's exercise participants, as well as currency valuables, shall be transported across the Parties' borders in accordance with the legislation of the receiving Party and/or the transit Party.

The Parties shall effectuate customs processing and customs control over special items and materials transported across the customs borders of the Parties in accordance with the present Agreement, in a simplified procedure.

Each Party's customs agency shall have the right, in the manner and under the conditions established by their national legislation, to conduct a personal examination and examination of the exercise participants' luggage and to confiscate objects that are prohibited or whose import and export is restricted in accordance with their national legislation, with the exception of special items and supplies of the Parties that have been included in the relevant list.

The Parties' packed official documents provided with appropriate means of identification are inviolable and not subject to customs inspection, opening, or detention.

Article 14

The receiving Party, in accordance with its national legislation and upon agreement with the sending Party, shall have the right to arrange quarantine measures on its territory in regard to the sending Party's exercise participants, their personal things, special items, and supplies.

Article 15

Transportation by air of exercise participants and their special items and supplies shall be conducted upon the agreement with the corresponding agencies of the parties that are responsible for issues of organizing international air transport.

Air traffic shall be conducted on routes and in zones (regions) established by the receiving Party and/or the transit Party. The navigational and airport technical support and the security of aircraft participating in exercises or transporting participants shall be conducted at military and civilian airports by agreement of the Parties.

Air traffic control on international lines shall be conducted by the air traffic control agencies of the Parties in accordance with flight information zones established by the Parties.

The security of aircraft flights performing international transportation for the purposes of implementing the present Agreement shall be effectuated in accordance with international treaties of which the Parties are members and the national legislation of the Party in whose airspace the flights are being conducted.

The Parties shall use joint groups (commissions) to monitor compliance with flight safety requirements and to investigate aviation accidents and incidents involving the aircraft of SCO member states in solving problems connected with the implementation of the present Agreement that involve the aviation personnel of several Parties. The procedure for creating joint groups (commissions) shall be determined by the command authority for exercises upon agreement of the Parties during the period of exercise preparation. The leader of the joint group (commission) shall be appointed from the representatives of the receiving Party.

In the event of emergency (natural disaster, weather conditions unfavorable to flight, malfunction aboard an aircraft), the air traffic control agencies of the Parties shall provide assistance to aircraft engaged in transport of exercise participants, including providing an alternate airfield for a forced landing.

Search and rescue support for aircraft flights shall be organized by the forces and facilities of the Parties on a gratuitous basis.

Article 16

The entry of the sending Party's military (police) ships and auxiliary vessels into the territorial sea, internal sea waters, and inland waterways of the receiving Party shall be conducted in accordance with the national legislation of the receiving Party and the international treaties of which the Parties are members.

The provision by the receiving Party of pilotage, tugboats, and port services to the military (police) ships and auxiliary vessels of the sending Parties shall be conducted according to a separate agreement between the Parties.

Article 17

The legislation of the receiving Party that regulates registration and migration control and the presence and movement of foreign citizens shall not extend to the exercise participants.

The sending Party's exercise participants shall not possess the right to permanent residence on the territory of the receiving Party.

Article 18

During the period exercises are conducted exercise participants must bear distinguishing marks agreed upon between the Parties.

During the period of exercises, military and other technology of the Parties' special anti-terrorist units must have clearly visible registration numbers and distinguishing marks.

Article 19

During their presence in the exercise area, the sending Party's exercise participants shall have the right to keep, bear, employ, and use on the territory of the receiving Party, at the deployment site, and in other places upon agreement with the receiving Party, special items and supplies for the fulfillment of objectives envisioned by the exercise plan, for protective functions.

The use of special items and supplies while exercises are being conducted shall occur in accordance with the legislation of the receiving Party.

Article 20

The sending Party must inform the receiving Party and the transit Party without delay of the loss of special items and supplies and of the absence of exercise participants from the deployment site.

Where necessary at the request of the receiving Party each of the Parties shall provide the necessary assistance in searching for lost special items and supplies and in ascertaining the location of exercise participants.

A Party that finds lost special items and supplies or that ascertains the location of missing exercise participants shall take measures for their transfer to the corresponding Party.

Article 21

The Parties shall bear expenses connected with the fulfillment of the present Agreement independently in the absence of another agreed-upon procedure for each specific case.

The sending Party shall reimburse expenses connected with the use of all special items and supplies provided to the sending Party at its request on the basis of mutual agreement.

Article 22

Public disclosure regarding the progress and results of the exercises shall be made by the Parties and the Executive Committee of SCO RATS in an agreed form and extent.

Article 23

Dissemination of information is prohibited:

- 1) regarding exercise participants;
- 2) that reveals special technical approaches, tactics, and methods of conducting exercises;

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- 3) regarding the characteristics of special items and supplies used in conducting exercises;
 - 4) which is prohibited for dissemination upon agreement of the Parties.

Measures to protect the information referred to in the present article and the responsibility for its unauthorized dissemination shall be determined in accordance with the international agreements of which the Parties are members and the national legislation of each Party.

Article 24

The receiving Party shall send informational and analytical materials about the exercises conducted to the Parties and the Executive Committee of SCO RATS.

Article 25

The special items and supplies of each of the Parties are their own and may not be detained and/or alienated in any form.

Unused special items and supplies shall be removed from the territory of the receiving Party by the sending Party after the conclusion of the exercises.

If special circumstances make it impossible to remove the special items and supplies, the decision about their use or destruction shall be made on the basis of agreement between the sending Party and the receiving Party.

Article 26

The Parties shall be guided by the following principles regarding issues of jurisdiction with regard to the sending Party's exercise participants:

- 1) In the event exercise participants from among the citizens of the sending Party commit offenses against their sending Party or against the exercise participants from among the citizens of their Party, or in the event they commit offenses while performing official duties, the jurisdiction of the sending Party shall be exercised;
- 2) in the event exercise participants commit offenses not classified as offenses referred to in paragraph 2 of this article, the jurisdiction of the receiving Party or the transit Party shall be exercised.

The sending Party may conduct a preliminary investigation in the event offenses are committed against the sending Party or the sending Party's exercise participants by undetermined individuals at the deployment sites of the exercise participants. When the individual that has committed the offense has been ascertained, the procedure specified by the present Agreement shall be followed.

The competent agencies of the Parties that are empowered to conduct procedural actions shall collaborate among themselves directly and shall provide each other with assistance in conducting investigations, in collecting and providing evidence connected with the offenses, in ascertaining

location (search), and in detaining and arresting (holding under guard) exercise participants suspected or charged with committing offenses.

The Parties' exercise commanders also have the right to communicate directly within the limits of their competence.

The sending Party shall inform the receiving Party without delay of the detention of the receiving Party's exercise participants and other individuals.

The receiving Party shall inform the sending Party without delay of the detention of the sending Party's exercise participants.

The Parties shall be guided by the international treaties of which they are members and by national legislation upon the detention, arrest (taking under guard), and conducting of other procedural actions, and upon the transfer of exercise participants suspected of committing offenses, or upon the provision of legal assistance.

In each event when in relation to exercise participants the sending Party shall effect criminal investigation of/by the receiving Party, the sending Party has the right to the presence of its representative at the criminal and the investigated person has the right:

- 1) to prompt and speedy conducting of investigation and trial;
- 2) from the beginning of the criminal investigation to receive information regarding the specific charge against him;
- 3) to confront the witnesses of the government and the other participants of the criminal proceedings;
- 4) to call defense witnesses if they are within the jurisdiction of the receiving Party;
- 5) to the assistance of an attorney of his choice or to the assistance of an attorney without cost;
- 6) to the services of an interpreter;
- 7) to maintain communication with a representative of the sending Party.

The Parties may request each other to transfer or to accept jurisdiction over criminal cases concerning offenses committed by exercise participants. These requests shall be reviewed without delay.

The competent agencies of the Parties that are empowered to conduct procedural actions, in accordance with the international treaties of whom the Parties are members and with national legislation, shall apprise one another of the results of investigation and trial in all criminal matters in relation to which the Parties have competing jurisdiction.

Article 27

The Parties shall refrain from presenting claims concerning damage inflicted by exercise participants to other exercise participants during their performance of their official duties.

The procedure for compensating damage inflicted by exercise participants upon other exercise participants other than during their performance of their official duties shall be determined by separate agreements between the competent agencies of the relevant Parties. If an issue regarding compensation for damage is not resolved by agreement, the receiving Party has the right for it to be considered in accordance with its national legislation.

In the event the relevant parties bear responsibility in regard to the damage provided for by Paragraph 2 and Paragraph 3 of this Article, and the degree of responsibility cannot be determined, the Parties shall provide compensation for the damage in equal shares.

Damage inflicted by exercise participants upon a third party shall be compensated in accordance with the following provisions:

The legislation of the receiving Party shall be applied. A decision that has entered into legal force regarding the payment of compensation or the refusal of such compensation and that has been issued by a court of competent jurisdiction of the receiving Party shall be final;

the receiving Party may organize consultations with the participation of the parties concerned for the settlement of claims by a third party.

Payments for compensation of damage shall be made in the currency of the receiving Party.

The Parties shall cooperate for the purposes of receiving proof and arranging an impartial review of claims in accordance with this article. Upon the decision of the Parties a commission may be formed to investigate incidents that have given rise to the infliction of damage upon a third party.

Article 28

Benefits, guarantees, and compensation established by the sending Party's national legislation shall be preserved to the full extent for exercise participants of the sending Party and their family members. This procedure shall be applied in the event the damage was inflicted during the period the sending Party's exercise participants were present on the territory of the receiving Party, or during transit through the territory of another Party.

Article 29

The Parties shall determine the competent agencies responsible for implementing the present Agreement in accordance with their national legislation and shall inform the Depositary of it simultaneously with the notice that the internal procedures necessary for the entry into force of the present Agreement have been completed, and when there has been a change of the competent agencies and/or their names.

The Depositary shall inform the other Parties of this within 15 days from the date it receives the notification from a Party of the specific agency it has designated.

Article 30

The Parties shall resolve disputes that may arise between them in connection with the interpretation or application of the provisions of the present Agreement through consultations and negotiations.

Article 31

The present Agreement shall not affect the rights and obligations of the Parties arising under other international treaties of which they are members.

Article 32

In cooperating within the framework of the present Agreement the official and working languages shall be Chinese and Russian.

Article 33

With the consent of the Parties amendments and additions may be made to the present Agreement in the form of separate protocols.

Article 34

The present Agreement shall enter into force on the thirtieth day from the date the Depositary receives the fourth written notification informing it of the completion of internal procedures necessary for the present Agreement to enter into force. For parties completing internal procedures at a later time, it shall enter into force on the date they submit written notification to the Depositary.

The present Agreement shall be concluded for an indefinite period.

The Depositary of the present Agreement shall be the Secretariat of the Shanghai Cooperation Organization, who shall transmit to the Parties certified copies of the present Agreement within fifteen days from the date of its signing.

The present Agreement shall be open for accession by states that are members of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001. For an acceding state this Agreement shall enter into force on the thirtieth day from the date the Depositary receives the instrument of accession.

The present Agreement shall cease to be in force for any of the Parties if that Party ceases to be a member state of the Shanghai Cooperation Organization.

Article 35

Any of the Parties may withdraw from this Agreement by notifying the Depositary in writing 12 months prior to the date of anticipated withdrawal. The Depositary shall inform the other Parties of this intention within 30 days from the date it receives the notification of withdrawal.

Done in the city of Dushanbe on 28 August 2008 in one original copy in the Russian and Chinese languages, both texts having equal validity.

For the Republic of Kazakhstan

For the People's Republic of China

For the Kyrgyz Republic

For the Russian Federation

For the Republic of Tajikistan

For the Republic of Uzbekistan

The Convention on Counter-Terrorism of the Shanghai Cooperation Organization

The member states of the Shanghai Cooperation Organization,

Deeply concerned by the escalation of terrorism, which threatens international peace and security, the territorial integrity of states, the development of friendly relations between states, as well as fundamental human rights and freedoms,

Reaffirming the objectives and principles of the United Nations Charter and the Charter of the Shanghai Cooperation Organization of 7 June 2002,

Pursuant to the provisions of the Shanghai Convention on Combating Terrorism, Separatism, and Extremism of 15 June 2001 and the Concept of Cooperation Between SCO Member States on Combating Terrorism, Separatism, and Extremism of 5 July 2005,

Convinced that there can be no justification for crimes covered by this Convention, and that individuals and legal entities perpetrating and (or) complicit in such acts must not escape persecution and punishment,

Taking into account the evolving scope and nature of terrorist acts, and the importance of revitalizing cooperation in this regard,

Understanding the need for ever-expanding efforts in counter-terrorism, and reaffirming that all such efforts must abide by the rule of law, democratic values, fundamental human rights and freedoms, as well as the precepts of international law,

Convinced that the battle against terrorism will be won only through joint efforts,

Have agreed upon the following:

Article 1

The chief aim of this Convention is to promote effective cooperation between contracting states in a common struggle against terrorism.

Article 2

1. For the purposes of this Convention the terms used herein are defined as follows:
 - 1) *Party* - a signatory to this Convention;
 - 2) *terrorism* - an ideology of violence, and the practice of exerting influence on the decision-making of governments or international organizations by threatening or committing violent and (or) other criminal acts, connected with intimidating the population and aimed at causing injury to private individuals, society or the state;

3) *terrorist act* - any act connected with intimidating the population, endangering human life and well-being, and intended to cause significant property damage, ecological disaster or other grave consequences in order to achieve political, religious, ideological or other ends by exerting influence on the decision-making of governments or international organizations, or the threat of committing such acts;

4) *terrorist organization*:

a) a criminal organization, illegal armed group, gang or criminal society formed with the intent to commit and (or) committing criminal acts covered by this Convention;

b) a legal entity in the name of which, at the behest of which, or on behalf of which any one of the criminal acts covered by this Convention is planned, organized, facilitated or perpetrated;

5) *legal entity* - an organization incorporated and operating in accordance with the legal provisions of contracting states.

2. This Article is without prejudice to any international instrument or national law which does or may contain provisions of wider application of terms used herein.

Article 3

This Convention shall apply in cases where detection, prevention, and investigation of offenses covered herein implicate the jurisdiction of more than one Party.

Article 4

The Parties shall exercise their rights and obligations under this Convention in a manner consistent with the principles of sovereign equality, territorial integrity of states, and non-intervention in the internal affairs of other Parties.

Article 5

1. Each Party shall take the necessary measures to establish its jurisdiction over the offenses covered by this Convention in the following cases:

1) when the offense has been committed in the territory of that Party;

2) when the offense has been committed on board a vessel flying the flag of that Party or an aircraft registered under the laws of that Party;

3) when the offence has been committed by a national of that Party.

2. Each Party may also establish its jurisdiction over offenses covered by this Convention in the following cases:

- 1) when the offense was aimed at or resulted in the commission of a terrorist act inside the territory or against a national of that Party;
 - 2) when the offense was aimed at or has been committed against a Party's facility abroad, including its diplomatic missions or consular premises;
 - 3) when the offense was aimed at or resulted in the commission of a terrorist act for the purpose of compelling that Party to do or abstain from doing any act;
 - 4) when the offense has been committed by a stateless person with habitual residence in the territory of that Party;
 - 5) when the offense has been committed on board a vessel operated by that Party.
3. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offenses covered by this Convention in cases where the alleged offender is present in its territory and it does not extradite that person to any of the Parties.
 4. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic laws.
 5. When more than one Party claims jurisdiction over an alleged offense covered by this Convention, the Parties involved shall, where appropriate, consult with a view to determine the most appropriate jurisdiction.

Article 6

1. The cooperation provided for in this Convention shall be facilitated by competent agencies designated by each Party.
2. On depositing its instruments of ratification or accession to this Convention, each Party shall furnish the Depositary with a register of competent agencies charged with implementing this Convention, which the Depositary shall distribute to other Parties. A Party shall immediately notify the Depositary of any changes to its list of agencies, of which the Depositary shall subsequently notify all other Parties.
3. Competent agencies exercising authority over matters provided for in this Convention shall cooperate directly, within the framework of their respective powers. Regional or other subsidiaries of such agencies may enter into direct contact for the purpose of implementing this Convention in a manner dictated by their respective authorities.
4. Cooperation between respective competent agencies shall be conducted in bilateral and multilateral formats on the basis of a request for assistance or as exchange of intelligence at the initiative of a particular agency.
5. Diplomatic channels, channels of the International Criminal Police Organization or of the Executive Committee of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization may be used for purposes of cooperation.

Article 7

1. The Parties encourage interreligious and intercultural dialogue, involving, where necessary, nongovernmental organizations and other civil society institutions, subject to national law, aimed at defusing tensions that may lead to the commission of offenses covered by this Convention.
2. Each Party shall develop and implement counter-terrorism policies at the national level, in accordance with the fundamental principles of its legal framework, which may include:
 - 1) scheduled reviews of laws governing counter-terrorism measures, as well as of their efficacy;
 - 2) cooperation with appropriate international and regional organizations in developing and implementing counter-terrorism measures, including exercises to suppress terrorist acts;
 - 3) the creation of a central authority coordinating the counter-terrorism activities of competent agencies;
 - 4) offering professional training of law enforcement forces or other bodies engaged in counter-terrorism activities, and providing appropriate financial, material, and other support for such activities;
 - 5) payment of due compensation to individuals that provide assistance to state agencies in the prevention and suppression of offenses covered by this Convention, and the discovery of individuals who have committed or are plotting to commit such offenses;
 - 6) legislative definition of restrictions that may be put into place with a view of preventing terrorist acts;
 - 7) improving the protection of individuals and facilities, notably by promoting effective cooperation between law enforcement agencies and relevant legal entities, as well as by implementing standards aimed at enhancing security of individuals and facilities;
 - 8) protection for victims, witnesses, and other participants in criminal proceedings, as well as, where necessary, for other relevant persons;
 - 9) evolving and implementing criteria for identifying individuals or legal entities complicit in the commission of offenses covered by this Convention;
 - 10) providing legal entities with sufficient opportunities to assist the state in preventing or detecting offenses covered by this Convention, or plots to commit such offenses, at their facilities;
 - 11) assisting non-governmental organizations, groups, and private individuals in countering terrorism and promoting non-acceptance of terrorism in society;
 - 12) educating the public regarding the dangers and negative effects of terrorism, as well as the legal consequences of offenses covered by this Convention;

13) providing the public with the means of notifying state agencies, anonymously where appropriate, of any activity that may qualify as an offense covered by this Convention.

3. Parties may adopt stricter measures than those provided for by this Convention.

Article 8

Each Party shall adopt the necessary legislative or other measures, in accordance with its domestic legal principles, to counter the financing of terrorism which include, inter alia:

- 1) collecting and maintaining records on clients and financial transactions;
- 2) reporting to the competent authorities all suspicious or unreasonable transactions;
- 3) freezing suspicious or unreasonable financial transactions at the behest of law enforcement or other agencies designated by the Party;
- 4) furnishing records and information at the request of a court, a prosecutor's office, investigative or other authorized agencies.

Article 9

1. Each Party shall adopt the necessary legislative measures to establish as criminally punishable offenses the following intentional acts:

- 1) terrorist acts;
- 2) any act recognized as a crime by any international counter-terrorism treaty to which all the Parties are signatories;
- 3) forming and operating a legal entity for the purpose of planning, organizing, facilitating, or committing, any one of the offenses covered by subsections 1, 2, 4-10 of this section, or forming a criminal organization, an illegal armed group or gang, or entering into a conspiracy for the same purpose;
- 4) public calls to terrorism or public justification of terrorism; i.e., the dissemination of any appeal to the public for the purpose of inciting the commission of any one of the offenses covered by subsections 1-3, 5-10 of this section, or public declarations calling for the support and emulation of terrorism;
- 5) recruitment or other means of soliciting another person to participate in the planning or commission of any one of the offenses covered by subsections 1-4, 6-10 of this section;
- 6) training another person to commit or assist in the commission of any one of the offenses covered by subsections 1-5, 7-10 of this section;
- 7) participation in a terrorist organization;

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- 8) financing terrorism; i.e. either collecting or providing funds or financial services with the intention or in the knowledge that they are to be used for planning, organizing, facilitating or committing any one of the offenses covered by subsections 1-7, 9, 10 of this section, or supporting the activities of a terrorist organization;
 - 9) furnishing another person with weapons, explosive substances, or other means of committing offenses covered by subsections 1-8, 10 of this section;
 - 10) sheltering, providing financial assistance, or assistance in fleeing justice to individuals suspected of or charged with committing any of the offenses covered by subsections 1-9 of this section, or giving false testimony on their behalf.
2. A Party may also establish as criminal offenses, in accordance with its domestic legal principles, the acts of knowingly harboring, transporting, purchasing or brokering the purchase of property belonging to individuals suspected of or charged with committing any of the offenses covered by section 1 of this article.
 3. Acts covered by subsections 3-10 of section 1 of this article are considered offenses regardless of whether a terrorist act was actually committed or whether the person recruited and (or) trained was aware of the terrorist nature of his actions.
 4. The Parties are likewise obligated to adopt the necessary legislative measures to establish as criminal offenses any and all acts of assisting in, planning or attempting to commit any of the offenses covered by section 1 of this Article.

Article 10

1. Each Party shall adopt the necessary legislative or other measures, in accordance with its domestic legal principles, to prevent the complicity in any one offense covered by this Convention of any legal entity located in their territory.
2. Each Party shall adopt such measures as may be necessary to establish the liability of a legal entity in cases where it is complicit in any one of the offenses covered by this Convention;
3. Legal entities may bear criminal, civil or administrative liability, in accordance with a Party's domestic legal principles;
4. Establishing the liability of a legal entity does not exclude criminal liability of persons participating in its activities, who have committed offenses covered by this Convention;
5. Each Party shall ensure the following measures may be exercised with respect to legal entities complicit in offenses covered by this Convention:
 - 1) warning;
 - 2) fine;
 - 3) confiscation of property of a legal entity;

- 4) suspension of activities of a legal entity;
 - 5) prohibiting specific types of activities of a legal entity;
 - 6) liquidation of a legal entity.
6. Each Party shall adopt legislative measures allowing for the designation of a legal entity as a terrorist organization and its liquidation by order of a court or of another agency authorized by domestic law, in cases where the legal entity engages in planning, organizing, facilitating or committing actions that constitute any one of the offenses covered by this Convention. These same measures may be applied in cases where planning, organization, facilitation or commission of offenses covered by this Convention is carried out by an individual responsible for administering a legal entity with respect to its rights and obligations.
7. Provisions of this Article extend to cases where subsidiaries (representative offices or branches) of foreign legal entities, operating in the territory of a Party, are found to be complicit in offenses covered by this Convention.

Article 11

1. The offenses covered by this Convention shall be deemed by the Parties to be extraditable offenses, subject to the transfer of sentenced persons and provision of legal assistance.
2. The offenses described in this Convention shall be deemed to be included as extraditable offenses in any extradition treaty existing between any of the Parties. The Parties undertake to include such offenses as extraditable offenses in every extradition treaty to be subsequently concluded between them.
3. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party shall consider this Convention, in accordance with its domestic legal principles, as a legal basis for extradition in respect of the offenses covered by this Convention.
4. Parties which do not make extradition conditional on the existence of a treaty shall recognize offenses covered by this Convention as extraditable offenses, subject to the conditions provided by the law of the requested Party.
5. In cases where the principle of dual criminality must be observed with respect to extradition or legal assistance, this principle shall be deemed observed regardless of whether the laws of the requested Party place the relevant act in the same category of offenses or describes it in the same terms as the requesting Party, if the act in question is deemed to be criminally punishable in accordance with the laws of the Parties.
6. For the purposes of extradition, offenses covered by this Convention shall be treated as if they had been committed in the territory of the Parties that have established jurisdiction in accordance with Article 5 of this Convention, regardless of where the offenses actually occurred.

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7. The definition of offenses covered by this Convention and the legal basis establishing liability of legal entities complicit in commission thereof shall be within the scope of the national law of the Parties.
 8. A person convicted of any one of the offenses covered by this Convention, may be handed over, with that person's consent, for the serving of his sentence, to the Party of which that person is a national, in accordance with an existing treaty or mutual accord, at the request of the prosecuting Party or the Party of which that person is a national.
 9. The Party in the territory of which the individual who has committed any one of the offenses covered by this Convention is present, if it does not extradite that person solely on the grounds that that person is its national, is obliged to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party.

Article 12

1. The competent agencies of the Parties, upon request or on their own initiative, shall exchange information (documents, materials, or other information) regarding issues covered by this Convention for the purpose of preventing or combating terrorism.
2. All information indicated in section 1 of this Article shall be furnished upon request from a competent agency of the requesting Party on condition that it will not be transmitted to anyone without the prior written consent from a competent agency of the requested Party.
3. The Parties' competent agencies shall not disclose information concerning a request or its contents, and shall use it solely for the purpose of complying with the request, if agreed to by the competent agencies of the requesting Party, and shall also maintain the confidentiality of the information provided by the requested Party and use it only to the extent necessary for investigation, court proceedings, or to carry out procedures provided for by the request.

Article 13

1. A request shall be fulfilled in accordance with this Convention and the laws of the requested Party.
2. When a request is fulfilled the laws of the requesting Party may be applied, at that Party's request, except as dictated otherwise by the laws of the requested Party. The application of the laws of the requesting Party must not impair the sovereignty and national security of the requested Party.

Article 14

1. The request shall be in writing and must list:
 - 1) the competent agencies of the requesting and requested Parties;

- 2) the subject of and the grounds for the request.
 - 3) the substance of the case, including such facts (time, place and circumstances of commission) in connection with which search operations, investigation, or court proceedings are being conducted;
 - 4) statements of the laws or, where not possible, summaries of their provisions, as well as a statement that the requested measure or any other measure leading to analogous results may be undertaken in the territory of the requesting Party in accordance with its laws;
 - 5) an indication of the degree of restricted access, if necessary.
2. A request to impose sanctions on a legal entity must contain, in addition to items indicated in section 1 of this Article, the following:
- 1) name of legal entity, information concerning its location, legal address, and its management;
 - 2) list of the sanctions;
 - 3) statement of concrete actions requested by the requesting Party;
 - 4) information on property subject to seizure or confiscation (its location, connection to the offense in question, as well as any available information on the claims of other persons to that property);
 - 5) a certified copy of the decision of a court or another competent agency of the requesting Party and a summary of the grounds for that decision;
 - 6) a summary of the facts upon which a request is being made, which facts must be sufficient for the requested Party to make its decision, in accordance with its laws.
3. In cases where a request is made to question persons suspected or accused of a crime, it must be accompanied by certified copies of the necessary documents related to the case in question.
4. The requested Party shall inform the requesting Party no later than 30 days from the date a request is received, unless otherwise agreed in each specific instance:
- 1) of any actions undertaken with respect to the request and their outcome;
 - 2) of any circumstances that prevent or will substantially delay the fulfillment of the request.
5. The requesting Party shall immediately inform the requested Party:
- 1) of a reversed decision or any other circumstances in consequence of which the decision to impose sanctions upon a legal entity is partially or wholly voided;
 - 2) of any changes which render any action dictated by this Convention unwarranted.

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6. A Party petitioning for sanctions against a legal entity from several Parties on the basis of the same decision shall inform all Parties interested in the fulfillment of this decision.

Article 15

1. The competent agencies of each Party shall fulfill a request:
 - 1) to extradite a person to stand trial or serve a sentence imposed by a court;
 - 2) to locate and detain a person;
 - 3) to carry out specific procedural acts, inter alia:
 - a) soliciting expert reports;
 - b) questioning persons suspected or accused of crimes, witnesses, victims, or other persons;
 - c) conducting searches or seizures;
 - d) transmitting material evidence;
 - e) seizure of property;
 - f) serving or forwarding of documents;
 - g) other actions within the scope of their competency;
 - 4) furnishing evidence;
 - 5) imposing sanctions against legal entities;
 - 6) locating persons suspected of committing any one of the offenses covered by this Convention;
 - 7) locating property subject to confiscation;
 - 8) taking action with respect to any other circumstances and issues within the purview this Convention.

Article 16

1. A request shall be signed by the head of a competent agency of the requesting Party or by a surrogate, and (or) must carry the seal of that agency.
2. Urgent requests may be transmitted orally, but any such request and the necessary documents must be transmitted in writing no later than 72 hours thereafter, by electronic means where necessary.

3. In cases where the authenticity of a request or its contents is in doubt, confirmation or clarification may be requested.
4. In cases where multiple requests concerning the same matter are received in accordance with the provisions of this Convention, the requested Party shall determine which request is to be given priority.
5. In cases where the requested Party's competent agency is not authorized to fulfill a request, it shall without delay submit the request to another agency within its government, and without delay notify the competent agency of the requesting Party.
6. The competent agency of the requested Party may request additional information that it considers necessary to fulfill the request.

Article 17

1. A competent agency of the requested Party may postpone action on a request if such action may impede its search efforts, investigation or court proceedings.
2. A competent agency of the requested Party may refuse a request if it threatens the sovereignty or national security of the requested Party or contravenes its laws.
3. Before postponing action or refusing a request, a competent agency of the requested Party shall consult, where necessary, with the competent agency of the requesting Party which had filed the request.
4. In cases where a request is postponed or refused, a competent agency of the requested Party shall without delay inform the initiator of the request, stating its reasons for the decision.

Article 18

1. A Party conducting a criminal investigation of persons suspected of or charged in connection with offenses covered by this Convention, if it ascertains that such persons are present in the territory of another Party may, upon receiving permission from that Party's competent agencies, dispatch its agents to the territory of the requested Party to assist in search efforts or investigation.
2. Agents of the requesting Party may assist in search efforts or investigation on the territory of the requested Party in accordance with the laws of the requested Party and the international treaties to which the Parties are signatories.
3. The requested Party shall establish the procedures for granting permission to agents of the requesting Party to assist in search efforts or investigation as per request filed in accordance with Articles 14-18 of this Convention.
4. In cases where agents of competent agencies are dispatched to assist in search efforts or investigation, a request for their participation must be accompanied by the following:

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- 1) the agents' personal information;
 - 2) purpose of travel, a list of search and investigative actions, a statement of the time frame and manner in which they are to be conducted;
 - 3) in cases where vehicles are used: types of vehicle used, number of vehicles and registration information for each vehicle;
 - 4) any other information as necessary.
5. The competent agency of the requested Party shall make a decision within five days from the date a request is received and inform the requesting Party without delay. Any decision may include conditions imposed by the requested Party's competent agency.
 6. In cases where a request for permission does not confirm to requirements indicated in section 4 of this Article, or is in some way incomplete, the competent agency of the requested Party may request additional information.
 7. Agents of the requesting Party's competent agencies deployed in the territory of the requested Party in accordance with established procedures shall abide by the laws of the host Party and by any other conditions governing their mission.
 8. Agents of the requesting Party's competent agencies assisting in search efforts or investigation in the territory of the requested Party conducted by agents of the requested Party's competent agencies are obligated:
 - 1) to comply with the laws of the Party in whose territory they are present and to abide by the legal requirements of the host Party's agencies;
 - 2) to furnish the requested Party with any information they receive.
 9. Participation in search efforts or investigation shall be terminated without delay on the request of the competent agency of the party in whose territory they are being conducted.
 10. Parties may conclude separate agreements concerning any provisions stated in this Article.

Article 19

Evidence collected by the requested Party's competent agencies in the course of fulfilling a request in accordance with its laws shall carry the same evidentiary force in the territory of the requesting Party.

Article 20

1. When executing a decision on the confiscation of property of private persons or legal entities complicit in the commission of offenses covered by this Convention, the requested Party shall recognize any and all legal decisions rendered by the requesting Party concerning the rights of a third party.

2. Such recognition may be refused in one of the following instances:
 - 1) if the third party was not given sufficient opportunity to provide notification of its rights;
 - 2) if the third party provides unambiguous and reasonable notification of their rights;
 - 3) if the decision contradicts a decision already rendered by the requested Party on the same issue;
 - 4) if the decision contravenes the laws of the requested Party;
 - 5) if the decision was rendered contrary to provisions concerning exclusive jurisdiction provided for by the laws of the Requested Party.

Article 21

1. Documents submitted in accordance with this Convention shall be exempt from all certification formalities.
2. Documents issued in the territory of one of the Parties or certified by a competent agency or by a specially authorized person in due form and within the scope of his competence and bearing a seal shall be recognized by all other Parties without any special certification.
3. Documents recognized as official by one of the Parties possess the evidentiary force of official documents in the territories of other Parties.

Article 22

1. Agencies competent in matters covered by this Convention, may direct official documents concerning any person or legal entity, located in the territory of another Party, through diplomatic channels or other means, as well as through the competent agencies of another Party.
2. Agencies competent in matters covered by this Convention, shall provide mutual assistance in serving official documents on persons or legal entities.

Article 23

The Parties shall take the necessary measures to prevent the granting of refugee status and corresponding documents to persons complicit in offenses covered by this Convention.

Article 24

1. A Party shall take the necessary measures at the request of another Party to ensure the liability of a legal entity complicit in offenses covered by this Convention, inter alia:

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- 1) seizing property that may subsequently be subject to confiscation;
 - 2) suspending (freezing) financial transactions;
 - 3) suspending certain kinds of activities of a legal entity (radio and television broadcasts, print or online publications).
2. All measures covered by section 1 of this Article shall be carried out in accordance with the laws of the requested Party and this Convention.
 3. Before abolishing any measure provided for by this Convention, the requested Party shall furnish the requesting Party with the opportunity to voice its arguments in support of that measure.

Article 25

1. A Party receiving a request connected with the imposition of sanctions on a legal entity (or its subsidiary) complicit in the commission of any one of the offenses covered by this Convention, which is located, possesses property, or conducts activity in its territory:
 - 1) shall either execute the decision of a court or another competent agency of the requesting Party concerning requested sanctions;
 - 2) or initiate an inquiry in accordance with its laws concerning the imposition of such sanctions on the basis of facts and conclusions provided in the requesting Party's decision.
2. Sanctions against a legal entity shall be imposed in accordance with the laws of the requested Party.

Article 26

With regard to confiscation, the Parties shall adopt the necessary measures, in accordance with their domestic legal principles:

- 1) to seize funds, securities, valuables, weapons and their component (spare) parts, ammunition, explosive substances or any other property intended for use (or used) as a weapon to commit offenses or for the financing of any one of the offenses covered by this Convention;
- 2) to seize funds in proportion to the estimated value of property, if such property as covered by this Article may not be seized.

Article 27

1. A request for seizure of property of persons or legal entities, submitted in accordance with this Convention, shall not impinge on the right of the requested Party to put into action its

own decision concerning the confiscation of the property of said persons or legal entities.

2. The total value of confiscated property may not exceed the amount indicated in the confiscation decision. If either Party believes that this may be the case, the Parties shall consult with a view to avoid such an outcome.
3. Any property of a legal entity, liquidated in accordance with the provisions of this Convention, remaining after creditors have been satisfied, is also subject to confiscation.
4. Each Party in possession of confiscated property shall ensure the safety of any such property and dispose of it in accordance with its national legal principles.
5. Confiscated property or funds of equal value may be transferred in part or in full to the requested Party with the consent of Parties concerned.

Article 28

Each Party shall bear all expenses connected with its fulfillment of this Convention, unless otherwise agreed.

Article 29

1. In cases where a Party brings a suit for reparation of damages, stemming from wrongful action or inaction in connection with cooperation in accordance with this Convention, the Parties shall consider the possibility of consultation with a view to distribute the amount to be paid as reparation.
2. A Party against which a suit for reparations is brought, shall notify all interested Parties.

Article 30

The provisions of this Convention shall not limit the right of any Party to conclude other international treaties on issues addressed by this Convention, which do not contravene its objectives, nor impinge on the rights and obligations of any Party dictated by any other international treaty to which it is a signatory.

Article 31

1. This Convention is concluded for an indefinite term.
2. This Convention is subject to ratification by its signatory states. The instruments of ratification shall be deposited with the Depositary. This Convention shall enter into force on the thirtieth day following the date of the deposit of the fourth instrument of ratification.
3. For each Party ratifying this Convention after the deposit of the fourth instrument of ratification, the Convention shall enter into force on the thirtieth day after the deposit by such

Party of its instrument of ratification.

4. The Depositary for this Convention shall be the Secretariat of the Shanghai Cooperation Organization.

Article 32

1. With the consent of all SCO member states, this Convention shall be open for accession by any state that supports its provisions through notifying the Depositary of its accession.
2. For each acceding state this Convention shall enter into force on the thirtieth day after the Depositary receives notification of accession.

Article 33

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations.

Article 34

This Convention may be modified or extended, which changes, filed as separate documents, shall constitute an integral part thereof. Any Party may propose amendments or additions by communicating such a proposal to the Depositary, who shall without delay submit it to all Parties for consideration.

Article 35

Any Party may withdraw from this Convention by notifying the Depositary in writing six months prior to the date of anticipated withdrawal. The Depositary shall notify all Parties of this intention within 30 days from the date it receives notification of withdrawal.

Article 36

Any dispute which may arise between the Parties concerning the interpretation or application of the provisions of this Convention shall be settled through consultation and negotiation between Parties concerned.

Article 37

1. For purposes of cooperation within the framework of this Convention the official and working languages shall be Chinese and Russian.
2. The original copy of this Convention shall be deposited with the Depositary, who shall forward certified copies thereof to all signatory Parties.

Done in Yekaterinburg, this sixteenth day of June 2009, in Chinese and Russian, both texts being equally authoritative, in a single original copy.

For the Republic of Kazakhstan



For the People's Republic of China



For the Kyrgyz Republic



For the Russian Federation



For the Republic of Tajikistan



For the Republic of Uzbekistan



APPENDIX B

Assessing the Implementation of International Human Rights Obligations of Member States of the Shanghai Cooperation Organization

Introduction

Each of the six member states of the Shanghai Cooperation Organization (SCO) has individually ratified or signed core international human rights treaties, committing themselves to obligations for national implementation of human rights under international law. These treaties include, among others, the *International Covenant on Civil and Political Rights* (ICCPR)¹; the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT); and the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). With the exception of Uzbekistan, each of the SCO member states has also ratified the 1951 *United Nations Convention Relating to the Status of Refugees* and its 1967 Protocol.

As parties to these important instruments, each SCO member state must undergo regular periodic assessment of its progress implementing treaty-based human rights obligations. These assessments are conducted by treaty body committees comprised of independent human rights experts. Moreover, as members of the UN, each SCO member state is subject to the state-driven Universal Periodic Review process under the auspices of the UN Human Rights Council, which includes assessment of each state's overall human rights situation.

Disturbingly, a look at the observations and conclusions drawn by the various human rights assessment bodies and mechanisms reveals systematic and wide-ranging human rights abuses in all six SCO member states. Specifically, the concluding observations and recommendations of independent treaty body committees reveal stark patterns of abuses common to all SCO member states, including the use of politically-motivated judicial and administrative procedures lacking minimum due process requirements, such as the right of accused individuals to legal representation; systematic arbitrary arrests and detentions; the practice of torture and other unlawful treatment to extract confessions or gather evidence in criminal investigations, and the forced extradition of individuals to states likely to inflict such treatment upon the individuals' return; the practice of enforced or involuntary disappearances; and the occurrence of summary and arbitrary executions without minimum due process requirements. Moreover, international monitors have linked a disproportionate occurrence of human rights abuses in SCO member states to what appears to be a systematic targeting of disadvantaged groups, including rural and ethnic groups.

¹ Although it has not yet ratified the ICCPR, the People's Republic of China (China) became a signatory to that treaty on October 5, 1998. As a signatory, China is obliged as a matter of international law to "refrain from acts which would defeat the object and purpose of [the] treaty." *Vienna Convention on the Law of Treaties*, Art. 18.

In Section I below, HRIC has compiled a list of key international human rights obligations relevant to SCO practices, including obligations that individual SCO member states have specifically committed themselves to upholding as a matter of international law.

Section II is a collection of observations, conclusions, and recommendations from various international human rights implementation monitoring mechanisms, suggesting the nature and scope of human rights concerns within each of the six individual SCO member states. Specifically, these observations, conclusions, and recommendations reflect a troubling lack of compliance with the human rights obligations most closely implicated by SCO practices, as outlined in Section I.

Section I: Key International Human Rights Obligations Relevant to SCO Practices

Liberty and Security of the Person		
<i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</i>	Art. 2	“Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”
	Art. 3	“No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”
	Art. 10	“Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”
	Art. 16	“Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”
<i>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)</i>	Art. 5	<p>“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . .</p> <p>“(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution”</p>

<i>International Covenant on Civil and Political Rights (ICCPR)</i>	Art. 7	“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”
	Art. 9	“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”
<i>1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol (UN Refugee Convention)</i>	Art. 33	“No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”
Due Process and Access to Justice		
<i>CAT</i>	Art. 11	“Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”
<i>ICERD</i>	Art. 5	“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: “(a) The right to equal treatment before the tribunals and all other organs administering justice”
<i>ICCPR</i>	Art. 9	“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

		<p>“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”</p>
	Art. 13	<p>“An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.”</p>
	Art. 14	<p>“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. . . .</p> <p>“Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.</p> <p>“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) Not to be compelled to testify against himself or to confess guilt. . . .</p> <p>“Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. . . .”</p>

	Art. 26	“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
<i>UN Refugee Convention</i>	Art. 16	“A refugee shall have free access to the courts of law on the territory of all Contracting States.”
Freedom of Opinion and Expression		
<i>ICERD</i>	Art. 5	States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . “(d) Other civil rights, in particular: . . . (viii) The right to freedom of opinion and expression”
<i>ICCPR</i>	Art. 19	“Everyone shall have the right to hold opinions without interference. “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”* * While limitations imposed on the right to freedom of expression in order to combat incitement – including advocacy of national, racial or religious hatred – are contemplated pursuant to ICCPR Arts. 19(3) ² and 20(2) ³ , such limitations must be necessary and proportional.

² Restrictions on freedom of expression are permissible if they are provided by law and necessary “for respect of the rights or reputations of others,” or “for the protection of national security or of public order (ordre public), or of public health or morals.” ICCPR Art. 19(3).

³ “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” ICCPR Art. 20(2).

