



## Comparative Assessment of the SAARC and SCO Charters

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*This article compares the charters of the South Asian Association for Regional Cooperation (SAARC) and the Shanghai Cooperation Organization (SCO) to gauge the objectives with which these organizations were conceived and their potential efficacy in pursuing those objectives.*

Article 1 of the SCO charter clearly delineates the goals and the tasks which have been envisaged for SCO. Besides regional cooperation in multiple spheres Article 1 has a very clear emphasis on strengthening and consolidating cooperation in countering terrorism, separatism and extremism in all their manifestations, to fight against illicit narcotics and arms trafficking and other types of criminal activities of a transnational character and illegal migration. All Central Asian nations including Russia and China face a common threat in these evils and therefore there is more concurrence of purpose among these countries on these issues than SAARC where these issues get mired in political confrontation.

Significantly Article 2 of the SCO charter mentions that no country should seek any 'unilateral military superiority in adjacent areas'. This gives a very strong impetus to the efficacy of the organization as it implies that any strategic distrust which may be present between Russia and China or for that matter between

Russia and other smaller nations or China and other smaller nations will not hinder the movement on any front in the organization as the sense of perceived military threat decreases due to this clause. A similar use of language directly referring to 'military superiority' in any area by any nation is absent in the SAARC charter. Even though the SAARC charter frequently uses the terms like peace, non-interference, territorial integrity, non use of force, etc. in the preamble and in Article II, there are no direct allusions to the term 'military'. This implies that the Kashmir issue which frequently leads to military build-ups in the border areas and perennial tensions at the local level between the militaries of India and Pakistan can very easily derail multilateral cooperation and therefore the SAARC charter is bound to fail in ushering any kind of strategic peace in South Asia.

It is also pertinent here to mention that unlike the SAARC charter, the SCO charter has a dedicated article which delineates the areas of cooperation and objectives for the organization and talks about jointly countering terrorism, separatism, extremism, illicit narcotics and arms trafficking, and other types of transnational

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criminal activity; coordination in the fields of arms control and disarmament, fostering an environment for free flow of goods, capital, services and technologies; exchange of legal information to develop cooperation within SCO; environment and water resource management, and so on (Article 3 ). This clarity with which the charter was formulated by the countries initiating and joining the regional body shows an abundance of foresight and a certainty in the objectives that they wished to achieve through the regional framework. Not surprisingly, in the SAARC charter the objectives of the organization are enlisted under Article I in the most general terms like welfare, economic growth, social development, cooperation, etc. and when compared with the SCO show not only a confusion about what the organizational objectives would be and the implicitly implied low expectations from the body.

Under Article 4 of the SCO charter there are seven bodies officially designated - 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 (RCTS) and the Secretariat. Both the Council of Heads of Government (Prime Ministers) and the Council of Heads of State meet once in a year. So there are two meetings at the top-most level for the organization besides the Council of Ministers of Foreign Affairs which meet one month prior to any-top level meets; in other words, a minimum of two meetings of the SCO is guaranteed. These senior-level meets give a push to the processes and mechanisms and help in achieving concrete outcomes. By comparison, the SAARC charter provides for one meeting of the Head of States under Article III and two meetings of the Council of Foreign Ministers under Article IV. Under the SCO, all bodies other than RCTS are governed by appropriate provisions adopted by the Council of Heads of States under Article 4.2. RCTS is a standing SCO body in Bishkek Kyrgyzstan governed by a separate international

treaty under Article 10 of the SCO charter. That there is separate standing body on counter-terrorism means that there is lot more seriousness with which the issue is approached and dealt with and therefore, the mechanism is likely going to be a lot more effective than any similar counter-terrorism mechanism that SAARC can conjure up in the face of fundamental political differences over how terrorism is defined. Here, it is also important to mention that Article II of the SAARC Charter which outlines the principles on which the organization has been formed. Point two categorically states that SAARC cooperation is not a substitute for bilateral and multilateral cooperation, when it comes to security or counter-terrorism mechanisms; the fact that things cannot move forward in India-Pakistan bilateral relations/negotiations is enough reason to assume that any SAARC multilateral cooperation initiative is bound to fail.

Under Article 12 of the SCO charter there is a special agreement to provide for SCO budget, this agreement determines the amount of contribution paid annually by the member states on the basis of a principle of cost-sharing. Meanwhile, under Article 9 of the SAARC charter, as far as financing goes, the contribution of each state towards financing the association is 'voluntary'. There is therefore, an implicit assumption embedded in the charter that expects India to show 'magnanimity'.

Finally, the most crucial articles in the two charters which influence the effectiveness of these organizations to a considerable degree are the articles that pertain to the decision-making. In the SAARC charter under Article X the General Provisions posit two principles for decision making, (a) decisions at all levels are taken on 'basis of unanimity' and (b) bilateral and contentious issues are to be excluded from deliberations. It is conspicuous from the first provision that decision making in SAARC will inevitably be bound by inertia and lethargy, as it is no secret how difficult