Freedom of Religion		
<i>ICERD</i>	Art. 5	<p>“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . .</p> <p>“(d) Other civil rights, in particular: . . . (vii) The right to freedom of thought, conscience and religion”</p>
<i>ICCPR</i>	Art. 18	<p>“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.</p> <p>“No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. . . .”</p>
	Art. 27	<p>“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”</p>
Freedom of Association		
<i>ICERD</i>	Art. 5	<p>“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . .</p> <p>“(d) Other civil rights, in particular: . . . (ix) The right to freedom of peaceful assembly and association”</p>
<i>ICCPR</i>	Art. 21	<p>“The right of peaceful assembly shall be recognized.”</p>
	Art. 22	<p>“Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”</p>

Privacy		
<i>ICCPR</i>	Art. 17	<p>“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation.</p> <p>“Everyone has the right to the protection of the law against such interference or attacks.”</p>
Self-Determination		
<i>ICCPR; International Covenant on Economic, Social and Cultural Rights</i>	Art. 1	<p>“All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”</p>

**Section II:
Human Rights Records of SCO Member States:
Concluding Observations of UN Human Rights Treaty Bodies**

CHINA				
Area of Concern	Committee against Torture (2008¹)	Committee on the Elimination of Racial Discrimination (2009²)	Committee on Economic, Social and Cultural Rights (2005³)	Human Rights Committee
Asylum-Seekers and Refugees	<ul style="list-style-type: none"> • “Greatly concerned” that individuals have been forcibly returned to neighboring states “without any examination of the merits of each individual case, and subsequently . . . subjected to torture,” and that “persons extradited to and from neighbouring States do not benefit from legal safeguards against return despite the risk of torture.” (Para. 26) 	<ul style="list-style-type: none"> • Noting “the lack of disaggregated statistical data regarding the socio-economic status of . . . asylum-seekers and refugees.” (Para. 9) • Recommending “all necessary legal and policy measures to ensure that all asylum-seekers have the merits of their individual cases considered by an independent and impartial authority” and noting “concern . . . that asylum-seekers from the Democratic People’s Republic of Korea continue to be systematically refused asylum and forcibly returned.” (Para. 16) 	<ul style="list-style-type: none"> • “Concerned” that “asylum-seekers, refugees and stateless persons, are excluded from the constitutional guarantees to the enjoyment of rights and freedoms enshrined in the [<i>International Covenant on Economic, Social and Cultural Rights</i>] extended to all citizens.” (Para. 14) 	The Human Rights Committee monitors implementation of the <i>International Covenant on Civil and Political Rights (ICCPR)</i> . China signed the <i>ICCPR</i> in 1998, but has not yet ratified it.
Death Penalty	<ul style="list-style-type: none"> • “Regret” over lack of disaggregated statistics on death sentences and classification of key data under the state secrets system. (Para. 34) • “Concern at the conditions of detention of convicted prisoners on death row . . . amounting to cruel, inhuman or degrading treatment.” (Para. 34) • “Concerned about . . . removal of organs from persons sentenced to death without free and informed consent.” (Para. 34) 			

CHINA (continued)

Area of Concern	Committee against Torture (2008 ¹)	Committee on the Elimination of Racial Discrimination (2009 ²)	Committee on Economic, Social and Cultural Rights (2005 ³)	Human Rights Committee
<p>Discrimination against At-Risk Groups</p>	<ul style="list-style-type: none"> • “Greatly concerned” over “allegations of targeted torture, ill-treatment, and disappearances directed against national, ethnic, religious minorities and other vulnerable groups,” including Tibetans and Uyghurs. (Para. 22) • “Great concern” over the crackdown following March 2008 protests in Tibet Autonomous Region (TAR), which has “deepened a climate of fear and further inhibit[ed] accountability,” with emphasis on “the large number of persons detained or arrested in the aftermath of the March 2008 demonstrations,” including those “whose current whereabouts remain unknown”; “failure to investigate the deaths resulting from indiscriminate firing” on peaceful demonstrators; “failure to conduct independent and impartial investigations” of torture of detainees; and “failure to allow independent and impartial investigators into the region.” (Para. 23) 	<ul style="list-style-type: none"> • “Concern” over reports that “the system of incentives granted to work and settle in the autonomous minority regions,” including TAR and Xinjiang Uyghur Autonomous Region (XUAR), may result in substantive changes in the demographic composition that impact negatively on local traditions and cultures in these regions,” including those of Tibetans and Uyghurs. (Para. 13) • “Concerned at reports alleging the disproportionate use of force against ethnic Tibetans and Uighurs” during the demonstrations in TAR in March 2008 and in XUAR in July 2009, and calling on China to “ensure that those detained in connection with the above events are guaranteed humane treatment while in custody and fair trial standards according to international law, including access to a lawyer of their choice, presumption of innocence, and handing down proportionate sentences on those found guilty.” (Para. 17) • For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in China, see the other issues noted throughout this column. 	<ul style="list-style-type: none"> • “Concern” over “persistence of gender inequalities.” (Para. 17) • “Concerned that the low level of wages, particularly in rural areas and in the west of the country, is insufficient to provide a decent standard of living for workers and their families.” (Para. 25) • “Concerned about the continued irregularities in [China’s] provision of universal access to free compulsory primary education,” in particular for “rural communities [and] minority regions.” (Para. 37) • “Regret” over “the insufficient information provided by [China] regarding the enjoyment of economic, social and cultural rights enshrined in [the <i>International Covenant on Economic, Social and Cultural Rights</i>] by populations in the ethnic minority areas.” (Para. 38) • “Concern” over reports of ethnic discrimination “in the field of employment, adequate standard of living, health, education and culture,” and in regard to “the right to the free exercise of religion as a right to take part in cultural life, and the use and teaching of minority languages, history and culture” in XUAR and TAR. (Para. 38) 	

CHINA (continued)

Area of Concern	Committee against Torture (2008 ¹)	Committee on the Elimination of Racial Discrimination (2009 ²)	Committee on Economic, Social and Cultural Rights (2005 ³)	Human Rights Committee
Due Process	<ul style="list-style-type: none"> • “Concerned” about “extended use of” Reeducation-Through-Labor (RTL) for “individuals who have never had their case tried in court, nor the possibility of challenging their administrative detention.” (Para. 13) • “Concerned” by allegations of secret detention facilities, including “black jails,” which constitute “per se disappearance” and deprive detainees of “fundamental legal safeguards, including an oversight mechanism in regard to their treatment and review procedures with respect to their detention.” (Para. 14) • “Concerned” over provisions of Chinese criminal law “allowing prosecutors to arrest lawyers on grounds of ‘perjury’ or ‘false testimony’” as a means of intimidating defense lawyers, as well as targeted harassment of lawyers representing “petitioners, human rights defenders and other dissidents.” (Para. 18) 	<ul style="list-style-type: none"> • “Concerned at reports that in practice effective judicial control of [RTL] measures is limited and that the application of [RTL] laws may disproportionately affect members of ethnic minorities.” (Para. 15) • “Concerned at reports alleging the disproportionate use of force against ethnic Tibetans and Uighurs” during the demonstrations in TAR in March 2008 and in XUAR in July 2009, and calling on China to “ensure that those detained in connection with the above events are guaranteed humane treatment while in custody and fair trial standards according to international law, including access to a lawyer of their choice, presumption of innocence, and handing down proportionate sentences on those found guilty.” (Para. 17) • “Concern” over “reports on the harassment of defense lawyers taking up cases of human rights violations, especially those introduced by members of ethnic minorities,” and urging China to “ensure that lawyers can exercise their profession freely, in law and in practice, and to promptly and impartially investigate all allegations of harassment, intimidation, or other acts impeding the work of lawyers.” (Para. 19) 	<ul style="list-style-type: none"> • “Gravely concerned” that under RTL “forced labour [is used] as a corrective measure, without charge, trial or review.” (Para. 22) • “Concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes,” as well as “lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including . . . in Lhasa, Tibet.” (Para. 31) 	

CHINA (continued)

Area of Concern	Committee against Torture (2008 ¹)	Committee on the Elimination of Racial Discrimination (2009 ²)	Committee on Economic, Social and Cultural Rights (2005 ³)	Human Rights Committee
Women's Rights	<ul style="list-style-type: none"> • “Concerned by the lack of legislation prohibiting all forms of violence against women, among them marital rape, and providing effective remedies for victims.” (Para. 27) • “Concerned about reported incidents of violence against women in detention centres, including against Tibetan nuns.” (Para. 28) • “Concern” over “lack of investigation into the alleged use of coercive and violent measures to implement the population policy.” (Para. 29) 		<ul style="list-style-type: none"> • “Deeply concerned about the high rate of abortion of the girl foetus” and “the sale of women and girl children and of the abandonment of elderly women.” (Paras. 18-19) • “Deeply concerned about reports of forced abortions and forced sterilizations imposed on women, including those belonging to ethnic minority groups, by local officials in the context of the one-child policy.” (Para. 36) 	
Impunity for Past Abuses	<ul style="list-style-type: none"> • “Concerned . . . about the lack of investigation into . . . abuses and deaths in custody.” (Para. 12) • “Concerned with the failure to investigate allegations of torture and other ill-treatment” in RTL facilities, “in particular against members of certain religious and ethnic minority groups.” (Para. 13) • “Deeply concerned by the lack of an effective mechanism for investigating allegations of torture.” (Para. 20) • “Concerned about the lack of investigations” into “persons killed, arrested or disappeared on or following the 4 June 1989 Beijing suppression of the Democracy Movement,” and the “failure to inform family members of the fate of their relatives.” (Para. 21) • “Deeply concerned that allegations of torture and/or ill-treatment committed by law enforcement personnel are seldom investigated and prosecuted.” (Para. 31) 			

CHINA (continued)

Area of Concern	Committee against Torture (2008 ¹)	Committee on the Elimination of Racial Discrimination (2009 ²)	Committee on Economic, Social and Cultural Rights (2005 ³)	Human Rights Committee
Legal Framework to Protect Human Rights	<ul style="list-style-type: none"> China “has not incorporated in its domestic law a definition of torture that fully complies with the definition contained” in the <i>Convention against Torture</i>. (Para. 32) 	<ul style="list-style-type: none"> "Concern" that domestic law "does not contain a definition of racial discrimination in full conformity with the [International Convention on the Elimination of All Forms of Racial Discrimination] as it does not include a prohibition of discrimination on the grounds of descent and national origin." (Para. 10) "Concern" that China "has not adopted a comprehensive anti-discrimination law to protect individuals from racial discrimination." (Para. 11) Noting "the absence of court cases regarding racial discrimination" and calling upon China to examine whether this "is not the result of lack of effective remedies enabling victims to seek redress, victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or lack of attention or sensitivity to cases of racial discrimination on the part of the authorities." (Para. 26) 		
Reporting and Transparency	<ul style="list-style-type: none"> "Grave concern" over the state secrets system, which "undermines the availability of information about torture, criminal justice and related issues" and "prevents the disclosure of crucial information" that would enable international monitors "to identify possible patterns of abuse requiring attention." (Para. 16) "The absence of comprehensive or disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill- 	<ul style="list-style-type: none"> Noting "the lack of disaggregated statistical data regarding the socio-economic status of members of ethnic minorities, non-citizens, asylum-seekers and refugees." (Para. 9) 	<ul style="list-style-type: none"> "Regret" that the "lack of comparative statistical data in the field of economic, social and cultural rights ... has not allowed a clear evaluation of the degree of the actual implementation of many of the rights enshrined in the <i>[International Covenant on Economic, Social and Cultural Rights]</i>." (Para. 13) "Regret" over "insufficient information provided by [China] regarding the enjoyment of economic, social and cultural rights enshrined in the 	

CHINA (continued)

Area of Concern	Committee against Torture (2008 ¹)	Committee on the Elimination of Racial Discrimination (2009 ²)	Committee on Economic, Social and Cultural Rights (2005 ³)	Human Rights Committee
	<p>treatment by law enforcement personnel,” or “detention conditions, abuses by public officials, administrative detention, death penalty cases, and violence against women, ethnic and religious minorities severely hampers the identification of possible patterns of abuse requiring attention.” (Para. 17)</p>		<p>[<i>International Covenant on Economic, Social and Cultural Rights</i>] by populations in the ethnic minority areas.” (Para. 38)</p>	
<p>Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p>	<ul style="list-style-type: none"> • “Deeply concerned” over “continued allegations, corroborated by numerous Chinese legal sources, of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings,” as well as “the lack of legal safeguards for detainees.” (Para. 11) • “Insufficient level of practical training” for law enforcement officers on implementation of anti-torture measures, and “lack of specific training to detect signs of torture and ill-treatment for medical personnel in detention facilities.” (Para. 36) • For more specific concerns of the Committee against Torture on the prevention of torture in China, see the other issues noted throughout this column. 			

KAZAKHSTAN

Area of Concern	Committee against Torture (2008 ⁴)	Committee on the Elimination of Racial Discrimination (2010 ⁵)	Committee on Economic, Social and Cultural Rights (2010 ⁶)	Human Rights Committee
Asylum-Seekers and Refugees	<ul style="list-style-type: none"> • “Concerned at the lack of a legislative framework regulating expulsion, refoulement and extradition,” and “the fact that [Kazakhstan’s] current expulsion, refoulement and extradition procedures and practices may expose individuals to the risk of torture.” (Para. 14) • “Concern” over “allegations that the Minsk Convention on Legal Assistance for Persons from the Commonwealth of Independent States (CIS) does not protect CIS citizens who might have valid claims for refugee status from refoulement.” (Para. 14) • Recommending that Kazakhstan “should ensure that priority is given to the provisions of the [Convention against Torture] over any less protective bilateral or multilateral agreements on extradition and guarantee that persons whose application for asylum have been rejected can lodge an effective appeal.” (Para. 14) 	<ul style="list-style-type: none"> • Noting “alleged refusal by the authorities to register the applications for asylum from citizens of certain countries” and “concern that the lack of registration of their applications may lead to limits of their social and economic rights.” (Para. 15) • “Concerned about alleged information on the vulnerable situation of migrant workers whose rights would be violated, due to the lack of permanent registration and difficulties to legalize their situation, placing them at constant risk of extortion and deportation.” (Para. 16) 	<ul style="list-style-type: none"> • “Alarmed by the systemic discrimination against migrants, refugees and asylum-seekers with respect to their economic, social and cultural rights [and] particularly concerned that these groups are not eligible for social assistance . . . and that they face obstacles for securing legal means of subsistence.” (Para. 14) 	<p>Kazakhstan’s first review by the Human Rights Committee for implementation of the <i>ICCPR</i> has been slated for a future session, although a specific date has not yet been scheduled.⁷</p>
Death Penalty⁸				
Discrimination against At-Risk Groups		<ul style="list-style-type: none"> • “Concerned at reports of rising ethnic tension that resulted in some inter-ethnic clashes” and recommending that Kazakhstan “address the root causes of inter-ethnic tension through, inter alia, further integration of all groups of the population, further development of the rural areas, reduction of unemployment rates and advancement of equality in land distribution.” (Para. 8) 	<ul style="list-style-type: none"> • “Deeply concerned at the precarious situation of migrant workers who are employed without contracts in tobacco plantations and are, together with their families, vulnerable to exploitation and abuse.” (Para. 20) • “Deeply concerned about the high level of poverty in rural areas and in some regions.” (Para. 28) 	

KAZAKHSTAN (continued)

Area of Concern	Committee against Torture (2008 ⁴)	Committee on the Elimination of Racial Discrimination (2010 ⁵)	Committee on Economic, Social and Cultural Rights (2010 ⁶)	Human Rights Committee
		<ul style="list-style-type: none"> • “Recommends that [Kazakhstan] strengthen the early detection and prevention of inter-ethnic conflicts, including through an effective monitoring mechanism of relations between ethnic groups.” (Para. 8) • “Concerned” about “representation of ethnic groups in State bodies at central and local levels .” (Para. 12) • Noting “reports of renaming places and public signs from Russian or Uighur into only the Kazakh language, which may cause resentment among minority groups.” (Para. 20) • For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in Kazakhstan, see the other issues noted throughout this column. 		
Due Process	<ul style="list-style-type: none"> • “Concern” over “frequent violations of the Code of Criminal Procedure by State party officials as regards the conduct of an interrogation within a 24-hour period, detention prior to the institution of criminal proceedings, notification of relatives of the suspect or accused person of that person’s detention within 24 hours, and the right to counsel.” (Para. 11) • “Concerned at . . . persistent reports of abuse in custody”; “poor conditions” and “persistent overcrowding in detention facilities”; “excessive” and unregulated “use of isolation”; “lack of access to independent medical personnel in pre-trial 		<ul style="list-style-type: none"> • “Concern” over “the low level of awareness of human rights in general, and of the [<i>International Covenant on Economic, Social and Cultural Rights</i>] in particular, among the population of [Kazakhstan] and regrets that awareness-raising efforts have been limited to legal literacy.” (Para. 8) • “Concern that corruption is widespread . . . including in the judiciary” and “concerned about the lack of independence of the judicial system.” (Para. 11) 	

KAZAKHSTAN (continued)

Area of Concern	Committee against Torture (2008 ⁴)	Committee on the Elimination of Racial Discrimination (2010 ⁵)	Committee on Economic, Social and Cultural Rights (2010 ⁶)	Human Rights Committee
	<p>detention centres"; "reported failure to register signs" or "accept detainee's claims of torture and ill-treatment"; and "persistent high incidence of death in custody . . . some of which are alleged to have followed torture or ill-treatment." (Para. 21)</p> <ul style="list-style-type: none"> • "Concern . . . that defence lawyers lack adequate legal training and have very limited powers to collect evidence," and "further concern" over "allegations that the procedure of appointing a lawyer lacks transparency and independence." (Para. 27) 			
Women's Rights	<ul style="list-style-type: none"> • "Concern at the prevalence of violence against women" and domestic violence. (Para. 30) • "Concerned at the prevalence" of trafficking in human beings. (Para. 31) • "Regret" regarding "the lack of comprehensive and disaggregated data on . . . the incidence of trafficking and sexual violence" and the number of related prosecutions. (Para. 32) 		<ul style="list-style-type: none"> • "Deeply concerned by the persistence of prejudices and customary practices that perpetuate negative stereotyped roles for women." (Para. 15) • "Alarmed at the high level of violence against women and children" and "concerned about impunity related to domestic violence." (Para. 25) • "Deep concern that trafficking in women and children remains a serious problem." (Para. 26) 	
Impunity for Past Abuses	<ul style="list-style-type: none"> • "Concern" that sentences under domestic laws designed to punish perpetrators of torture "are not commensurate with the gravity of the offence of torture," and recommending that "suspected perpetrators should, as a rule, be subject to suspension or reassignment during the process of investigation. Perpetrators subjected to disciplinary penalties should 		<ul style="list-style-type: none"> • "Regret" that Kazakhstan's "Ombudsman cannot consider petitions about actions and decisions of the President, the Parliament, the executive branch of Government, the Constitutional Council, the Attorney General, the Central Election Commission and the courts that relate to economic, social and cultural rights." (Para. 10) 	

KAZAKHSTAN (continued)

Area of Concern	Committee against Torture (2008 ⁴)	Committee on the Elimination of Racial Discrimination (2010 ⁵)	Committee on Economic, Social and Cultural Rights (2010 ⁶)	Human Rights Committee
	<p>not be permitted to remain on their posts.” (Para. 17)</p>		<ul style="list-style-type: none"> • “Alarmed at the high level of violence against women and children” and “concerned about impunity related to domestic violence.” (Para. 25) 	
<p>Legal Framework to Protect Human Rights</p>	<ul style="list-style-type: none"> • “Concerned that the definition [of torture] . . . restricts the prohibition of torture to the actions of ‘public officials’ and does not cover acts by ‘other persons acting in an official capacity’, including those acts that result from instigation, consent or acquiescence of a public official” and that the definition “excludes physical and mental suffering caused as a result of ‘legitimate acts’ on the part of officials.” (Para. 6) • “Concerned about . . . a lack of independence of judges.” (Para. 25) • “Concerned” over “the lack of examples of cases” in which victims of torture receive compensation. (Para. 28) • “Grave concern . . . that judges often ignore the complaints of torture and ill-treatment [and] do not order independent medical investigations.” (Para. 29) 	<ul style="list-style-type: none"> • “Concern” that Kazakhstan “has not adopted comprehensive legislation to prevent and combat discrimination in all areas.” (Para. 10) • “Concerned” about the “vulnerable situation of migrant workers [at] constant risk of extortion and deportation.” (Para. 16) • “Concern” that there are “very few complaints . . . of racial discrimination” and that perhaps this is because of a “lack of effective remedies enabling victims to seek redress, victims’ lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities’ lack of attention or sensitivity to cases of racial discrimination.” (Para. 18) 	<ul style="list-style-type: none"> • “Concerned that constitutional provisions and other legislation in force in [Kazakhstan] do not provide comprehensive protection from the prohibited forms of discrimination in all areas relating to economic, social and cultural rights.” (Para. 12) • “Alarmed at the high level of violence against women and children” and “concerned . . . that the law does not sufficiently guarantee protection and rehabilitation of victims and that legal proceedings are initiated only upon formal complaints by victims.” (Para. 25) 	
<p>Reporting and Transparency</p>	<ul style="list-style-type: none"> • “Regrets the paucity of information provided by [Kazakhstan] on training of law enforcement officials, penitentiary staff and medical personnel regarding the provisions of the [Convention against Torture].” (Para. 20) • “Regrets the lack of comprehensive and disaggregated data on . . . torture and ill-treatment by law enforcement officials, as well as on the incidence of 	<ul style="list-style-type: none"> • “Notes the absence . . . of information on the social and economic situation of different ethnic groups and areas of the country” and requests more “detailed information and, wherever possible, disaggregated statistical data on the social and economic situation of different ethnic groups and of geographical areas where they live.” (Para. 13) 	<ul style="list-style-type: none"> • “Regrets the absence of information on . . . the situation of workers and their families in this economy,” and “requests . . . detailed information, including statistics, on an annual basis, disaggregated by sex and by rural and urban distribution.” (Para. 17) • “Deep concern that trafficking in women and children remains a serious problem” and “regrets the 	

KAZAKHSTAN (continued)

Area of Concern	Committee against Torture (2008 ⁴)	Committee on the Elimination of Racial Discrimination (2010 ⁵)	Committee on Economic, Social and Cultural Rights (2010 ⁶)	Human Rights Committee
	<p>trafficking and sexual violence and on the number of prosecutions of persons in this connection.” (Para. 32)</p>		<p>absence of statistics on the extent of the problem.” (Para. 26)</p> <ul style="list-style-type: none"> • “Requests . . . comparative data on the number of people living in poverty, disaggregated by sex, region, rural/urban and family size.” (Para. 28) 	
<p>Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p>	<ul style="list-style-type: none"> • “Concerned” about “frequent use of torture and ill-treatment, including threat of sexual abuse and rape, committed by law enforcement officers, often to extract ‘voluntary confessions’ or information to be used as evidence in criminal proceedings, so as to meet the success criterion determined by the number of crimes solved.” (Para. 7) • For more specific concerns of the Committee against Torture on the prevention of torture in Kazakhstan, see the other issues noted throughout this column. 		<ul style="list-style-type: none"> • “Concerned that under [Kazakhstan’s] Penal Code, the courts have the authority to hand down a sentence of forced labour.” (Para. 16) 	

KYRGYZSTAN

Area of Concern	Committee against Torture (1999 ⁹)	Committee on the Elimination of Racial Discrimination (2007 ¹⁰)	Committee on Economic, Social and Cultural Rights (2000 ¹¹)	Human Rights Committee (2000 ¹²)
Asylum-Seekers and Refugees		<ul style="list-style-type: none"> • “Concern” over alleged denials of “refugee status or asylum to individuals belonging to certain ethnic or national minorities,” including Uyghurs, Uzbeks, and Chechens, and failure “to adequately protect the rights of such individuals” under the <i>UN Refugee Convention</i> and domestic law. (Para. 9) • “Deep concern” over “forcible return of ethnic Uighurs and Uzbeks to their countries of origin pursuant to multilateral agreements and bilateral agreements” with neighbouring states. (Para. 9) • Urging Kyrgyzstan “to provide data on the number and outcome of requests for asylum or refugee status . . . disaggregated by country of origin” and by “grounds for rejection.” (Para. 9) • Urging Kyrgyzstan “to ensure that its asylum procedures do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin”; to “ensure that measures to combat terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin”; and to “respect the principle of non-refoulement.” (Para. 9) 		

KYRGYZSTAN (continued)

Area of Concern	Committee against Torture (1999 ⁹)	Committee on the Elimination of Racial Discrimination (2007 ¹⁰)	Committee on Economic, Social and Cultural Rights (2000 ¹¹)	Human Rights Committee (2000 ¹²)
Death Penalty	<ul style="list-style-type: none"> Recommending that Kyrgyzstan “consider abolishing the death penalty.” (Para. 75(g)) 		<ul style="list-style-type: none"> “Concern” that “tribunals of eminent persons’ convened informally to discuss issues of law and order in local communities often take upon themselves the functions of the judiciary, including recommendations on the death penalty.” (Para. 13) 	<ul style="list-style-type: none"> “Concerned about the current situation with regard to capital punishment and about the number of persons currently detained under sentence of death.” (Para. 8)
Discrimination against At-Risk Groups		<ul style="list-style-type: none"> Regarding “clashes between Kyrgyz and Dungan communities living in Iskra,” urging “that those responsible be brought to justice, that compensation be provided to the families which were forced to leave and that measures be adopted to promote dialogue and understanding.” (Para. 10) For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in Kyrgyzstan, see the other issues noted throughout this column. 	<ul style="list-style-type: none"> “Deeply concerned about the high rate of poverty,” with “the most affected areas” including “remote southern rural areas.” (Para. 19) 	
Due Process	<ul style="list-style-type: none"> Recommending that “military places of detention and prisons be supervised to ensure that inmates are not maltreated and they, as should everyone, can be represented by counsel at their trials.” (Para. 75(f)) 	<ul style="list-style-type: none"> Recommending “specific training for those working within the criminal justice system, including police officers, lawyers, prosecutors and judges, and to undertake information campaigns to raise awareness among the public about the mechanisms and procedures provided for in national legislation in the field of racism and discrimination.” (Para. 13) 	<ul style="list-style-type: none"> “Concerned that the independence of the judiciary may be impaired in cases where the designation of high court judges is effected without full participation of the legislature.” (Para. 12) “Concern” that “tribunals of eminent persons’ convened informally to discuss issues of law and order in local 	<ul style="list-style-type: none"> “Concerned” at “number of persons held in pre-trial detention, some of them incommunicado, that all the grounds for authorizing pre-trial detention are not exhaustively listed in the present laws,” and at “lack of judicial control over the prolongation of detention.” (Para. 9) “Concerned about the lack of full independence of the judiciary.” (Para. 15)

KYRGYZSTAN (continued)

Area of Concern	Committee against Torture (1999 ⁹)	Committee on the Elimination of Racial Discrimination (2007 ¹⁰)	Committee on Economic, Social and Cultural Rights (2000 ¹¹)	Human Rights Committee (2000 ¹²)
			<p>communities often take upon themselves the functions of the judiciary, including recommendations on the death penalty.” (Para. 13)</p>	
<p>Women’s Rights</p>			<ul style="list-style-type: none"> • “Disturbed about the reassertion of traditional attitudes towards women in Kyrgyz society,” noting with “deep concern the re-emergence of the old tradition of bride kidnapping.” (Para. 16) • “Absence of information on the extent of violence against women and the trafficking of women.” (Para. 17) 	<ul style="list-style-type: none"> • “Grave concern” over “violence against women and the increasing phenomenon of trafficking in women, which is aggravated by the economic hardship facing women in Kyrgyzstan.” (Para. 14)
<p>Impunity for Past Abuses</p>	<ul style="list-style-type: none"> • “Concern about . . . an apparent failure generally to provide prompt, impartial and full investigation into allegations of torture,” as well as “failure generally to prosecute, where appropriate, the alleged perpetrators.” (Para. 74(c)) • Recommending that, “in order to ensure that the perpetrators of torture and ill-treatment do not enjoy impunity, [Kyrgyzstan] ensure the investigation and, where 	<ul style="list-style-type: none"> • In light of “clashes between Kyrgyz and Dungan communities living in Iskra,” recommending “that those responsible be brought to justice, that compensation be provided to the families which were forced to leave.” (Para. 10) 	<ul style="list-style-type: none"> • Kyrgyzstan “urged to continue more actively the pursuit of perpetrators of human rights violations.” (Para. 24) 	

KYRGYZSTAN (continued)

Area of Concern	Committee against Torture (1999 ⁹)	Committee on the Elimination of Racial Discrimination (2007 ¹⁰)	Committee on Economic, Social and Cultural Rights (2000 ¹¹)	Human Rights Committee (2000 ¹²)
	<p>appropriate, the prosecution of all those accused of having committed such acts,” and “ensure that amnesty laws exclude torture from their reach.” (Para. 75(c))</p>			
<p>Legal Framework to Protect Human Rights</p>	<ul style="list-style-type: none"> • “Concern” about “absence of a definition of torture . . . with the result that the specific offence of torture is not punishable by appropriate penalties,” as required by the <i>Convention against Torture</i>. (Para. 74(a)) • “Concern” about “insufficient guarantees for independence of the judiciary.” (Para. 74(d)) • Recommending that “urgent steps . . . be taken to ensure the centrality and independence of the judiciary in the penal system.” (Para. 75(d)) 	<ul style="list-style-type: none"> • Noting the “absence of a definition of racial discrimination” as required under the <i>Convention on the Elimination of All Forms of Racial Discrimination</i>. (Para. 6) • Requesting “detailed information on complaints lodged . . . and prosecutions launched, as well as on penalties imposed, in cases of offences which relate to racial discrimination.” (Para. 13) • Noting that “absence of complaints may be an indication of a lack of awareness on the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.” (Para. 13) 	<ul style="list-style-type: none"> • “Particularly concerned to learn about cases of criminal prosecution of human rights activists.” (Para. 12) 	<ul style="list-style-type: none"> • “Concerned that the Law on Public Emergency in the Kyrgyz Republic does not specifically restrict the power of derogation” from specific <i>ICCPR</i> provisions, as stipulated in <i>ICCPR</i> Article 4. (Para. 12) • “Concerned about the intimidation and harassment . . . of journalists and human rights activists, including members of human rights non governmental organizations, who have been subjected to prosecution, fines and imprisonment.” (Para. 20)

KYRGYZSTAN (continued)

Area of Concern	Committee against Torture (1999 ⁹)	Committee on the Elimination of Racial Discrimination (2007 ¹⁰)	Committee on Economic, Social and Cultural Rights (2000 ¹¹)	Human Rights Committee (2000 ¹²)
<p>Reporting and Transparency</p>		<ul style="list-style-type: none"> • "Regrets" the lack of "sufficient information" on the practical implementation of the <i>Convention on the Elimination of All Forms of Racial Discrimination</i>. (Para. 7) • "Regrets" the lack of "sufficient information on measures . . . to ensure the practical enjoyment by persons belonging to ethnic and national minorities of their economic, social and cultural rights." (Para. 12) • Requesting "detailed information on complaints lodged . . . and prosecutions launched," and on "penalties imposed, in cases of offences which relate to racial discrimination." (Para. 13) 	<ul style="list-style-type: none"> • "Regrets the absence of information on the extent of violence against women and the trafficking of women." (Para. 17) • Urging "statistics on the progress made" in "efforts to fulfil the right to health," including "comparative statistics." (Para. 33) 	
<p>Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p>	<ul style="list-style-type: none"> • "Concern about . . . numerous and continuing reports of allegations of torture . . . by law enforcement personnel." (Para. 74(b)) • For more specific concerns of the Committee against Torture on the prevention of torture in Kyrgyzstan, see the other issues noted throughout this column. 			<ul style="list-style-type: none"> • "Gravely concerned about instances of torture, inhuman treatment and abuse of power by law enforcement officials." (Para. 7) • Recommending that Kyrgyzstan "amend the Criminal Code to ensure that acts of torture are indictable offences, and that all allegations of torture are properly investigated and the persons responsible prosecuted"; ensure that "complaints about torture and other abuses by officials . . . be investigated by independent bodies"; ensure "medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs"; and "institute an independent system of monitoring all places of detention with the purpose of preventing torture and other abuses of power by law enforcement officials." (Para. 7)

RUSSIAN FEDERATION

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
Asylum-Seekers and Refugees	<ul style="list-style-type: none"> • "Concerned" over "reports of more than 300 people returned this year to other neighbouring countries" and "the lack of safeguards to ensure respect for the obligation of non-refoulement"; "widespread and broad use of administrative expulsion" under domestic law "for minor violations of immigration rules"; and "the reported use of written assurances in the 'refoulement' context [where] minimum standards for such assurances . . . are not wholly clear and thus cannot be assessed for compatibility" under the <i>Convention against Torture</i>. (Paras. 15-16) • Requesting "detailed statistical information on the number of assurances sought," as well as on "the persons concerned and the outcome of each case, as well as on minimum contents for any assurances." (Para. 16) 	<ul style="list-style-type: none"> • Noting the "absence of statistical data on the number of asylum applications and applications for refugee status lodged with the competent authorities" and on "the number of cases where such applications were granted." (Para. 19) • "Concerned about reports" that residence registration practices prevent "enjoyment of many rights and benefits" by asylum-seekers and refugees. (Para. 22) 		<ul style="list-style-type: none"> • "Concerned about reports of extraditions and informal transfers . . . to return foreign nationals to countries in which the practice of torture is alleged while relying on diplomatic assurances, notably within the framework of the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism." (Para. 17) • "Concern" about "return to Uzbekistan of persons suspected of involvement in the Andijan protests of 2005." (Para. 17)
Death Penalty¹⁷				<ul style="list-style-type: none"> • "Concerned that the current [death penalty] moratorium will expire in January 2010" and "that the death penalty has yet to be abolished de jure." (Para. 12)

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
<p>Discrimination against At-Risk Groups</p>	<ul style="list-style-type: none"> • "Concerned" over "reported rise in violent attacks because of the race, ethnicity or identity of the victim, including forced evictions in the Kaliningrad area, and the alleged absence of effective investigations into such crimes." (Para. 23) • "Concerned at . . . reliable reports of unofficial places of detention in the North Caucasus and the allegations that those detained in such facilities face torture"; and "numerous, ongoing and consistent allegations that abductions and enforced disappearances in the Chechen Republic, in particular during anti-terrorist operations," are carried out with official involvement, with failure to investigate and punish the perpetrators." (Paras. 24 (a)-(b)) 	<ul style="list-style-type: none"> • "Concerned that . . . ethnic minorities such as Chechens and other persons originating from the Caucasus or from Central Asia, as well as Roma and Africans, reportedly continue to be subject to disproportionately frequent identity checks, arrests, detentions and harassment by the police and other law enforcement officers." (Para. 12) • "Concern" over "reports about searches of Georgian businesses, police demands for lists of names of Georgian students, identity checks, destruction of identity papers, detention in inhumane conditions, deportations under a simplified procedure and other repressive measures against Georgian nationals and ethnic Georgians." (Para. 13) • "Concerned about reports" that residence registration practices prevent "enjoyment of many rights and benefits" by "Chechens and other persons originating from the Caucasus, Roma, Meshketian Turks, Yezidis, Kurds and Hemshils in Krasnodar Krai, Tajiks, non-citizens from Africa and Asia, as well as asylum-seekers and refugees." (Para. 22) 	<ul style="list-style-type: none"> • "Deeply concerned about the poor living conditions in the Republic of Chechnya," including lack of "basic services, [such as] health care and education," and expressing "regret that sufficient information was not provided on this problem." (Para. 10) • "Concerned about the precarious situation of indigenous communities . . . affecting their right to self-determination." (Para. 11) • "Urg[ing]" the Russian Federation "to intensify its efforts to improve the situation of the indigenous peoples and to ensure that they are not deprived of their means of subsistence." (Para. 39) • Calling upon the Russian Federation to "take effective measures to improve the health status of indigenous peoples in the regions of the Far North." (Para. 59) 	<ul style="list-style-type: none"> • Noting that "members of certain ethnic groups from varying regions, in particular individuals from Central Asia and the Caucasus, face problems acquiring citizenship due to complex legislation governing naturalization and obstacles posed by strict residence registration requirements." (Para. 9) • "Concern" over "reports of increasing number of hate crimes and racially motivated attacks against ethnic and religious minorities, as well as persistent manifestations of racism and xenophobia . . . including reports of racial profiling and harassment by law enforcement personnel targeting foreigners and members of minority groups." (Para. 11) • "Concerned about the failure [of] police and judicial authorities to investigate prosecute and punish hate crimes and racially motivated attacks against ethnic and religious minorities." (Para. 11) • "Concerned about allegations of large-scale, indiscriminate abuses and killings of civilians in South Ossetia during the military operations by Russian forces in August 2008." (Para. 13) • "Concerned about ongoing reports of torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus." (Para. 14) • "Concern about the alleged adverse impact upon indigenous peoples" of development projects that involve "exploitation of lands, fishing grounds and natural resources traditionally belonging to indigenous peoples." (Para. 28)

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
		<ul style="list-style-type: none"> For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in the Russian Federation, see the other issues noted throughout this column. 		
Due Process	<ul style="list-style-type: none"> "Concerned" over "laws and practices that obstruct access to lawyers and relatives of suspects and accused persons, thus providing insufficient safeguards for detainees," including "failures of the courts to order investigations into allegations that evidence has been obtained through torture, as well as reported reprisals against defence lawyers alleging that their client has been tortured or otherwise ill-treated . . . which appear to facilitate torture and ill-treatment." (Para. 8(a)) "No instruction to the courts to rule that the evidence [obtained through torture] is inadmissible, or to order an immediate, impartial and effective investigation" into torture allegations. (Para. 21) 			<ul style="list-style-type: none"> "Concern about the large number of convictions for terrorism-related charges, which may have been handed down by courts in Chechnya on the basis of confessions obtained through unlawful detention and torture." (Para. 8) "Concern about reports that investigations and prosecutions of alleged perpetrators of acts of torture and ill-treatment are frequently marked by undue delays and/or suspensions, and that in practice, the burden of proof rests on the victims." (Para. 15) "Concern about the potential impact of the proposed draft law on lawyers' activity and the Bar on the independence of the legal profession and the right to a fair trial." (Para. 22)

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
Women's Rights	<ul style="list-style-type: none"> “Concerned” about “the lack of formal complaints . . . despite reliable allegations of violence against women in custody,” “reports of prevalent domestic violence and the lack of sufficient shelters for victims,” and “continued reports of trafficking in women and children for sexual exploitation.” (Para. 11) 		<ul style="list-style-type: none"> “Very concerned about the high incidence of trafficking in persons” and “the lack of reliable statistics on the number of people trafficked and of information on cases where persons have been prosecuted under existing anti-trafficking legislation.” (Para. 23) “Concerned about the high incidence of domestic violence and the fact that victims of domestic violence are not adequately protected under existing legislation.” (Para. 24) 	<ul style="list-style-type: none"> “Concerned about the continued prevalence of domestic violence” and “lack of shelters available to women”; and noting lack of “any special legislation with regard to domestic violence within the legal system.” (Para. 10) “Concerned about allegations of honour killings in Chechnya of eight women whose bodies were discovered in November 2008.” (Para. 10) “Regrets” lack of “sufficient information relating to the prosecution of authors of domestic violence.” (Para. 10) “Concerned about the notable lack of recognition of the rights and interests of trafficking victims in the counter-trafficking efforts.” (Para. 18)
Impunity for Past Abuses	<ul style="list-style-type: none"> “Concerned” at reports of “hazing in the military” and of “torture . . . in the armed forces, conducted by or with the consent, acquiescence or approval of officers or other personnel,” and “hundreds of reports that investigations are inadequate or absent, and that despite thousands of officers charged with such offences, that there is widespread impunity.” (Para. 10) 			<ul style="list-style-type: none"> “Concerned about allegations of large-scale, indiscriminate abuses and killings of civilians in South Ossetia during the military operations by Russian forces in August 2008,” and the lack of “any independent and exhaustive appraisal of serious violations of human rights by members of Russian forces and armed groups in South Ossetia and that the victims have received no reparations.” (Para. 13) “Concerned about ongoing reports of torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus committed by the military, security services and other State agents, and that the authors of such violations

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
				<p>appear to enjoy widespread impunity due to a systematic lack of effective investigation and prosecution, with particular concern “that the number of disappearances and abduction cases in Chechnya has increased in the period 2008-2009, and about allegations of mass graves in Chechnya.” (Para. 14)</p>
<p>Legal Framework to Protect Human Rights</p>	<ul style="list-style-type: none"> • "Concerned" that domestic definition of torture “does not fully reflect all elements of the definition” required under the <i>Convention against Torture</i>. (Para. 7) • "Concerned" over “the insufficient level of independence of the Procuracy” and “the failure to initiate and conduct prompt, impartial and effective investigations into allegations of torture or ill-treatment.” (Para. 12) • "Concerned" over the “lack of adequate compensation of victims of torture” and “the absence of appropriate measures for rehabilitation of victims of torture.” (Para. 20) • "Concerned" that “the federal law ‘On counteracting terrorism’ . . . fails to explicitly outline the applicability of the safeguards for detainees in the Code of Criminal Procedure to counterterrorist operations.” (Para. 	<ul style="list-style-type: none"> • "Concerned that there is no comprehensive definition of racial discrimination covering all fields of law and public life.” (Para. 9) • "Concern" that Russian Federation has “not yet adopted comprehensive civil and administrative legislation to prevent and combat racial discrimination.” (Para. 11) • “Concerned about reports that the broad scope of the Law on Combating Extremist Activities lends it to arbitrary application and that the law is not systematically applied against ultra-nationalist, skinhead and neo-nazi groups . . . which harass and assault members of ethnic minorities.” (Para. 17) • Noting “absence of information on complaints or court decisions in civil or administrative proceedings concerning acts of racial discrimination,” possibly “an indication of a lack of awareness of the availability of legal remedies or of 	<ul style="list-style-type: none"> • “Concerned” that “the lack of registration of place of residence and other identity documents in practice places limitations on the enjoyment of rights, including work, social security, health services and education,” particularly for at-risk groups. (Para. 12) 	<ul style="list-style-type: none"> • “Concerned about several aspects of the 2006 Federal Law ‘on counteracting terrorism,’” including “lack of precision in the particularly broad definitions of terrorism and terrorist activity”; lack of “requirement of justification on grounds of necessity or proportionality,” “procedural safeguards,” and “judicial or parliamentary oversight” under the current counter-terrorism regime; and lack of any limitation on “derogations that may be made from the provisions of the <i>ICCPR</i>”; and “regrets that the Law lacks a provision explicitly outlining the obligation of the authorities to respect and protect human rights in the context of a counter-terrorist operation.” (Para. 7) • "Notes with concern the reports of collective punishment for relatives of terrorist suspects, such as the burning of family homes, and harassment, threats and reprisals against judges and victims and their families,” and “regrets the failure . . . to provide effective protection to the persons concerned.” (Para. 14) • “Concern at the alarming incidence of threats, violent assaults and murders of journalists and human rights defenders,” and “regret[ting] the lack of effective measures taken . . . to protect the right to life and security of these persons.” (Para. 16) • “Concerned about the lack of independence of judges” and “the appointment mechanism for judges

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
	24(e))	<p>insufficient will on the part of the authorities to apply such remedies." (Para. 28)</p>		<p>that exposes them to political pressure," as well as the "lack of an independent disciplinary mechanism, particularly in cases of corruption." (Para. 21)</p> <ul style="list-style-type: none"> "In light of . . . reports that the extremism laws are being used to target organizations and individuals critical of the Government . . . regrets that the definition of 'extremist activity' in the Federal Law on Combating Extremist Activity remains vague, allowing for arbitrariness in its application." (Para. 24). Further "regrets" that "the 2006 amendment to this law has made certain forms of defamation of public officials an act of extremism," and "concerned about the loose manner in which the definition of 'social groups' . . . has been interpreted by the courts" under relevant domestic criminal law. (Para. 24)
<p>Reporting and Transparency</p>	<ul style="list-style-type: none"> Requesting "detailed statistical information on the number of assurances sought" in the context of forcible returns and respect for the obligation of non-refoulement, as well as on "the persons concerned and the outcome of each case, as well as on minimum contents for any assurances." (Para. 16) 	<ul style="list-style-type: none"> "Concerned" over lack of "comparative statistical data" on the enjoyment by ethnic minorities of guaranteed rights, making it "very difficult to assess the socio-economic status of the different ethnic groups" and "adopt special measures to address any inequalities in the enjoyment of those rights." (Para. 10) Noting the "absence of statistical data on the number of asylum applications and applications for refugee status lodged with the competent authorities," and on "the number of cases where such applications were granted." (Para. 19) 	<ul style="list-style-type: none"> "Regret that sufficient information was not provided" about the "poor living conditions in the Republic of Chechnya." (Para. 10) 	<ul style="list-style-type: none"> "Regrets" lack of "sufficient information relating to the prosecution of authors of domestic violence." (Para. 10) Requesting "detailed information on the impact of [development] measures upon the traditional habitat, way of life and economic activities of indigenous peoples." (Para. 28)

RUSSIAN FEDERATION (continued)

Area of Concern	Committee against Torture (2006 ¹³)	Committee on the Elimination of Racial Discrimination (2008 ¹⁴)	Committee on Economic, Social and Cultural Rights (2003 ¹⁵)	Human Rights Committee (2009 ¹⁶)
<p>Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p>	<ul style="list-style-type: none"> • “Concerned at . . . the particularly numerous, ongoing and consistent allegations of acts of torture . . . committed by law enforcement personnel, including in police custody.” (Para. 9(a)) • For more specific concerns of the Committee against Torture on the prevention of torture in the Russian Federation, see the other issues noted throughout this column. 			<ul style="list-style-type: none"> • “Concern about the large number of convictions for terrorism-related charges, which may have been handed down by courts in Chechnya on the basis of confessions obtained through unlawful detention and torture.” (Para. 8) • “Concerned about the continuing substantiated reports of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel and other State agents, including of persons who are in police custody, pretrial detention and prison.” (Para. 15) • “Concerned about the extremely low rate of conviction of the State agents concerned” under relevant domestic law for torture-related offenses, and further noting that relevant prosecuting authorities “may lack the necessary independence when examining allegations of torture by public officials.” (Para. 15) • “Concern about reports that investigations and prosecutions of alleged perpetrators of acts of torture and ill-treatment are frequently marked by undue delays and/or suspensions, and that in practice, the burden of proof rests on the victims.” (Para. 15)

TAJIKISTAN

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
Asylum-Seekers and Refugees	<ul style="list-style-type: none"> • “Failure . . . to provide access to lawyers and to appeal bodies for the purpose of challenging a deportation decision for persons at risk of deportation to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture.” (Para. 13) • Recommending that Tajikistan should “cooperate with representatives of the Office of the United Nations High Commissioner for Refugees, including granting effective access to files pertaining to asylum-seekers.” (Para. 13) 	<ul style="list-style-type: none"> • “Concerned” about domestic measures “prohibiting refugees and asylum-seekers from living in certain settlements.” (Para. 13) • “Concerned” that “refugees have been denied Tajik citizenship despite the fact that they comply with the requirements” under law, and recommending that domestic citizenship laws be applied “without discrimination.” (Para. 14) • “Concerned” that “refugees, in particular Afghan refugees, have been forcibly returned” and recommending that Tajikistan “should pursue its cooperation with [the UN High Commissioner for Refugees] in order to protect persons who have sought refuge in Tajikistan.” (Para. 15) • “Urg[ing]” Tajikistan to ensure “no person will be forcibly returned to a country where there are substantial grounds for believing that his/her life or health may be put at risk.” (Para. 15) 	<ul style="list-style-type: none"> • “Concerned about the serious difficulties faced by refugees in finding employment”; laws pursuant to which “refugees and asylum-seekers are not allowed to reside” in large urban areas; and the fact that “asylum-seekers are not allowed to work” under relevant domestic law. (Para. 15) • “Concerned about reports that several Afghan asylum seekers were deported to Afghanistan without being given access to lawyers or the opportunity to appeal the decision.” (Para. 16) 	
Death Penalty				<ul style="list-style-type: none"> • Noting at least two individuals executed, “even though their cases were pending before the [Human Rights Committee] under the Optional Protocol to the [ICCPR] and requests for interim measures of protection had been addressed to [Tajikistan].” (Para. 8)

TAJIKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
				<ul style="list-style-type: none"> “Concerned” that “when prisoners under sentence of death were executed, the authorities systematically failed to inform the families and relatives of the date of execution or to reveal the place of burial of the executed persons.” (Para. 9)
Discrimination against At-Risk Groups		<ul style="list-style-type: none"> “Regrets that insufficient information was provided on the effective level of participation of members of national and ethnic minorities in State institutions.” (Para. 12) For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in Tajikistan, see the other issues noted throughout this column. 		
Due Process	<ul style="list-style-type: none"> “Concerned” at “numerous and continuing reports of hampered access to legal counsel, independent medical expertise and contacts with relatives” post-arrest, and “reports that unlawful restrictions of access to lawyers, doctors and family by State agents are not investigated or perpetrators duly punished.” (Paras. 7(b)-(c)) “Continuing and reliable allegations concerning the frequent use of interrogation methods that are prohibited by the 		<ul style="list-style-type: none"> “Concerned about the lack of independence of the judiciary . . . as reflected inter alia in the process of appointment and dismissal of judges.” (Para. 12) 	<ul style="list-style-type: none"> “Concerned about the widespread accounts of detainees’ access to a lawyer being obstructed, particularly in the period immediately following arrest,” and recommending that Tajikistan “take measures to ensure that the right to counsel arises at the moment of arrest, and that any instances where law enforcement officers are alleged to have obstructed access to a lawyer are fully investigated and appropriately punished.” (Para. 11) Recommending that Tajikistan “revise its criminal procedure legislation and introduce a system that ensures that all detainees are as a matter of course brought promptly before a judge who will decide without delay on the lawfulness of the detention.” (Para. 12)

TAJIKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
	<p>[<i>Convention against Torture</i>] by both law enforcement officials and investigative bodies." (Para. 15)</p> <ul style="list-style-type: none"> • Reports of "no systematic review of all places of detention, by national or international monitors, and that regular and unannounced access to such places is not permitted." (Para. 16) • "Reported failure of judges to dismiss or return cases for further investigation in instances where confessions were obtained as a result of torture, and numerous allegations of statements obtained as a result of torture being used as evidence in legal proceedings . . . facilitated by the absence of legislation expressly prohibiting the use of evidence obtained as a result of torture in legal proceedings." (Para. 19) 			<ul style="list-style-type: none"> • "Concerned about the apparent lack of independence of the judiciary, as reflected in the process of appointment and dismissal of judges," and recommending that Tajikistan "guarantee the full independence and impartiality of the judiciary by establishing an independent body charged with the responsibility of appointing, promoting and disciplining judges at all levels." (Para. 17)

TAJIKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
Women's Rights	<ul style="list-style-type: none"> • “Persistent reports of trafficking in women and children [and] the alleged involvement of officials in acts of trafficking.” (Para. 8) • “Concerned about continuing allegations of violence and abuse of women and children, including sexual violence.” (Para. 8) 		<ul style="list-style-type: none"> • “Concerned that traditional stereotypes in relation to the role of women in society are increasing . . . particularly in rural areas.” (Para. 18) • “Concerned about persistent gender inequalities.” (Para. 19) • “Concern about the persistence of domestic violence – especially against women . . . resulting in a high number of murders and suicides among women.” (Para. 27) • “Deeply concerned that . . . a high number of women and children continue to be trafficked from or through [Tajikistan] for purposes of sexual exploitation and forced labour.” (Para. 30) 	<ul style="list-style-type: none"> • “Concern that domestic violence against women remains a problem in Tajikistan.” (Para. 6) • “Concerned [about] persistent reports that Tajikistan is a major source country for trafficking in women and children.” (Para. 24)
Impunity for Past Abuses	<ul style="list-style-type: none"> • “Apparent lack of convictions under [domestic law] of public officials or others acting in an official capacity for acts of torture and ill-treatment and a very small number of convictions under domestic law for violations of the [<i>Convention against Torture</i>], despite numerous allegations of torture and ill- 			

TAJKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
	<p>treatment.” (Para. 17)</p> <ul style="list-style-type: none"> • “Concerned . . . that acts of torture and ill-treatment in the years 1995 to 1999 were immunized from punishment by amnesty laws, thereby entrenching impunity of those responsible for torture, and a lack of reparation for the victims.” (Para. 17) 			
<p>Legal Framework to Protect Human Rights</p>	<ul style="list-style-type: none"> • “Definition of torture provided in domestic law . . . is not fully in conformity with the [Convention against Torture], particularly regarding purposes of torture and its applicability to all public officials and others acting in an official capacity.” (Para. 5) • “Inadequate independence and effectiveness of the judiciary.” (Para. 10) • “Concerned” over the “lack of appropriate legislation and any effective, independent mechanism to permit victims of acts of torture and ill-treatment to complain and have their case examined promptly and impartially.” (Para. 18(a)) 	<ul style="list-style-type: none"> • Noting “no definition of racial discrimination in domestic law.” (Para. 11) • Noting “no court cases concerning racial discrimination” had been brought, and recommending that Tajikistan “verify that the lack of any such complaints is not the result of victims’ lack of awareness of their rights, individuals’ lack of confidence in the police and the judicial authorities, or the authorities’ insufficient attention or sensitivity to cases of racial discrimination.” (Para. 20) 	<ul style="list-style-type: none"> • “Concern that . . . corruption and nepotism continue to be widespread, preventing the equal enjoyment of economic, social and cultural rights.” (Para. 13) • “Concerned that there is no systematic and comprehensive anti-discrimination legislation” in Tajikistan. (Para. 14) 	

TAJKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
Reporting and Transparency	<ul style="list-style-type: none"> Requesting “statistical data regarding cases of torture . . . reported to administrative authorities and the related investigations, prosecutions and penal and disciplinary sentences, including details of applied articles of the Criminal Code, disaggregated by, inter alia, gender, ethnic group, geographical region, and type and location of place of deprivation of liberty, where it occurred.” Further requesting information on “any compensation and rehabilitation provided to victims.” (Para. 22) 	<ul style="list-style-type: none"> “Regrets that insufficient information was provided on the effective level of participation of members of national and ethnic minorities in State institutions.” (Para. 12) 		
Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	<ul style="list-style-type: none"> “There are numerous allegations concerning the widespread routine use of torture and ill-treatment by law enforcement and investigative personnel, particularly to extract confessions to be used in criminal proceedings. Further, there is an absence of preventive measures to ensure 			<ul style="list-style-type: none"> “Concerned about the widespread use of ill-treatment and torture by investigation and other officials to obtain information, testimony or self-incriminating evidence from suspects, witnesses or arrested persons.” (Para. 10)

TAJKISTAN (continued)

Area of Concern	Committee against Torture (2006 ¹⁸)	Committee on the Elimination of Racial Discrimination (2004 ¹⁹)	Committee on Economic, Social and Cultural Rights (2006 ²⁰)	Human Rights Committee (2005 ²¹)
	<p>effective protection of all members of society from torture and ill treatment.” (Para. 6)</p> <ul style="list-style-type: none"> • For more specific concerns of the Committee against Torture on the prevention of torture in Tajikistan, see the other issues noted throughout this column. 			

UZBEKISTAN

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
Asylum-Seekers and Refugees	<ul style="list-style-type: none"> Noting "credible reports that some persons who sought refuge abroad and were returned to the country have been kept in detention in unknown places and possibly subjected to breaches of the [<i>Convention against Torture</i>]." (Para. 9) "Concerned" that "individuals have not been afforded the full protection . . . in relation to expulsion, return or deportation from another country," and "particularly concerned at reports of forcible return of recognized refugees and/or asylum-seekers from neighbouring countries . . . some of whom were extradited from neighbouring countries," and their "unknown conditions, treatment and whereabouts since their arrival in [Uzbekistan]." (Para. 24) "Concerned that at least 700 recognized refugees are resident in [Uzbekistan] and are in need of protection and resettlement." (Para. 24) 	<ul style="list-style-type: none"> "Concerned about the absence of specific legislation on refugees, in particular the lack of legal safeguards against forced removal of individuals to a country where their life/health may be at risk." (Para. 12) Noting the "continuing existence of a compulsory residence registration system . . . [that] may affect <i>de facto</i> the enjoyment of a number of rights and freedoms . . . for foreigners residing in the country and persons from groups vulnerable to racial discrimination." (Para. 13) 	<ul style="list-style-type: none"> "Concerned about the absence of a specific law for the protection of refugees, which may negatively affect the enjoyment of their economic, social and cultural rights." (Para. 13) "Concerned that social assistance is insufficiently targeted in [Uzbekistan], given the considerable number of individuals and families living in poverty and the conditions of access to social assistance by particularly vulnerable groups . . . [including] refugees." (Para. 23) 	<ul style="list-style-type: none"> "Concerned about the lack of legislation governing expulsion of foreign nationals, and that expulsions and extraditions are regulated mainly by bilateral agreements, which may allow for the forcible removal of foreigners to States where they face a risk of being subjected to torture or ill-treatment." (Para. 12)
Death Penalty	<ul style="list-style-type: none"> "Concerned" about past practices "resulting in failure to inform families of persons sentenced to death about the time and place of executions and the location of the bodies." (Para. 26) 			<ul style="list-style-type: none"> "Concerned about the failure . . . to inform relatives of persons sentenced to death and executed . . . on the exact date and place of burial of those executed." (Para. 7)
Discrimination against At-Risk Groups		<ul style="list-style-type: none"> Noting the "continuing existence of a compulsory residence registration system . . . [that] may affect <i>de facto</i> the enjoyment of a number of rights and 	<ul style="list-style-type: none"> "Encourages [Uzbekistan] to strengthen its efforts to provide education" in multiple languages, including "through 	

UZBEKISTAN (continued)

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
		<p>freedoms . . . for foreigners residing in the country and persons from groups vulnerable to racial discrimination." (Para. 13)</p> <ul style="list-style-type: none"> For more specific concerns of the Committee on the Elimination of Racial Discrimination regarding racial discrimination in Uzbekistan, see the other issues noted throughout this column. 	<p>the provision of an adequate number of schools that use those languages, and the development of adequate learning materials and the qualification of teachers in such schools." (Para. 67)</p>	
<p>Due Process</p>	<ul style="list-style-type: none"> "Concerned" about "numerous, ongoing and consistent allegations concerning routine use of torture. . . often to extract confessions or information to be used in criminal proceedings" and "credible reports that such acts commonly occur before formal charges are made, and during pre-trial detention, when the detainee is deprived of fundamental safeguards, in particular access to legal counsel." (Paras. 6(a)-(b)) Noting concern over "claims that, in practice, detainees are not afforded the rights of access to a lawyer, independent doctors or family members." (Para. 12) "Concerned that the principle of non-admissibility of [evidence elicited through torture] is not being respected in every instance." (Para. 20) 	<ul style="list-style-type: none"> Noting "no information about complaints or court decisions concerning acts of racial discrimination during the reporting period, nor direct evidence of such complaints regarding racial discrimination received by the Ombudsperson," and "concerned that this may be due to a lack of awareness of victims' rights or a lack of effectiveness of these procedures." (Para. 14) 	<ul style="list-style-type: none"> "Concerned about the frequent use of confinement in psychiatric institutions in [Uzbekistan], as a means of treatment of mental health problems, without review bodies, including courts, systematically reassessing confinement." (Para. 35) 	<ul style="list-style-type: none"> "Concerned about reports on the use, by courts, of evidence obtained under coercion." (Para. 11) "Concern that the length of custody for which a suspect or an accused may be held without being brought before a judge – 72 hours – is excessive," and that "in practice, an apprehended individual may be kept in police facilities for 48 additional hours, if a judge requires additional information, prior to deciding whether to release the person or place him or her in pretrial detention." (Para. 14)

UZBEKISTAN (continued)

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
				<ul style="list-style-type: none"> • "Concerned about how the guarantees of the [ICCPR] apply in practice to persons suspected or charged with terrorism, and recommending that Uzbekistan "should ensure that anyone arrested or detained on a criminal charge, including persons suspected of terrorism, has immediate access to a lawyer and that the grounds for detention are examined by a court." (Para. 15) • "Concerned regarding the number of persons reportedly detained as suspects of involvement in terrorist/extremist activities or on terrorist charges." (Para. 15)
<p>Women's Rights</p>	<ul style="list-style-type: none"> • "Concerned by reports of cases of violence against women, including in places of detention and elsewhere." (Para. 21) • "Concerned at trafficking in women for purposes of sexual exploitation." (Para. 22) 	<ul style="list-style-type: none"> • Pointing out that "insufficient information was provided on the effective level of participation of members of national and ethnic minorities in State institutions . . . including women of non-Uzbek ethnic origin [in] positions of responsibility." (Para. 10) • Noting the "lack of information on measures taken to protect and 	<ul style="list-style-type: none"> • "Concerned about the revival of traditional stereotypes in relation to the role of women in society" and about "persistent gender inequalities." (Para. 15) • "Concerned about the persistence of domestic violence" and "the lack of specific legislation on domestic violence." (Para. 24) 	<ul style="list-style-type: none"> • "Concerned about the persistence of reports of violence against women, in particular domestic violence" and "concerned that domestic violence does not constitute an act specifically punishable under criminal law." (Para. 13) • "Concerned at reports of forced marriages and the persistence of bride

UZBEKISTAN (continued)

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
		<p>ensure the fulfillment of the rights of minority women." (Para. 10)</p>	<ul style="list-style-type: none"> • "Concerned that trafficking in persons is increasing," and that Uzbekistan has now "become both a country of origin and destination, as well as a transit point for trafficking in persons," and "not[ing] with regret that there is no legislation in [Uzbekistan] that criminalizes trafficking in persons." (Para. 25) 	<p>abductions in certain parts of the country," and that "no provision in [Uzbekistan's] Criminal Code specifically prohibits and punishes bride abductions." (Para. 13)</p> <ul style="list-style-type: none"> • "Concerned about the persistence of stereotypes regarding the place of women in society, including the media." (Para. 20)
<p>Impunity for Past Abuses</p>	<ul style="list-style-type: none"> • "Concerned at the numerous allegations of excessive use of force and ill-treatment by Uzbek military and security forces in the May 2005 events at Andijan which resulted, [according to Uzbekistan], in 187 deaths and according to other sources, 700 or more, and in hundreds of others being detained thereafter," and at the "failure to conduct full and effective investigations into all claims of excessive force by officials." (Para. 7) • "Concerned that sentences of those convicted . . . are not commensurate with the gravity of the offence of torture." (Para. 10) • "Concern" that Uzbekistan does not "provid[e] information on the results of investigations into the allegations of torture." (Para. 14) 			<ul style="list-style-type: none"> • "Concern" over "continued reported occurrence of torture and ill-treatment, the limited number of convictions of those responsible, and the low sanctions generally imposed, including simple disciplinary measures, as well as indications that individuals responsible for such acts were amnestied and, in general, the inadequate or insufficient nature of investigations on torture/ill-treatment allegations." (Para. 11)

UZBEKISTAN (continued)

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
<p>Legal Framework to Protect Human Rights</p>	<ul style="list-style-type: none"> • “Concerned” that the definition of torture “restricts the prohibited practice of torture to the actions of law enforcement officials and does not cover acts by ‘other persons acting in an official capacity.’” (Para. 5) • “Concerned” about “allegations that persons held as witnesses are also subjected to intimidation and coercive interrogation and in some cases reprisals.” (Para. 6(d)) • “Concern” that bodies established to investigate complaints “have not been effective in combating torture and lack full independence.” (Para. 15) • “Concerned” about “intimidation, restrictions and imprisonment of members of human rights monitoring organizations, human rights defenders and other civil society groups.” (Para. 16) • “Concerned at the lack of examples of cases in which the individual received . . . compensation, including medical or psychosocial rehabilitation.” (Para. 18) 		<ul style="list-style-type: none"> • “Concerned about the reported lack of independence of the judiciary.” (Para. 11) • “Concerned that the compulsory residence registration system” acts to restrict “access to a range of human rights, including economic, social and cultural rights, for individuals who wish to move to another district where they are not registered.” (Para. 14) 	<ul style="list-style-type: none"> • “Concerned about reports, according to which the definition of torture . . . may not ensure conformity between [Uzbekistan’s] legislation” and the <i>Convention against Torture</i>. (Para. 10) • “Concerned that the judiciary is not fully independent.” (Para. 16) • “Concerned that [Uzbekistan] maintains the compulsory address registration of individuals,” which “may result in abuses and permit corruption.” (Para. 18) • “Concerned about the number of representatives of independent non governmental organizations (NGO), journalists, and human rights defenders imprisoned, assaulted, harassed or intimidated, because of the exercise of their profession.” (Para. 24)
<p>Reporting and Transparency</p>	<ul style="list-style-type: none"> • “Concerned” over “limited and obstructed independent monitoring of human rights” following May 2005 Andijan events, “impairing the ability to obtain a reliable or credible assessment of the reported abuses,” including information on the “reported torture or ill- 	<ul style="list-style-type: none"> • “Concerned that . . . the disaggregated demographic data” on implementation is “insufficient,” with “no economic and social indicators, disaggregated by ethnicity and gender.” (Para. 9) 	<ul style="list-style-type: none"> • “Concerned about the lack of reliable information, including statistics” on trafficking in persons. (Para. 25) • “Requests . . . detailed information, including statistical 	<ul style="list-style-type: none"> • “Concerned at the absence of a comprehensive and fully independent investigation on the exact circumstances of [the Andijan events of 2005] during which 700

UZBEKISTAN (continued)

Area of Concern	Committee against Torture (2007 ²²)	Committee on the Elimination of Racial Discrimination (2010 ²³)	Committee on Economic, Social and Cultural Rights (2005 ²⁴)	Human Rights Committee (2010 ²⁵)
	<p>treatment of persons detained and/or missing." (Para. 8)</p> <ul style="list-style-type: none"> • "Notes the lack of information about prosecutions [for] violence against women." (Para. 21) • "Notes that . . . information was not disaggregated" in a way that would aid monitoring and assessment. (Para. 28) 	<ul style="list-style-type: none"> • Pointing out provision of "insufficient information" on the "level of participation of members of national and ethnic minorities in State institutions and other sectors." (Para. 10) • "Regrets that no statistical data appears to exist on the ethnicity of detainees in pretrial detention and of prisoners in correctional facilities." (Para. 15) 	<p>data disaggregated by age, gender and ethnic group, on the progress made in the field of gender equality." (Para. 44)</p>	<p>civilians, including women and children, were killed by the military and security services." (Para. 8)</p> <ul style="list-style-type: none"> • "Notes with regret that [Uzbekistan] has not provided the requested information regarding the national rules on the use of firearms by security forces against civilians." (Para. 8) • "Concerned about the absence of information on the application" of guarantees that "every detained suspect or accused is entitled to contact a defence lawyer or relatives immediately." (Para. 17)
<p>Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p>	<ul style="list-style-type: none"> • "Concerned" over "numerous reports of abuses in custody and many deaths, some of which are alleged to have followed torture or ill-treatment." (Para. 11) • "Concerns" over "the Jaslyk detention facility, the isolated location of which creates conditions of detention reportedly amounting to cruel, inhuman and degrading treatment or punishment for both its inmates and their relatives." (Para. 11) • For more specific concerns of the Committee against Torture on the prevention of torture in Uzbekistan, see the other issues noted throughout this column. 			<ul style="list-style-type: none"> • "Concerned about reports, according to which the definition of torture . . . may not ensure conformity between [Uzbekistan's] legislation" and the <i>Convention against Torture</i>. (Para. 10) • "Concern" over "the continued reported occurrence of torture and ill-treatment." (Para. 11)

¹ U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations of the Committee against Torture (China),” U.N. Doc. CAT/C/CHN/CO/4 (2008), available at <http://www2.ohchr.org/english/bodies/cat/cats41.htm>.

² U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (China),” U.N. Doc. CERD/C/CHN/CO/10-13 (2009), <http://www.unhcr.org/refworld/docid/4adc35852.html>.

³ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (People’s Republic of China),” U.N. Doc. E/C.12/1/Add.107 (2005), <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.107.En?Opendocument>.

⁴ U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Concluding Observations of the Committee against Torture (Kazakhstan),” U.N. Doc. CAT/C/KAZ/CO/2 (2008), available at <http://www2.ohchr.org/english/bodies/cat/cats41.htm>.

⁵ U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (Kazakhstan),” U.N. Doc. CERD/C/KAZ/CO/4-5 (2010), available at <http://www2.ohchr.org/english/bodies/cerd/cerds76.htm>.

⁶ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (Kazakhstan),” U.N. Doc. E/C.12/KAZ/CO/1 (2010), available at <http://www2.ohchr.org/english/bodies/cescr/cescrs44.htm>.

⁷ As of March 18, 2011, the Human Rights Committee had slated its initial review of Kazakhstan for a future session at an unspecified date. In August 2010, the committee released a list of issues to be taken up in connection with the review. See U.N. Human Rights Committee, “List of Issues to be Taken Up in Connection with the Consideration of the Initial Report of Kazakhstan,” U.N. Doc. CCPR/C/KAZ/Q/1 (2010), available at http://www2.ohchr.org/english/bodies/hrc/hrca_future.htm.

⁸ In May 2007, the scope of application of the death penalty in Kazakhstan was limited to those convicted of terrorism leading to loss of life, or “exceptionally grave” crimes committed during times of war. Amnesty International, *Kazakhstan: Submission to the UN Universal Periodic Review: Seventh Session of the UPR Working Group of the Human Rights Council February 2010* (Amnesty International Publications: 2009), 7, <http://www.amnesty.org/en/library/asset/EUR57/001/2009/en/89ce2754-9fc8-40cc-9757-e0c00127cd8f/eur570012009eng.pdf>.

⁹ U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Conclusions and Recommendations of the Committee against Torture (Kyrgyzstan),” U.N. Doc. A/55/44 (1999), <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/A.55.44.para.70-75.En?OpenDocument>.

¹⁰ U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (Kyrgyzstan),” U.N. Doc. CERD/C/KGZ/CO/4 (2007), <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.KGZ.CO.4.pdf>.

¹¹ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (Kyrgyzstan),” U.N. Doc. E/C.12/1/Add.49 (2000), <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.49.En?Opendocument>.

¹² U.N. Human Rights Committee, “Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee (Kyrgyz Republic),” U.N. Doc. CCPR/CO/69/KGZ (2000), <http://tb.ohchr.org/default.aspx?Symbol=CCPR/CO/69/KGZ>.

¹³ U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Conclusions and Recommendations of the Committee against Torture (Russian Federation),” U.N. Doc. CAT/C/RUS/CO/4 (2007), available at <http://www2.ohchr.org/english/bodies/cat/cats37.htm>.

¹⁴ U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (Russian Federation),” U.N. Doc. CERD/C/RUS/CO/19 (2008), available at <http://www2.ohchr.org/english/bodies/cerd/cerds73.htm>.

¹⁵ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (Russian Federation),” U.N. Doc. E/C.12/1/Add.94 (2003), <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.94.En?Opendocument>. As of March 18, 2011, the Committee on Economic, Social and Cultural Rights had slated its next review of the Russian Federation for its 46th session, scheduled for May 2-20, 2011. The committee has released a list of issues to be taken up in connection with the review. See U.N. Committee on Economic, Social and Cultural Rights, “List of issues to be taken up in connection with the consideration of the fifth periodic report of the Russian Federation (E/C.12/RUS/5), concerning articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights,” U.N. Doc. E/C.12/RUS/Q/5, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs46.htm>.

¹⁶ U.N. Human Rights Committee, “Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee (Russian Federation),” U.N. Doc. CCPR/C/RUS/CO/6 (2009), available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

¹⁷ A moratorium on executions in the Russian Federation was introduced in 1996, to remain in effect until realization of the nation-wide implementation of jury trials. After such implementation was completed on January 1, 2010, however, the moratorium was extended by the Russian Constitutional Court, which stated that “the introduction of jury trials does not open the way for the possible use of the death penalty” and “the path towards full abolition of the death penalty is irreversible.” See Amnesty International, *Death Sentences and Executions 2009* (Amnesty International Publications: 2010), 18, 32 n. 10, <http://www.amnesty.org/en/library/asset/ACT50/001/2010/en/17348b70-3fc7-40b2-a258-af92778c73e5/act500012010en.pdf>.

¹⁸ U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Conclusions and Recommendations of the Committee against Torture (Tajikistan),” U.N. Doc. CAT/C/TJK/CO/1 (2006), available at <http://www2.ohchr.org/english/bodies/cat/cats37.htm>.

¹⁹ U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by State Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (Tajikistan),” U.N. Doc. CERD/C/65/CO/8 (2004), <http://tb.ohchr.org/default.aspx?Symbol=CERD/C/65/CO/8>.

²⁰ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (Tajikistan),” U.N. Doc. E/C.12/TJK/CO/1 (2006), <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.TJK.CO.1.pdf>.

²¹ U.N. Human Rights Committee, “Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee (Tajikistan),” U.N. Doc. CCPR/CO/84/TJK (2005), <http://tb.ohchr.org/default.aspx?Symbol=CCPR/CO/84/TJK>.

²² U.N. Committee against Torture, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention: Conclusions and Recommendations of the Committee against Torture (Uzbekistan),” U.N. Doc. CAT/C/UZB/CO/3 (2008), available at <http://www2.ohchr.org/english/bodies/cat/cats39.htm>.

²³ U.N. Committee on the Elimination of Racial Discrimination, “Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination (Uzbekistan),” U.N. Doc. CERD/C/UZB/CO/6-7 (2010), available at <http://www2.ohchr.org/english/bodies/cerd/cerds77.htm>.

²⁴ U.N. Committee on Economic, Social and Cultural Rights, “Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights (Uzbekistan),” U.N. Doc. E/C.12/UZB/CO/1 (2006), <http://www.unhcr.org/refworld/country,,CESCR,,UZB,,441544254,0.html>.

²⁵ U.N. Human Rights Committee, “Concluding Observations of the Human Rights Committee: Consideration of Reports Submitted by States Parties under Article 40 of the Covenant (Uzbekistan),” U.N. Doc. CCPR/C/UZB/CO/3 (2010), available at <http://www2.ohchr.org/english/bodies/hrc/hrcs98.htm>.

APPENDIX C

People's Republic of China Domestic Law and Official Statements

English Translations by Human Rights in China

Section I: Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order

新疆维吾尔自治区第十一届人民代表大会
常务委员会公告
(第 19 号)

Notice from the Eleventh Xinjiang Uyghur Autonomous Region
People's Congress (no. 19)

《新疆维吾尔自治区社会治安综合治理条例》，于 2009 年 12 月 29 日经新疆维吾尔自治区第十一届人民代表大会常务委员会第十六次会议修订通过。现予公布。

特此公告
2009 年 12 月 29 日

Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order, which was amended and adopted on December 29, 2009, at the 16th session of the Standing Committee for the Eleventh Xinjiang Uyghur Autonomous Region People's Congress, is hereby promulgated.

Hereby announced
December 29, 2009

新疆维吾尔自治区社会治安综合治理条例

Xinjiang Uyghur Autonomous Region Regulation on the
Comprehensive Management of Social Order¹

(1994 年 1 月 21 日新疆维吾尔自治区第八届人民代表大会常务委员会第六次会议通过 1997 年 12 月 11 日新疆维吾尔自治区第八届人民代表大会常务委员会第三十次会议修正 2009 年 12 月 29 日新疆维吾尔自治区第十一届人民代表大会常务委员会第十六次会议修订)

(This regulation was adopted on January 21, 1994 at the sixth session of the Standing Committee for the Eighth Xinjiang Uyghur Autonomous Region People's Congress, revised on December 11, 1997 at the 30th session of the Standing Committee for the Eighth Xinjiang Uyghur Autonomous Region People's Congress and amended on December 29, 2009 at the 16th session of the Standing Committee for the Eighth Xinjiang Uyghur Autonomous Region People's Congress).

第一章 总则

Chapter 1: General Provisions

第一条 为了加强社会治安综合治理，维护社会治安秩序，促进社会和谐稳定，根据《全国人民代表大会常务委员会关于加强社会治安综合治理的决定》和有关法律、法规，结合自治区实际，制定本条例。

Article 1: Pursuant to the *Decision of the Standing Committee of the National People's Congress on Intensifying the Improvement of Social Security by Taking Comprehensive Measures* and relevant laws and regulations, these Regulations are formulated in light of the actual situation of this Autonomous Region in order to strengthen the administration of public order, to uphold social order, and to promote social harmony and stability.

第二条 本条例适用于自治区行政区域内的国家机关、社会团体、部队、企事业单位和其他组织及公民。

Article 2: These Regulations are applicable to the state organs, social organizations, military troops, enterprises and institutions, and other organizations and citizens within this Autonomous Region.

第三条 社会治安综合治理是全社会的共同责任，应当动员和组织社会各方面力量，运用政治、法律、行政、经济、文化、教育等多种手段，预防和惩治违法犯罪，保障社会和谐稳定。

第四条 社会治安综合治理坚持打防结合、预防为主、专群结合、依靠群众的方针。实行属地管理原则和谁主管谁负责，谁经营谁负责的原则。

第五条 社会治安综合治理的主要任务是：

- (一) 依法严厉打击、严密防范民族分裂势力、暴力恐怖势力、宗教极端势力危害国家安全的犯罪活动，维护国家统一、民族团结和社会稳定；
- (二) 依法打击、防范各种违法犯罪活动，严惩严重危害社会治安的刑事犯罪分子；
- (三) 依法管理宗教事务，制止和取缔非法宗教活动；
- (四) 开展反邪教宣传教育，防范和打击各类邪教组织；
- (五) 加强基层基础建设，健全和完善社会治安防控体系；
- (六) 及时排查、调处矛盾纠纷，整治社会治安突出问题，消除不安定因素；
- (七) 做好对流动人口的服务与管理以及对出租房屋的管理；

Article 3: Comprehensive management of social order is the shared responsibility of society. The strengths of all aspects of society should be mobilized and organized through means such as politics, law, administration, economy, culture, education and others in order to prevent and punish illegal activities and crimes and to safeguard social harmonization and stability.

Article 4: Comprehensive management of social order upholds the principles of combining punishment and prevention, with emphasis on prevention, combining efforts of both experts and the masses, and relying on the masses. The principles of territorial management, “he who is in charge bears responsibility,” and “he who manages bears responsibility” shall be implemented.

Article 5: The principle tasks in comprehensively managing social order are:

1. Pursuant to the law, severely cracking down on and tightly guarding against the criminal activities of ethnic separatist forces, violent terrorist forces, and religious extremist forces that would endanger state security; and safeguarding national unity, ethnic unity, and social stability;
2. In accordance with the law, cracking down on and keeping a look-out for various kinds of illegal and criminal activities; and severely punishing criminal offenders who gravely endanger social order;
3. Managing religious affairs in accordance with the law; and curbing and banning illegal religious activities;
4. Developing anti-cult propaganda and education; and guarding against and cracking down on all kinds of cultist organizations;
5. Strengthening basic infrastructure at the grass-roots level; and strengthening and perfecting the system for maintenance of social order and control;
6. Promptly investigating and mediating contradictions and disputes; repairing outstanding issues in the social order; and eliminating factors that lead to social instability;
7. Serving and supervising migrant workers as well as supervising housing rentals;

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|---|--|
| (八) 加强法制宣传教育, 做好对公民特别是青少年的国家意识、公民意识和行为规范教育; | 8. Strengthening legal propaganda and education; and educating citizens, especially youths, on their awareness of their civil and national obligations and behavioral norms; |
| (九) 教育、改造和挽救 违法犯罪人员, 做好刑满释放、解除劳动教养、收容教育、强制隔离戒毒人员的帮教安置工作, 预防和减少重新违法犯罪; | 9. Educating, reforming, and saving law violators and criminals; completing placement and assistance work for those who have been released following the completion of their sentence, who have finished going through Reeducation-Through-Labor, who have been taken into custody for education, and who have been forced into isolation for drug rehabilitation; and preventing and reducing the number of new violations and criminals; |
| (十) 动员和组织机关、团体、企事业单位及其他组织和公民参与社会治安综合治理, 开展群防群治活动; | 10. Mobilizing and organizing organs, groups, enterprises and institutions, and other organizations and citizens to participate in comprehensively managing social order; and developing activities for prevention and control by the masses; |
| (十一) 深入开展平安创建活动, 落实社会治安综合治理各项措施; | 11. Carrying out activities to foster peace and tranquility; and implementing various measures to comprehensively manage social order; |
| (十二) 其他社会治安综合治理任务。 | 12. Other tasks to comprehensively manage social order. |

第六条 县级以上人民政府应当将社会治安综合治理工作纳入国民经济和社会发展规划, 加强组织领导, 并从人力、物力和财力上给予保障。

Article 6: People’s governments at or above the county level shall include comprehensive management of social order in the national economic and social development plan, strengthen organization and leadership, and provide protection on the basis of human, material, and financial resources.

第七条 社会治安综合治理工作列入绩效考评内容, 实行一票否决权制、领导责任制和目标管理责任制。

Article 7: Comprehensive management of social order is to be included in performance evaluations. A one-vote veto system, an official responsibility system, and a target management accountability system are to be implemented.

第二章 组织机构与职责

Chapter 2: Organizations, Duties, and Functions

第八条 县级以上设立社会治安综合治理委员会, 下设办公室负责日常工作; 乡(镇、街道)设立社会治安综合治理委员会, 下设办公室, 配备专人负责日常工作; 村(居)民委员会设立社会治安综合治理组织, 并由一名负责人分管; 机关、团体、企事业单位和其他组织设立社会治安综合治理组织或者指定专人负责日常工作。

Article 8: [The government organ] at the county level or above shall establish a committee for the comprehensive management of social order, which shall have under it an office for routine work. The township (town, neighborhood) shall establish a committee for the comprehensive management of social order, which shall have under it an office with a specified staff for routine work. Village (residential) committees shall establish an organization for comprehensive management of social order and designate one person to be in charge of such organization. Organs, groups, enterprises and institutes, and

other organizations shall establish an organization for the comprehensive management of social order or otherwise designate a person responsible for routine work.

第九条 社会治安综合治理委员会的主要职责：

- (一) 宣传、贯彻执行有关社会治安综合治理的法律、法规、政策和决定；
- (二) 制定本行政区域的社会治安综合治理规划和计划，并组织实施；
- (三) 指导、协调、监督本行政区域的机关、团体、企事业单位和其他组织落实社会治安综合治理的各项措施；
- (四) 对本行政区域的社会治安综合治理目标管理责任制等各项制度的执行情况进行监督检查、考核评比，决定或者建议奖励与处罚；
- (五) 总结推广典型经验，表彰先进；
- (六) 办理社会治安综合治理的其他事项。

Article 9: The primary responsibilities of the committee for the comprehensive management of social order are:

1. Propagating and implementing laws, regulations, policies, and decisions related to the comprehensive management of social order;
2. Formulating the programs and plans on comprehensive management of social order for its own administration area, and organizing the implementation of such plans;
3. Guiding, coordinating, and supervising the implementation of various measures to comprehensively manage social order by various organs, groups, enterprises and institutions, and other organizations in its own administration area;
4. Supervising, inspecting, and evaluating the state of the implementation of various systems including the objectives management accountability system for the comprehensive management of social order in its own administration area; and deciding or proposing awards and penalties;
5. Summarizing and publicizing representative experiences and giving commendations; and
6. Handling other matters related to the comprehensive management of social order.

第十条 社会治安综合治理委员会及其办事机构、专门机构应当健全和完善工作制度，提高工作人员政治素质和业务素质，秉公办事，切实做好社会治安综合治理工作。

Article 10: The committee for the comprehensive management of social order and its affiliated office[s] shall strengthen and perfect the work system, increase the political awareness and professional caliber of their personnel, handle affairs impartially, and earnestly work to comprehensively manage social order.

第三章 专门机关职责

Chapter 3: Functions of Specialized Agencies

第十一条 人民法院、人民检察院、公安机关、司法行政机关、国家安全机关是惩治违法犯罪，维护社会治安的专门机关，应当依法严厉打击、严密防范民族分裂势力、暴力恐怖势力、宗教极端势力以及其他危害国家安全、公共安全和治安的各类犯罪活动，充分发挥在

Article 11: The people's courts, people's procuratorates, public security organs, judicial administrative organs, and state security organs are the designated agencies to punish illegal violations and criminals and to safeguard social order. They shall, in accordance with the law, severely crack down on and tightly guard against various criminal activities of ethnic separatist forces, violent terrorist forces, and religious extremist forces that would endanger state security, public security, and social

社会治安综合治理工作中的职能作用。

第十二条 人民法院应当加强刑事审判工作，依法惩处各种刑事犯罪分子；做好未成年人犯罪的审判、教育、感化、挽救工作；依法审理民事、行政、国家赔偿案件，做好执行和审判监督工作；做好减刑、假释的审理工作；加强对人民调解委员会业务指导，积极化解矛盾纠纷；及时处理来信来访，减少社会不稳定因素；结合办案提出司法建议，促进有关单位加强管理，消除治安隐患。

第十三条 人民检察院应当依法对犯罪嫌疑人、被告人批准逮捕、提起公诉；加强对管制、缓刑、剥夺政治权利、假释、暂予监外执行等刑罚执行的检察监督；加强来信来访、控告举报、刑事申诉、刑事赔偿等工作；加强对刑事、民事、行政审判和侦查工作的监督；加强职务犯罪和未成年人犯罪检察工作；依法提出检察建议，促进和加强有关单位的治安防范。

第十四条 公安机关应当预防、制止和打击危害社会治安的违法犯罪活动，及时查处破坏社会治安的案件；加强公安派出所、警务室等基层基础建设；加强对重点人员、重点行业、重点物品、重点场所、重点时段的治安管理和防范工作；加强对内部保卫机构、治保会等基层治保组织工作的检查，指导建立群防群治治安防控体系；加强对常住人口、流动人口的服务和治安管理工作；防范、查处和打击各种社会丑恶现象；预防和妥善处置危害社会治安的群体性事件和突发性事件。

第十五条 司法行政机关应当做好法制宣传教育、法律服务和法律保障工作；指导、管理基层人民调解委员会，调解民间纠纷，防止矛盾激化；做好法律援助工作，为困难群众提供法律服务；加强监狱和劳动教养场所的管理，做好服

order; they should assign and develop functional roles in their tasks comprehensively managing social order.

Article 12: People's courts shall reinforce criminal adjudication and punish various types of crimes in accordance with the law; improve the adjudication, education, rehabilitation, and reformation of juvenile criminals; adjudicate civil, administrative, and state compensation cases according to law and improve the enforcement and system for petitioning effective judgments; improve adjudication of commutation and parole; reinforce guidance of the work done by the people's mediation committees and settle disputes proactively; process petitions promptly and reduce destabilizing factors in the society; and jointly propose judicial suggestions, promote increased management by the relevant entities, and eliminate security hazards.

Article 13: People's procuratorates shall authorize arrests and prosecute suspects and defendants according to law; strengthen procuratorial supervision of the execution of penalties such as public surveillance, suspension of a sentence, deprivation of political rights, parole, and temporary service outside of prison; strengthen work in receiving petitions, reporting accusations, criminal appeal, and criminal compensation; strengthen the supervision of the adjudication and investigation of criminal, civil, and administrative cases; reinforce the prosecution of occupational criminals and juvenile criminals; propose procuratorial suggestions to relevant units in accordance with the law and promote and strengthen the security precautions of those units on guarding social order.

Article 14: Public security organs shall prevent, stop, and crack down on any unlawful and criminal acts that endanger social order and investigate such cases promptly; reinforce the construction of public security sub-stations and police offices at the basic level; strengthen the security management and preventive work of key persons, industries, goods, and places and during key time periods; reinforce inspections of organized public security work at the basic level, such as internal guard mechanisms and security committees, and guide the establishment of systems for the mass prevention and control of social order; strengthen services and social order management for permanent residents and migrant populations; be on guard against, investigate, and crack down on various types of social evils; and guard against and properly handle mass incidents and emergency incidents that endanger social order.

Article 15: Judicial administrative organs shall do public education on the legal system, legal services, and legal safeguards; guide and supervise people's mediation committees at the basic level, mediate civil disputes, and prevent confrontations from intensifying; do legal aid work and provide legal services to people with difficulties; strengthen the management of prisons and Reeducation-Through-

刑、劳动教养人员的管理、教育、改造工作；做好社区矫正工作；配合有关部门、单位，共同做好对刑满释放人员和解除劳动教养人员的帮教安置工作，预防和减少重新违法犯罪。

第十六条 国家安全机关应当依法查处危害国家安全的违法犯罪活动，加强国家安全教育 and 人民防线建设，动员和组织人民群众防范和制止危害国家安全的违法犯罪，维护国家安全。

Labor facilities and complete supervision, education, and reformation tasks of inmates and persons undergoing Reeducation-Through-Labor; implement community rectification services; cooperate with relevant bureaus and entities to complete the resettlement assistance and education of released convicts and persons released from Reeducation-Through-Labor and prevent and reduce repeat criminal offenses.

Article 16: National security organs shall investigate and deal with any unlawful or criminal acts endangering national security in accordance with the law, strengthen national security education and the construction of a people's line of defense, mobilize and organize the public to stop and prevent unlawful or criminal acts endangering state security, and protect national security.

第四章 社会责任

Chapter 4: Social Responsibility

第十七条 机关、团体、企事业单位和其他组织应当各尽其职、各负其责、密切配合、互相协调，加强人防、物防、技防建设，共同承担维护社会治安和社会稳定的责任。

机关、团体、企事业单位和其他组织的法定代表人、主要负责人为社会治安综合治理工作的主要责任人。

第十八条 国有企业、集体企业、民营企业、其他形式的企业以及新经济组织、新社会组织应当建立健全社会治安综合治理制度，落实各项治安防范措施。

第十九条 各级人民政府及其相关部门应当建立健全流动人口服务和管理长效工作机制；加强城乡接合部、社情复杂区域流动人口和出租房屋的清查登记工作；加强流动人口信息网络建设；建立流动人口流出流入地协作机制；加强流动人口的法制宣传教育和技能培训；依法维护流动人口的合法权益。

Article 17: State organs, groups, enterprises and institutions, and other organizations shall perform their respective duties and obligations, act in close cooperation with each other, strengthen the development of prevention mechanisms using people, materials, and technology, and commonly share the responsibility of maintaining social order and stability.

The legal representative or chief person in charge of state organs, groups, enterprises and institutions, and other organizations shall be the person(s) responsible for the comprehensive management of social order.

Article 18: State-owned enterprises, collective enterprises, private enterprises, and enterprises of other forms, as well as new economic organizations and social organizations, shall establish and improve the system of comprehensive management on social order, and implement social order precautionary measures of all kinds.

Article 19: People's governments at all levels and their relevant bureaus shall establish and improve a long-term and efficient work management mechanism on serving and managing the migrant population; reinforce work in checking and registration of the migrant population and leased housing at places that connect the urban and rural area and in communities with social discord; augment the infrastructure of the migrant population information network; establish a coordinated mechanism for the exit and entry [into the relevant area] of migrant populations; strengthen propaganda, education, and technical training on the rule of law for the migrant population; and protect legitimate rights and interests of the migrant population in accordance with the law.

第二十条 人力资源和社会保障、监察等有关部门应当做好社会治安综合治理绩效考评工作，检查监督社会治安综合治理领导责任制的执行情况，完善并实施社会治安综合治理的奖惩制度。

人力资源和社会保障部门应当加强人力资源市场建设和管理，组织指导有关机构加强职业培训，拓宽就业渠道；调解和处理劳动争议，加强劳动监察，维护劳动者合法权益；为刑满释放、解除劳动教养人员就业提供帮助；做好对进城务工人员就业服务、权益维护和社会保障工作。

第二十一条 民政部门应当加强城乡基层群众性自治组织建设和社会组织管理；加强对社区建设工作的督促和指导；做好救灾救济、社会救助、社会福利、优抚安置、流浪乞讨人员的救助和管理工作；及时调处行政区域界线争议。

第二十二条 信访部门应当组织、协调相关部门处理群众来信来访，排查化解社会矛盾和纠纷，协同有关部门妥善处理重大群体性上访事件，及时向有关部门通报信息。

第二十三条 民族宗教事务部门应当依法加强对民族、宗教事务的管理，宣传党的民族政策和国家法律法规，会同有关部门及时调处涉及民族、宗教方面影响社会治安的纷争，制止和取缔非法宗教活动，防范和打击利用民族、宗教问题进行的违法犯罪活动。

第二十四条 教育部门应当加强对师生员工的法制、道德、纪律和安全教育，预防和减少师生违法犯罪；加强校园管理，配合有关部门维护学校及周边社会治安秩序。

Article 20: The human resources and social security bureaus, supervision bureaus, and other relevant bureaus shall conduct performance assessments on the comprehensive management of social order; inspect and supervise the implementation of the comprehensive management of social order leadership liability system; and perfect and execute the reward and punishment system of comprehensive management of social order.

Human resources and social security bureaus shall strengthen development and management of the human resources market, organize and guide greater occupational training in relevant institutions, and broaden channels for employment; they shall mediate and process labor disputes, increase labor supervision, and protect the legitimate rights and interests of laborers; provide employment assistance to released convicts and those just released from Reeducation-Through-Labor; and provide employment services and social security for migrant workers seeking employment in cities, in addition to protecting their rights and interests.

Article 21: Civil affairs bureaus shall strengthen the development of rural and urban grass-roots mass autonomous organizations and administration of social organizations; intensify supervision and guidance of community development work; duly provide disaster assistance, social assistance, social welfare, assistance for entitled groups and for demobilized military personnel returning to civilian life, aid and management of vagrants and beggars; and timely mediate disputes on boundary lines of administrative areas.

Article 22: Letters and visits bureaus shall organize and coordinate relevant departments to handle incoming letters and petitions, investigate and resolve social conflicts and disputes, coordinate with relevant departments to duly handle significant mass petitioning incidents, and promptly report information to the relevant departments.

Article 23: The ethnic and religious affairs bureaus shall strengthen their management of ethnic and religious affairs in accordance with the law and propagate the Party's ethnic policies and national laws and regulations. They shall work in conjunction with relevant bureaus to mediate disputes involving ethnic or religious aspects that could influence social order; curb and ban illegal religious activities; and guard against and crack down on unlawful and criminal activities raising ethnic or religious issues.

Article 24: Education bureaus shall strengthen education for school faculty, students, and staff on the rule of law, morality, discipline and safety and prevent and reduce illegal and criminal acts among teachers and students. They shall augment campus management and cooperate with relevant bureaus to maintain social order in the school and its vicinity.

第二十五条 文化、广播电影电视、新闻出版等部门应当做好社会治安综合治理的相关工作；依法加强对文化市场、娱乐场所、互联网服务场所、广播电视传输设施的管理；会同有关部门依法查处制作、出版、销售、传播含有危害国家安全、非法宗教、暴力、淫秽、迷信等内容的读物和音像制品等违法犯罪行为。

第二十六条 经济和信息化、通信管理等部门应当加强互联网、移动通信信息的管理，协助公安等部门预防和打击网络违法犯罪行为。

互联网接入单位、互联网服务单位应当依法落实安全管理和安全技术措施，防止提供、制作、发布或者传播虚假、有害信息，营造良好的网络环境。

第二十七条 工商、质量技术监督、税务、价格管理部门应当依法加强对市场主体的服务和监督管理，维护市场秩序；会同有关部门依法查处和打击制假售假、欺行霸市、强买强卖、不正当竞争、传销、偷税漏税、哄抬物价等违法活动。

第二十八条 卫生、食品药品监督管理部门应当加强对医疗、食品、药品市场的监督管理。加强食品安全综合协调，防止食品安全事故发生；查禁有毒有害食品、假劣药品和不符合标准的医疗器械、医用卫生材料；做好传染病预防和检测治疗工作；加强麻醉药品、精神药品和医疗废弃物的管理；组织做好吸毒人员的治疗、康复工作和艾滋病的预防、检查、收治工作。

Article 25: The culture bureaus; radio, film, and television bureaus; and press and publishing bureaus; amongst others, shall thoroughly complete work related to the comprehensive management of social order; strengthen management of cultural markets, public recreation places, Internet service establishments, and radio and television transmission facilities in accordance with the law; work in conjunction with relevant bureaus to investigate and prosecute illegal and criminal activities in accordance with the law, including the production, publishing, marketing, and dissemination of reading and audio-visual materials that contain information endangering state security, information on illegal religions, violence, obscenities, and superstitions.

Article 26: Economic and informatization bureaus and communications administration bureaus, amongst others, shall increase management of Internet and mobile communication information and assist public security bureaus and the related departments in preventing and cracking down on illegal and criminal acts on the Internet.

Entities providing Internet access or Internet services shall implement security administration and safety technical measures in accordance with the law; prevent the supply, production, publishing, or dissemination of false and harmful information; and create a good network environment.

Article 27: Industry and commerce bureaus, quality and technical supervision bureaus, tax bureaus, and price management bureaus shall strengthen services and supervisory administration over market players as well as maintain the market order. They shall work in conjunction with relevant bureaus to investigate, prosecute, and crack down on illegal activities in accordance with the law, including the production and sale of fake goods, market domination, coerced sales and purchases, unfair competition, pyramid schemes, tax evasion, and price hikes.

Article 28: Health bureaus and the food and drug administration shall strengthen the supervision and administration of health care, food, and pharmaceutical markets. They shall strengthen the comprehensive coordination of food safety and prevent food safety incidents; investigate and ban toxic and hazardous foods, counterfeit medicines, and substandard medical equipment and materials; thoroughly implement measures to prevent, detect, and treat infectious diseases; strengthen the administration of narcotics, psychotropic drugs, and medical waste; and organize the thorough completion of the treatment and recovery of drug addicts and the prevention, screening, and treatment of HIV/AIDS.

第二十九条 铁路、公路、民航、油气管道等交通运输管理部门及经营企业应当加强运输安全管理，开展护路联防，协助有关部门打击抢劫、盗窃以及破坏交通运输设施、运输安全和利用交通工具进行违法犯罪的行为；配合有关部门维护和整顿车站、机场的治安秩序；做好易燃、易爆、剧毒等违禁和管制物品的查堵工作。

第三十条 供水、供电、供热、燃油、燃气等管理部门及经营企业应当加强对设施运行的安全管护工作，严密防范措施，协同有关部门打击危害公共安全等违法行为。

第三十一条 金融监督管理部门应当加强对金融机构安全防范工作的检查、监督和指导，严格内部安全管理，加强安全防范；会同有关部门监督、检查、指导金融机构安全防护设施的配置建设；协助有关部门依法打击资助危害国家安全、公共安全和金融诈骗、洗钱、非法集资等犯罪行为。

第三十二条 安全生产监督管理部门及相关部门应当加强安全生产监督管理，落实安全生产措施，会同有关部门及时查处生产安全事故责任单位及责任人，预防和减少生产安全事故的发生。

第三十三条 海关及出入境管理部门应当加强对进出境人员、运输工具、货物、物品的监督管理，依法打击走私及其他违法犯罪行为。

第三十四条 工会、共青团、妇联应当依法维护职工、青少年、妇女儿童的合法权益，协助有关部门调查处理纠纷，预防和制止违法犯罪行为。

Article 29: Transportation administrations and enterprises dealing with rail, road, and air transport as well as oil and gas pipelines shall strengthen the management of transportation safety, develop a joint defense of roads, assist relevant bureaus on cracking down on robbery, theft, and acts such as the destruction of transport infrastructure and transportation safety and illegal and criminal acts using transport facilities. They shall work in conjunction with relevant bureaus to uphold and improve social order in transport depots and airports; thoroughly investigate and discover contraband or controlled substances, including inflammables, explosives, and poisons.

Article 30: Administrative bureaus and enterprises dealing with water, power, heating, fuel, and gas and other management shall strengthen the management and protection of the facility operations, implement strict precautionary measures, and coordinate with relevant departments to combat illegal activities that could endanger public safety.

Article 31: Financial supervision and administration bureaus shall strengthen inspection, supervision, and guidance of the safety precautions undertaken by financial institutions, implement strict internal security management, and strengthen safety precautions. They shall work in conjunction with relevant bureaus to supervise, inspect, and guide the configuration and construction of safety facilities by financial institutions; assist relevant bureaus in cracking down on criminal acts in accordance with the law, including the funding of acts that could endanger state security and public safety, financial fraud, money laundering, and illegal fund-raising.

Article 32: Work safety supervision administrations and related bureaus shall strengthen the management of safety in production, implement work safety measures, and work in conjunction with relevant bureaus to promptly investigate and prosecute the entities and persons responsible for work safety incidents, and they shall prevent and reduce the occurrence of work safety incidents.

Article 33: Customs and exit-entry administrations shall strengthen the supervision and management of the entry and exit of people, transport vehicles, and goods. They shall crack down on smuggling and other illegal and criminal acts in accordance with the law.

Article 34: Trade unions, the Communist Youth League, and the Women's Federation shall safeguard the legitimate rights and interests of workers, youths, women, and children in accordance with the law; assist relevant bureaus in investigating and settling disputes; and prevent and suppress illegal and criminal activities.

第三十五条 物业、保安等社会服务机构应当履行安全管理和服务职责，做好责任区内的安全防范工作。

第三十六条 村（居）民委员会社会治安综合治理工作责任：

- （一） 做好法律、法规的宣传工作，加强民族团结、思想道德教育；
- （二） 制定村规民约、居民公约，并监督执行；
- （三） 建立健全治安保卫组织和人民调解组织，做好治安防范、民间纠纷排查、调解和基层平安创建工作，防范民族分裂势力、暴力恐怖势力、宗教极端势力的渗透破坏活动；
- （四） 熟悉辖区村（居）民家庭成员基本情况和社会表现，掌握流动人口、重点人群、出租房屋等社情动态，协助有关部门作好治安防范和整治工作；
- （五） 组织村（居）民参加各种形式的群防群治活动，协助有关部门查处各类案件；
- （六） 配合有关部门做好社区矫正工作和刑满释放、解除劳教人员的帮教、就业工作。

第三十七条 公民应当参与社会治安综合治理工作，自觉遵守国家法律和社会公德，做好家庭和自身安全防范，维护社会治安秩序。

Article 35: Social services organizations including those for property and security shall fulfill their duties in security management and services as well as maintain safety precautions in their assigned areas.

Article 36: The responsibilities of village (residential) committees in the comprehensive management of social order are to:

1. Propagate laws and regulations; strengthen education on ethnic unity and ideological and ethnicity standards;
2. Formulate village regulations and residents' pacts and supervise their implementation;
3. Establish and perfect public security organizations and civil mediation organizations; implement security precautions, investigation and mediation of civil disputes, and grassroots peace-building; and be on guard against the infiltration and sabotage by ethnic separatist forces, violent terrorist forces, and religious extremist forces;
4. Be familiar with the basic situation and social performance of villagers' (residents') family members in one's jurisdiction; have a grasp on the dynamic social conditions such as migrant populations, key groups, and rental housing; and assist relevant bureaus in implementing security precautions and rectification;
5. Organize villagers (residents) to participate in various types of activities for prevention and control by the masses and assist relevant bureaus in investigating and prosecuting various cases;
6. Cooperate with relevant bureaus on community rectification, and providing of assistance, education, and employment for persons released from prison and Reeducation-Through-Labor.

Article 37: Citizens shall participate in the comprehensive management of social order; abide by the national laws and social ethics; take precautionary measures for oneself and one's family; and uphold social order.

第五章 保障与奖励

Chapter 5: Guarantees and Awards

第三十八条 各级人民政府应当保障社会治安综合治理经费，列入年度财政预算，专款专用，并随着国民经济和社会事业的发展相应增加。

Article 38: The people's government at all levels shall guarantee funds for the comprehensive management of social order as part of the annual financial budget; earmark the funds for this specific purpose; and increase the funds correspondingly with the development of the national economy and social undertakings.

群防群治所需经费采取政府出资、社会捐助等形式解决。

The funds required for the prevention and control by the masses shall be derived from the government funds, social contributions, and other such funds.

单位内部的治安综合治理经费由本单位承担。

Entities shall undertake the responsibility of funding their own internal comprehensive management of social order.

第三十九条 自治区、州（市、地）设立见义勇为奖励基金，表彰、奖励、救助、抚恤同违法犯罪行为作斗争的公民。

Article 39: The Autonomous Region and prefectures (municipalities, districts) shall set up funds for awards in recognition of those who have acted heroically, in order to honor, reward, aid, and provide pension to citizens who have joined the fight against illegal and criminal acts.

见义勇为奖励基金的来源、管理、使用等具体事项由自治区人民政府另行制定。

Concrete items related to the award, including its sources, management, and uses, shall be drafted by the people's government of the Autonomous Region.

第四十条 公民为维护社会治安，同违法犯罪行为作斗争牺牲，符合国家、自治区有关规定的，授予烈士称号并对其家属进行抚恤。

Article 40: Citizens whose lives are lost while upholding social order and fighting against illegal and criminal acts shall be named martyrs and their families shall be given pension as set forth in the relevant national and regional laws.

公民同违法犯罪行为作斗争误工的，按照出勤对待；致伤致残的，由民政部门按照规定评定伤残等级，并享受相应待遇。

Citizens who miss work due to fighting against illegal and criminal acts shall be regarded as in normal attendance. Those suffering injuries and disabilities as a result of fighting against crime shall enjoy benefits according to the stipulated evaluation scale of the civil affairs bureau.

公民因同违法犯罪行为作斗争负伤、致残或者死亡的，其医疗、丧葬、生活补助等费用，依法由侵害人或者侵害人的监护人承担；侵害人或者侵害人的监护人下落不明或者确无能力承担的，由当地人民政府按照有关规定解决。

Those responsible for the injuries or deaths of citizens who are injured, disabled, or killed in the course of fighting against illegal and criminal acts or their guardians, shall pay compensation including medical or funeral expenses and living subsidies, in accordance with the law. If those responsible for the injuries or deaths of citizens, or their guardians, cannot be found or are unable to pay, the local people's government shall solve the problem in accordance with the pertinent regulations.

第四十一条 公民同违法犯罪行为作斗争受伤的，医疗单位应当无条件及时救治，医疗费用按本条例第四十条第三款规定处理。

Article 41: Citizens who are injured while fighting against illegal and criminal acts shall receive prompt and unconditional medical treatment given by a medical entity. The medical fee shall be charged in accordance with the stipulations of Article 40 (3) of these Regulations.

第四十二条 符合下列条件之一的单位和个人，由各级社会治安综合治理机构给予表彰、奖励；有重大贡献的，由县级以上社会治安综合治理机构推荐，报请同级人民政府批准，给予记功或者授予荣誉称号：

- (一) 落实社会治安综合治理目标管理责任制成效显著；
- (二) 与危害国家安全、公共安全和社会治安的各类犯罪行为作斗争有突出贡献的；
- (三) 见义勇为、同违法犯罪行为作斗争或者检举、揭发违法犯罪行为事迹突出的；
- (四) 单位负责人或者治安责任人在社会治安综合治理工作中作出突出贡献的；
- (五) 在治安防范、流动人口服务管理、调解纠纷、帮教安置、防止重大刑事案件发生等工作中作出突出贡献的；
- (六) 在社会治安综合治理工作中有其他突出贡献的。

Article 42: Entities and individuals that meet any of the following conditions shall be recognized and rewarded by each level of the institution in charge of the comprehensive management of social order. In the case where an individual or entity has made a major contribution, the institution in charge of the comprehensive management of social order at the county level or above shall make a recommendation for a citation of merit or a title of honor, submitting it to the people's government at the same level for approval.

1. Obtaining remarkable results in implementing comprehensive management of social order with an objectives management accountability system;
2. Making significant contributions to the fight against all types of criminal violations of endangering state security, public security, and social order;
3. Performing outstanding deeds in acting heroically, fighting crime, or reporting or exposing illegal and criminal acts;
4. Making outstanding contributions during the process of comprehensively managing social order by those entities or individuals responsible for social order ;
5. Making outstanding contributions in the course of the maintenance of social order, serving and managing migrant populations, mediating disputes, educating and placing [convicts and those released from RTL], and preventing major criminal cases.
6. Making any other outstanding contributions in the course of comprehensively managing social order.

第六章 法律责任

Chapter 6: Legal Liabilities

第四十三条 对不履行社会治安综合治理责任的单位，由辖区社会治安综合治理委员会督促其履行，提出整改建议或者给予通报批评；对不履行整改建议的，可以建议其上级主管部门、行政监察机关对单位负责人、直接责任人给予批评教育或者依法给予行政处分。接到建议的机关应当在一个月将调查、处理情况送交提出建议的社会治安综合治理委员会。

Article 43: Where an entity has not fulfilled its duty to comprehensively manage social order, its performance shall be supervised by the committee for the comprehensive management of social order who holds jurisdiction, and the committee shall raise recommendations for rectification and reform or give censure. Where such entity does not fulfill the recommendations for rectification and reform, the committee can propose that a higher governing body or administrative and supervisory organ give the entity's person in charge or direct person in charge criticism and education or an administrative penalty in accordance with the law. The organ that receives the committee's proposal should, within one month, send the information

on the investigation and results of the process to the committee for the comprehensive management of social order that made such a proposal.

第四十四条 经社会治安综合治理委员会考核，没有达到规定的社会治安综合治理目标的地区或者单位，由县级以上社会治安综合治理委员会给予通报批评，并可以建议其上级主管部门或者行政监察机关对该地区、单位的主要领导、主管领导和直接责任人给予批评教育或者依法给予行政处分。

Article 44: Areas or entities that have not met their stipulated objectives for the comprehensive management of social order as assessed by the committee for the comprehensive management of social order shall be censured by the committee for the comprehensive management of social order at the county level or above, which can also propose that its superior bodies or administrative and supervisory organ give the region or entity's principal leadership or managing leadership or direct person in charge criticism and education or an administrative penalty in accordance with the law.

第四十五条 违反本条例规定，有下列情形之一的，由县级以上社会治安综合治理委员会予以一票否决：

Article 45: The committee to comprehensively manage social order at the county level or above can vote to overrule [by one vote] where there is a violation of these Regulations that fulfills any of the following conditions:

- (一) 防范民族分裂势力、暴力恐怖势力、宗教极端势力措施不落实或者处置不及时、打击不力，致使本地区、本单位发生严重危害社会治安暴力恐怖事件的；
- (二) 因领导不重视、社会治安综合治理机构不健全，造成本地区或者本单位治安秩序严重混乱的；
- (三) 对不安定因素或者内部矛盾化解不及时、处置不力，造成非法游行、聚众滋事、停工、停产、停课等严重后果的；
- (四) 因主管领导、治安责任人工作不负责任，发生重大案件或者恶性事故，造成严重损失或者恶劣影响的；
- (五) 因管理不善、防范措施不落实，发生刑事、治安案件或者灾害事故，使国家、集体、公民财产遭受损失，又不认真查处、改进工作的；

1. The measures taken to keep guard against ethnic separatist forces, violent terrorist forces, or religious extremist forces are not implemented or do not timely deal with problems, or do not strike against the forces effectively, causing the occurrence of a serious and violent terrorist incident that endangers social order in a region or entity;
2. Causing severe chaos in the district or entity due to leadership oversight or the lack of a robust institution for the comprehensive management of social order;
3. Factors leading to social instability or internal contractions are not resolved promptly or ineffectively disposed of, thereby leading to serious consequences, including illegal demonstrations, masses gathering to disturb the peace, strikes, and the suspension of classes;
4. The occurrence of significant cases or accidents due to the dereliction of duty by leadership or those in charge of public order, which in turn leads to major cases or serious accidents, causing serious losses or adverse effects;
5. The occurrence of criminal or security cases or disasters leading to the loss of state-owned, collectively-owned, or privately-owned property due to poor management or the lack of implementation of precautionary measures, and moreover which is not seriously investigated or improved upon;

- (六) 存在发生治安问题的重大隐患，经上级主管部门、有关部门或者社会治安综合治理机构提出警告、司法建议、检察建议、整改建议，限期改进而无有效改进措施和明显效果的；
- (七) 发生刑事案件或者重大治安问题隐瞒不报或者做虚假报告的；
- (八) 因教育管理工作不力，本单位职工中违法犯罪情况比较严重的；
- (九) 上级社会治安综合治理委员会认为其他应当予以一票否决的。
6. Limited improvement or no effective improvement measures or obvious effects are made to existing security issues of great implicit concern following warnings, judicial recommendations, procuratorial recommendations, and rectification and reform recommendations made by superior bodies and relevant bureaus or institutions in charge of the comprehensive management of social order;
7. The concealment or false reporting of criminal cases or significant social order issues;
8. Causing many illegal or criminal violations by workers of an entity due to insufficient education and management;
9. Other situations deemed worthy of being overruled by a superior committee to comprehensively manage social order.

不适用一票否决的单位和个人，由县级以上社会治安综合治理委员会协调、督促有关部门依法予以处罚。

第四十六条 一票否决的内容包括：州（市、地）、县（市、区）、乡（镇、街道）以及机关、团体、企事业单位和其他组织当年评选的综合性荣誉称号；上述单位主要领导、主管领导和治安责任人当年评先评优、晋职晋级的资格。

一票否决权由县级以上社会治安综合治理委员会行使。乡（镇、街道）、社区社会治安综合治理委员会有一票否决的建议权。

第四十七条 对一票否决决定不服的单位和个人，可以在收到决定书之日起十五日内向作出否决决定机构的上一级社会治安综合治理领导机构申请复议。受理复议的机构应当在接到申请复议的一个月内作出是否变更的决定，并予答复，复议期间否决决定暂不执行。

Entities and individuals to which the aforementioned conditions do not apply shall be penalized by the relevant bureaus in accordance with the law with coordination and supervision from the committee for the comprehensive management of social order at the county level and above.

Article 46: An overruling [by one vote] includes: the annual selection of a comprehensive honorary title by an autonomous prefecture (municipality, region), county (municipality, district), township (town, neighborhood), organ, group, enterprise and institute, or other organizations; qualifications for the annual assessment and promotion of the aforementioned principal leadership or managing leadership and individuals responsible for social order of an entity.

The veto power shall be exercised by the committee for the comprehensive management of social order at the county level and above. The committee for the comprehensive management of social order committee at the township, (town, neighborhood) and community level has the authority to recommend an overruling.

Article 47: Entities or individuals that do not accept the decision to overrule can submit an application for a reconsideration within 15 days upon receiving the decision notice to the leading organ in charge of the comprehensive management of social order at the level above the organ that issued the decision to overrule. The organ accepting the reconsideration shall issue a decision on whether it shall reverse the overruling within one month from receiving the application for reconsideration and issue a response. The overruling shall not be executed during the reconsideration period.

第四十八条 社会治安综合治理工作机构及其工作人员不履行或者不正确履行职责造成严重后果的，其直接负责的主管人员和其他直接责任人员，由其所在单位或者上级主管部门给予批评教育或者行政处分；构成犯罪的，依法追究刑事责任。

Article 48: The principle officer directly in charge and others directly in charge of organs and personnel dealing with the comprehensive management of social order, who fail to fulfill their duties, or improperly fulfill their duties, leading to serious consequences, shall be given criticism and education or an administrative penalty in accordance with the law by its entity or superior bureaus. Where such constitutes a crime, they shall be held criminally responsible in accordance with the law.

第四十九条 本条例自 2010 年 2 月 1 日起施行。

Article 49: This Regulation shall take effect from February 1, 2010.

Section II: Ministry of Public Security Official Statements

中国认定恐怖组织和恐怖分子的具体标准

China Sets Out Specific Criteria for Identifying Terrorist Organizations and Terrorists² December 15, 2003 (Excerpt)

认定恐怖组织的具体标准

Specific Criteria for Identification of Terrorist Organizations

(一) 以暴力恐怖为手段，从事危害国家安全，破坏社会稳定，危害人民群众生命财产安全的恐怖活动的组织（不论其总部在国内还是国外）。

(1) A group (regardless of whether the headquarters is within the country or overseas) which, through violent terrorist means, engages in acts that endanger national security, destruct social stability, and endanger lives and properties of the people;

(二) 具有一定的组织领导分工或分工体系。

(2) has a certain degree of structure, leading division of work, or work division system;

(三) 符合上述标准，并具有下列情形之一：

(3) satisfying the above criteria, and with any of the following circumstances:

(1) 曾组织、策划、煽动、实施或参与实施恐怖活动，或正在组织、策划、煽动、实施或参与实施恐怖活动；

(i) organized, planned, incited, implemented or participated in implementing terrorist acts, or is amid organizing, planning, inciting, implementing or participating in implementation of terrorist acts;

(2) 资助、支持恐怖活动；

(ii) subsidizes, or supports terrorist acts;

(3) 建立恐怖活动基地，或有组织地招募、训练、培训恐怖分子；

(iii) establishes a base for terrorist activity; or recruits, trains, or cultivates terrorists systematically;

(4) 与其他国际恐怖组织相勾结、接受其他国际恐怖组织资助、训练、培训，或参与其活动。

(iv) in collusion with other international terrorist organizations, accepts subsidy, training, cultivation of other international terrorist organizations, or participates in the activities thereof.

认定恐怖分子的具体标准

Specific Criteria for Identification of Terrorists

(一) 与恐怖组织发生一定的联系，在国内外从事危害国家安全和人民群众生命财产安全的恐怖活动的人员（不论其是否加入外国国籍）。

(1) A person (regardless of a change in citizenship) who has certain connection with any terrorist organization, engaging, within the country or overseas, in an act that endangers national security and the lives and properties of the people.

(二) 符合上述条件，并具有下列情形之一：

(2) Satisfying the above criterion, and with any of the following circumstances:

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| (1) 组织、领导、参与恐怖组织； | (i) organizes, leads, or participates in any terrorist organization; |
| (2) 组织、策划、煽动、宣传或教唆实施恐怖活动； | (ii) organizes, plans, incites, promotes or abets the implementation of a terrorist act; |
| (3) 资助、支持恐怖组织和恐怖分子进行恐怖活动； | (iii) sponsors, or supports a terrorist organization and terrorists in carrying out terrorist acts; |
| (4) 接受上述恐怖组织或其他国际恐怖组织资助、训练、培训或参与其活动。 | (iv) accepts subsidy, training, or cultivation from the aforementioned terrorist organization or other international terrorist organizations, or participates in the activities thereof. |

公安部通报第二批认定的 8 名“东突”恐怖分子名单

2008 年 10 月 21 日上午公安部举行发布会，通报公安部《第二批认定的“东突”恐怖分子名单》。

公安部指出，2007 年以来，以“东突厥斯坦伊斯兰运动”（联合国安理会 2002 年 9 月认定的恐怖组织，简称“东伊运”）为首的“东突”恐怖势力针对北京奥运会，在中国境内外策划、组织、实施了一系列恐怖犯罪活动，严重危害了北京奥运会安全和中国社会稳定，同时，对有关国家和地区的安全与稳定也构成了威胁。中国警方依法严厉打击“东突”恐怖势力针对北京奥运会的恐怖犯罪活动，并通过加强社会基础防范控制，以及积极开展反恐国际合作等有效措施，及时发现和挫败了各种针对北京奥运会的恐怖袭击活动，确保了“平安奥运”目标的实现。

为打击“东突”恐怖势力，公安部在掌握“东伊运”部分成员恐怖活动情况和确凿犯罪证据的基础上，依照《中华人民共和国刑法》、《中华人民共和国国家安全法》等有关法律，并根据联合国有关反恐决议，经过严格甄别和审核，认定下列 8 人为恐怖分子：1、买买提明·买买提，2、艾买提·亚库甫，3、买买提吐尔逊·依明，4、买买提吐尔逊·阿布杜哈力克，5、夏米斯丁艾合麦提·阿布都米吉提，6、艾可米来·吾买尔江，7、牙库甫·麦麦提，8、吐尔孙·托合提。

公安部指出，此次认定的 8 名恐怖分子均系恐怖组织“东伊运”的骨干成员，均曾参与策划、指挥和组织实施了针对北京奥运会的各种恐怖犯罪活动。其中，有的领导指挥恐怖组织实施各种暴力恐怖活动；有的组织恐怖分子训练，制定恐怖袭击计划并下达行动指令；有的招募恐怖组织成员，筹集恐怖

Ministry of Public Security Announces Second List of Eight Identified “East Turkestan” Terrorists³ October 21, 2008

On October 21, 2008, the Ministry of Public Security held a press conference announcing its *Second List of Identified “East Turkestan” Terrorists* (第二批认定的“东突”恐怖分子名单).

The MPS pointed out that, since 2007, the “East Turkestan” terrorist forces, led by the “East Turkestan Islamic Movement” (ETIM) (recognized as a terrorist organization by the UN Security Council in September 2001), has planned, organized, and implemented a series of terrorist activities within China and abroad directed against the Beijing Olympic Games. Such activities have seriously endangered the safety of the Beijing Olympic Games and social stability of China and pose a threat to the safety and stability of related countries and regions. The Chinese police have cracked down on terrorist activities directed against the Beijing Olympic Games perpetuated by “East Turkestan” terrorist forces in accordance with law. The Chinese police have also timely discovered and thwarted various types of terrorist activities directed against the Beijing Olympics to ensure a “peaceful Olympics” objective by strengthening grass-roots prevention and control and by actively launching effective measures such as international cooperation in anti-terrorism efforts.

In order to fight the “East Turkestan” terrorist forces, the MPS has, based on the terrorist activities of certain ETIM members and irrefutable evidence of criminal offences, strictly identified and verified the eight terrorists as follows in accordance with the *Criminal Law of the People’s Republic of China*, *State Security Law of the People’s Republic of China*, and relevant laws and regulations as well as UN anti-terrorism resolutions: 1. Memetiming Memeti (in Chinese: Maimaitiming Maimaiti [买买提明·买买提]), 2. Emeti Yakuf (in Chinese: Aimaiti Yakufu [艾买提·亚库甫]), 3. Maimaititu’erxun Yiming (买买提吐尔逊·依明), 4. Maimaititu’erxun Abuduhali (买买提吐尔逊·阿布杜哈力克), 5. Xiamisidingaihemaite Abudumijiti (夏米斯丁艾合麦提·阿布都米吉提), 6. Aikemilai Wuma’erjiang (艾可米来·吾买尔江), 7. Yakufu Maimaiti (牙库甫·麦麦提), 8. Tu’ersun Tuoheti (吐尔孙·托合提).

The MPS pointed out that all of the eight identified terrorists are key members of the ETIM and have participated in planning, directing, and organizing the implementation of various terrorist criminal activities directed against the Beijing Olympics. Among the eight terrorists, some have guided terrorist groups in carrying out various violent terrorist activities; some have organized training for terrorists and designed and commanded plans for terrorist attacks; some have recruited members for terrorist organizations, raised funds for

活动经费，积极开展制毒制爆活动；有的积极参加恐怖培训和恐怖行动小组，企图采取爆炸、投毒等方式实施恐怖袭击。

据悉，2003年12月，公安部认定并公布了第一批“东突”恐怖组织和恐怖分子名单。这次认定并公布的第二批“东突”恐怖分子名单，本着以事实为依据，以法律为准绳的原则，严格依法进行。主要依据是：《中华人民共和国刑法》及《刑法修正案（三）》；《中华人民共和国国家安全法》及其实施细则；中国加入的联合国《制止恐怖主义爆炸的公约》、《制止向恐怖主义提供资助的国际公约》等一系列反恐怖国际公约，以及联合国安理会通过的第1267号、1373号、1456号、1624号等反恐决议。

公安部指出，恐怖主义是世界各国面临的共同威胁，打击恐怖主义犯罪是世界各国的共同责任。公安部郑重声明，中国反对一切形式的恐怖主义，中国愿意与国际社会开展反恐合作，并希望与有关国家在反恐怖情报信息交流、引渡和遣返恐怖犯罪嫌疑人、截断恐怖活动的资金来源等方面进一步加强合作。同时，希望有关国家政府及其执法部门对中国此次认定并公布的8名恐怖分子依法进行刑事调查，发现其行踪下落立即予以拘捕并移交中国，以依法追究其刑事责任。

terrorist activities, and produced poisons and bombs; and some have actively participated in terrorist training and attacks, and have schemed to carry out terrorist attacks using bombs and poison.

It is reported that in December 2003, the MPS identified and issued the first list of identified “East Turkestan” terrorists. The second list of identified “East Turkestan” terrorists as identified and announced presently is based on facts and with the law in mind; it shall be strictly carried out in accordance with the law. The second list is predominately based on: the *Criminal Law of the People’s Republic of China* and its Third Amendment; the *State Security Law of the People’s Republic of China* and its detailed implementation rules; UN International Convention for the Suppression of Terrorist Bombings, International Convention for the Suppression of Financing of Terrorism, and other UN anti-terrorism conventions to which China is party; and UN Resolutions 1267, 1373, 1456, and 1624 as passed by the Security Council.

The MPS pointed out that terrorism is a common threat faced by countries all over the world and all countries should have the responsibility to fight terrorism. The MPS reaffirmed solemnly that China is against terrorism in every shape and form and is willing to cooperate with the international community in its anti-terrorism efforts, and wishes to increase cooperation in other aspects, including exchanging anti-terrorism information, extraditing and repatriating criminal suspects, and suppressing the financing of terrorism. China hopes that relevant countries and their law enforcing departments can conduct criminal investigations in accordance with the law into the eight terrorists identified, promptly arrest and turn them over to China upon discovery of their whereabouts, and prosecute for liability in accordance with the law.

公安机关破获“东伊运”恐怖组织案件
(实录)

Public Security Agencies Foil “East Turkestan Islamic Movement”
Terrorist Plot (Transcript)⁴
June 24, 2010

公安部于 2010 年 6 月 24 日(周四)10 时,在亚洲大酒店多功能厅(二层)举行新闻发布会,由公安部办公厅副主任、新闻发言人武和平通报中国公安机关破获一起重大恐怖组织案件相关情况。以下是发布会实录:

武和平:

各位记者朋友,女士们、先生们,大家上午好!非常欢迎诸位来参加公安部新闻发布会,今天发布会的主题是中国公安机关最近破获一起恐怖组织案件的有关情况。

最近,中国公安机关破获了一起重大恐怖组织案件,抓获以阿不都热西提·阿不来提(男,新疆莎车县人,42岁)、依明·色买尔(男,新疆岳普湖县人,33岁)为首的 10 余名恐怖组织头目、骨干及成员,缴获了一批自制爆炸物装置等作案工具,有力挫败了恐怖分子的破坏图谋,及时消除了社会安全隐患。

这起重大恐怖组织案件的线索发现于 2009 年的一起非法越境案件。2009 年 12 月 20 日,20 名中国籍人员因非法入境他国被驱逐出境,中国警方按惯例接收了上述人员。随后,中国警方本着人道主义,及时将裹挟其中的 1 名妇女和 2 名儿童释放并进行了妥善安置。公安机关依法对其余 17 人审查时发现,其中有 3 名是被警方通缉的在逃恐怖犯罪嫌疑人,均系近期破获的阿不都热西提·阿不来提、依明·色买尔恐怖组织骨干成员。

公安机关现已查明,该恐怖组织头目阿不都热西提·阿不来提系境外“东伊运”恐怖组织派遣入境人员,依明·色买尔系“东突”恐怖势力骨干。2008 年以来,该恐怖组织在

On June 24, 2010 (Thursday) at 10:00 a.m., at a second-floor multi-purpose reception hall of the Asia Hotel, Vice-Director of the Ministry of Public Security General Office and spokesperson Wu Heping reported that Chinese public security agencies had broken up a major terrorist plot. Below is a transcript of the news conference:

Wu Heping:

Friends, ladies, gentlemen, good morning to all of you. I would like to warmly welcome everyone to the Ministry of Public Security's news conference. The topic of today's conference is the circumstances surrounding the recent breaking up of a terrorist plot by Chinese public security agencies.

Recently, Chinese public security agencies broke up a major terrorist plot, capturing more than ten leaders, key agents, and members of a terrorist organization, including two plot leaders Abdurixit Ablet (in Chinese: Abudurexiti Abulaiti [阿不都热西提·阿不来提]) (male, from Yarkant County [in Chinese: Shache Xian {莎车县}], XUAR, 42) and Imin Semai'er (in Chinese: Yiming Semai'er [依明·色买尔]) (male, from Yopurga County [in Chinese: Yuepuhu Xian {岳普湖县}], XUAR, 33); seizing homemade explosives, deflagration equipment, and other various criminal implements; forcefully thwarting a terrorist conspiracy; and promptly eliminating a concealed threat to social security.

Clues leading to this major terrorist plot were first discovered in relation to a 2009 illegal border-crossing case. On December 20, 2009, 20 individuals of Chinese citizenship were deported from another country after illegally crossing the border and thus were taken into custody by Chinese police, per usual practice. Afterwards, the Chinese police quickly released one woman and two children among those individuals, in line with humanitarian sentiment, and set up living arrangements for them. The remaining 17 were investigated according to the law, which revealed that three of them were fugitive terrorist suspects wanted by the police, all of whom were core members of the terrorist organization of the recently-captured Abdurixit Ablet and Imin Semai'er.

The public security agencies have ascertained that this terrorist organization's ringleader Abdurixit Ablet is an individual dispatched from abroad by the ETIM and that Imin Semai'er is a key actor in the East Turkestan terrorist forces. This terrorist organization has planned

新疆策划和实施了多起恐怖案件，其中北京奥运会期间发生在新疆喀什的驾车袭击公安边防官兵案和库车县恐怖爆炸袭击案均系该恐怖组织成员所为。

阿不都热西提·阿不来提、依明·色买尔等人在审讯中供认，案发前，他们流窜于新疆、河南、广东、云南等多个省区，暗中从事宗教极端活动，发展培训成员，建立恐怖组织，并积极筹措资金，四处寻购制爆原料，多次进行制爆试爆，为实施恐怖破坏活动做准备。为制造更大影响，2009年7月至10月，他们准备了数十枚自制炸弹、燃烧瓶以及刀斧等一批作案工具，预谋在新疆喀什、和田、阿克苏等地实施大规模、连环恐怖袭击。在其恐怖犯罪图谋被公安机关及时侦获并挫败后，该恐怖组织少数骨干成员潜逃至广东、云南等地，纠集部分人员分批从我国西南边境地区偷渡出境。这些人员在外逃期间，集体宣誓加入“东伊运”恐怖组织，并向“东伊运”恐怖组织头目的互联网邮箱发送照片等人员信息，索要具体出逃路线图，企图转道参加境外“东伊运”恐怖组织。公安机关现已掌握，这些人员在外逃过程中还得到了境外“东突”组织派人接应和资助。

这一重大恐怖组织的破获再次证明，“东伊运”等恐怖组织是当前和今后一段时期我国面临的最主要恐怖威胁。中国公安机关将坚决支持并履行联合国大会和安理会的决议，依法严厉打击各种恐怖主义活动，切实维护社会稳定。

今天的发布会到此结束，谢谢！

and carried out several terrorist plots since 2008, including the vehicle attack against public security frontier defense officers in Kashgar (in Chinese: Kashi [喀什]) and the terrorist explosions in Kuqa (in Chinese: Kuche Xian [库车县]) carried out during the Beijing Olympics; both were perpetrated by members of this terrorist organization.

During interrogation Abdurixit Ablet, Imin Semai'er, and others have confessed to traveling through several provinces, including Xinjiang, Henan, Guangdong, and Yunnan, secretly carrying out extremist religious activities, recruiting and training [new] members, and setting up terrorist organizations, as well as, in order to prepare for terrorist activities, actively raising funds, shopping around for where to buy materials to make explosives, and carrying out multiple test explosions. In order to make a greater impact, from July to October, 2009, they prepared tens of homemade bombs, Molotov cocktails, knives, hatchets, and other implements, plotting to carry out successive, large-scale attacks in Kashgar, Khotan (in Chinese: Hetian [和田]), Aksu (in Chinese: Akesu [阿克苏]), and other places in Xinjiang. After their criminal terrorist schemes were timely discovered and thwarted by public security agencies, a small number of key members of this terrorist group fled to other regions, including Guangdong and Yunnan; congregating in groups and exiting the country from the southwest border areas of China. During their escape across China's borders, they collectively swore an oath to join the ETIM terrorist organization, as well as to send pictures and other personal information to the email addresses of the ETIM ringleaders, to seek out specific escape routes, and to attempt to join the ETIM terrorist organization abroad. Public security agencies have already learned that these individuals received support and funds from representatives of East Turkestan organizations during the process of their escape across China's borders.

The breaking up of this major terrorist organization once again proves that the ETIM and other terrorist organizations are the main terrorist threats our country faces both presently and in the coming future. Chinese public security agencies will firmly uphold and fulfill the resolutions of the United Nations General Assembly and the Security Council, striking a serious blow to every type of terrorist activity according to the law, and conscientiously uphold social stability.

That's all for today's news conference. Thank you!

¹ Xinjiang Weiwu'er zizhiqu shehui zhi'an zonghe tiaoli [新疆维吾尔自治区社会治安综合治理条例] {Regulations of the Xinjiang Uyghur Autonomous Region on Comprehensive Management of Social Order}, issued by the Standing Committee of Xinjiang Uyghur Autonomous Regional People's Congress [新疆维吾尔自治区人民代表大会常务委员会], adopted January 21, 1994; amended December 11, 1997; revised December 29, 2009; revision promulgated December 29, 2009; and effective February 1, 2010 (as revised 2009), <http://www.xinjiang.gov.cn/10100/10160/10001/10000/2009/66254.htm>.

² Zhao Lei and Quan Xiaoshu [赵磊、全晓书], "Zhongguo rending kongbu zuzhi he kongbu fenzi de juti biao zhun" [中国认定恐怖组织和恐怖分子的具体标准] {China Sets Out Specific Criteria for Identifying Terrorist Organizations and Terrorists}, Xinhua News Agency [新华社], December 15, 2003, http://news.xinhuanet.com/legal/2003-12/15/content_1232510.htm.

³ Ministry of Public Security [公安部], "Gong'anbu tongbao di-er pi rending de ba ming 'Dong-tu' kongbu fenzi mingdan" [公安部通报第二批认定的 8 名“东突”恐怖分子名单] {Ministry of Public Security Announces Second List of Eight Identified "East Turkestan" Terrorists}, October 21, 2008, <http://www.mps.gov.cn/n16/n983040/n1988498/1988569.html>.

⁴ "Gong'an jiguan pohuo 'Dong-yi-yun' kongbu zuzhi anjian (shilu)" [公安机关破获“东伊运”恐怖组织案件(实录)] {Public Security Agencies Foil "East Turkestan Islamic Movement" Terrorist Plot (Transcript)}, China Online [中国网], June 24, 2010, http://news.china.com.cn/txt/2010-06/24/content_20337837.htm. Human Rights in China translation based on Porfiriy, "Translation: Public Security Foils 'East Turkestan Islamic Movement' Terrorist Plot," The New Dominion, June 24, 2010, <http://www.thenewdominion.net/1758/translation-public-security-foils-east-turkestan-islamic-movement-terrorist-plot/>.

APPENDIX D

Reported or Suspected Extraditions or Forcible Returns of Individuals between Member States of the Shanghai Cooperation Organization

Introduction

Under the *Shanghai Convention on Combating Terrorism, Separatism and Extremism*, Shanghai Cooperation Organization (SCO) member states are obligated to treat acts of “terrorism,” “extremism,” and “separatism” within their territories as extraditable offences and grounds for denial of asylum claims.¹ These practices may conflict directly with principles of international human rights law, including obligations to which SCO member states have individually committed to upholding.² Moreover, the SCO has not made public any meaningful statistics on extraditions or forcible returns pursuant to the SCO framework, nor has it released a complete list of individuals or organizations designated as “terrorist,” “extremist,” or “separatist.” This lack of transparency and accountability prevents monitoring of the SCO’s and its members states’ compliance with international human rights standards and obligations.

Two charts are included in this appendix, presenting a snapshot of the patterns of cooperation among SCO member states on individual returns. The first chart is a matrix of reported or suspected extraditions or forcible returns between SCO member states, which sets forth a summary of data compiled by Human Rights in China (HRIC) concerning extraditions or forcible returns reported to have taken place between 1998 and 2011. The second chart is an HRIC summary of those individual cases represented in the matrix on which additional information is publicly available. This case chart provides further context and background on certain individuals targeted for extradition or forcible return on grounds implicating the SCO framework.

The information presented herein is neither comprehensive nor exhaustive. The SCO itself has not released official figures on extraditions or forcible returns, and relevant disclosures by individual SCO member state governments have been infrequent and inconsistent. In preparing the matrix and case chart, HRIC has drawn on publicly available English, Chinese, and Russian sources, including official government sources, UN sources, news outlets, and reports from local and international NGOs, including Amnesty International, Human Rights Watch, and the Initiative Group of Independent Human Rights Defenders in Uzbekistan. In addition, because many of the highlighted individuals use aliases, it is possible that some entries are redundant. Finally, a number of cases involving individuals who have simply disappeared from SCO member states are excluded because it is unknown whether they were transferred to other SCO member states.

The matrix and case chart reveal a number of disturbing patterns, including:

- **A widespread, uneven practice:** SCO member states have extradited or forcibly returned hundreds of individuals across their borders. Kazakhstan and Kyrgyzstan appear to have sent large numbers to China. Notably, Uzbekistan appears to have received the largest number of

extradited or forcibly returned individuals, while China and Tajikistan have extradited or forcibly returned the fewest to other states.

- **Unclear or questionable jurisdictional authority:** Reports regarding extraditions and forcible returns frequently specify the involvement of security forces or government entities from states other than that from which the individual is being relocated, raising troubling questions concerning jurisdiction over individuals at risk of human rights abuses.
- **Serious concerns regarding compliance with international obligations to protect against torture and other cruel, inhuman, or degrading treatment or punishment:** Extraditions and forcible returns between SCO member states raise serious questions concerning compliance with obligations preventing individuals from being expelled, returned, or extradited to a state where there are substantial grounds for believing that the individual would be in danger of being subjected to torture or other cruel, inhuman, or degrading treatment or punishment.

Despite the limited data available, it is clear that the orchestrated extraditions or forcible returns of individuals facilitated by member state obligations under the SCO framework present threats to individual liberties and physical security, in contravention of international human rights standards and obligations of the SCO and its member states.

¹ *Shanghai Convention on Combating Terrorism, Separatism and Extremism*, June 15, 2001, Art. 2, available at http://www.ecrats.com/en/normative_documents/2005.

² See Appendix B for more information concerning the human rights obligations of SCO member states, as well as concluding observations and recommendations by international human rights treaty bodies concerning those states.

Section I:
Matrix of Reported or Suspected Extraditions or Forcible Returns of Individuals between
Member States of the Shanghai Cooperation Organization

	Receiving Countries					
	China	Kazakhstan	Kyrgyzstan	Russian Federation	Tajikistan	Uzbekistan
China				<ul style="list-style-type: none"> 1 in 2006¹ 		
Kazakhstan	<ul style="list-style-type: none"> Around 20 by end of 2004,² possibly including: <ul style="list-style-type: none"> Up to 13 from around 1998 to 2004³ 3 in 1999⁴ 2 in 2001⁵ 1 in 2003⁶ 3 in 2007⁷ Unknown number in 2009⁸ 1 potentially at risk⁹ 		<ul style="list-style-type: none"> Up to 13 from around 1998 to 2004¹⁰ <ul style="list-style-type: none"> 4 in 1999¹¹ 2 potentially at risk¹² 	<ul style="list-style-type: none"> 1 in 2001¹³ 1 in 2004¹⁴ 5-6 in 2005¹⁵ 		<ul style="list-style-type: none"> 1 in 1999¹⁶ Up to 56 from 2005 to 2007,¹⁷ possibly including: <ul style="list-style-type: none"> 9 in 2005¹⁸ 1 in 2006¹⁹ 2 in 2007 or 2008²⁰ 4 in 2010²¹ Up to 31 potentially at risk²²
Kyrgyzstan	<ul style="list-style-type: none"> Around 50 by the end of 2004,²³ possibly including: <ul style="list-style-type: none"> 1 in 2000²⁴ 4 in 2002²⁵ 2 in 2003²⁶ 					<ul style="list-style-type: none"> Up to 12 in 1999²⁷ 2 in 2000²⁸ 4 in 2001²⁹ Up to 97 from 2005 to 2009, including: <ul style="list-style-type: none"> 6-35 from 2005 to 2009³⁰ 42 in 2005³¹ 5 from 2005 to 2008³² 10 in 2006³³ 2 in 2007³⁴ 1 in 2008³⁵ 2 in 2009³⁶
Russian Federation			<ul style="list-style-type: none"> 1 in 2009³⁷ 1 in 2010³⁸ 		<ul style="list-style-type: none"> 1 in 2001³⁹ 1 in 2004⁴⁰ 1 in 2005⁴¹ 	<ul style="list-style-type: none"> 1 in 2000⁴² 19 between 2001 and 2006⁴³ 1 in 2007⁴⁴ 1 in 2009⁴⁵ 2 potentially at risk⁴⁶
Tajikistan	<ul style="list-style-type: none"> 3 potentially at risk⁴⁷ 					<ul style="list-style-type: none"> 1 in 2002⁴⁸
Uzbekistan	<ul style="list-style-type: none"> 1 in 2006⁴⁹ 1 in 2007⁵⁰ 		<ul style="list-style-type: none"> 2 in 2009⁵¹ 			

¹ Cao Li, “Russian May be Sent Back for Murder,” *China Daily*, January 12, 2007, http://www.chinadaily.com.cn/cndy/2007-01/12/content_781692.htm (describing orders by Chinese officials to extradite Russian national Shapenkov Nikolay from China to the Russian Federation).

² According to Amnesty International, “[l]ocal NGOs in the [Central Asian] region who assist Uighurs from China estimated that Kazakhstan may have returned around 20 Uighurs . . . in recent years, but the exact number is impossible to determine.” Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror”* (Amnesty International, 2004), <http://www.amnesty.org/en/library/asset/ASA17/021/2004/en/4ada86b9-d5cd-11dd-bb24-1fb85fe8fa05/asa170212004en.html>.

³ “UHRP Condemns Kazakhstan’s Extradition of Uyghurs to China,” Uyghur American Association, November 11, 2004, <http://forum.uyghuramerican.org/forum/showthread.php?287-UHRP-Condemns-Kazakhstan-s-Extradition-of-Uyghurs-to-China>; “Kazakhstan Extradites Uyghurs to China,” Unrepresented Nations and Peoples’ Organization, November 16, 2004, <http://www.unpo.org/article/1467> (both citing a top Kazakhstan official discussing the forcible return of 14 Uyghurs from Kazakhstan to either China or Kyrgyzstan, but without a specific breakdown of numbers returned to each country).

⁴ Amnesty International, *Central Asia - No Excuse for Escalating Human Rights Violations* (Amnesty International: 2001), 8, <http://www.amnesty.org/en/library/asset/EUR04/002/2001/en/02483746-d8da-11dd-ad8c-f3d4445c118e/eur040022001en.pdf> (reporting that three men were forcibly deported from Kazakhstan to the Xinjiang Uyghur Autonomous Region [XUAR] in January 1999 before facing a secret trial in April 2001); Amnesty International, *Belarus and Uzbekistan: The Last Executioners. The Trend Towards Abolition in the Former Soviet Space* (Amnesty International: 2004), 50, <http://www.amnesty.org/fr/library/asset/EUR04/009/2004/en/4ceaf140-d548-11dd-8a23-d58a49c0d652/eur040092004en.pdf> (identifying Hemit Memet, Kasim Mapir, and Ilyas Zordon as three young Uyghur asylum-seekers in Kazakhstan); Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution*, supra n. 2 (reporting that three individuals who were deported from Kazakhstan in February 1999 before facing a secret trial in March 2001); O.S.C.E. Human Dimension Implementation Meeting, “Uyghur Situation in Central Asia Countries (in Kazakhstan, Kyrgyzstan and Uzbekistan)” O.S.C.E. Doc. HDIM.NGO/68/07 (2007) (Statement by Dolkun Isa, World Uyghur Congress), <http://www.osce.org/odihr/27056> (listing several individuals as having been returned back to China and indicating that they were executed in China on October 3, 2000).

⁵ Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution*, supra n. 2 (describing how Ahat Memet and Turgan Abbas, two Uyghurs from XUAR, went missing in 2001 after fleeing to Kazakhstan and are believed to have been forcibly returned to China). See also Amnesty International, “Open Letter on Uighur Asylum Seekers in Cambodia,” December 16, 2009, <http://www.amnesty.org.nz/news/open-letter-uyghur-asylum-seekers-cambodia>.

⁶ Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution*, supra n. 2; Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 50 (describing the case of Abdukakhar Idris, a Uyghur asylum-seeker reportedly “disappeared” in Almaty, Kazakhstan, in April or May 2003 and suspected of having been returned to China). See also Amnesty International, “Open Letter on Uighur Asylum Seekers in Cambodia,” December 16, 2009, <http://www.amnesty.org.nz/news/open-letter-uyghur-asylum-seekers-cambodia>.

⁷ Amnesty International, *Kazakhstan – Amnesty International Report 2007* (Amnesty International: 2007), <http://www.amnesty.org/en/region/kazakhstan/report-2007> (reporting that “[a]t least three men were forcibly

returned to China” from Kazakhstan in 2007, including an unnamed Uyghur asylum-seeker feared to have been forcibly returned following his release from detention, and Yusuf Kadir Tohti and Abdukadir Sidik, two Uyghur men held in incommunicado detention in China after being forcibly returned from Kazakhstan). For more information on Sidik, see Amnesty International, *Kazakhstan: Summary of Concerns on Torture and Ill-Treatment: Briefing for the United Nations Committee against Torture, November 2008* (Amnesty International: 2008), <http://www.amnesty.org/en/library/asset/EUR57/001/2008/en/1b06381e-8bd5-11dd-8e5e-43ea85d15a69/eur570012008en.html>; Uyghur American Association, “UAA Protests Extradition of Nine Uyghurs from Pakistan to China,” April 28, 2009, <http://www.uyghuramerican.org/articles/2852/1/UAA-protests-extradition-of-nine-Uyghurs-from-Pakistan-to-China/index.html>.

⁸ U.S. Department of State, “2009 Human Rights Report: Kazakhstan,” March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136088.htm> (citing reports that the Kazakhstan government forcibly returned an unspecified number of Uyghurs to China in 2009).

⁹ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/16/51/Add.1 (2010), (Special Rapporteur, Martin Scheinin), paras. 85-90, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/16/51/Add.1 (describing urgent appeal to government of Kazakhstan regarding the detention and possible extradition of Ershidin Israel to China). See also Shohret Hoshur, “Uyghur Held in Leak Case,” Radio Free Asia, June 11, 2010, <http://www.uyghurnews.com/american/Read.asp?UighurNews=uyghur-held-in-leak-case&ItemID=UR-6282010219445547610657> (describing the disappearance of Ershidin Israel’s brother Enver Israil).

¹⁰ “UHRP Condemns Kazakhstan’s Extradition of Uyghurs to China,” Uyghur American Association, November 11, 2004, <http://forum.uyghuramerican.org/forum/showthread.php?287-UHRP-Condemns-Kazakhstan-s-Extradition-of-Uyghurs-to-China>; “Kazakhstan Extradites Uyghurs to China,” Unrepresented Nations and Peoples’ Organization, November 16, 2004, <http://www.unpo.org/article/1467> (both citing a top Kazakhstan official discussing the forcible return of 14 Uyghurs from Kazakhstan to either China or Kyrgyzstan, but without a specific breakdown of numbers returned to each country).

¹¹ U.N. Security Council, “Report by the Kyrgyz Republic to the Counter-Terrorism Committee,” U.N. Doc. S/2002/204 (2002), 20, http://www.adh-geneva.ch/RULAC/pdf_state/Report-of-the-Kyrgyz-Republic-submitted-to-the-United-Nations-Counter-Terrorism-Committee-pursuant-to-paragraph-6-of-resolution-1373-2001-25-February-2002.pdf (describing the extraditions of Kyrgyz national I. Akhmetov and Chinese nationals Askar Tokhti, Akhmet Gyunan and Ali Mansumu from Kazakhstan to Kyrgyzstan).

¹² Amnesty International, *Uighurs Sentenced to Death in Kyrgyzstan May Risk Being Sent Back to China* (Amnesty International: 2001), <http://amnesty.org/en/library/asset/EUR58/004/2001/en/cd2e6b94-d92d-11dd-ad8c-f3d4445c118e/eur580042001en.pdf> (describing the case of Nazar Chotchayev and Bakhramzhan Elimov, Uyghurs at risk of being extradited following a death sentence in Kazakhstan).

¹³ U.N. Security Council, “Report to the Counter-Terrorism Committee Pursuant to Security Council Resolution 1373 (2001) of 28 September 2001,” U.N. Doc. S/2001/1307 (2001), 7, http://www.un.org/ga/search/view_doc.asp?symbol=S%2F2001%2F1307+&Submit=Search&Lang=E (describing the case of Z. Ziyavutbitbinov, forcibly returned by Kazakhstan to the Russian Federation in May 2001).

¹⁴ U.N. Security Council, “National Report of the Republic of Kazakhstan on the Implementation of Resolutions of the United Nations Security Council,” U.N. Doc. S/2004/658 (2004), 3, http://www.un.org/ga/search/view_doc.asp?symbol=S%2F2004%2F658+&Submit=Search&Lang=E (describing the case of R. Kushagov, forcibly returned by Kazakhstan to the Russian Federation on April 20, 2004).

¹⁵ “Replies of the Government of the Republic of Kazakhstan to the Questions Posed by the Experts of the Counter-Terrorism Committee Concerning the Implementation of Security Council Resolution 1373 (2001),” U.N. Doc S/2005/287 (2005), 6, http://www.adh-geneve.ch/RULAC/pdf_state/KAZ-1373-5th-Report-N0533862-1-2005.pdf (stating that “five Russian citizens, members of illegal Chechen armed gangs who had fled to Kazakhstan, were arrested and extradited to the Russian Federation” in 2005); “UPDATE: Suspect Extradited from Kazakhstan to Russia Linked with al-Qaeda,” RIA Novosti, September 5, 2005, <http://en.rian.ru/russia/20050905/41299944.html> (describing the case of Rustam Chagilov, alleged to have links with “terrorist camps in Chechnya” and forcibly returned by Kazakhstan to the Russian Federation on September 1, 2005 – although unclear as to whether this individual was one of those described in the preceding source).

¹⁶ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 50 (describing the forcible return of Kozimbek Zakirov to Uzbekistan after his arrest in Kazakhstan on March 5, 1999).

¹⁷ “Kazakhstan Urged to Probe Extradition of Uzbeks,” Radio Free Europe/Radio Liberty, August 23, 2007, <http://www.rferl.org/content/article/1078318.html>; “Kazakh Security Service Recognized Responsibility for Illegal Transfer of Islamists to Uzbekistan,” AxisGlobe, August 20, 2007, <http://cjes.ru/media/?pid=2889&lang=rus&PHPSESSID=a53256ea639a9b14b165bd94b4b5a1c4> (both reporting in 2007 that 56 Uzbek asylum-seekers were returned by Kazakhstan to Uzbekistan “over the past two years”). See also International Federation for Human Rights, *Kazakhstan/Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees* (FIDH: 2009), 62-63, 70, http://www2.ohchr.org/english/bodies/cerd/docs/ngos/FIDH_Kazakhstan_76.pdf (citing a Kazakhstan official as stating that more than 50 members of Islamic parties or banned groups had been arrested and sent back from Kazakhstan to Uzbekistan).

¹⁸ Amnesty International, *Kazakhstan – Amnesty International Report 2007*, supra n. 7; International Helsinki Federation for Human Rights (IHF), *International Helsinki Federation Annual Report on Human Rights Violations (2006): Kazakhstan* (IHF: 2006), 226-27, <http://www.unhcr.org/refworld/docid/469392900.html>; “Central Asia - Summary of Human Rights Concerns,” Uyghur News, April 4, 2007, <http://www.uyghurnews.com/american/Read.asp?UighurNews=central-asia-summary-of-human-rights-concerns&ItemID=IV-2172008312011543085344> (describing the reported forcible return of nine individuals from Kazakhstan to Uzbekistan in November 2005, as well as an assertion by Kazakhstan authorities that the men were actually detained by Uzbekistan authorities on Uzbekistan territory); Surat Ikramov, *Alternative Report for the United Nations Committee against Torture on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (The Initiative Group of Independent Human Rights Defenders in Uzbekistan: 2007), <http://www2.ohchr.org/english/bodies/cat/docs/ngos/ignpuuzbekistan39.doc> (describing the forcible return of Rukhiddin Fakhruddinov and eight followers of Imam Obidkhon Nazarov from Kazakhstan to Uzbekistan).

¹⁹ Marat Yermukanov, “Kazakhstan Exacerbates ‘Religious Threat’ by Maneuvering Between Beijing and Washington,” *Eurasia Daily Monitor*, No. 90 (2006), [http://www.jamestown.org/programs/edm/single/?tx_ttnews\[tt_news\]=31663&tx_ttnews\[backPid\]=177&no_cache=1](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=31663&tx_ttnews[backPid]=177&no_cache=1) (describing the extradition of an unnamed Uzbekistan national and alleged member of the extremist Hizb-ut-Tahrir party from Uzbekistan to Kazakhstan sometime after his arrest in April 2006).

²⁰ Amnesty International, *Central Asia: Summary of Human Rights Concerns: March 2007 – March 2008* (Amnesty International: 2008), <http://www.amnesty.org/en/library/asset/EUR04/001/2008/en/5b2d8a91-071d-11dd-badf-1352a91852c5/eur040012008eng.html#2.2.Refugees%20and%20Asylum-seekers|outline> (discussing the reported

forced disappearance of Khurshid Shamsuddinov and reported attempted forcible return of Ulugbek Khaidarov from Kazakhstan to Uzbekistan).

²¹ “Kazakhstan Extradites Kyrgyz Citizen to Uzbekistan,” Radio Free Europe, September 14, 2010, http://www.rferl.org/content/Kazakhstan_Extradites_Kyrgyz_Citizen_To_Uzbekistan/2157056.html; Human Rights Watch, “Kazakhstan: Letter to the Prosecutor General regarding 29 Asylum Seekers,” December 2, 2010, <http://www.hrw.org/en/news/2010/12/01/kazakhstan-letter-prosecutor-general-regarding-29-asylum-seekers>; Human Rights Watch, *World Report 2011: Kazakhstan*, January 2011, <http://www.hrw.org/en/world-report-2011/kazakhstan> (all addressing the suspected forcible returns of four men – Khurshid Kamilov, Saidakhmad Kholmatov, Umarali Abdurakhmanov, and Rasul Rakhmonov – from Kazakhstan to Uzbekistan).

²² “Kazakhstan: Uzbek Refugee Case Could Create Headache for Astana,” Human Rights Society of Uzbekistan, November 8, 2010, <http://www.eurasianet.org/node/62332>; Human Rights Watch, *World Report 2011: Kazakhstan*, supra n. 21 (describing the cases of up to 31 Uzbek asylum seekers held in detention in Kazakhstan and facing deportation to Uzbekistan). See also “Order to Extradite 29 Refugees,” Human Rights Society of Uzbekistan, October 11, 2010, <http://en.hrsu.org/2010/10/11/order-to-extradite-29-refugees-to-uzbekistan/#more-816> (open letter from the wives of the detained asylum seekers).

²³ Amnesty International specified that Kyrgyzstan may have “returned around 50 Uighurs” to China in recent years, but “the exact number is impossible to determine.” Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution*, supra n. 2; Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 51.

²⁴ Amnesty International, *Central Asia - No Excuse*, supra n. 4, at 8; Amnesty International, *China: Fear of Torture and Execution/Forcible Return: Jelil Turdi (AKA Zhalil Turdi)* (Amnesty International: 2000) <http://www.amnesty.org/en/library/asset/ASA17/029/2000/en/b196aecf-ded7-11dd-b9c3-cd3dd9a9c0f7/asa170292000en.html> (describing the forcible return of Jelil Turdi, an ethnic Uyghur from XUAR, from Kyrgyzstan to China in April 2000).

²⁵ Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution*, supra n. 2 (describing the forcible returns in 2002 of ethnic Uyghurs Memet Sadik [or Mamet Sadyk], Memet Yasin [or Mamet Yasy], Rahmutulla Islyil, and Arken Yakuf from Kyrgyzstan to China in 2002); Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 51 (also discussing the cases of Rahmutulla Islyil and Arken Yakuf); U.N. Security Council, “Supplementary Report of the Government of the Kyrgyz Republic in Response to the Preliminary Questions and Remarks of the United Nations Security Council Counter-Terrorism Committee,” U.N. Doc. S/2003/776 (2003), 14, <http://www.un.org/en/sc/ctc/resources/1373.html> (citing the July 2002 extraditions of “Israil Rakhmutullah” and “Yakub Erkin” – likely referring to Rahmutulla Islyil and Arken Yakuf – from Kyrgyzstan to China).

²⁶ “Kyrgyz Rights Activists Call for End to Deportation of Uighurs to China,” EurasiaNet, January 24, 2004, <http://www.eurasianet.org/departments/rights/articles/pp012504.shtml> (describing reports that two unnamed ethnic Uyghur men were forcibly returned from Kyrgyzstan to China in 2003).

²⁷ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 51 (describing the cases of Zakirzhon Khasanov, Mukhamad Abdurakhmanov, and Talatbek Nuraliyev, who were forcibly returned from Kyrgyzstan to Uzbekistan in 1999); U.N. Security Council, “Report by the Kyrgyz Republic,” supra n. 11, at 25 (describing the 1999 detention by Kyrgyzstan authorities of nine unnamed Uzbekistan nationals suspected of

terrorist activity and eventually extradited to Uzbekistan – unclear whether this group includes Khasanov, Abdurakhmanov, and Nuraliyev, described in the preceding source).

²⁸ Council of the European Union, “Danish Fact-Finding Mission to Kazakhstan and Kyrgyzstan (27 May to 10 June 2001),” E.U. Doc. 5263/02 (2002), 48, <http://www.unhcr.org/refworld/docid/3df42e044.html> (describing the cases of two unnamed Uzbekistan nationals forcibly returned from Kyrgyzstan to Uzbekistan in 2000).

²⁹ Ibid. (describing the cases of four unnamed Uzbekistan nationals forcibly returned from Kyrgyzstan to Uzbekistan in 2001).

³⁰ International Federation for Human Rights, *Kazakhstan/Kyrgyzstan: Exploitation of Migrant Workers*, supra n. 17, at 73-74 (suggesting that anywhere from 6-23 Uzbek refugees and asylum seekers were suspected to have disappeared from Kyrgyzstan from 2005 to 2009, and that during that time, the Kyrgyz government forcibly returned an additional 12 Uzbek refugees and asylum seekers). See also Human Rights Watch, “Uzbekistan: Abducted Refugee on Trial, Kyrgyzstan Should Protect Refugees and Asylum Seekers,” February 5, 2009, <http://www.hrw.org/en/news/2009/02/05/uzbekistan-abducted-refugee-trial>.

³¹ Initiative Group of Independent Human Rights Defenders in Uzbekistan, *Alternative Report for the United Nations Committee against Torture on the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (Initiative Group of Independent Human Rights Defenders in Uzbekistan: 2007), 12, <http://www2.ohchr.org/english/bodies/cat/docs/ngos/ignpuuzbekistan39.doc> (describing the forcible return of Kabul Parpiev and his 41 supporters from Kyrgyzstan to Uzbekistan in December 2005).

³² “Russia: European Court Rules for ‘Andijon’ Plaintiffs, Warns Against Extradition,” Radio Free Europe/Radio Liberty, April 28, 2008, <http://www.rferl.org/content/article/1109644.html> (reporting that by 2008, Kyrgyzstan extradited five Uzbek nationals accused of being linked to violent unrest in Uzbekistan’s Andijon region in 2005).

³³ “Kyrgyzstan: Uzbeks Disappear While Seeking Asylum,” Human Rights Watch, August 24, 2006, <http://www.hrw.org/en/news/2006/08/24/kyrgyzstan-uzbeks-disappear-while-seeking-asylum> (describing the disappearances of Ilhom Abdunabiev, Bakhtiar Ahmedov, Valim Babajanov, Saidullo Shakirov, and Isroil Kholdorov, all Uzbek asylum seekers in Kyrgyzstan suspected to have been forcibly returned to Uzbekistan); “Kyrgyzstan: Return of Uzbek Refugees Illegal,” Human Rights Watch, August 8, 2006, <http://www.hrw.org/en/news/2006/08/08/kyrgyzstan-return-uzbek-refugees-illegal> (describing the forcible return of Jahongir Maksudov, Rasul Pirmatov, Odiljon Rahimov, Yakub Tashbaev, and Fayejzon Tajihalilov from Kyrgyzstan to Uzbekistan).

³⁴ “SCO Summit: Crackdown Highlights Failings on Human Rights,” Human Rights Watch, August 16, 2007, <http://www.hrw.org/en/news/2007/08/15/sco-summit-crackdown-highlights-failings-human-rights> (describing how Kyrgyzstan forcibly returned Otabek Muminov to Uzbekistan in 2007); “Uzbeks at Risk of Forcible Return,” Human Rights Society of Uzbekistan, September 29, 2010, <http://en.hrsu.org/2010/09/29/30-ethnic-uzbek-refugees-and-asylum-seekers/> (reporting that Nozim Mamadaliev, a Kyrgyzstani citizen, died in custody in 2007 after being extradited to Uzbekistan, although it is unclear whether Mamadaliev was extradited in the same year as his death).

³⁵ U.N. Human Rights Council, “Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,” U.N. Doc. A/HRC/13/39/Add.1 (2010) (Special Rapporteur, Manfred Nowak), para. 164, http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.1_EFS.pdf (describing the extradition of Erkin Kholikov from Kyrgyzstan to Uzbekistan in 2008).

³⁶ U.S. Department of State, “2009 Human Rights Report: Uzbekistan,” March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm> (citing allegations that “unknown Uzbek speakers abducted a citizen refugee and his young son in Kyrgyzstan and reportedly returned them” to Uzbekistan); Vitaly Ponomarev, “Kyrgyzstan: The Disappearance of Uzbek Asylum Seekers,” HRC Memorial, August 5, 2009, <http://www.memo.ru/eng/news/2009/09/02/0209095.htm> (identifying Sanjar Hudaiberganov and his 11-year-old son Sarvarbek Erkinzoda as disappeared and feared returned from Kyrgyzstan to Uzbekistan, and noting that Sanjar Hudaiberganov is brother of Iskandar Hudaiberganov, extradited from Tajikistan to Uzbekistan in 2002). See also Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, for details on the extradition of Iskandar Hudaiberganov.

³⁷ “Kazakhstan Urged Not to Send Kyrgyz Asylum Seeker Home,” Radio Free Europe/Radio Liberty, October 17, 2009, http://www.rferl.org/content/Activists_Urge_Kazakhstan_Not_To_Send_Kyrgyz_Asylum_Seeker_Home/1854180.html (describing the case of Abdulrasul Mamarakhimov, who was ordered extradited by the Russian Federation to Kyrgyzstan, but who was being held by Kazakhstan authorities while en route to Kyrgyzstan under international pressure on Kazakhstan to prevent completion of Mamarakhimov’s extradition); U.S. Department of State, “2009 Human Rights Report: Russia,” March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136054.htm> (reporting that Mamarakhimov remained in detention in Kazakhstan as of the end of 2009).

³⁸ “Russian Forces Extradite Ex-Kyrgyz Police Official,” The China Post, April 27, 2010, <http://www.chinapost.com.tw/international/middle-east/2010/04/27/254058/Russian-forces.htm> (describing the extradition of Moldomusa Kongantiyev from the Russian Federation to Kyrgyzstan).

³⁹ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 53 (describing the extradition of Saidamir Karimov from the Russian Federation to Tajikistan).

⁴⁰ “Tajikistan: Former Interior Minister In Dushanbe To Face Trial For Treason,” Eurasianet.org, March 10, 2004, <http://www.eurasianet.org/departments/insight/articles/eav031104b.shtml> (describing the extradition of Yakub Salminov from the Russian Federation to Tajikistan).

⁴¹ “Mr Mahmadruci Iskandarov v. Tajikistan, Working Group on Arbitrary Detention,” Opinion No. 39/2006, U.N. Doc. A/HRC/7/4/Add.1, 18 (2007), <http://www1.umn.edu/humanrts/wgad/39-2006.html> (describing the extradition of Mahmadruci Iskandarov from the Russian Federation to Tajikistan).

⁴² Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 4, at 52-53 (describing the extradition of Polvonnazar Khodzhayev from the Russian Federation to Uzbekistan).

⁴³ Mikhail Vinogradov, “Борцы с терроризмом договорились о сотрудничестве” {“Antiterrorist Fighters Agree to Cooperate”}, Izvestia, April 3, 2006, <http://izvestia.ru/politic/article3091651/?print> (citing official statements that the Russian Federation had extradited 19 individuals suspected of terrorist links to Uzbekistan).

⁴⁴ Human Rights in Ukraine, “Imminent Likelihood of Another Illegal Expulsion from Russia to Uzbekistan,” March 25, 2008, <http://www.khpg.org/en/index.php?id=1206450005> (describing the extradition of Abduvani Kamaliyev from the Russian Federation to Uzbekistan, despite a request by the European Court of Human Rights that the Russian Federation await its pending decision before doing so).

⁴⁵ U.S. Department of State, “2009 Human Rights Report: Russia,” supra n. 37 (citing reports that Atabek Tukhtamurov, an Uzbek citizen, was “administratively expelled” from the Russian Federation to Uzbekistan).

⁴⁶ Ibid. (describing the cases of Ambullazhon Isakov and Yashin Dzhurayev, both detained by Russian Federation authorities as of the end of 2009 and at risk for extradition to Uzbekistan).

⁴⁷ Shohret Hoshur and Erkin Tarim, “Uyghurs Held in Tajikistan,” Radio Free Asia, January 24, 2011, <http://www.rfa.org/english/news/uyghur/tajikistan-01242011150501.html> (discussing the case of Ablimit Dawatoglu, Kamiljan Omeroglu, and Ehmet Rashidi, three Uyghurs with Turkish citizenship being held in Tajikistan, with suspicion by some that they may face extradition to China).

⁴⁸ Amnesty International, *Uzbekistan: Questions of Life and Death Cannot Wait until 2008 – A Briefing on the Death Penalty* (Amnesty International: 2005), 8, <http://www.amnesty.org/en/library/asset/EUR62/020/2005/en/9d143821-d4b5-11dd-8a23-d58a49c0d652/eur620202005en.pdf>; Amnesty International, *Central Asia: Summary of Human Rights Concerns. March 2007 – March 2008* (Amnesty International: 2007), <http://www.amnesty.org/en/library/asset/EUR04/001/2007/en/1115bfaf-d3a7-11dd-a329-2f46302a8cc6/eur040012007en.html> (both sources describing the extradition of Iskandar Khudaiberganov from Tajikistan to Uzbekistan in February 2002). See also Vitaly Ponomarev, “Kyrgyzstan: The Disappearance of Uzbek Asylum Seekers,” HRC Memorial, August 5, 2009, <http://www.memo.ru/eng/news/2009/09/02/0209095.htm>, supra n. 36, for details on the possible extradition of Khudaiberganov’s brother and 11-year-old nephew, Sanjar Hudaiberganov and Sarvarbek Erkinzoda, respectively, from Kyrgyzstan to Uzbekistan in 2009.

⁴⁹ Alex Neve, “Canadian Citizen Imprisoned in Uzbekistan Re: Huseyin Cecil,” Amnesty International, April 4, 2006, http://www.amnesty.ca/archives/open_letter_huseyin_celil.php; Kamila Cecil, “Re: Huseyin Cecil,” Amnesty International, March 28, 2008, http://www.amnesty.ca/themes/resources/huseyin_celil_open_letter.pdf; Human Rights in China, “Prisoner Profile: Huseyin Celil,” *China Rights Forum: Ethnic Groups in China*, no. 4 (2006), 114, http://hrichina.org/public/PDFs/CRF.4.2006/CRF-2006-4_Profile.pdf (describing the case of Chinese-born Canadian citizen Huseyin Celil, a Uyghur man forcibly returned from Uzbekistan to China).

⁵⁰ O.S.C.E. Human Dimension Implementation Meeting, “Uyghur Human Rights Situation,” supra n. 4 (describing the extradition of Uyghur businessman Rehmetjan Ehmet from Uzbekistan to China in 2007).

⁵¹ “Uzbekistan Extradites 2 Kyrgyz Citizens Detained by Frontier Officers to Kyrgyzstan,” Central Asia News, July 16, 2009, <http://en.ca-news.org/news/78901>.

**Section II:
Case Chart of Reported or Suspected Extraditions or Forcible Returns of Individuals
between Member States of the Shanghai Cooperation Organization**

Extraditions and Forcible Returns TO CHINA		
From	Name	Details
KAZAKHSTAN	Kasim Mapir (Kasim Mahpir or Kasim Mehpir), Hemit Memet (Khamit Memet), and Ilyas Zordun (Ilyas Zordon)	<p>Background: Three young Uyghur asylum-seekers who fled the Xinjiang Uyghur Autonomous Region (XUAR) in August 1998.¹ Memet was 28 at the time of his return to China.²</p> <p>Allegations: Suspected involvement in the February 1997 Gulja demonstrations in XUAR.³ Following those demonstrations, their names appeared on wanted posters in XUAR alleging involvement in separatist or subversive activities.⁴</p> <p>Treatment Prior to Return: Apprehended by Kazakhstan officials while crossing the border from China in August 1998 and held until February 11, 1999.⁵ Sought asylum while detained in Kazakhstan.⁶</p> <p>Date of Return: February 11, 1999⁷</p> <p>Treatment Following Return: Reportedly tortured in detention before being sentenced to death.⁸ Reports vary as what followed. Some suggest all three were executed in October 3, 2000.⁹ Others suggest Memet was sentenced to death following a secret July 1999 trial, and that the three were executed in August 1999.¹⁰ Still other reports suggest a March 2001 trial ending in suspended death sentences and convictions for “splitting the country, illegal storage of firearms, and illegally crossing the border.”¹¹</p> <p>Status: Unknown</p>
	Turgan Abbas and Ahat Memet	<p>Background: Two Uyghur students who fled XUAR in August 1999, where they had been detained and interrogated for one month by Chinese authorities.¹² Abbas and Memet were 27 and 21, respectively, at the time of their suspected return to China.¹³</p> <p>Allegations: Suspected of engaging in “illegal religious” and “separatist” activities in XUAR.¹⁴</p> <p>Treatment Prior to Return: Arrested on arrival in Kazakhstan and sentenced in April 2000 to 18 months in prison for “illegally crossing the border.”¹⁵ Following release, applied to the UN High Commissioner for Refugees in Almaty, Kazakhstan, for refugee status, leading to harassment by Kazakhstan police.¹⁶ Reported missing in December 2001 after being taken from their homes by uniformed officers.¹⁷</p>

Extraditions and Forcible Returns TO CHINA	
KAZAKHSTAN	<p>Date of Return: Feared to have been forcibly returned to China based on reports in 2004, although specific date of return unknown.¹⁸</p> <p>Treatment Following Return: Reportedly imprisoned in XUAR.¹⁹</p> <p>Status: Unknown</p>
	<p>Abdukakhar Idris</p> <p>Background: Uyghur tailor and bookkeeper who fled Kashgar, XUAR, in April 2001.²⁰ Idris was in his early twenties when he reportedly went missing in Kazakhstan.²¹</p> <p>Allegations: Before fleeing to Kazakhstan, Idris was detained by Chinese authorities for three months on suspicion of funding Uyghur opposition activities.²²</p> <p>Treatment Prior to Return: Detained by Kazakhstan while attempting to cross the border on April 19, 2001.²³ Reportedly sentenced on September 19, 2001 to one year in Kazakhstan prison for “illegally crossing the border” and subsequently released on March 7, 2002.²⁴ Following release, approached the UN High Commissioner for Refugees for asylum.²⁵</p> <p>Date of Return: Reportedly disappeared around March 2003 when he was taken by Kazakhstan police from his home in Almaty, where he was in hiding following release from prison.²⁶ Feared to have been forcibly returned to China, although specific date of return unknown.²⁷</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	<p>Abdukadir Sidik</p> <p>Background: Uyghur man who fled China in 2004.²⁸ Before fleeing, Sidik was reportedly detained, beaten, and harassed by Chinese authorities in connection with his outspoken political views in support of Uyghur rights.²⁹ Sidik was about 30 at the time of his return to China.³⁰</p> <p>Allegations: Sidik publicly protested against official Chinese policies on family planning and labor, and their impact on ethnic minorities.³¹</p> <p>Treatment Prior to Return: Allegedly sentenced to six months’ imprisonment in Kazakhstan for illegally crossing the border, however Sidik later reported that in fact he was detained for one-and-a-half years.³² He also reported that Chinese police officers interrogated and threatened him while he was detained in Kazakhstan.³³ Eventually returned to China “for violation of rules of stay in Kazakhstan.”³⁴</p>

Extraditions and Forcible Returns TO CHINA	
KAZAKHSTAN	<p>Date of Return: May 10, 2006³⁵</p> <p>Treatment Following Return: Held in incommunicado detention as of June 2006.³⁶</p> <p>Status: Unknown</p>
	<p>Yusuf Kadir Tohti (also known as Erdagan³⁷)</p> <p>Background: Uyghur man who fled from XUAR in 1996 to become a religious teacher in Kazakhstan.³⁸ He was about 35 at the time of his return to China.³⁹</p> <p>Allegations: Accused of “separatism” by Chinese authorities.⁴⁰</p> <p>Treatment Prior to Return: Arrested by Kazakh authorities on March 8, 2006.⁴¹ Eventually returned to China by Kazakhstan “for violation of rules of stay in Kazakhstan.”⁴²</p> <p>Date of Return: May 10, 2006⁴³</p> <p>Treatment Following Return: Held in incommunicado detention as of June 2006.⁴⁴</p> <p>Status: Unknown</p>
	<p>Ershidin Israel</p> <p>Background: Uyghur man who fled from XUAR in September 2009 for fear of persecution after providing information to Radio Free Asia relating to a case of alleged torture.⁴⁵ Israel had previously served six years in prison for “separatism” starting in 1999.⁴⁶ He was about 38 at the time he was detained in by Kazakhstan authorities.⁴⁷</p> <p>Allegations: Wanted in China for activities related to terrorism, in connection with the information provided by Israel to Radio Free Asia.⁴⁸</p> <p>Treatment Prior to Return: Israel was granted refugee status by the UN High Commissioner for Refugees in Almaty, Kazakhstan, in mid-March 2010, and was scheduled to depart for resettlement in Sweden on April 1, 2010.⁴⁹ Kazakhstan denied Israel’s application for an exit visa, and arrested him on June 23, 2010.⁵⁰</p> <p>Date of Return: Israel has not yet been extradited. It is feared that he faces possible forcible return to China.</p> <p>Treatment Following Return: Israel has not yet been extradited. It is feared that he faces possible forcible return to China.</p> <p>Status: As of December 31, 2010, Israel was being held at the Pretrial Investigation Center No. 1 of Almaty, Seifulia Street.⁵¹</p>

Extraditions and Forcible Returns TO CHINA	
KYRGYZSTAN	<p>Jelil Turdi (Zhalil Turdi)</p> <p>Background: Uyghur trader who fled XUAR to Kyrgyzstan, where he lived for three years and married a Kyrgyz citizen.⁵² He was 28 at the time of his return to China.⁵³</p> <p>Allegations: Suspected of involvement in a nationalist opposition group in China.⁵⁴</p> <p>Treatment Prior to Return: Initially detained for several days in Bishkek, Kyrgyzstan, in March 2000 for carrying an illegal residence permit.⁵⁵ Upon release, Turdi was ordered by Kyrgyzstan not to leave Bishkek.⁵⁶ Re-arrested after a few weeks and allegedly tortured by Chinese officers taking part in Turdi’s interrogation.⁵⁷ Reportedly escorted back to China by Chinese officers following interrogation, under arrangements made by China’s embassy in Bishkek, with the cooperation of the Kyrgyzstan General Procuracy.⁵⁸</p> <p>Date of Return: Late April 2000⁵⁹</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	<p>Memet Sadik (Mamet Sadyk) and Memet Yasin (Mamet Yasyn)</p> <p>Background: Both men of Uyghur ethnicity.⁶⁰</p> <p>Allegations: Suspected “international Islamic terrorists” alleged to be members of the East Turkestan Islamic Movement who were planning “terrorist attacks” in Kyrgyzstan, including an attack on the U.S. embassy in Bishkek.⁶¹</p> <p>Treatment Prior to Return: Arrested in a reported “joint operation by Chinese, U.S., and Kyrgyz special services.”⁶² Dates and periods of detention unknown.</p> <p>Date of Return: May 23, 2002⁶³</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>

**Extraditions and Forcible Returns
TO CHINA**

KYRGYZSTAN	<p>Rahmutulla Islayil (Israil Rakhmutullah or Rahmatulla Ismail) and Arken Yakuf (Yakub Erkin)</p>	<p>Background: Two Uyghur men from Urumqi, XUAR.⁶⁴</p> <p>Allegations: Reported members of terrorist groups, including the “Shark Azutlyk Turkestan extremist separatist organization” and the East Turkestan Liberation Organization, and accused of killing two men in Bishkek, including Chinese embassy official Wang Jianping.⁶⁵</p> <p>Treatment Prior to Return: Arrested in Kyrgyzstan on July 3, 2002, on charges relating to the killings described above.⁶⁶ Subsequently handed over to Chinese officials following a request by China’s Ministry of Public Security.⁶⁷</p> <p>Date of Return: July 2002⁶⁸</p> <p>Treatment Following Return: Reportedly sentenced to death by the Urumqi Intermediate People’s Court on January 12, 2004 and executed in March or April of 2004.⁶⁹</p>
TAJIKISTAN	<p>Ablimit Dawatoglu (Abdulhamit Davutoğlu), Kamiljan Omeroglu (Kemal Ömeroğlu), and Ehmet Rashidi (Ahmet Reşit)</p>	<p>Background: Three Uyghur businessmen with Turkish citizenship currently held by Tajikistan authorities, under suspected pressure from the Chinese government.⁷⁰ During the 1990s, Dawatoglu’s brother was executed in Hotan, XUAR, on charges of “splittism.”⁷¹ Dawatoglu left China in the years following his brother’s execution due to heightened scrutiny by state security officials.⁷² Dawatoglu and Reshidi own stores selling Chinese goods in Dushanbe, Tajikistan,⁷³ and are married to Tajikistan citizens.⁷⁴</p> <p>Allegations: Unknown</p> <p>Treatment Prior to Return: Dawatoglu was reportedly detained by security forces in Dushanbe on January 8, 2011.⁷⁵ Omeroglu and Rashidi were reportedly detained on January 9, 2011, when they went to the police department in Dushanbe to inquire about Dawatoglu.⁷⁶</p> <p>Date of Return: Unknown whether the men have been extradited. It is feared that they face possible forcible return to China.</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown. Turkish officials have not received a response from Tajikistan to inquiries about the arrests.⁷⁷</p>

Extraditions and Forcible Returns TO CHINA	
UZBEKISTAN	<p>Huseyin Celil (Husein Dzhelil or Huseyin Jelil)</p> <p>Background: Uyghur Muslim born in XUAR in 1969.⁷⁸ First arrested in 1994 for Uyghur rights activism, Celil escaped after one month’s imprisonment, during which he was allegedly tortured,⁷⁹ and fled to Uzbekistan and eventually Turkey, where the UN High Commissioner for Refugees granted him refugee status.⁸⁰ In 2001, Celil moved to Canada, where he was granted political asylum and obtained Canadian citizenship.⁸¹</p> <p>Allegations: Accused by Chinese authorities of terrorism, “splittism,” political and religious separatism, subversive activities, and founding a separatist political party.⁸²</p> <p>Treatment Prior to Return: Following his escape from China, Celil was tried in absentia and sentenced to death by the Urumqi Intermediate People’s Court for “plotting to split the country” and “terrorist” activities.”⁸³ On March 27, 2006, Celil was arrested in Uzbekistan, where he was visiting relatives, while trying to extend his one-month visa.⁸⁴</p> <p>Date of Return: June 2006⁸⁵</p> <p>Treatment Following Return: Celil said he underwent two weeks of all-night interrogation during which he was threatened with death and disappearance.⁸⁶ Celil’s death sentence was subsequently commuted to life imprisonment.⁸⁷</p> <p>Status: Serving life sentence, as most recently reported in January 2011.⁸⁸</p>
	<p>Rehmetjan Ehmet</p> <p>Background: Uyghur millionaire and businessman temporarily living in Uzbekistan for business.⁸⁹ He was 30 at the time of his return to China.</p> <p>Allegations: Suspected of “supporting Uyghur’s human rights.”⁹⁰</p> <p>Treatment Prior to Return: Arrested in Uzbekistan on May 11, 2007.⁹¹</p> <p>Date of Return: Reportedly returned to China immediately following his May 11, 2007 arrest.⁹²</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>

**Extraditions and Forcible Returns
TO KYRGYZSTAN**

From	Name	Details
KAZAKHSTAN	<p>Askar Tokhti, Bakhramzhan Elimov (Bakhramjan Alimov or Berhamjan Alimov), Ali Mansumu, Akhmet Gyunan, Nazar Chotchayev, and I. Akhmetov</p>	<p>Background: Three Chinese nationals of Uyghur ethnicity (Tokhti, Elimov, and Mansumu), a Chinese or Turkish national of Uyghur ethnicity (Gyunan), a Russian national of Karachai ethnicity (Chotchayev), and a Kyrgyzstan national (Akhmetov).⁹³</p> <p>Allegations: Accused of participation in the suspected terrorist bombing of a minibus taxi in Osh, Kyrgyzstan, resulting in the deaths of four people.⁹⁴</p> <p>Treatment Prior to Return: Arrested and detained on August 25, 1998, in Almaty, Kazakhstan, on charges of “illegal possession of firearms.”⁹⁵ Official requests for extradition sent by Kyrgyzstan to the Office of the General Prosecutor of the Republic of Kazakhstan in February 1999.⁹⁶</p> <p>Date of Return: February 1999⁹⁷</p> <p>Treatment Following Return: Reportedly beaten by law enforcement officers while in pre-trial detention.⁹⁸ Tokhti, Elimov, Gyunan, and Chotchayev were sentenced to death on March 12, 2001, but were not executed due to a national moratorium on the death penalty.⁹⁹ Mansumu was sentenced to 25 years in prison.¹⁰⁰ Akhmetov received a prison sentence of unknown length.¹⁰¹</p> <p>Status: Presumed to be serving prison sentences in Kyrgyzstan.</p>
RUSSIAN FEDERATION	<p>Abdulrasul Mamarakhimov</p>	<p>Background: Kyrgyz national of Uzbek ethnicity who had been working as a migrant laborer in Russia since 2008.¹⁰² He was 48 when he was returned to Kyrgyzstan.¹⁰³</p> <p>Allegations: Reportedly accused of “fomenting ethnic, racial, and religious hatred.”¹⁰⁴</p> <p>Treatment Prior to Return: Mamarakhimov had applied for asylum in Russia, but was ordered extradited October 14, 2008, two days before delivery of a court decision on his asylum claim.¹⁰⁵ However, while in Kazakhstan during his extradition journey from Russia to Kyrgyzstan, Kazakhstan officials permitted him to be interviewed by the UN High Commissioner for Refugees, which concluded that he was in need of international protection.¹⁰⁶ Kazakhstan authorities permitted him to remain in Kazakhstan while the office identified a resettlement country.¹⁰⁷</p> <p>Date of Return: Mamarakhimov has not yet been returned to Kyrgyzstan, but risk of forcible return remains.</p> <p>Treatment Following Return: Mamarakhimov has not yet been returned to Kyrgyzstan, but risk of forcible return remains.</p>

Extraditions and Forcible Returns TO KYRGYZSTAN		
		Status: In detention in Kazakhstan as of December 2009. ¹⁰⁸
RUSSIAN FEDERATION	Moldomusa Kongantiyev	<p>Background: Former Interior Minister of Kyrgyzstan who fled to Russia following deadly April 2010 riots, which eventually led to the collapse of President Kurmanbek Bakiyev’s government.¹⁰⁹</p> <p>Allegations: Held responsible by Kyrgyzstan’s subsequent interim government for instigating violent clashes between protestors and security forces during the April 2010 riots in Kyrgyzstan.¹¹⁰</p> <p>Treatment Prior to Return: Detained by joint Russian and Kyrgyzstan security forces on April 25, 2010.¹¹¹</p> <p>Date of Return: Immediately following April, 25, 2010 detention.¹¹²</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>

**Extraditions and Forcible Returns
TO THE RUSSIAN FEDERATION**

From	Name	Details
CHINA	Shapenkov Nikolay	<p>Background: Russian sailor who began serving aboard the cargo ship <i>DD Leader</i> after arriving in China on December 12, 2004.¹¹³</p> <p>Allegations: Accused of beating a crewmate to death in January or February 2005.¹¹⁴</p> <p>Treatment Prior to Return: Arrested and detained by Shanghai police following the crewmate’s death.¹¹⁵ Russia’s embassy in China made a formal request for extradition to the Chinese Ministry of Foreign Affairs on February 10, 2010.¹¹⁶ A September 2006 order of extradition by the Shanghai High People’s Court was upheld by an appellate ruling issued in January 2007, and was reportedly awaiting approval by China’s State Council as of that time.¹¹⁷</p> <p>Date of Return: Judicial extradition order awaiting approval by China’s State Council as of January 2007.¹¹⁸ Unknown whether Nikolay has been extradited pursuant to State Council’s approval.</p> <p>Treatment Following Return: Unknown whether Nikolay has been extradited pursuant to State Council’s approval.</p> <p>Status: Unknown whether Nikolay has been extradited.</p>
KAZAKHSTAN	Z. Ziyavutbitbinov	<p>Background: Unknown</p> <p>Allegations: Suspected involvement in a terrorist act in the town of Buinakske, in Russia’s Dagestan republic.¹¹⁹</p> <p>Treatment Prior to Return: Arrested by Kazakhstan authorities and handed over to Russian law enforcement Agencies in May 2001.¹²⁰</p> <p>Date of Return: May 2001¹²¹</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	R. Kushagov	<p>Background: Russian national¹²²</p> <p>Allegations: Accused of “having committed serious crimes of a terrorist nature in the North Caucasus region.”¹²³</p> <p>Treatment Prior to Return: Identified, arrested, and detained by Kazakhstan authorities in September 2003.¹²⁴ Handed over to Russian Federation</p>

Extraditions and Forcible Returns TO THE RUSSIAN FEDERATION		
KAZAKHSTAN		<p>authorities on April 20, 2004, with the approval of the Office of the Procurator General of Kazakhstan.¹²⁵</p> <p>Date of Return: April 20, 2004¹²⁶</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	<p>Rustam Chagilov (also known as Abdul-Shahid)</p>	<p>Background: Russian national from the Karachai-Circassia republic in the North Caucasus region of the Russian Federation.¹²⁷ Chagilov was about 27 when he was returned to the Russian Federation.¹²⁸</p> <p>Allegations: Suspected of having links with Al-Qaeda in the North Caucasus region and of involvement in terrorist activities in Dagestan and Chechnya, where it is alleged that he received training in terrorist camps.¹²⁹</p> <p>Treatment Prior to Return: Arrested in Kazakhstan following joint operation with security authorities of the Russian Federation, which placed him on a wanted list in June 2005 for suspected criminal activity in Chechnya.¹³⁰</p> <p>Date of Return: September 1, 2005¹³¹</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>

Extraditions and Forcible Returns TO TAJIKISTAN		
From	Name	Details
RUSSIAN FEDERATION	Saidamir Karimov	<p>Background: Originally from the village of Pyanj in Tajikistan.¹³²</p> <p>Allegations: One of seven men charged with murdering former Tajikistan Deputy Interior Minister Habib Sanginov on April 11, 2001.¹³³</p> <p>Treatment Prior to Return: Left Tajikistan for Moscow on April 20, 2001, where he was subsequently arrested by Russian police and extradited to Tajikistan.¹³⁴</p> <p>Date of Return: May 14, 2001¹³⁵</p> <p>Treatment Following Return: While awaiting trial in detention, Karimov claimed he and his co-defendants were tortured, including beatings and electric shocks to the anus, genitals, fingers, nose, and ears.¹³⁶ Eventually sentenced to death by the Supreme Court of Tajikistan.¹³⁷ After intervention by the UN Human Rights Committee, the sentence was commuted to 25 years in prison on December 2002.¹³⁸</p> <p>Status: Presumed to be serving his prison sentence.</p>
	Yakub Salminov (Yoqub Salimov)	<p>Background: Former Interior Minister of Tajikistan who fled to Russia after being implicated in a 1997 mutiny.¹³⁹</p> <p>Allegations: Wanted by the Tajikistan authorities on charges of “treason, banditry, and leading an armed attempt to overthrow the government.”¹⁴⁰</p> <p>Treatment Prior to Return: Arrested and detained in Moscow in July 2003.¹⁴¹ Subsequently extradited to Tajikistan as part of deal with Russian authorities that included a pledge not to execute Salimov.¹⁴² Some suggest that Salminov was extradited in return for an agreement to allow a new Russian military base in Tajikistan.¹⁴³</p> <p>Date of Return: February 2004¹⁴⁴</p> <p>Treatment Following Return: Sentenced to 15 years in prison in April 2005 for crimes against the state and high treason following a closed trial.¹⁴⁵</p> <p>Status: Reported in 2010 to be in prison serving his 15-year sentence.¹⁴⁶</p>

Extraditions and Forcible Returns TO TAJIKISTAN	
RUSSIAN FEDERATION	<p>Mahmadruzi Iskandarov (Mukhamadruzi Iskandarov)</p> <p>Background: Tajik national and leader of the opposition Democratic Party of Tajikistan who fled to the Russian Federation in December 2004.¹⁴⁷</p> <p>Allegations: Accused by Tajik authorities of terrorism, illegal use of personal bodyguards, illegal possession of firearms and ammunitions, and embezzlement in connection with Tajik state-owned enterprises.¹⁴⁸</p> <p>Treatment Prior to Return: Detained by Russian authorities in December 2004 pursuant to an extradition request from Tajikistan.¹⁴⁹ Released in early April 2005 after the extradition request was denied.¹⁵⁰ Apprehended, detained, and held incommunicado on April 15 and 16, 2005, by unidentified individuals alleged to be Tajik security officers before being forcibly returned to Tajikistan.¹⁵¹</p> <p>Date of Return: April 17, 2005.¹⁵²</p> <p>Treatment Subsequent to Return: Allegedly tortured during initial days of detention following return to Tajikistan and coerced into making a confession.¹⁵³ On October 5, 2005, convicted of terrorism, illegal storage of firearms and ammunitions, and embezzlement, and sentenced to 23 years in prison.¹⁵⁴</p> <p>Current Status: Reported in 2010 to be serving his sentence despite a September 2010 ruling from the European Court of Human Rights (ECHR) that his detention constituted a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.¹⁵⁵</p>

**Extraditions and Forcible Returns
TO UZBEKISTAN**

From	Name	Details
KAZAKHSTAN	Kozimbek Zakirov	<p>Background: Unknown</p> <p>Allegations: “Religious extremism”¹⁵⁶</p> <p>Treatment Prior to Return: Arrested in the town of Taldy-Kurgan, Kazakhstan, on March 5, 1999.¹⁵⁷</p> <p>Date of Return: Sometime between March 5, 1999 and June 28, 1999¹⁵⁸</p> <p>Treatment Following Return: Sentenced to death for “religious extremism” by the Supreme Court of Uzbekistan on June 28, 1999.¹⁵⁹ Reportedly executed in August 1999.¹⁶⁰</p>
	Rukhiddin Fakhruddinov	<p>Background: An imam, or religious leader, from Uzbekistan, who was being held in Kazakhstan along with eight other religious followers of the prominent imam Obidkhon Nazarov.¹⁶¹</p> <p>Allegations: Accused of violating 11 articles of the Criminal Code of Uzbekistan.¹⁶²</p> <p>Treatment Prior to Return: Reportedly detained, along with eight others, in November 2005 in Shymkent, Kazakhstan.¹⁶³</p> <p>Date of Return: November 2005¹⁶⁴</p> <p>Treatment Following Return: Held in incommunicado detention until March 2006, when he was sentenced to 17 years’ imprisonment following a closed trial in Tashkent, Uzbekistan.¹⁶⁵ Alleged to have been subjected to severe torture while detained in Uzbekistan.¹⁶⁶</p> <p>Status: Unknown</p>
	Khurshid Shamsuddinov	<p>Background: Asylum seeker from Uzbekistan who, prior to his November 2007 disappearance, was warned by relatives that Uzbekistan authorities were seeking his extradition from Kazakhstan.¹⁶⁷</p> <p>Allegations: Suspected of membership in a banned Islamic movement.¹⁶⁸</p> <p>Treatment Prior to Return: Went missing and feared abducted after leaving his home in Almaty, Kazakhstan, in November 2007.¹⁶⁹ Despite state-sponsored news reports in Uzbekistan that he voluntarily traveled to Moldova and was subsequently deported to Turkey, supporters have received no verifying communications from Shamsuddinov, who they claim did not have the necessary documentation or funds for such travel, and who</p>

Extraditions and Forcible Returns TO UZBEKISTAN	
KAZAKHSTAN	<p>reportedly left his home the day of his disappearance without any personal belongings or warm outer clothes.¹⁷⁰</p> <p>Date of Return: Feared to have been forcibly returned to Uzbekistan, although specific date of return unknown.</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	<p>Khurshid Kamilov</p> <p>Background: Kyrgyzstan citizen of Uzbekistan origin who was detained during a coordinated campaign to apprehend illegal immigrants in Kazakhstan.¹⁷¹ As of December 2, 2010, 29 other apprehended detainees, reportedly devout Muslims who fled Uzbekistan out of fear of religious persecution, have requested asylum and remain detained by Kazakhstan authorities.¹⁷²</p> <p>Allegations: Wanted in Uzbekistan for alleged involvement in the murder of two police officers and participation in “extremist and terrorist activities.”¹⁷³</p> <p>Treatment Prior to Return: Detained by police in Almaty, Kazakhstan, in June 2010 during a coordinated campaign to apprehend illegal immigrants.¹⁷⁴</p> <p>Date of Return: September 8, 2010¹⁷⁵</p> <p>Treatment Following Return: Reportedly imprisoned in Tashkent, Uzbekistan, as of December 2, 2010.¹⁷⁶</p>
	<p>Kabul Parpiev¹⁷⁷</p> <p>Background: A leader of the May 2005 uprising in Andjian, Uzbekistan.¹⁷⁸</p> <p>Allegations: Suspected of religious extremism and affiliation with Islamic extremist groups, and wanted in Uzbekistan in connection with the May 2005 Andijan uprising.¹⁷⁹</p> <p>Treatment Prior to Return: Allegedly apprehended by Uzbek authorities in Kazakhstan, along with over 40 other men allegedly involved in the Andijan uprising.¹⁸⁰ However, the Uzbek government claimed they were detained in Uzbekistan, not Kazakhstan.¹⁸¹</p> <p>Date of Return: December 2005¹⁸²</p> <p>Treatment Following Return: Kabul and the others were reportedly sentenced to various prison terms ranging from 4-20 years.¹⁸³ There are also reports that Kabul and the others were tortured while in detention.¹⁸⁴</p> <p>Status: Presumed to be serving prison sentence in Uzbekistan.</p>

Extraditions and Forcible Returns TO UZBEKISTAN		
KAZAKHSTAN	Saidakhmad Kholmatov	<p>Background: An Uzbekistan national who was about 36 when he was returned to Uzbekistan.¹⁸⁵</p> <p>Allegations: Unknown</p> <p>Treatment Prior to Return: Unknown</p> <p>Date of Return: September 27, 2010¹⁸⁶</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	Umarali Abdurakhmanov	<p>Background: Tajikistan citizen and ethnic Uzbek asylum-seeker who was about 35 when he was returned to Uzbekistan.¹⁸⁷</p> <p>Allegations: Unknown</p> <p>Treatment Prior to Return: Detained in early 2010 in the city of Taraz, Kazakhstan.¹⁸⁸</p> <p>Date of Return: October 30, 2010¹⁸⁹</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	Rasul Rakhmonov	<p>Background: Uzbekistan national who was about 23 when he was returned to Uzbekistan.¹⁹⁰</p> <p>Allegations: Unknown</p> <p>Treatment Prior to Return: Unknown</p> <p>Date of Return: November 20, 2010¹⁹¹</p> <p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>

Extraditions and Forcible Returns TO UZBEKISTAN	
KYRGYZSTAN	<p>Zakirzhon Khasanov, Mukhamad Abdurakhmanov, and Talatbek Nuraliyev</p> <p>Background: Unknown</p> <p>Allegations: Wanted in Uzbekistan on charges of religious extremism.¹⁹²</p> <p>Treatment Prior to Return: Detained by Kyrgyz “special services” officers in Bishkek in March 1999.¹⁹³</p> <p>Date of Return: Sometime between March and June 1999¹⁹⁴</p> <p>Treatment Following Return: Sentenced to death on June 28, 1999 following a reportedly unfair trial in Uzbekistan, and executed on August 17, 1999.¹⁹⁵</p>
	<p>Rasul Pirmatov, Jahongir Maksudov, Odiljon Rahimov, Yakub Tashbaev, and Fayejzon Tajihalilov</p> <p>Background: Four Uzbek refugees (Pirmatov, Maksudov, Rahimov, and Tashbaev) and an Uzbek asylum-seeker (Tajihalilov), who was registered with the UN High Commissioner for Refugees.¹⁹⁶ The five were among hundreds who fled to Kyrgyzstan following the May 2005 uprising in Andjjan, Uzbekistan.¹⁹⁷</p> <p>Allegations: Wanted in Uzbekistan in connection with the May 2005 Andijan uprising.</p> <p>Treatment Prior to Return: Detained by Kyrgyz authorities from June 9, 2005 to August 8, 2006.¹⁹⁸ While in Kyrgyzstan, the UN High Commissioner for Refugees in Bishkek recognized the status of Pirmatov, Maksudov, Rahimov, and Tashbaev as refugees and found countries willing to safely resettle them, but the Kyrgyz Supreme Court denied their application for refugee status in June 2005.¹⁹⁹</p> <p>Date of Return: August 8, 2006²⁰⁰</p> <p>Treatment Following Return: Pirmatov, Maksudov, and Odiljon respectively sentenced to “deprivation of liberty” for 20 years, 11 years, and 13 years, to be served in “general regime prison colonies.”²⁰¹ Tashbaev sentenced to three years of “punitive work,” subsequently suspended.²⁰² Tajihalilov sentenced to 17 years’ “deprivation of liberty.”²⁰³</p> <p>Status: Unknown</p>
	<p>Ilhom Abdunabiev, Bakhtiar Ahmedov, Valim Babajanov, and Saidullo Shakirov</p> <p>Background: Four Uzbek asylum-seekers who were among hundreds who fled to Kyrgyzstan following the May 2005 uprising in Andjjan, Uzbekistan.²⁰⁴</p> <p>Allegations: Possibly suspected of being connected with the May 2005 Andijan uprising.²⁰⁵</p> <p>Treatment Prior to Return: Abdunabiev and Ahmedov disappeared in Osh, Kyrgyzstan, on August 23, 2006, after applying for refugee status with the</p>

Extraditions and Forcible Returns TO UZBEKISTAN	
KYRGYZSTAN	<p>Kyrgyz State Committee for Migration and Employment.²⁰⁶ Babajanov and Shakirov were witnessed being taken from their temporary homes by men in plainclothes on August 16 and 17, 2006, respectively.²⁰⁷</p> <p>Date of Return: Unknown, although Babajanov was reportedly in the custody of the Uzbek National Security Service by August 21, 2006.²⁰⁸</p> <p>Treatment Following Return: Reportedly in the custody of the Uzbek National Security Service by August 21, 2006²⁰⁹</p> <p>Status: Unknown</p>
	<p>Isroil Kholdorov</p> <p>Background: Uzbek rights defender and former regional leader of the banned Erk secular opposition party in Uzbekistan who fled to Kyrgyzstan following the May 2005 uprising in Andjian.²¹⁰ Kholdorov spoke to international media about mass graves following the Andjian uprising and organized an unauthorized demonstration in Kara-Suu, Kyrgyzstan, on the anniversary of Andijan events in May 2006.²¹¹</p> <p>Allegations: Wanted in Uzbekistan for various offenses against the state, including attempting to overthrow constitutional order.²¹²</p> <p>Treatment Prior to Return: Unclear whether Kholdorov returned to Uzbekistan voluntarily or whether he was abducted and forcible returned from Kyrgyzstan by Uzbek security forces.²¹³</p> <p>Date of Return: Sometime before September 2006²¹⁴</p> <p>Treatment Following Return: Detained in Uzbekistan in September 2006 and subsequently sentenced to six years' imprisonment.²¹⁵ All appeals were rejected in 2007.²¹⁶</p> <p>Status: Presumed to be serving prison sentence in Uzbekistan.</p>
	<p>Otabek Muminov</p> <p>Background: Uzbek asylum-seeker who fled Uzbekistan in 2001.</p> <p>Allegations: Suspected member of the Islamic political organization Hizb-ut-Tahrir, which is banned in Uzbekistan.²¹⁷</p> <p>Treatment Prior to Return: Detained in Osh, Kyrgyzstan, in 2006 and sentenced to three years in prison for inciting religious hatred and illegally crossing the border.²¹⁸ Subsequently deported in June 1, 2007 following an extradition request from Uzbekistan one month earlier, despite reports that Muminov's families had been given guarantees that he would not be extradited.²¹⁹</p> <p>Date of Return: June 1, 2007²²⁰</p>

Extraditions and Forcible Returns TO UZBEKISTAN	
KYRGYZSTAN	<p>Treatment Following Return: Unknown</p> <p>Status: Unknown</p>
	<p>Erkin Kholikov</p> <p>Background: Uzbek national who had fled to Kyrgyzstan.</p> <p>Allegations: Wanted in Uzbekistan for “terrorism, attacks on the constitutional order of Uzbekistan by or on behalf of an organized group, illegal departure from or entry into Uzbekistan by prior conspiracy, organization of a criminal group, and formation, leadership of or participation in religious extremist, separatist, fundamentalist, or other prohibited organizations.”²²¹</p> <p>Treatment Prior to Return: Sentenced by Kyrgyz court on March 6, 2008, to four years’ imprisonment for concealing crimes carried out in southern Kyrgyzstan in 2006 by the Islamic Movement of Uzbekistan, a terrorist group, and for illegally crossing the border.²²² Kyrgyz officials decided to extradite Kholikov to Uzbekistan in May 2008.²²³</p> <p>Date of Return: May 15, 2008</p> <p>Treatment After Return: Convicted on September 29, 2008, by the Kashkadarya Regional Criminal Court in Uzbekistan of “Islamic extremism and terrorism,” and sentenced to 20 years imprisonment.²²⁴</p> <p>Current Status: Presumed to be serving prison sentence in Uzbekistan.</p>
	<p>Sanjar Hudaiberganov and Sarvarbek Erkinzoda</p> <p>Background: An Uzbek national (Hudaiberganov) and his young son (Erkinzoda).²²⁵ Erkinzoda was about 11 when he and his father were reported disappeared in Kyrgyzstan.²²⁶ Hudaiberganov was allegedly detained in Tashkent, Uzbekistan, in February 1999. During detention he suffered injuries inflicted by torture requiring hospitalization.²²⁷</p> <p>Allegations: Suspected in connection with terrorism allegations relating to Hudaiberganov’s family, including Sanjar Hudaiberganov’s brother, Iskandar Hudaiberganov.²²⁸</p> <p>Treatment Prior to Return: An asylum seeker in Kyrgyzstan, Hudaiberganov visited a migration services office on July 30, 2009 to extend registration documents.²²⁹ He and his son were reported disappeared and feared abducted for forcible return soon after.²³⁰</p> <p>Date of Return: Feared to have been forcibly returned to Uzbekistan, although specific date of return unknown.</p> <p>Treatment After Return: Unknown</p> <p>Current Status: Unknown</p>

Extraditions and Forcible Returns TO UZBEKISTAN		
RUSSIAN FEDERATION	<p>Polvonnazar Khodzhayev</p>	<p>Background: Uzbek national who was 25 when he was returned to Uzbekistan.²³¹</p> <p>Allegations: Accused of involvement in killings and robberies in Tashkent, Uzbekistan, in 1999 and early 2000.²³² Suspected of being trained in “terrorist” camps abroad.²³³ Eventually convicted on charges of attempting to overthrow constitutional order and create an Islamist state in Uzbekistan.²³⁴</p> <p>Treatment Prior to Return: Detained by police officers at a rail station in Samara, Russia, during an examination of his documents in early April 2000.²³⁵</p> <p>Date of Return: April 7, 2000²³⁶</p> <p>Treatment Following Return: Reportedly beaten and given electric shocks while detained in Uzbekistan.²³⁷ Eventually convicted of attempting to overthrow constitutional order and create an Islamist state in Uzbekistan by the Tashkent Regional Court on May 14, 2000 and sentenced to death following a trial which, according to independent monitors, failed to meet international fair trial standards.²³⁸ Reportedly executed.²³⁹</p>
	<p>Abdugani Kamaliyev (Abdugani Kamaliev or Abdugani Kamaliyevy) (born Abdugani Tursinov)</p>	<p>Background: An Uzbek national who was about 49 when he was returned to Uzbekistan.²⁴⁰</p> <p>Allegations: Accused of being an adherent to an extremist religious movement and violating provisions of Uzbekistan’s Criminal Code against “encroachment on the constitutional order” of Uzbekistan.²⁴¹</p> <p>Treatment Prior to Return: Detained in Russia for six days without being given the opportunity to notify his family or lawyer.²⁴² Eventually deported to Uzbekistan following hearings at which he was unrepresented by an attorney and despite an interim order of the ECHR staying the deportation proceedings.²⁴³</p> <p>Date of Return: December 2007²⁴⁴</p> <p>Treatment Subsequent to Return: Allegedly tortured during preliminary investigations, he was reportedly “hung by his feet, with his teeth sawed down by a file.”²⁴⁵ Sentenced to 11 years in prison on February 26, 2008 for incitement to racial hatred, attempts to overthrow the constitutional regime, and participation in prohibited religious organizations.²⁴⁶</p> <p>Current Status: Reportedly imprisoned in Uzbekistan, as of December 2, 2010.²⁴⁷</p>

Extraditions and Forcible Returns TO UZBEKISTAN		
RUSSIAN FEDERATION	Atabek Tukhtamuradov	<p>Background: Uzbek national residing in the city of Perm in the Russian Federation.²⁴⁸</p> <p>Allegations: Alleged to be a member of an “Islamic <i>jihad</i> group” who reportedly enlisted new members to be trained in terrorist camps in Afghanistan, Pakistan, and elsewhere.²⁴⁹ Wanted in Uzbekistan on criminal accusations of “terrorism, the kindling of inter-ethnic and religious strife, an attempt to undermine the constitutional system, the organization of a criminal group, and smuggling.”²⁵⁰</p> <p>Treatment Prior to Return: Following an investigation by the Russian Federal Security Service, ordered deported to Uzbekistan by a court in the Industrial District of Perm.²⁵¹</p> <p>Date of Return: June 21, 2009²⁵²</p> <p>Treatment After Return: Unknown</p> <p>Current Status: Unknown</p>
	Ambullazhon Isakov (Abdullazhon Isakov or Abdulazhon Isakov)	<p>Background: Uzbek national who moved to Russia in 1989.²⁵³</p> <p>Allegations: Convicted in absentia in Uzbekistan on June 12, 1998 of “actively participating in the subversive activities of an extremist movement ... by conducting the holy war ‘jihad’ to create an Islamic state.”²⁵⁴</p> <p>Treatment Prior to Return: Arrested in Russia on March 6, 2008 in Tyumen, Russia, and placed in detention pending extradition proceedings.²⁵⁵ On November 10, 2008, the ECHR issued an interim order to stay the deportation proceedings.²⁵⁶ Eventually granted temporary asylum for one year on March 17, 2010.²⁵⁷ On July 8, 2010 the ECHR ruled that Isakov’s detention constituted a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.²⁵⁸</p> <p>Date of Return: Isakov has not yet been returned to Uzbekistan, but risk of forcible return remains.</p> <p>Treatment Subsequent to Return: Isakov has not yet been returned to Uzbekistan, but risk of forcible return remains.</p> <p>Current Status: As of July 8, 2010, detained in Tyumen, Russia.²⁵⁹</p>

**Extraditions and Forcible Returns
TO UZBEKISTAN**

TAJIKISTAN	<p>Iskandar Khudaiberganov (Iskandar Khudoberganov or Iskandar Hudaiberganov)</p>	<p>Background: An Uzbek national who was about 28 when he was returned to Uzbekistan.²⁶⁰</p> <p>Allegations: Wanted in Uzbekistan for “attempting to overthrow the constitutional order,” “setting up an illegal group,” “premeditated, aggravated murder,” and “terrorism” in connection with bomb explosions in Tashkent in February 1999.²⁶¹ Further accused of receiving military training in Chechnya and Tajikistan.²⁶²</p> <p>Treatment Prior to Return: Detained in Tajikistan and handed over to Uzbek law enforcement officers.²⁶³</p> <p>Date of Return: February 5, 2002²⁶⁴</p> <p>Treatment Following Return: Detained by the Uzbekistan Ministry of Internal Affairs for one week after his forcible return, then transferred to the National Security Service in Tashkent.²⁶⁵ Khudoberganov claimed to have been tortured during pre-trial detention.²⁶⁶ On November 28, 2002, Khudoberganov was sentenced to death, based in part on evidence feared to have been extracted through torture.²⁶⁷</p> <p>Status: Reported in 2008 to be in poor health on death row, where he contracted tuberculosis.²⁶⁸ The UN Human Rights Committee began considering Khudoberganov’s case in 2002, pursuant to which Uzbekistan’s supreme court said it would not execute Khudoberganov during the committee’s consideration.²⁶⁹</p>
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¹ U.S. Department of State, *1999 Country Reports on Human Rights Practices: China* (Washington DC: 2000), <http://www.state.gov/g/drl/rls/hrrpt/1999/284.htm>. See also Amnesty International, *Belarus and Uzbekistan: The Last Executioners. The Trend Towards Abolition in the Former Soviet Space* (Amnesty International: 2004), 50, <http://www.amnesty.org/fr/library/asset/EUR04/009/2004/en/4ceaf140-d548-11dd-8a23-d58a49c0d652/eur040092004en.pdf>; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror”* (Amnesty International: 2004), <http://www.amnesty.org/en/library/asset/ASA17/021/2004/en/4ada86b9-d5cd-11dd-bb24-1fb85fe8fa05/asa170212004en.html>.

² Amnesty International, *China: Gross Violations of Human Rights in the Xinjiang Uighur Autonomous Region (Includes Erratum)* (Amnesty International: 1999), 79, <http://www.amnesty.org/en/library/asset/ASA17/018/1999/en/75880894-e285-11dd-abce-695d390ccea/asa170181999en.pdf> (ages for Mapir and Zordon not specified).

³ See Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1. For more information on the 1997 Gulja incident, see Amnesty International, *China: Remembering the Victims of Police Brutality in Gulja, Xinjiang on 5–6 February 1997* (Amnesty International: 2005), <http://www.amnesty.org/en/library/info/ASA17/005/2005/en>.

⁴ See U.S. Department of State, *1999 Country Reports on Human Rights Practices: China*, supra n. 1 (describing how the three men fled XUAR “after wanted posters went up listing them as separatists”); Amnesty International, *China: Gross Violations of Human Rights in the Xinjiang Uighur Autonomous Region (Includes Erratum)*, supra n. 2, at 79 (indicating Memet’s “name appeared in 1998 wanted poster for alleged subversive activities”).

⁵ U.S. Department of State, *1999 Country Reports on Human Rights Practices: China*, supra n. 1.

⁶ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1.

⁷ *Ibid.* See also U.S. Department of State, *1999 Country Reports on Human Rights Practices: China*, supra n. 1.

⁸ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1.

⁹ Dolkun Isa, *Uyghur Situation in Central Asia Countries (in Kazakhstan, Kyrgyzstan and Uzbekistan)*, OSCE Doc. HDIM.NGO/68/07 (2007), <http://www.osce.org/odihr/27056>.

¹⁰ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1.

¹¹ *Ibid.*

¹² Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1; Amnesty International, “Open Letter on Uighur Asylum Seekers in Cambodia,” December 16, 2009, <http://www.amnesty.org.nz/news/open-letter-uighur-asylum-seekers-cambodia>.

¹⁹ *Ibid.*

²⁰ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50-51; Amnesty International, *People’s Republic of China: Uighurs Fleeing Persecution as China Wages Its “War on Terror,”* supra n. 1.

²¹ *Ibid.*

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ A 2008 report stated that Sidik fled China in 2004. See Amnesty International, *Kazakhstan: Summary of Concerns on Torture and Ill-Treatment: Briefing for the United Nations Committee against Torture, November 2008* (Amnesty International: 2008), <http://www.amnesty.org/en/library/asset/EUR57/001/2008/en/1b06381e-8bd5-11dd-8e5e-43ea85d15a69/eur570012008en.html>. See also Amnesty International, *Central Asia: Summary of Human Rights Concerns. January 2006 – March 2007* (Amnesty International: 2007), <http://www.amnesty.org/en/library/asset/EUR04/001/2007/en/1115bfaf-d3a7-11dd-a329-2f46302a8cc6/eur040012007en.html>.

²⁹ Amnesty International, *Central Asia: Summary of Human Rights Concerns. January 2006 – March 2007*, supra n. 28. For more information on Sidik, see Amnesty International, *Kazakhstan – Amnesty International Report 2007* (Amnesty International: 2007), <http://www.amnesty.org/en/region/kazakhstan/report-2007>; Amnesty International, *Kazakhstan: Further Information on Forcible Return/Torture/Death Penalty* (Amnesty International: 2006), <http://www.amnesty.org/en/library/asset/EUR57/002/2006/en/5c2bfbd4-d419-11dd-8743-d305bea2b2c7/eur570022006en.html>; Amnesty International, *Kazakhstan: Summary of Concerns on Torture and Ill-Treatment: Briefing for the United Nations Committee against Torture, November 2008*, supra n. 28.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid. See also U.N. Human Rights Council, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,” U.N. Doc. A/HRC/7/3/Add.1 (2008) (Special Rapporteur, Manfred Nowak), para. 37, <http://www.falunhr.org/reports/UN2008/Torture-UN-08.pdf> (recounting joint urgent appeal on Sidik’s case forwarded by the Special Rapporteur and the Working Group on Arbitrary Detention to the Chinese government in 2006).

³⁷ Amnesty International, *Central Asia: Summary of Human Rights Concerns. January 2006 – March 2007*, supra n. 28. For more information on Tohti, see Amnesty International, *Kazakstan – Amnesty International Report 2007*, supra n. 29; Amnesty International, *Kazakstan: Further Information on Forcible Return/Torture/Death Penalty*, supra n. 29.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. A/HRC/16/51/Add.1 (2010) (Special Rapporteur, Martin Scheinin), para. 85, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/16/51/Add.1 (describing joint urgent appeal on Israel’s case, joined by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment). See also Shohret Hoshur, “Uyghur Held in Leak Case,” Radio Free Asia, June 11, 2010, <http://www.uyghurnews.com/american/Read.asp?UighurNews=uyghur-held-in-leak-case&ItemID=UR-6282010219445547610657>.

⁴⁶ Hoshur, “Uyghur Held in Leak Case,” supra n. 45.

⁴⁷ U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), supra n. 45, at para. 85.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid. at paras. 1, 85.

⁵² Amnesty International, *China: Fear of Torture and Execution/Forcible Return: Jelil Turdi (AKA Zhailil Turdi)* (Amnesty International: 2000), <http://www.amnesty.org/en/library/asset/ASA17/029/2000/en/b196aecf-ded7-11dd-b9c3-cd3dd9a9c0f7/asa170292000en.html>. See also Amnesty International, *Central Asia – No Excuse for Escalating Human Rights Violations* (Amnesty International: 2001), 8,

<http://www.amnesty.org/en/library/asset/EUR04/002/2001/en/02483746-d8da-11dd-ad8c-f3d4445c118e/eur040022001en.pdf>.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Amnesty International, *People's Republic of China: Uighurs Fleeing Persecution as China Wages Its "War on Terror,"* supra n. 1.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ International Federation for Human Rights, *EU-Kyrgyz Republic Cooperation: Human Rights Violations Must Not Be Under-evaluated* (International Federation for Human Rights: 2004), 4, http://www.fidh.org/IMG/article_PDF/article_a2065.pdf. See also Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50-51; Amnesty International, *People's Republic of China: Uighurs Fleeing Persecution as China Wages Its "War on Terror,"* supra n. 1.

⁶⁵ See U.N. Security Council, "Supplementary Report of the Government of the Kyrgyz Republic in Response to the Preliminary Questions and Remarks of the United Nations Security Council Counter-Terrorism Committee," U.N. Doc. S/2003/776 (2003), 14, <http://www.un.org/en/sc/ctc/resources/1373.html>. See also Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50-51; Amnesty International, *People's Republic of China: Uighurs Fleeing Persecution as China Wages Its "War on Terror,"* supra n. 1.

⁶⁶ Amnesty International, *People's Republic of China: Uighurs Fleeing Persecution as China Wages Its "War on Terror,"* supra n. 1; U.N. Security Council, "Supplementary Report of the Government of the Kyrgyz Republic," supra n. 65, at 14.

⁶⁷ U.N. Security Council, "Supplementary Report of the Government of the Kyrgyz Republic," supra n. 65, at 14.

⁶⁸ Ibid.

⁶⁹ "China Executes Two for Killing Diplomat in Kyrgyzstan," Associated Press, March 31, 2004, http://www.accessmylibrary.com/coms2/summary_0286-20883302_ITM; "Murderers of Chinese Envoy to Kyrgyzstan Executed," Xinhua, March 30, 2004, http://www.accessmylibrary.com/coms2/summary_0286-

[20880466 ITM](#). See also Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50-51; Amnesty International, *People's Republic of China: Uighurs Fleeing Persecution as China Wages Its "War on Terror,"* supra n. 1; International Federation for Human Rights, *EU-Kyrgyz Republic Cooperation: Human Rights Violations Must Not Be Under-evaluated*, supra n. 64, at 4.

⁷⁰ Shohret Hoshur and Erkin Tarim, "Uyghurs Held in Tajikistan," Radio Free Asia, January 24, 2011, <http://www.rfa.org/english/news/uyghur/tajikistan-01242011150501.html>.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Human Rights in China, "Prisoner Profile: Huseyin Celil," *China Rights Forum: Ethnic Groups in China*, 2006, no. 4, 114, http://hrichina.org/public/PDFs/CRF.4.2006/CRF-2006-4_Profile.pdf. See also U.N. Human Rights Council, "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism," U.N. Doc. A/HRC/10/3/Add.1 (2009) (Special Rapporteur, Martin Scheinin), para. 28, http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.3.Add.1_EFS.pdf (describing an October 3, 2007 joint communication – joined by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment – to China regarding Cecil).

⁷⁹ "China Sentences Canadian Activist to Life in Prison," The New York Times, April 19, 2007, http://www.nytimes.com/2007/04/19/world/asia/19iht-activist.1.5350420.html?_r=2.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Human Rights in China, "News Roundup," *China Rights Forum: Legal Reform and Accountability*, 2007, no. 2, 12, http://www.hrichina.org/public/PDFs/CRF.2.2007/CRF-2007-2_Roundup.pdf; "China Jails Uighur-Canadian 'Terrorist' for Life," Reuters, April 22, 2007, <http://www.uyghurnews.com/canadian/Read.asp?UighurNews=china-jails-uighur-canadian-terrorist-for-life&ItemID=OD-342008599081836221742>. See also Kamila Cecil, "Re: Huseyin Cecil," Amnesty International, March 28, 2008, http://www.amnesty.ca/themes/resources/huseyin_celil_open_letter.pdf (an open letter from Huseyin Celil's wife, Kamila Cecil, to Canadian Prime Minister Stephen Harper).

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- ⁸⁴ Amnesty International, “Canadian Citizen Imprisoned in Uzbekistan Re: Huseyin Cecil,” April 4, 2006, http://www.amnesty.ca/archives/open_letter_huseyin_celil.php.
- ⁸⁵ Human Rights in China, “Prisoner Profile: Huseyin Celil,” *China Rights Forum: Ethnic Groups in China*, supra n. 78, at 114.
- ⁸⁶ Human Rights in China, “Monthly Brief February 2007,” February 28, 2007, http://www.hrichina.org/public/contents/press?revision_id=34313&item_id=34306#24.
- ⁸⁷ Allan Woods, “Has Canada Lost Its Place on World Stage?,” *The Toronto Star*, January 19, 2011, <http://www.thestar.com/news/canada/article/924785--has-canada-lost-its-place-on-world-stage>.
- ⁸⁸ Hoshur and Tarim, “Uyghurs Held in Tajikistan,” supra n. 70.
- ⁸⁹ Isa, *Uyghur Situation in Central Asia Countries*, supra n. 9.
- ⁹⁰ Ibid.
- ⁹¹ Ibid.
- ⁹² Ibid.
- ⁹³ U.N. Security Council, “Report by the Kyrgyz Republic to the Counter-Terrorism Committee,” U.N. Doc. S/2002/204 (2002), 20, <http://www.unhcr.org/refworld/publisher,UNSC,COUNTRYREP,KGZ,46d6b9b70,0.html> (listing Gyunan as a “Chinese national”); Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 52 (describing Gyunan as a Turkish national).
- ⁹⁴ Ibid. See also Amnesty International, *Uighurs Sentenced to Death in Kyrgyzstan May Risk Being Sent Back to China* (Amnesty International: 2001), <http://amnesty.org/en/library/asset/EUR58/004/2001/en/cd2e6b94-d92d-11dd-ad8c-f3d4445c118e/eur580042001en.pdf>.
- ⁹⁵ Amnesty International, *Uighurs Sentenced to Death in Kyrgyzstan May Risk Being Sent Back to China*, supra n. 94.
- ⁹⁶ U.N. Security Council, “Report by the Kyrgyz Republic to the Counter-Terrorism Committee,” supra n. 93, at 20.
- ⁹⁷ Ibid.
- ⁹⁸ Amnesty International, *Uighurs Sentenced to Death in Kyrgyzstan May Risk Being Sent Back to China*, supra n. 94.
- ⁹⁹ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 52.
- ¹⁰⁰ Ibid.
- ¹⁰¹ U.N. Security Council, “Report by the Kyrgyz Republic to the Counter-Terrorism Committee,” supra n. 93, at 20.
- ¹⁰² “Kazakhstan Urged Not to Send Kyrgyz Asylum Seeker Home,” *Radio Free Europe/Radio Liberty*, October 17, 2009, http://www.rferl.org/content/Activists_Urge_Kazakhstan_Not_To_Send_Kyrgyz_Asylum_Seeker_Home/1854180.

<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136054.htm>; U.S. Department of State, *2009 Country Reports on Human Rights Practices: Russia* (Washington DC: 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136054.htm>.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ U.S. Department of State, *2009 Country Reports on Human Rights Practices: Russia*, *supra* n. 102.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ “Russia helps Kyrgyzstan Detain Ex-Minister: Reports,” Xinhua, April 26, 2010, http://news.xinhuanet.com/english2010/world/2010-04/26/c_13267949.htm; “Russian Forces Extradite Ex-Kyrgyz Police Official,” *China Post*, April 27, 2010, <http://www.chinapost.com.tw/international/middle-east/2010/04/27/254058/Russian-forces.htm>.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ “Russian May Be Sent Back for ‘Murder’,” *China Daily*, January 12, 2007, http://www.chinadaily.com.cn/cndy/2007-01/12/content_781692.htm.

¹¹⁴ *Ibid.* (stating conflicting information as to whether the killing occurred in January or February 2005).

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ U.N. Security Council, “Report by the Republic of Kazakhstan to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001) of 28 September 2001,” U.N. Doc. S/2001/1307 (2001), 7, http://www.un.org/ga/search/view_doc.asp?symbol=S%2F2001%2F1307+&Submit=Search&Lang=E.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² U.N. Security Council, “National Report of the Republic of Kazakhstan on the Implementation of Resolutions of the United Nations Security Council,” U.N. Doc. S/2004/658 (2004), 3, http://www.un.org/ga/search/view_doc.asp?symbol=S%2F2004%2F658+&Submit=Search&Lang=E.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ “UPDATE: Suspect Extradited from Kazakhstan to Russia Linked with al-Qaeda,” RIA Novosti, September 5, 2005, <http://en.rian.ru/russia/20050905/41299944.html>.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Amnesty International, *Tajikistan: Appeal Cases Said Rizvonodzoda and Cousins Nazar and Abdulmajid Davlatov* (Amnesty International 2003), 1, <http://www.amnesty.org/en/library/asset/EUR60/003/2003/en/7ad86051-d6dd-11dd-ab95-a13b602c0642/eur600032003en.pdf>.

¹³³ Ibid. See also Amnesty International, *Tajikistan: Deadly Secrets a Briefing on the Death Penalty* (Amnesty International: 2003), 2, <http://www.amnesty.org/en/library/asset/EUR60/001/2003/en/ca6dde1d-d70c-11dd-b0cc-1f0860013475/eur600012003en.pdf>. Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 53.

¹³⁴ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 53.

¹³⁵ Ibid.

¹³⁶ Ibid.; Amnesty International, *Tajikistan: Appeal Cases Said Rizvonodzoda and Cousins Nazar and Abdulmajid Davlatov*, supra n. 132, at 1.

¹³⁷ Amnesty International, *Tajikistan: Deadly Secrets a Briefing on the Death Penalty*, supra n. 133, at 2; Amnesty International, *Tajikistan: Appeal Cases Said Rizvonodzoda and Cousins Nazar and Abdulmajid Davlatov*, supra n. 132, at 1; Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 53.

¹³⁸ Ibid.

¹³⁹ International Crisis Group, *Tajikistan’s Politics: Confrontation or Consolidation* (International Crisis Group: 2004), 3, <http://merln.ndu.edu/archive/icg/tajikistanpolitics.pdf>. See also Rustam Nazarov, “Tajik Opposition Leader Arrested,” *Journal of Turkish Weekly*, April 30, 2005, <http://www.turkishweekly.net/news/9249/tajik-opposition->

[leader-arrested.html](#); “Tajikistan: Former Interior Minister in Dushanbe to Face Trial for Treason,” Eurasianet.org, March 10, 2004, <http://www.eurasianet.org/departments/insight/articles/eav031104b.shtml>.

¹⁴⁰ “Tajikistan: Former Interior Minister in Dushanbe to Face Trial for Treason,” Eurasianet.org., supra n. 139.

¹⁴¹ Ibid.; Nazarov, “Tajik Opposition Leader Arrested,” supra n. 139.

¹⁴² “Tajikistan: Former Interior Minister in Dushanbe to Face Trial for Treason,” Eurasianet.org., supra n. 139.

¹⁴³ International Crisis Group, *Tajikistan’s Politics: Confrontation or Consolidation*, supra n. 139, at 3.

¹⁴⁴ Nazarov, “Tajik Opposition Leader Arrested,” supra n. 139; “Tajikistan: Former Interior Minister in Dushanbe to Face Trial for Treason,” Eurasianet.org., supra n. 139.

¹⁴⁵ U.S. Department of State, *2007 Country Reports on Human Rights Practices: Tajikistan* (Washington DC: 2008), <http://www.state.gov/g/drl/rls/hrrpt/2007/100621.htm>; Bruce Pannier, “Tajikistan: Opposition Leader Brought Home to Face Charges, Ex-Interior Minister Imprisoned for 15 Years,” Radio Free Europe, April 27, 2005, <http://www.rferl.org/content/article/1058667.html>; Nazarov, “Tajik Opposition Leader Arrested,” supra n. 139.

¹⁴⁶ U.S. Department of State, *2009 Country Reports on Human Rights Practices: Tajikistan*, March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136094.htm>.

¹⁴⁷ *Iskandarov v. Russia*, Application no. 17185/05, Council of Europe: European Court of Human Rights, September 23, 2010, <http://www.unhcr.org/refworld/pdfid/4ca1d1e52.pdf>. See also U.N. Commission on Human Rights, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” U.N. Doc. E/CN.4/2006/98/Add.1 (2005) (Special Rapporteur, Martin Scheinin), para. 13, http://ap.ohchr.org/documents/dpage_e.aspx?si=E/CN.4/2006/98/Add.1 (describing a joint appeal, from both the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to the government of Tajikistan concerning the case of Iskandarov); U.N. Human Rights Council, “Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism,” U.N. Doc. A/HRC/4/26/Add.1 (2007) (Special Rapporteur, Martin Scheinin), para. 53, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/4/26/Add.1 (describing the Tajikistan government’s response to the joint appeal, denying allegations that Iskandar was mistreated while detained and that Iskandar’s prosecution was religiously or politically motivated).

¹⁴⁸ U.N. Human Rights Council, “Opinions Adopted by the Working Group on Arbitrary Detention,” Opinion No. 39/2006, U.N. Doc. A/HRC/7/4/Add.1 (2007), para. 18, <http://www1.umn.edu/humanrts/wgad/39-2006.html>.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid, at 4.

¹⁵⁴ Norway Mission to the European Union, “Legal Proceedings against Mr. Iskandarov in Tajikistan,” June 8, 2009, http://www.eu-norway.org/eu/policyareas/foreign_policy/CFSP_statements/Legal_proceedings_against_Mr/Avaz_Yuldoshev, “No Grounds for Review of Criminal Case of Ex-DPT Chairman, Says Supreme Court Chairman,” *Asia-Plus*, October 14, 2010, <http://news.tj/en/news/no-grounds-review-criminal-case-ex-dpt-chairman-says-supreme-court-chairman>.

¹⁵⁵ Yuldoshev, “No Grounds for Review of Criminal Case of Ex-DPT Chairman, Says Supreme Court Chairman,” supra n. 154. See *Iskandarov v. Russia*, European Court of Human Rights, supra n. 147.

¹⁵⁶ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 50.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ The Initiative Group of Independent Human Rights Defenders in Uzbekistan (hereinafter, “IGNPU”), *Alternative Report for the United Nations Committee against Torture on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (IGNPU: 2007), para. 20, <http://www2.ohchr.org/english/bodies/cat/docs/ngos/ignpuuzbekistan39.doc>

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*; Amnesty International, *Uzbekistan – Amnesty International Report 2007* (Amnesty International: 2007), <http://www.amnesty.org/en/region/uzbekistan/report-2007>.

¹⁶⁵ *Ibid.*

¹⁶⁶ IGNPU, *Alternative Report*, supra n. 161, at para. 52.

¹⁶⁷ Amnesty International, *Central Asia: Summary of Human Rights Concerns. March 2007 – March 2008* (Amnesty International: 2008), 5, <http://www.amnesty.org/en/library/asset/EUR04/001/2008/en/5b2d8a92-071d-11dd-badf-1352a91852c5/eur040012008eng.pdf>.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*

¹⁷¹ “Kazakhstan Extradites Kyrgyz Citizen to Uzbekistan,” Radio Free Europe Radio Liberty, September 14, 2010, http://www.rferl.org/content/Kazakhstan_Extradites_Kyrgyz_Citizen_To_Uzbekistan/2157056.html.

¹⁷² Human Rights Watch, “Kazakhstan: Letter to the Prosecutor General Regarding 29 Asylum Seekers,” December 2, 2010, <http://www.hrw.org/en/news/2010/12/01/kazakhstan-letter-prosecutor-general-regarding-29-asylum-seekers>.

¹⁷³ “Kazakhstan Extradites Kyrgyz Citizen to Uzbekistan,” Radio Free Europe Radio Liberty, *supra* n. 171.

¹⁷⁴ *Ibid.*

¹⁷⁵ Human Rights Watch, “Kazakhstan: Letter to the Prosecutor General Regarding 29 Asylum Seekers,” *supra* n. 172.

¹⁷⁶ *Ibid.*

¹⁷⁷ IGMPU, *Alternative Report*, *supra* n. 161, at para. 52.

¹⁷⁸ Human Rights Watch, “Saving its Secrets: Government Repression in Andijan” (Human Rights Watch, 2008), 48, [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/MUMA-7EG835-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/MUMA-7EG835-full_report.pdf/$File/full_report.pdf); IGMPU, *Alternative Report*, *supra* n. 161, at para. 52.

¹⁷⁹ Human Rights Watch, “Saving its Secrets: Government Repression in Andijan,” *supra* n. 178, at 48.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*; IGMPU, *Alternative Report*, *supra* n. 161, at para. 52.

¹⁸³ Human Rights Watch, “Saving its Secrets: Government Repression in Andijan,” *supra* n. 178, at 48.

¹⁸⁴ IGMPU, *Alternative Report*, *supra* n. 161, at para. 52.

¹⁸⁵ Human Rights Watch, “Kazakhstan: Letter to the Prosecutor General Regarding 29 Asylum Seekers,” *supra* n. 172.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*

¹⁹² Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, *supra* n. 1, at 51.

¹⁹³ *Ibid.*

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Human Rights Watch, “Kyrgyzstan: Return of Uzbek Refugees Illegal,” August 8, 2006, <http://www.hrw.org/en/news/2006/08/08/kyrgyzstan-return-uzbek-refugees-illegal>.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ See also U.N. Human Rights Council, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism” (Special Rapporteur, Martin Scheinin), *supra* n. 78, at paras. 370-376 (describing responses received following communication to Uzbek government).

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Human Rights Watch, “Kyrgyzstan: Uzbeks Disappear While Seeking Asylum,” August 24, 2006, <http://www.hrw.org/en/news/2006/08/24/kyrgyzstan-uzbeks-disappear-while-seeking-asylum>.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Amnesty International, “Take Action to Carry Human Rights Along the Silk Route in Central Asia!,” June 2010, <http://www.amnesty.org/en/library/asset/EUR04/001/2010/en/560c64a9-6a85-4e6c-b519-0daa64ed75e1/eur040012010en.pdf>.

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ Amnesty International, *Central Asia: Summary of Human Rights Concerns. March 2007 – March 2008*, supra n. 167, at 7.

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Human Rights Watch, “SCO Summit: Crackdown Highlights Failings on Human Rights,” August 16, 2007, <http://www.hrw.org/en/news/2007/08/15/sco-summit-crackdown-highlights-failings-human-rights>.

²²¹ U.N. Human Rights Council, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,” U.N. Doc. A/HRC/13/39/Add.1 (2010) (Special Rapporteur, Manfred Nowak), para. 164, http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.1_EFS.pdf.

²²² Ibid.

²²³ Ibid.

²²⁴ U.S. Department of State, *2009 Report on International Religious Freedom* (Washington DC: 2009), <http://uzbekistan.usembassy.gov/irf2009.html>.

²²⁵ Memorial, “Kyrgyzstan: The Disappearance of Uzbek Asylum Seekers,” August 5, 2009, <http://www.memo.ru/eng/news/2009/09/02/0209095.htm>.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 52-53; Amnesty International, *Uzbekistan: Unfair Trials and Secret Executions* (Amnesty International: 2003), 11, <http://www.amnesty.org/en/library/asset/EUR62/012/2003/en/d8ef0474-d685-11dd-ab95-a13b602c0642/eur620122003en.pdf>.

²³² Amnesty International, *Belarus and Uzbekistan: The Last Executioners*, supra n. 1, at 52-53.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ Amnesty International, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region, July-December 2007* (Amnesty International: 2008), 71, <http://www.amnesty.org/en/library/asset/EUR01/001/2008/en/297fab1-78fb-11dd-8e5e-43ea85d15a69/eur010012008en.pdf>; Human Rights in Russia, *Timeline of Illegal Expulsions of Refugees from Russia to the Countries of Their Origin* (Human Rights in Russia: 2008), 2, http://www.hro.org/files/Timeline_ENG.doc.

²⁴¹ Human Rights in Ukraine, "Imminent Likelihood of Another Illegal Expulsion from Russia to Uzbekistan," March 25, 2008, <http://www.khpg.org/en/index.php?id=1206450005>; Human Rights in Russia, *Timeline of Illegal Expulsions of Refugees from Russia*, supra n. 240, at 2.

²⁴² Amnesty International, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region, July-December 2007*, supra n. 240, at 71 and 118.

²⁴³ Ibid.

²⁴⁴ Ibid.; Human Rights in Russia, *Timeline of Illegal Expulsions of Refugees from Russia*, supra n. 240, at 2.

²⁴⁵ Human Rights in Russia, *Timeline of Illegal Expulsions of Refugees from Russia*, supra n. 240, at 2.

²⁴⁶ *Kamaliyevy v. Russia*, Application no. 52812/07, Council of Europe: European Court of Human Rights, June 3, 2010, <http://www.unhcr.org/refworld/docid/4c2099f22.html>; Human Rights in Russia, *Timeline of Illegal Expulsions of Refugees from Russia*, supra n. 240, at 2; Human Rights in Ukraine, "Imminent Likelihood of Another Illegal Expulsion from Russia to Uzbekistan," supra n. 241; Amnesty International, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region, July-December 2007*, supra n. 240, at 32.

²⁴⁷ *Kamaliyevy v. Russia*, supra n. 246.

²⁴⁸ "Radical Islamic activist a national of Uzbekistan arrested in Perm – FSB," *Uzbekistan Daily*, June 29, 2009, <http://www.uzdaily.com/articles-id-6236.htm>.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² U.S. Department of State, *2009 Country Reports on Human Rights Practices: Russia*, supra n. 102.

²⁵³ *Abdulazhon Isakaov v. Russia*, Application no. 14049/08, Council of Europe: European Court of Human Rights, July 8, 2010, 2, <http://www.unhcr.org/refworld/pdfid/4c3715c92.pdf>.

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ *Ibid.*

²⁵⁷ *Ibid.*

²⁵⁸ *Ibid.*

²⁵⁹ *Ibid.*

²⁶⁰ Amnesty International, *Uzbekistan: Questions of Life and Death Cannot Wait until 2008 – A Briefing on the Death Penalty* (Amnesty International: 2005), 8, <http://www.amnesty.org/en/library/asset/EUR62/020/2005/en/9d143821-d4b5-11dd-8a23-d58a49c0d652/eur620202005en.pdf>.

²⁶¹ *Ibid.*, at 8-9.

²⁶² *Ibid.*

²⁶³ *Ibid.*, at 8.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*, at 9.

²⁶⁶ *Ibid.*

²⁶⁷ *Ibid.*

²⁶⁸ Amnesty International, *Central Asia: Summary of Human Rights Concerns. March 2007 – March 2008*, supra n. 167, at 33; Amnesty International *Uzbekistan: Questions of Life and Death Cannot Wait until 2008*, supra n. 260, at 9.

²⁶⁹ Amnesty International, *Uzbekistan: Questions of Life and Death Cannot Wait until 2008*, supra n. 260, at 9.

APPENDIX E

Military and Law Enforcement Cooperation between Member States of the Shanghai Cooperation Organization

Introduction

Since they first began in 2002, joint military and law enforcement exercises between member states of the Shanghai Cooperation Organization (SCO) have been an important component of strategic regional collaboration under the SCO framework. With troops often numbering in the thousands and staged mass maneuvers showcasing a full complement of military equipment, vehicles, and weaponry, these exercises have, among other things, served to communicate a strong rhetorical message to international audiences that the SCO is prepared to meet ‘terrorist’ threats with full, united force. As with the SCO’s other forms of regional cooperation, the emphasis on the “Three Evils” – terrorism, separatism, and extremism – underlying military and law enforcement cooperation has blurred the line between genuine and permissible counter-terrorism activity and state actions that do not conform with international human rights obligations.

To provide an overview of the scope and implications of these joint military and law enforcement exercises between SCO member states, Human Rights in China has compiled publicly available data on past exercises staged between October 2002 and September 2010, including information on member state participation, geographic locations, numbers of troops and equipment, and stated objectives for joint exercises. This data is presented in a comparative chart that follows.

The picture illustrated by available information is incomplete, in part because the SCO itself has released relatively few details to the public. Accordingly, in addition to official SCO data, Human Rights in China has relied on a variety of supplemental sources, including reporting from state-run news agencies such as Xinhua, People’s Daily, and the PLA Daily.¹ Nonetheless, the overall picture documented in the following chart raises serious concerns about the implications of joint military and law enforcement exercises between SCO member states, including:

- **Tactics of joint intimidation:** Despite the non-threatening names given to these exercises, invoking peace, cooperation, etc., and SCO rhetoric emphasizing deterrence of “terrorist” threats, the stated objectives and geographic locations of the exercises suggest an intention to target “problem” populations. The exercises send a chilling message: threats deemed “terrorist,” “separatist,” or “extremist” in nature will be met with heavy-handed force. The climate of fear perpetuated through these joint exercises has the effect of intimidating and compromising domestic populations, particularly ethnic groups such as Uyghurs, by deterring them from exercising their legitimate rights, including the exercise of freedoms of association, expression, and religion – activities that officials regularly characterize as “separatism” or “extremism.”
- **Increasing militaristic ambition and experimentation:** Joint SCO military exercises marked a number of first-time milestones for China, including participation by the People’s Liberation

Army in a joint military maneuver with a foreign army and the conduct of a long-range bombing mission.² Notable exercises included simulated attacks against a nuclear physics institute operating a nuclear reactor, and using propaganda leaflets as “a psychological tactic to shake the enemy’s will.”³

- **China’s domestic agenda:** Joint SCO military and law enforcement exercises are of major importance to China, which has participated in nearly every exercise since they began in 2002. Two joint exercises took place near North Korea and three were staged at least partially in the Xinjiang Uyghur Autonomous Region (XUAR). The exercises complement China’s efforts to enforce social stability and control over XUAR and to demonstrate China’s priorities within the SCO. The timing of PLA exercises in relation to those of the SCO has, on occasion, suggested that China is using SCO exercises as a means to bolster its domestic agenda with respect to XUAR in particular. One example is the conduct of a domestic counter-terrorism exercise in XUAR on August 23, 2003, just eleven days after the conclusion of “Coalition 2003.”⁴

In addition to the joint military and law enforcement cooperation exercises listed in the following chart, there have also been other official joint SCO exercises. For instance, from May 19 to May 22, 2009, China, Kazakhstan, Russia, and Tajikistan participated in the Bogorodsk Joint Disaster Relief Exercise. This exercise took place in the Russian city of Noginsk and involved reconnaissance, inspection, repair, and rescue exercises, including a staged rescue operation involving high-rise buildings.⁵ There have also been border protection exercises, including an unnamed training event involving China and Russia that took place along the Heilongjiang border in January 2003. This exercise was aimed at the “apprehension of illegal border crossers.”⁶ A similar exercise, the “Border Blockade Exercise,” also involving China and Russia, took place on February 26, 2009, at the Heihe-Blagoveschensk border area.⁷

At the end of 2010, a Chinese Foreign Ministry spokeswoman declined to confirm media reports that China and Russia will hold a joint military exercise in the Sea of Japan in 2011, but “praised the role of such drills in safeguarding regional peace and stability.”⁸

Taken together, these trends in expanding joint military and law enforcement cooperation, with increasing levels of cost, size, and scope of joint exercises, call for closer scrutiny. Instead of promoting greater peace and security in the region, these exercises may in fact be contributing to further militarization, instability of the region, and a climate that is conducive to the undermining of fundamental rights and freedoms.

¹ In addition to information released officially by the SCO, Human Rights in China has drawn on English, Chinese, and Russian sources, including news outlets such as Radio Free Europe and China's official state-run Xinhua News Agency, press releases from the diplomatic branches of individual SCO member states, and secondary reports, such as those from the Jamestown Foundation.

² See, respectively, the October 2002 joint exercise between China and Kyrgyzstan, as well as the September 2010 "Peace Mission" involving China, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan.

³ See, respectively, the March 2006 joint exercise involving all SCO member states, as well as the August 2005 "Peace Mission" between China and Russia.

⁴ "Exercises to Crack Down on Terrorists," PLA Daily, September 3, 2003, <http://english.chinamil.com.cn/special/5army/txt/65.htm>; "Joint anti-terror drill concludes in Xinjiang," PLA Daily, August 13, 2003, <http://english.chinamil.com.cn/special/5army/txt/59.htm>.

⁵ "Chinese Servicemen Attending SCO Joint Disaster Relief Exercise Return," PLA Daily, August 25, 2009, http://english.chinamil.com.cn/site2/special-reports/2009-05/25/content_1777399.htm; Roy Kamphausen et al., *The PLA at Home and Abroad: Assessing the Operational Capabilities of China's Military* (Strategic Studies Institute, June 2010), 428, available at <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB995.pdf>.

⁶ Roy Kamphausen et al., *The PLA at Home and Abroad: Assessing the Operational Capabilities of China's Military*, supra n. 5, 384.

⁷ *Ibid.*, 428.

⁸ "Chinese FM Spokeswoman Unable to Confirm Far East Drill with Russia," Xinhua, December 21, 2010, http://news.xinhuanet.com/english2010/china/2010-12/21/c_13658675.htm.

APPENDIX E

Military and Law Enforcement Cooperation between Member States of the Shanghai Cooperation Organization

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
Exercise-01 ¹ October 10-11, 2002	China-Kyrgyzstan border, in the Pamir-Alay mountain range	China and Kyrgyzstan (Kazakhstan, Russia, Tajikistan, and Uzbekistan observed)	<ul style="list-style-type: none"> - Hundreds of troops from both sides - Border defense units - More than ten armored combat vehicles - Numerous helicopters 	<p>This exercise was “a concrete step to implement the Charter of [the] Shanghai Cooperation Organization and the Shanghai Convention on [the] Fight against Terrorism, Splittism and Extremism. It shows the firm determination of the two countries to <u>commit to fight against the three forces</u> and is of great significance for the two sides to strengthen mutual understanding in the military area and safeguard security and stability in the border areas.”²</p> <p>“... practice coordinated <u>operations against possible incursions by international terrorists</u> onto the territory of either Kyrgyzstan or China.”³</p>	<ul style="list-style-type: none"> - Staged in part in Xinjiang Uyghur Autonomous Region (<u>XUAR</u>). - First bilateral anti-terror exercise conducted by members of the Shanghai Cooperation Organization (SCO). - <u>China’s first joint military maneuver</u> with a foreign army.
Coalition 2003 ⁴ August 6-12, 2003	China-Kazakhstan border, in Yili and XUAR, China; Ucharal, Kazakhstan	China, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan	<ul style="list-style-type: none"> - 1,300 troops (700 from China, as well as Kyrgyz paratroopers) - Joint command consisting of officers from China, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan - Chinese main force units composed of mechanized infantry, tanks, artillery, helicopters, and special operations forces 	<p>“The high-level military exercise shows that the SCO member states take the same stand and have the same determination to fight terrorism, separatism and extremism.”⁵</p>	<ul style="list-style-type: none"> - Staged in part in <u>XUAR</u>. - <u>The first phase</u> involved exercises against hijackers that held a passenger plane and “eliminating terrorists across the borders.” - <u>The second phase</u> involved hostage rescue operations and destroying terrorist camps. - First multi-lateral SCO anti-terrorist exercise. - <u>China’s first participation in multilateral maneuvers.</u>

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
<p>Peace Mission 2005⁶</p> <p>August 18-25, 2005</p>	Shandong Peninsula, China; Vladivostok, Russia	China and Russia	<ul style="list-style-type: none"> - Approximately 9,800 troops (8,000 from China, 1,800 from Russia) - 140 naval ships and submarines - <u>From China</u>: four cargo jets modeled after the IL-76 - <u>From Russia</u>: bombers (including Tu-95S bear strategic bombers and Tu-22M backfire long-range bombers), missile destroyers, submarines, airborne warning and control system aircrafts (including SU-27SM fighters armed with AS-15 3,000-kilometer cruise missiles against naval targets) 	<p>“The drill will help both countries protect stability in the region.”⁷</p> <p>The drill reportedly provided training for an operation to “<u>intervene in a state besieged by terrorists or in political turmoil</u>, using combined land, sea, and air elements.”⁸</p> <p>Both countries indicated that the war games were <u>not aimed at any third country</u> or meant to hurt the interests of any other country.</p>	<ul style="list-style-type: none"> - Reported cost of \$5 million. - Both locations are near <u>North Korea</u>. - <u>Airborne drills</u> included attacking enemy positions under the leadership of an airborne command center, paratroopers. - Bombs carrying <u>propaganda leaflets</u> were fired onto enemy positions “in a psychological tactic to shake the enemy’s will.”⁹
<p>Vostok-Antiterror / East-Antiterror 2006¹⁰</p> <p>March 2-5, 2006</p>	Ulugbek and Tashkent, Uzbekistan	China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan	<ul style="list-style-type: none"> - Personnel from <u>special forces and law enforcement</u> bodies as well as troops from all SCO member states. 	<p>Exercise reportedly “focused on preventing terrorist groups from damaging state infrastructure, as well as joint actions to rescue hostages.”¹¹</p> <p>The exercise focused on <u>neutralizing terrorists</u> that hatch plans to prepare and commit <u>large-scale terrorist acts in important state facilities</u>.¹²</p>	<ul style="list-style-type: none"> - A <u>simulated attack was launched</u> against the Institute of Nuclear Physics (INP) of the Uzbek Academy of Sciences. This center owns a nuclear reactor. - Exercises carried out by the <u>SCO’s Regional Anti-Terrorist Structure (RATS)</u>. - Involved the <u>training of special forces</u> for a potential hostage situation at the INP.

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
Tianshan-I 2006 ^{13*} August 24-26, 2006	Almaty region, Kazakhstan; Yining and XUAR, China	China and Kazakhstan	<ul style="list-style-type: none"> - <u>Law enforcement bodies</u> and <u>special services</u> from Kazakhstan and China (700 from China including the Xinjiang border police force and Xinjiang anti-terror special force) - Gunship helicopters - Armored anti-riot vehicles 	<p>“... implementing the consensus reached at an SCO summit in June on enhancing security cooperation among SCO member states, and improving coordination between law enforcement bodies and special forces.”¹⁴</p> <p>“... enhance cooperation between law-enforcement and security departments of the two countries and display determination in joint anti-terror efforts so that security and stability can be maintained in border areas.”¹⁵</p>	<ul style="list-style-type: none"> - First part staged in the Almaty region of Kazakhstan. - Second part staged in part in Yining, <u>XUAR</u> and included a <u>simulated battle</u> between border police and international terrorists.
Coordination 2006 ¹⁶ September 22-23, 2006	Kulyab, Tajikistan	China and Tajikistan	<ul style="list-style-type: none"> - Over 450 troops (including over 150 from a Chinese reinforced company and over 300 from Tajikistan’s artillery, infantry, and airborne divisions) - Helicopter unit from China’s People’s Liberation Army (PLA) 	<p>“This exercise abroad would test [Chinese] troops’ capabilities of long-range projections ... so as to probe into ways and accumulate experience for holding larger scale joint exercises overseas with foreign troops in the future.”¹⁷</p>	<ul style="list-style-type: none"> - This was a <u>mountain warfare exercise</u>; troops practiced joint exercises in <u>fire attack</u>, <u>three-dimensional attack</u>, and <u>armed hostage rescue</u>. - The exercise was a “pilot”¹⁸ for the joint military exercises among SCO member countries to be held in 2007.
Peace Mission 2007 ¹⁹ August 9-17, 2007	Russia (Chelyabinsk, Ural mountains); China (Urumqi, XUAR)	China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan	<ul style="list-style-type: none"> - Over 6,500 troops (1,600 from China, 2,000 from Russia, 143 from Kazakhstan, 120 from Tajikistan) - Mechanized-infantry combat vehicles; Armored personnel carriers; Artillery systems - Ground-attack jets; Bombers; Fighters; Helicopters; Unmanned aerial vehicles 	<p><u>Exercise scenario</u> described as: “under the support of an international terrorist organization based in the north border of country N, a terrorist organization of country A launched an anti-government movement. At the headquarters of the joint drill, commanders from the six SCO members decide to annihilate the terrorists.”²⁰</p> <p>This exercise “demonstrate[d] determination of the SCO member states in the fight against three evil forces: extremism, terrorism and separatism, as well as the common desire to <u>ensure security and stability</u> in the region, <u>stimulate the general development and prosperity</u>.”²¹</p>	<ul style="list-style-type: none"> - Reported cost of <u>\$77 million</u>. - Staged in part in <u>XUAR</u>. - Modeled around the events that took place in <u>Andijan</u> that resulted in a violent suppression by the Uzbek government. - From August 14-18, President Hu Jintao observed the final stages of the exercise and attended the SCO summit in Bishkek. - First time complete PLA organizational units had taken part in a joint anti-terrorism military exercise outside China.

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
Cooperation-2007 ²² September 4-6, 2007	Russia (Khabarovsk, Moscow)	China and Russia	<ul style="list-style-type: none"> - 1,000 troops (600 from China including the 30-member Snow Leopard Commando from the 13th Special Brigade of the People's Armed Police, 400 from Russia including domestic security forces and a special task force unit) - Two Chinese Il-76 military transport planes 	"China and Russia are expanding cooperation in combating illegal immigration, smuggling and international crime. " ²³	<ul style="list-style-type: none"> - The drill was reportedly conducted "in accordance with the <u>principles of the [SCO]</u>."²⁴ - The final stage of the exercises included a <u>conditional operation to free hostages</u> seized by terrorists at the airport of Khabarovsk. - The <u>13th Special Brigade</u> was established in 2002 and has handled "major urgent cases."²⁵ - First international anti-terrorism exercise outside China for the People's Armed Police.
Volgograd Antiterror 2008 Exercises ²⁶ August 18-September 4, 2008	Russia (Volgograd)	Kazakhstan, Russia, Tajikistan, and Uzbekistan	Members of <u>anti-terrorist units</u> from Kazakhstan, Russia, Tajikistan, and Uzbekistan	"Training and exercises of such format will help improve cooperation of all agents of anti-terrorist activity of SCO member countries and effective multilateral development. " ²⁷ <u>Stage One</u> from August 18 to 28 emphasized cooperation regarding "subversive and terrorist groups" within the territories of Tajikistan, Uzbekistan, Kazakhstan, and Russia. ²⁸ <u>Stage Two</u> , which took place on the premises of the Lukoil Volgograd oil refinery, was designed to determine the practical steps for <u>operational combat units landing in crisis areas to conduct special operations to free hostages and neutralize terrorists in environmentally hazardous facilities.</u> ²⁹	<ul style="list-style-type: none"> - <u>Russia's National Antiterrorist Committee</u> coordinated the drills. - The joint strategic command post exercises were held in accordance with the <u>SCO's Cooperation Plan on combating terrorism, separatism, and extremism for 2007 to 2009.</u> - State and private security forces cooperated in joint anti-terrorist exercises.

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
Norak Anti-Terror 2009 ³⁰ April 17-19, 2009	Tajikistan (Fakhrabad training grounds)	China, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan	<ul style="list-style-type: none"> - <u>Operational groups and special units of the armed forces</u> from China, Kazakhstan, Kyrgyzstan, and Russia; Tajik national guard and Committee of Emergency Situations and Civil Defense - Armored vehicles - Two C-139 operational trainers - Two MI-8 helicopters and other aircrafts - Various types of weapons and ammunition 	<p>“... coordination of cooperation of the participants in the organization of various antiterrorist operations, increase of vocational training and battle training, exchange of experience and practical skills, as well as further readiness in opposition to international terrorism, political extremism and separatism.”³¹</p> <p>“The Norak-Anti-Terror 2009 exercise underscored the <u>high level of military preparedness of the SCO forces</u>, their ability to resist international terrorism, religious extremism and separatism.”³²</p>	<ul style="list-style-type: none"> - The exercises demonstrated the work of the <u>operational headquarters</u> for the counter-terrorist operations, the <u>landing of special forces in crisis situations</u>, <u>negotiations</u> with terrorists, and the release of “<u>hostages.</u>” - After the exercises, “the parties acknowledged the expediency of continuing the practice of regular staging of joint counter-terrorism drills.”³³
Peace Mission 2009 ³⁴ July 22-26, 2009	Russia (Khabarovsk); China (Taonan Tactical Training Base, Jilin)	China and Russia	<ul style="list-style-type: none"> - 2,600 troops (1,300 from each side); Paratroops - Tanks; Self-propelled guns; Armored personnel carriers - Helicopter Gunships; Fighter planes; Jet transports - Surface-to-air missiles 	<p>Observers note that the operations may have been intended “to verify operation plans and capabilities to respond to unexpected incidents under the unstable environment of countries and regions.”³⁵</p> <p>“The exercise is <u>not targeted at any particular third party</u> but will showcase the abilities and resolutions of both sides to jointly cope with various kinds of security threats and crack down on terrorist, separatist and extremist forces.”³⁶</p>	<ul style="list-style-type: none"> - Both locations are near North Korea. - The exercises were carried out <u>within the framework of the SCO</u> and were a “logical continuation of Russian-Chinese military exercises ‘Peace Mission 2005’ and ‘Peace Mission 2007.’”³⁷
2010 Law Enforcement Exercises ^{38*} August 16-28, 2010	Russia (Saratov region)	Kazakhstan, Kyrgyzstan, and Russia participated (India, Mongolia, and Pakistan, observed)	<ul style="list-style-type: none"> - Kazakh, Kyrgyz, and Russian <u>law enforcement agencies and special services</u> 	<p>“... organize cooperation among national antiterrorism centers, special services and law enforcement bodies of the SCO member states to implement a complex of measures to <u>prevent acts of terrorism in crowded places.</u>”³⁹</p>	<ul style="list-style-type: none"> - Representatives of the CIS anti-terror center and the Collective Security Treaty Organization attended the exercises. - The exercises included a <u>mock anti-terrorist operation</u> in a place with large numbers of people. - There was a meeting of the <u>security service and special services leaders</u> of the SCO countries.

Name and Date of Joint Exercise	Location	State Participants	Troops and Equipment	Stated Objectives	Notes
Peace Mission 2010 ⁴⁰ September 9-25, 2010	Kazakhstan (Almaty, Otar, Matybulak air base)	China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan	<ul style="list-style-type: none"> - Over 5,000 troops (over 1,000 PLA army and air force officers and soldiers; over 1,000 troops from Russia) - At least <u>one operational-tactical group</u> from each member state - More than 1,600 tanks and armored vehicles, 32 fighter planes, 100 artillery and rocket batteries, and 25 helicopter gunships - <u>From China</u>: tanks, armored cars, bombers, and fighters - <u>From Russia</u>: 130 armored vehicles (tanks, artillery systems, infantry fighting vehicles), over 100 trucks, over 10 airplanes, and helicopters 	<p>The purpose of the exercise was reportedly to “test the interoperability of the SCO armed forces in rendering assistance to a member state involved in <u>an internal armed conflict</u> or subjected to <u>a mass terrorist attack</u>.”⁴¹</p> <p>“... show the determination and capacity of SCO members in combating terrorism, separatism and extremism, their mutual trust, high level and pragmatic cooperation.”⁴²</p> <p>“The strategy behind the SCO anti-terror military drill is to unite countries in Central Asia and help them crack down on extremists who conduct terrorist activities through international organizations that may pose a threat to the safety of a legitimate government.”⁴³</p> <p>“By carrying out [a mid-air refueling] in the war games, the Chinese Air Force is trying to build an integrated air battle group encompassing early warning, command, long-distance bombing, escort and air refueling.”⁴⁴</p>	<ul style="list-style-type: none"> - China’s troops and weapons were transported by train from a military training base in Zhurihe, Inner Mongolia Autonomous Region. - For the first time, Chinese air force implemented a <u>long range bombing mission</u>. There was mid-air refueling. - Helicopters conducted <u>night shooting drills</u>.

* An asterisk denotes a joint SCO exercise between law enforcement or special service forces, as opposed to a joint military exercise.

¹ “Foreign Ministry Spokeswoman’s Press Conference on September 24, 2002,” China Embassy, September 24, 2002, <http://zw.china-embassy.org/eng/xwdt/t149127.htm>; “Twelve Military Exercises: A Chronology,” People’s Daily, August 19, 2005, http://english.peopledaily.com.cn/200508/19/eng20050819_203469.html; Roger McDermott, *The Rising Dragon: SCO Peace Mission 2007* (Jamestown Foundation, October 2007), 6, <http://www.jamestown.org/uploads/media/Jamestown-McDermottRisingDragon.pdf>; “Recap: Major PLA-Related Joint Anti-Terror Military Exercises and Trainings,” CCTV International, December 21, 2007, <http://www.cctv.com/english/20071221/107164.shtml>.

² “Foreign Ministry Spokeswoman’s Press Conference on September 24, 2002,” China Embassy, September 24, 2002, <http://zw.china-embassy.org/eng/xwdt/t149127.htm> (citing statement by Chinese Foreign Ministry Spokeswoman Zhang Qiyue).

³ “Kyrgyzstan and China Launch Anti-Terrorism Exercises,” *Agence France Presse*, October 10, 2002, <http://yaleglobal.yale.edu/content/china-and-kyrgyzstan-launch-anti-terrorism-exercises>.

⁴ Charles Carlson, “Central Asia: Shanghai Cooperation Organization Makes Military Debut,” Radio Free Europe, August 5, 2003, <http://www.rferl.org/content/article/1103974.html>; “Five-State Army Drill Targets Terrorism,” PLA Daily, August 07, 2003, <http://english.chinamil.com.cn/special/5army/txt/9.htm>; “SCO Members Begin Anti-Terror Drill in Kazakhstan,” PLA Daily, August 07, 2003, <http://english.chinamil.com.cn/special/5army/txt/53.htm>; “Chinese Defense Minister Meets Heads of Military Delegations [at] SCO Joint Anti-Terror Drill,” PLA Daily, August 12, 2003, <http://english.chinamil.com.cn/special/5army/txt/57.htm>; “SCO Begins Anti-Terror Maneuvers in Kazakhstan,” People’s Daily Online, August 12, 2003, http://english.peopledaily.com.cn/200308/06/eng20030806_121808.shtml; “Coalition 2003: Real Bullet Exercise,” PLA Daily, August 13, 2003, <http://english.chinamil.com.cn/special/5army/txt/60.htm>; “Coalition-2003: A Successful Joint Anti-Terrorism Maneuver,” PLA Daily, August 14, 2003, <http://english.chinamil.com.cn/special/5army/txt/61.htm>; “Twelve Military Exercises: A Chronology,” People’s Daily, August 19, 2005, http://english.peopledaily.com.cn/200508/19/eng20050819_203469.html; McDermott, supra n. 1, at 6; “Recap: Major PLA-Related Joint Anti-Terror Military Exercises and Trainings,” CCTV International, December 21, 2007, <http://www.cctv.com/english/20071221/107164.shtml>; Roy Kamphausen et al., *The PLA at Home and Abroad: Assessing the Operational Capabilities of China’s Military* (Strategic Studies Institute, June 2010), 428, <http://www.strategicstudiesinstitute.army.mil/pdf/PUB995.pdf>.

⁵ “Five-State Army Drill Targets Terrorism,” PLA Daily, August 27, 2003, <http://english.chinamil.com.cn/special/5army/txt/9.htm> (citing statement by Lieutenant-General Li Qianyuan, head of the Chinese military delegation and commander of the Lanzhou Military Command).

⁶ “China, Russia Start Joint Military Exercises,” Xinhua, August 18, 2005, http://news.xinhuanet.com/english/2005-08/18/content_3372446.htm; “2nd Phase of ‘Peace Mission 2005’ Starts,” Xinhua, August 20, 2005, http://news.xinhuanet.com/english/2005-08/20/content_3383646.htm; Elizabeth Wishnick, “Brothers in Arms Again,” *Asia Times*, August 20, 2005, <http://www.atimes.com/atimes/China/GH20Ad01.html>; “Peace Mission 2005 Ends in Blaze of Glory,” *China Daily*, August 25, 2005, <http://www.cctv.com/english/20050825/100069.shtml>; “Peace Mission 2005 Ends in Blaze of Glory,” *China Daily*, August 26, 2005, http://www.chinadaily.com.cn/english/doc/2005-08/26/content_472288.htm; Martin Andrew, “Power Politics: China, Russia, and Peace Mission 2005,” *China Brief*, no. 20 (2005), [http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=30909](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=30909); McDermott, supra n. 1, at 6-7, 22.

⁷ Claire Bigg, "Russia: Joint Military Exercises with China a Result of New Strategic Partnership," Radio Free Europe, August 18, 2005, <http://www.rferl.org/articleprintview/1060767.html> (citing statement by Russian Colonel General Yuri Baluyevskii).

⁸ McDermott, *supra* n. 1, at 6-7.

⁹ "Peace Mission 2005 Ends in Blaze of Glory," China Daily, August 25, 2005, <http://www.cctv.com/english/20050825/100069.shtml>.

¹⁰ SCO RATS, "О совместном антитеррористическом учении 'Восток – антитеррор – 2006', проводившемся в рамках ШОС" {"On the Joint Anti-Terrorism Exercises 'Vostok - Antiterror – 2006' Held in the Framework of the SCO"}, March 6, 2006, <http://www.ecrats.com/ru/news/36>; "RATS Held Anti-Terrorism Exercise in Uzbekistan," *CEF Weekly Newsletter*, no. II. (2006), http://www.silkroadstudies.org/new/docs/CEF/Weekly/March_6-12_2006.pdf; Nicklas Norling, "RATS Exercise in Tashkent Concern over Nuclear Terrorism?" CACI Analyst, April 2006, <http://www.cacianalyst.org/?q=node/3872> ("RATS seems to be showing that it is the pragmatic arm of the SCO, and its development shows that the aim is to set up a Special Forces group that would be fit to handle security threats following a U.S. departure from the region.").

¹¹ *CEF Weekly Newsletter*, no. II, *supra* n. 10.

¹² SCO RATS, "О совместном антитеррористическом учении 'Восток – антитеррор – 2006', проводившемся в рамках ШОС" {"On the Joint Anti-Terrorism Exercises 'Vostok – Antiterror – 2006' Held in the Framework of the SCO"}, March 6, 2006, <http://www.ecrats.com/ru/news/36>.

¹³ "China, Kazakhstan Stage Joint Anti-Terror Drill," PLA Daily, August 24, 2006, http://english.pladaily.com.cn/site2/special-reports/2006-09/26/content_599931.htm; "China-Kazakhstan Joint Anti-Terror Drill to Use Helicopter, Armored Vehicle in Phase II," Xinhua, August 25, 2006, available at http://www.gov.cn/misc/2006-08/25/content_370252.htm; "China-Kazakhstan Joint Anti-Terror Drill," Xinhua, August 27, 2006, available at http://www.gov.cn/english/2006-08/27/content_370658.htm; "Writethru: China, Kazakhstan Stage Joint Anti-Terror Drill," Xinhua, August 25, 2006, http://english.peopledaily.com.cn/200608/25/eng20060825_296646.html.

¹⁴ "China, Kazakhstan Stage Joint Anti-Terror Drill," PLA Daily, August 24, 2006, http://english.pladaily.com.cn/site2/special-reports/2006-09/26/content_599931.htm (citing statement by China's Ministry of Public Security).

¹⁵ "China-Kazakhstan Joint Anti-Terror Drill to Use Helicopter, Armored Vehicle in Phase II," Xinhua, August 25, 2006, http://www.gov.cn/misc/2006-08/25/content_370252.htm (citing statement by an official with China's Ministry of Public Security).

¹⁶ "Sino-Tajik Exercises Promote Partnership," People's Daily, September 25, 2006, http://english.chinamil.com.cn/site2/special-reports/2006-09/26/content_599923.htm; "China, Tajikistan Hold Joint Antiterror Exercises," Xinhua, September 22, 2006, http://www.gov.cn/misc/2006-09/22/content_396208.htm; "Joint Anti-Terrorism Exercise Laden with Focuses of Attention," PLA Daily, September 26, 2006, http://english.pladaily.com.cn/site2/special-reports/2006-09/26/content_600707.htm; "Recap: Major PLA-Related Joint Anti-Terror Military Exercises and Trainings," CCTV International, December 21, 2007, <http://www.cctv.com/english/20071221/107164.shtml>; "Backgrounder: SCO Anti-Terror Military Drills," Xinhua, September 10, 2010, available at <http://www.newsiustocks.com/news/3685601>.

-
- ¹⁷ “Joint Anti-Terrorism Exercise Laden with Focuses of Attention,” PLA Daily, September 26, 2006, http://english.pladaily.com.cn/site2/special-reports/2006-09/26/content_600707.htm (citing statement by Qian Lihua, deputy director general of the Foreign Affairs Office of the Ministry of National Defense).
- ¹⁸ “China’s Foreign Affairs and International Relations,” China Embassy, August 25, 2008, <http://al.china-embassy.org/eng/zggk/t514667.htm>.
- ¹⁹ “Chinese Defense Chief: SCO Drill Shows Determination to Fight Terrorism,” Xinhua, August 16, 2007, http://news.xinhuanet.com/english/2007-08/16/content_6540780.htm; “SCO Conducts Final Stage of Joint Anti-Terror Drill,” Xinhua, August 17, 2007, http://news.xinhuanet.com/english/2007-08/17/content_6553596.htm; “SCO Leaders Observe Joint Anti-Terror Drill,” Xinhua, August 17, 2007, http://news.xinhuanet.com/english/2007-08/17/content_6550883.htm; McDermott, supra n. 1, at 13-17.
- ²⁰ “SCO Conducts Final Stage of Joint Anti-Terror Drill,” Xinhua, August 17, 2007, http://news.xinhuanet.com/english/2007-08/17/content_6553596.htm.
- ²¹ “Chinese Defense Chief: SCO Drill Shows Determination to Fight Terrorism,” China View, August 16, 2007, http://news.xinhuanet.com/english/2007-08/16/content_6540780.htm (citing statement by Vice Chairman of China’s Central Military Commission, State Councilor, and Defense Minister Cao Gangchuan).
- ²² “Sino-Russian Anti-Terror Exercise Kicks Off,” Xinhua, September 4, 2007, http://www.lifeofguangzhou.com/node_10/node_37/node_82/2007/09/05/118895682926560.shtml; SCO RATS, “Об участии директора Исполкома ПАТС ШОС на совещании руководителей спецслужб и правоохранительных органов в г.Хабаровске Российской Федерации” {“Participation of the Director of the Board at a Meeting of the RATS SCO Heads of Special Services and Law Enforcement Officials in Khabarovsk Russian Federation”}, September 14, 2007, <http://www.ecrats.com/ru/news/164>; Mission of the PRC to the UN, “Statement by H.E. Ambassador Liu Zhenmin, Deputy Permanent Representative of China to the United Nations at the Sixth Committee of the 62nd Session of the UN General Assembly on Item 108, ‘Measures to Eliminate International Terrorism,’” October 11, 2007, <http://www.china-un.org/eng/hyyfy/t373009.htm>; Kamphausen, supra n. 4, at 428.
- ²³ “Sino-Russian Anti-Terror Exercise Kicks Off,” Xinhua, September 4, 2007, http://www.lifeofguangzhou.com/node_10/node_37/node_82/2007/09/05/118895682926560.shtml (citing statement by Wu Shuangzhan, Commander of Chinese People’s Armed Police Force).
- ²⁴ “Chinese Commandoes Arrive in Moscow for Drill,” Xinhua, September 2, 2007, available at http://eng.mod.gov.cn/MilitaryExercises/2007-09/02/content_4016354.htm.
- ²⁵ Ibid.
- ²⁶ Russia’s Presidency of the SCO, “Counter Terrorism Exercises Finished in Volgograd,” September 5, 2008, <http://en.sco2009.ru/news/20080905/3937.html>; SCO RATS, “Совместные антитеррористические оперативно-стратегические командно-штабные учения «Волгоград-Антитеррор-2008»” {“Joint Anti-Terror Operative and Strategic Command and Staff Exercise ‘Volgograd-Antiterror-2008’”}, September 5, 2008, <http://www.ecrats.com/ru/news/180>; “Russian FSB Warns of Terrorist Threat in Russia, Abkhazia, and South Ossetia,” Regnum, September 5, 2008, <http://www.regnum.ru/english/1050844.html>; Lukoil, “LUKOIL-Volgogradneftepererabotka Hosted International Anti-Terrorism Exercises,” Oil and Gas Eurasia, September 9, 2008, <http://www.oilandgaseurasia.com/news/p/0/news/2696>; Lukoil, “Press Release – Vysotsk Oil Terminal Hosts Anti-Terror Manuevers,” September 25, 2008, http://www.lukoil.com/press.asp?div_id=1&id=2945.

²⁷ “Russian FSB Warns of Terrorist Threat in Russia, Abkhazia, and South Ossetia,” Regnum, September 5, 2008, <http://www.regnum.ru/english/1050844.html> (citing statement by Chairman of National Anti-Terrorist Committee, Director of Russian FSB Alexander Bortnikov).

²⁸ SCO RATS, “Совместные антитеррористические оперативно-стратегические командно-штабные учения «Волгоград-Антитеррор-2008»” {“Joint Anti-Terror Operative and Strategic Command and Staff Exercise ‘Volgograd-Antiterror-2008’”}, September 5, 2008, <http://www.ecrats.com/ru/news/180>.

²⁹ Ibid.; Lukoil, “LUKOIL-Volgogradneftepererabotka Hosted International Anti-Terrorism Exercises,” Oil and Gas Eurasia, September 9, 2008, <http://www.oilandgaseurasia.com/news/p/0/news/2696>; Lukoil, “Press Release – Vysotsk Oil Terminal Hosts Anti-Terror Manuevers,” September 25, 2008, http://www.lukoil.com/press.asp?div_id=1&id=2945.

³⁰ SCO, “SCO Anti-Terrorism Training are Under Way Near Dushanbe,” April 7, 2009, <http://infoshos.ru/en/?idn=3990>; Avaz Yuldoshev, “Tajikistan hosts SCO Anti-Terror Drill,” Asia-Plus, April 20, 2009, <http://news.tj/en/news/tajikistan-hosts-sco-anti-terror-drill>; “SCO Exercises Norak-Anti-Terror-2009 Began In Tajikistan,” *Journal of the Turkish Weekly*, April 17, 2009, <http://www.turkishweekly.net/news/72784/-sco-exercises-norak-antiterror-2009-began-in-tajikistan.html>; SCO RATS, “Об итогах совместного антитеррористического командно-штабного учения «Норак-Антитеррор-2009»” {“Results of the Joint Anti-Terrorism Command Post Exercise ‘Norak-Antiterror-2009’”}, April 22, 2009, <http://www.ecrats.com/ru/news/2011>; “‘Norak-Antiterror’ is a Military Training for SCO Anti-Terrorist Forces,” InfoSCO, April 23, 2009, <http://infoshos.ru/en/?idn=4086>; Anna Malikova, “Uzbek Islamic Movement Considered a Threat to Central Asian Security,” CentralAsiaOnline.com, April 23, 2009, http://centralasiaonline.com/cocoon/caii/xhtml/en_GB/features/caii/features/2009/04/23/feature-02; SCO, “Joint Communiqué of Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation,” June 16, 2009, <http://www.sectsco.org/EN/show.asp?id=88>.

³¹ “SCO Exercises Norak-Antiterror-2009 Began In Tajikistan,” *Journal of Turkish Weekly*, April 17, 2009, <http://www.turkishweekly.net/news/72784/-sco-exercises-norak-antiterror-2009-began-in-tajikistan.html> (citing statement by chairman of the press center of the Ministry of Defense of Tajikistan, Faridun Mahmataliev).

³² Anna Malikova, “Uzbek Islamic Movement Considered a Threat to Central Asian Security,” CentralAsiaOnline.com, April 23, 2009, http://centralasiaonline.com/cocoon/caii/xhtml/en_GB/features/caii/features/2009/04/23/feature-02 (citing statement by Deputy Chairman of the National Security Committee of Tajikistan, Abdullo Nazarov).

³³ SCO, “Joint Communiqué of Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation,” June 16, 2009, <http://www.sectsco.org/EN/show.asp?id=88>.

³⁴ “China, Russia Kick Off Joint Anti-Terror Exercises,” Xinhua, July 22, 2009, available at http://www.chinadaily.com.cn/china/2009-07/22/content_8458481.htm; “‘Peace Mission-2009’ Improves Anti-Terror Response: Chinese Military Officer,” Xinhua, July 24, 2009, http://news.xinhuanet.com/english/2009-07/24/content_11765127.htm; “Chinese, Russian Troops Showcase Anti-Terror Power in Joint Military Exercise,” Xinhua, July 26, 2009, http://news.xinhuanet.com/english/2009-07/26/content_11773680.htm; Li Xiaokun and Peng Kuang, “Explosive Ending to Anti-Terrorism Exercise,” China Daily, July 27, 2009, http://www.chinadaily.com.cn/china/2009-07/27/content_8474914.htm; Stephen Blank, “Peace-Mission 2009: A Military Scenario Beyond Central Asia,” *China Brief*, No. 17 (2009), [http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews\[tt_news\]=35433&tx_ttnews\[backPid\]=25&chash=201d76e87b](http://www.jamestown.org/programs/chinabrief/single/?tx_ttnews[tt_news]=35433&tx_ttnews[backPid]=25&chash=201d76e87b).

³⁵ Stephen Blank, “Peace-Mission 2009: A Military Scenario Beyond Central Asia,” supra n. 34.

³⁶ “China, Russia to Conduct Joint Anti-Terror Military Exercise,” PLA Daily, July 8, 2009, http://english.pladaily.com.cn/site2/special-reports/2009-07/08/content_1830053.htm (citing statement by Chinese Defense Ministry spokesman Hu Changming).

³⁷ SCO RATS, “Заместитель директора ПАТС ШОС наблюдал за российско-китайскими антитеррористическими учениями ‘Мирная миссия-2009’” {“The Deputy Director of the RATS SCO Watching the Russian-Chinese Anti-Terrorist Exercises ‘Peace Mission 2009’”}, July 26, 2009, <http://www.ecrats.com/ru/news/2032>.

³⁸ “Joint Exercises of SCO Countries,” Voice of Russia, August 16, 2010, <http://english.ruvr.ru/2010/08/16/15954518.html>; “Regional Security Organization’s Drills in Russia Enter Active Stage,” RIA Novosti, August 25, 2010, http://www.rianovosti.com/military_news/20100825/160328713.html; Ilya Kharlamov, “SCO Holds Anti-Terror Exercises,” Voice of Russia, August 25, 2010, <http://english.ruvr.ru/2010/08/25/17207159.html>.

³⁹ “Regional Security Organization’s Drills in Russia Enter Active Stage,” RIA Novosti, August 25, 2010, http://www.rianovosti.com/military_news/20100825/160328713.html (citing statement by Russian National Antiterrorism Committee).

⁴⁰ Cheng Guangjin and Wu Jiao, “Sovereign Waters Are Not in Question,” China Daily, July 31, 2010, http://www.chinadaily.com.cn/china/2010-07/31/content_11075972.htm; “SCO to Hold Anti-Terrorism Drill in Kazakhstan,” Xinhua, August 26, 2010, http://news.xinhuanet.com/english2010/china/2010-08/26/c_13464580.htm; “First Chinese Army Unit Leaves for Anti-Terrorism Drills in Kazakhstan,” Xinhua, August 31, 2010, http://news.xinhuanet.com/english2010/china/2010-08/31/c_13471776.htm; “Russia to Send Over 1,000 Troops to Anti-Terror Drills in Kazakhstan,” RIA Novosti, August 31, 2010, http://en.rian.ru/military_news/20100831/160410498.html; Martin Sieff, “Upcoming SCO Military Exercises Must Demonstrate Organization’s Relevance,” Central Asia Newswire, August 31, 2010, <http://centralasianewswire.com/Region/Upcoming-SCO-military-exercisesnbspmustnbspdemonstrate-organization39s-relevance/viewstory.aspx?id=1555>; “Chinese Troops Set for Peace Mission Drill,” CNTV English, September 2, 2010, <http://english.cntv.cn/program/china24/20100902/100951.shtml>; “Chinese Military Unit Sets off for Anti-Terror Drills in Kazakhstan,” Xinhua, September 3, 2010, available at <http://english.sina.com/china/p/2010/0902/337607.html>; “SCO Anti-Terror Exercise in Kazakhstan,” United Press International, September 3, 2010, http://www.upi.com/Top_News/Special/2010/09/03/SCO-anti-terror-exercise-in-Kazakhstan/UPI-87001283551512/; “First Contingent of Chinese Soldiers Arrive in Kazakhstan for SCO Drills,” Xinhua, September 7, 2010, <http://english.people.com.cn/90001/90776/90883/7132849.html>; “Chinese Troops Arrive in Kazakhstan for ‘Peace Mission 2010,’” CNTV, September 9, 2010, <http://english.cntv.cn/program/newsupdate/20100909/100721.shtml>; “SCO to Begin Large-Scale Anti-Terror Drills in Kazakhstan,” RIA Novosti, September 9, 2010, http://en.rian.ru/military_news/20100909/160523960.html; Liang Jun, “Three Highlights of ‘Peace Mission 2010’ Worth Expecting,” People’s Daily Online, September 13, 2010, <http://english.peopledaily.com.cn/90001/90776/90883/7138773.html#>.

⁴¹ “SCO to Begin Large-Scale Anti-Terror Drills in Kazakhstan,” RIA Novosti, September 9, 2010, http://en.rian.ru/military_news/20100909/160523960.html.

⁴² Cheng Guangjin and Wu Jiao, “Sovereign Waters Are Not in Question,” China Daily, July 31, 2010, http://www.chinadaily.com.cn/china/2010-07/31/content_11075972.htm (citing statement by Chinese defense spokesman Senior Colonel Geng Yansheng).

⁴³ Fu Wen, “Drills Around China Raise Temp,” Global Times, September 26, 2010, <http://china.globaltimes.cn/chinaneews/2010-09/577093.html> (citing statement by Rear Admiral Yin Zhuo, a senior researcher at the Chinese Navy’s Equipment Research Center).

⁴⁴ “China Tries Long-Distance Air Attack Mode in SCO Drill,” Xinhua, September 20, 2010, http://news.xinhuanet.com/english2010/china/2010-09/20/c_13522041.htm (citing statement by Major General Meng Guoping, deputy commander of the Chinese military participating in the drill).

APPENDIX F

Select Bibliography¹

Primary International Law

- United Nations. "Charter of the United Nations." 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153 (1945).
<http://www.un.org/en/documents/charter/index.shtml>.
- . "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." U.N. Doc. A/39/51 (1984). <http://www2.ohchr.org/english/law/cat.htm>.
- . "Convention on the Elimination of All Forms of Discrimination against Women." U.N. Doc. A/34/46 (1979). <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.
- . "Convention on the Elimination of All Forms of Racial Discrimination." U.N. Doc. A/6316 (1966).
<http://www2.ohchr.org/english/law/cerd.htm>.
- . "Convention relating to the Status of Refugees." 189 U.N.T.S. 150 (1951).
<http://www2.ohchr.org/english/law/pdf/refugees.pdf>.
- . "International Covenant on Civil and Political Rights." U.N. Doc. A/6316 (1966).
<http://www2.ohchr.org/english/law/ccpr.htm>.
- . "International Covenant on Economic, Social and Cultural Rights." U.N. Doc. A/6316 (1966).
<http://www2.ohchr.org/english/law/cescr.htm>.
- . "Protocol relating to the Status of Refugees." 606 U.N.T.S. 267 (1967).
<http://www2.ohchr.org/english/law/pdf/protocolrefugees.pdf>.
- . "Universal Declaration of Human Rights." U.N. Doc. A/810 (1948).
<http://www.un.org/en/documents/udhr/index.shtml>.
- United Nations Security Council. S.C. Res. 1267, U.N. Doc. S/RES/1267 (1999) [on measures against the Taliban]. <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1267%281999%29>.
- . S.C. Res. 1373, U.N. Doc. S/RES/1373 (2001) [on international cooperation to combat threats to international peace and security caused by terrorist acts; creation of Counter-Terrorism

¹ Titles of Chinese- and Russian-language sources are presented in this bibliography in the language of origin, as well as in English translation. Official English translations are provided where available; modified brackets {} indicate unofficial English translations of the titles. Chinese sources also include *pinyin* of the titles.

- Committee; and state reporting requirements].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1373%282001%29>.
- . S.C. Res. 1456, U.N. Doc. S/RES/1456 (2003) [on high-level meeting of the Security Council on combating terrorism].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1456%282003%29>.
- . S.C. Res. 1535, U.N. Doc. S/RES/1535 (2004) [on creation of Counter-Terrorism Committee Executive Directorate].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1535%282004%29>.
- . S.C. Res. 1566, U.N. Doc. S/RES/1566 (2004) [on creation of working group to consider measures against individuals, groups and entities other than Al-Qaida/Taliban].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1566%282004%29>.
- . S.C. Res. 1624, U.N. Doc. S/RES/1624 (2005) [on prohibition of incitement to commit terrorist acts]. <http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1624%282005%29>.
- . S.C. Res. 1631, U.N. Doc. S/RES/1631 (2005) [on cooperation between the United Nations and regional organizations in maintaining international peace and security].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1631%282005%29>.
- . S.C. Res. 1805, U.N. Doc. S/RES/1805 (2008) [on extending mandate of Counter-Terrorism Committee Executive Directorate].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1805%20%282008%29>.
- . S.C. Res. 1822, U.N. Doc. S/RES/1822 (2008) [on directing the 1267 Committee to conduct reviews of all names on the Consolidated List; making accessible publicly releasable reasons for listing of individuals and entities; and extending mandate of the Analytical Support and Sanctions Monitoring Team].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1822%282008%29>.
- . S.C. Res. 1904, U.N. Doc. S/RES/1904 (2009) [on authorizing the establishment of an Office of an Ombudsperson to assist the 1267 Committee in consideration of delisting requests; directing the 1267 Committee to grant humanitarian exemptions expeditiously and transparently; and streamlining the listing process of names of individuals and entities onto the Consolidated List].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1904%282009%29>.
- . S.C. Res. 1963, U.N. Doc. S/RES/1963 (2010) [on extension of the mandate of Counter-Terrorism Committee Executive Directorate as special political mission under the policy guidance of Counter-Terrorism Committee].
<http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1963%282010%29>.

Shanghai Cooperation Organization Normative Documents

- Shanghai Cooperation Organization. “Соглашение между государствами – членами ШОС о Региональной антитеррористической структуре” {“Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure”}. June 7, 2002. http://www.ecrats.com/ru/normative_documents/1557.
- . “СОГЛАШЕНИЕ О БАНКЕ ДАННЫХ РЕГИОНАЛЬНОЙ АНТИТЕРРОРИСТИЧЕСКОЙ СТРУКТУРЫ ШАНХАЙСКОЙ ОРГАНИЗАЦИИ СОТРУДНИЧЕСТВА” {“Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization”}. June 28, 2004. http://www.lawrussia.ru/texts/legal_123/doc123a379x562.htm.
- . “Соглашение о порядке организации и проведения совместных антитеррористических учений государствами-членами Шанхайской организации сотрудничества” {“Agreement on the Procedure for Organizing and Conducting Joint Anti-Terrorist Exercises by Member States of the Shanghai Cooperation Organization”}. August 25, 2008. http://www.ecrats.com/ru/normative_documents/1666.
- . “Charter of the Shanghai Cooperation Organization.” June 7, 2002. <http://www.sectesco.org/EN/show.asp?id=69>.
- . “上海合作组织宪章” [“Shanghai hezuo zuzhi xianzhang”] [“Charter of the Shanghai Cooperation Organization”]. June 15, 2002. <http://www.sectesco.org/CN/show.asp?id=162>.
- . “Концепция сотрудничества государств – членов ШОС в борьбе с терроризмом, сепаратизмом и экстремизмом” {“Concept of Cooperation Between SCO Member States in Combating Terrorism, Separatism and Extremism”}. June 5, 2005. http://www.ecrats.com/ru/normative_documents/1558.
- . “ЗАЯВЛЕНИЕ глав государств-членов ШОС по международной информационной безопасности” {“Declaration of the Heads of the SCO Member States on International Information Security”}. June 15, 2006. <http://www.sectesco.org/RU/show.asp?id=107>.
- . “上海合作组织成员国元首关于国际信息安全的声明” [“Shanghai hezuo zuzhi chengyuan guo yuanshou guanyu guoji xinxi anquan de shengming”] {“Declaration of the Heads of the SCO Member States on International Information Security”}. June 15, 2006. <http://www.sectesco.org/CN/show.asp?id=172>.
- . “Declaration of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation.” June 11, 2010. <http://www.sectesco.org/EN/show.asp?id=225>.

- . “上海合作组织成员国元首理事会第十次会议宣言” [“Shanghai hezuo zuzhi chengyuan guo yuanshou lishi hui di shi ci huiyi xuanyan”] [“Declaration of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation”]. June 11, 2010. <http://www.sectsco.org/CN/show.asp?id=380>.
- . “Declaration on Establishment of Shanghai Cooperation Organisation.” June 15, 2001. <http://www.sco2011.kz/en/shos/dece.php>.
- . “上海合作组织成立宣言” [“Shanghai hezuo zuzhi chengli xuanyan”] [“Declaration on Establishment of Shanghai Cooperation Organisation”]. June 15, 2001. <http://www.sectsco.org/CN/show.asp?id=100>.
- . “Declaration on the Fifth Anniversary of the Shanghai Cooperation Organization.” June 15, 2006. <http://www.sectsco.org/EN/show.asp?id=94>.
- . “上海合作组织五周年宣言” [“Shanghai hezuo zuzhi wu zhounian xuanyan”] [“Declaration on the Fifth Anniversary of the Shanghai Cooperation Organization”]. June 15, 2006. <http://www.sectsco.org/CN/show.asp?id=173>.
- . “Dushanbe Declaration of the Heads of the Member States of the Shanghai Cooperation Organisation.” August 28, 2008. <http://www.sectsco.org/EN/show.asp?id=90>.
- . “上海合作组织成员国元首杜尚别宣言” [“Shanghai hezuo zuzhi chengyuan guo yuanshou Dushangbie xuanyan”] [“Dushanbe Declaration of the Heads of the Member States of the Shanghai Cooperation Organisation”]. August 28, 2008. <http://www.sectsco.org/CN/show.asp?id=180>.
- . “Joint Communiqué of Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organisation.” June 15, 2006. <http://www.sectsco.org/EN/show.asp?id=95>.
- . “Joint Communiqué of Meeting of the Council of Heads of Member States of the Shanghai Cooperation Organisation.” August 16, 2007. <http://www.sectsco.org/EN/show.asp?id=93>.
- . “上海合作组织成员国元首理事会会议联合公报” [“Shanghai hezuo zuzhi chengyuan guo yuanshou lishi hui huiyi lianhe gongbao”] [“Joint Communiqué of Meeting of the Council of Heads of Member States of the Shanghai Cooperation Organisation”]. August 16, 2007. <http://www.sectsco.org/CN/show.asp?id=175>.

-
- . “Протокол о внесении изменений в Соглашение между государствами-членами Шанхайской организации сотрудничества о Региональной” {“Protocol on Amendments to the Agreement Between Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure”}. August 16, 2007.
http://www.ecrats.com/ru/normative_documents/1659.
- . “Protocol on Establishment of the SCO-Afghanistan Contact Group between the Shanghai Cooperation Organisation and the Islamic Republic of Afghanistan.” November 4, 2005.
<http://www.sectesco.org/EN/show.asp?id=70>.
- . “上海合作组织与阿富汗伊斯兰共和国关于建立上海合作组织-阿富汗联络小组的议定书” [“Shanghai hezuo zuzhi yu Afuhan Yisilan gongheguo guanyu jianli Shanghai hezuo zuzhi-Afuhan lianluo xiaozu de yidingshu”] [“Protocol on Establishment of the SCO-Afghanistan Contact Group between the Shanghai Cooperation Organisation and the Islamic Republic of Afghanistan”]. November 4, 2005. <http://www.sectesco.org/CN/show.asp?id=171>.
- . “Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organisation.” August 8, 2008. <http://www.sectesco.org/EN/show.asp?id=64>.
- . “上海合作组织对话伙伴条例” [“Shanghai hezuo zuzhi duihua huoban tiaoli”] [“Regulations on the Status of Dialogue Partner of the Shanghai Cooperation Organisation”]. August 28, 2008.
<http://www.sectesco.org/CN/show.asp?id=181>.
- . “SCO Joint Initiative on Increasing Multilateral Economic Cooperation in the Field of Tackling the Consequences of the Global Financial Economic Crisis.” October 14, 2009.
<http://www.sectesco.org/EN/show.asp?id=146>.
- . “上海合作组织成员国关于加强多边经济合作、应对全球金融危机、保障经济持续发展的共同倡议” [“Shanghai hezuo zuzhi chengyuan guo guanyu jiaqiang duobian jingji hezuo, yingdui quanqiu jinrong jingji weiji, baozhang jingji chixu fazhan de gongtong changyi”] [“SCO Joint Initiative on Increasing Multilateral Economic Cooperation in the Field of Tackling the Consequences of the Global Financial Economic Crisis”]. October 14, 2009.
<http://www.sectesco.org/CN/show.asp?id=355>.
- . “The Regulations on Observer Status at the Shanghai Cooperation Organisation.” April 24, 2004.
<http://www.sectesco.org/EN/show.asp?id=65>.
- . “上海合作组织观察员条例” [“Shanghai hezuo zuzhi guangchayuan tiaoli”] [“The Regulations on Observer Status at the Shanghai Cooperation Organisation”]. June 15, 2004.
<http://www.sectesco.org/CN/show.asp?id=167>.

- . “The Shanghai Convention on Combating Terrorism, Separatism and Extremism.” June 15, 2001. <http://www.sectsco.org/EN/show.asp?id=68>.
- . “打击恐怖主义、分裂主义和极端主义上海公约” [“Daji kongbu zhuyi, fenlie zhuyi he jiduan zhuyi Shanghai gongyue”] [“The Shanghai Convention on Combating Terrorism, Separatism and Extremism”]. June 15, 2001. <http://www.sectsco.org/CN/show.asp?id=99>.
- . “Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation Between the Member States of the Shanghai Cooperation Organization.” August 16, 2007. <http://www.sectsco.org/EN/show.asp?id=71>.
- . “КОНВЕНЦИЯ Шанхайской организации сотрудничества против терроризма” {“The Convention against Terrorism of the Shanghai Cooperation Organization”}. June 16, 2009. [http://asozd2.duma.gov.ru/main.nsf/\(ViewDoc\)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B](http://asozd2.duma.gov.ru/main.nsf/(ViewDoc)?OpenAgent&work/dz.nsf/ByID&1CB3AD654A8490D2C3257752002C8E0B).

Books, Reports, and Articles

- Bailes, Alyson J. K., Pál Dunay, Pan Guang and Mikhail Troitskiy. *The Shanghai Cooperation Organization*. Sweden: Stockholm International Peace Research Institute, 2007. http://books.sipri.org/product_info?c_product_id=338.
- Cooley, Alexander. “Cooperation Gets Shanghaied: China, Russia, and the SCO.” *Foreign Affairs*, December 14, 2009. <http://www.foreignaffairs.com/articles/65724/alexander-cooley/cooperation-gets-shanghaied>.
- Human Rights Watch. “*We Are Afraid to Even Look for Them*” – *Enforced Disappearances in the Wake of Xinjiang’s Protests*. United States: Human Rights Watch, 2009. <http://www.hrw.org/en/node/86103/section/1>.
- International Federation for Human Rights. *Kazakhstan/ Kyrgyzstan: Exploitation of Migrant Workers, Protection Denied to Asylum Seekers and Refugees*. Paris: International Federation for Human Rights, 2009. <http://www.fidh.org/IMG/pdf/Kazakhstan530a-3.pdf>.
- . *Russian Society Under Control: Abuses in the Fight against Extremism and Terrorism*. Paris: International Federation for Human Rights, 2009. http://www.fidh.org/IMG/pdf/Russian_society_under_control.pdf.
- Kamphausen, Roy, David Lai, and Andrew Scobell. *The PLA at Home and Abroad: Assessing the Operational Capabilities of China’s Military*. Strategic Studies Institute, 2010. <http://www.strategicstudiesinstitute.army.mil/pdf/PUB995.pdf>.

-
- LandInfo. *Kina: Uighurene i Xinjiang [China: Uighurs and Xinjiang]*. Oslo: LandInfo, May 2009. http://www.landinfo.no/asset/917/1/917_1.pdf.
- McDermott, Roger N. *The Rising Dragon: SCO Peace Mission 2007*. Washington, DC: Jamestown Foundation, 2007. <http://www.jamestown.org/uploads/media/Jamestown-McDermottRisingDragon.pdf>.
- Office of the United Nations High Commissioner for Human Rights. *Human Rights, Terrorism and Counter-terrorism: Fact Sheet No. 32*. Geneva: United Nations, July 2008. <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>.
- United Nations General Assembly. "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the 65th session of the General Assembly," Special Rapporteur, Martin Scheinin. U.N. Doc. A/65/258 (2010). http://www2.ohchr.org/english/issues/terrorism/rapporteur/docs/A.65.258_en_UNcompliance.pdf.
- United Nations Human Rights Council. "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for the 16th session of the Human Rights Council: Ten areas of best practices in countering terrorism," Special Rapporteur, Martin Scheinin. U.N. Doc. A/HRC/16/51 (2010). http://www2.ohchr.org/english/issues/terrorism/rapporteur/docs/A.HRC.16.51_en_AEV.pdf.
- . "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Compilation of good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight," Special Rapporteur, Martin Scheinin. U.N. Doc. A/HRC/14/46 (2010). <http://www.un.org/Docs/journal/asp/ws.asp?m=a/hrc/14/46>.
- Wang Xiumei and Zhao Bingzhi. "Countermeasures against Terrorism through Criminal Justice in China," paper presented at the First World Conference of Penal Law – Penal Law in the XXIst Century, Guadalajara, Mexico, November 18–23, 2007. <http://penal.onifin.com/IMG/Guadalajara-Zhao.pdf>.

Human Rights in China Resources

Human Rights in China. *China: Minority Exclusion, Marginalization and Rising Tensions*. New York: Human Rights in China and Minority Rights Group International, 2007.

<http://www.hrichina.org/public/contents/36055>.

———. *Implementation and Protection of Human Rights in the People's Republic of China – A Parallel NGO Report*. New York: Human Rights in China, 2008.

<http://www.hrichina.org/public/contents/126108>.

———. *Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the People's Republic of China – A Parallel NGO Report*. New York: Human Rights in China, 2008. <http://www.hrichina.org/public/contents/74029>.

———. *Implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the People's Republic of China – A Parallel NGO Report*. New York: Human Rights in China, 2006. <http://www.hrichina.org/public/contents/29593>.

———. *Implementation of the Convention on the Elimination of All Forms of Racial Discrimination in the People's Republic of China – A Parallel NGO Report*. New York: Human Rights in China, 2009.

<http://www.hrichina.org/public/contents/170357>.

———. *Implementation of the International Covenant on Economic, Social and Cultural Rights in the People's Republic of China – A Parallel NGO Report*. New York: Human Rights in China, 2005.

<http://www.hrichina.org/public/contents/22060>.

———. *State Secrets: China's Legal Labyrinth*. New York: Human Rights in China, 2007.

<http://www.hrichina.org/public/contents/41421>.

Human Rights in China and Human Rights Watch. *Devastating Blows: Religious Repression of Uyghurs in Xinjiang*. New York: Human Rights in China and Human Rights Watch, 2005.

<http://www.hrichina.org/public/contents/21518>.

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Chinese President Hu Jintao inspects honor guard in Moscow while present for the Third Meeting of the SCO Heads of State Council, May 26, 2003.

Photo credit: Reuters/Sergei Karpukhin.

A Uyghur woman stands on the side of a road as Chinese paramilitary police ride on a truck on a main street in Urumqi, July 9, 2009.

Photo credit: Reuters/Nir Elias.

Former Russian President Vladimir Putin and Chinese President Hu Jintao during the Third Meeting of the SCO Heads of State Council, May 29, 2003.

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The Shanghai Cooperation Organization (SCO)



The Shanghai Cooperation Organization (SCO) (上海合作组织) is a regional organization of six states – the People’s Republic of China (or China), the Russian Federation, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan – founded in 2001 to enhance security and economic cooperation in Eurasia. It has set counter-terrorism as one of its top priorities. With a combined territory spanning three-fifths of the Eurasian continent and 1.5 billion people, as well as two member states occupying permanent seats on the UN Security Council, the SCO has emerged as a geo-political player with influence far beyond Central Asia.

This whitepaper analyzes the SCO framework for security and counter-terrorism and the key role of China in that framework; identifies the human rights concerns raised by SCO structure, policies, and practices; and assesses the SCO’s impact on international human rights norms and standards and on the international counter-terrorism framework.

This whitepaper also argues that the international community, and the UN in particular as it deepens and expands its engagement with the SCO, must

urgently address the human rights risks posed by each SCO member state and by the collective SCO framework, policies, and practices. The SCO approach to counter-terrorism, modeled on China’s Three Evils doctrine, and highlighting principles of territorial integrity, non-interference in internal affairs, and social stability, contributes to supporting repressive regimes at the expense of national, regional, and global human rights. The international community’s ongoing failure to demand accountability from regional frameworks such as the SCO undermines the effectiveness and integrity of the international system in countering terrorism and advancing rule of law, peace, and security.

To contribute to the international progress underway toward developing a more coherent, effective, and sustainable approach to counter-terrorism that integrates human rights, this whitepaper advances a number of concrete policy and practice recommendations directed to the SCO and its member states, as well as to UN bodies and national governments.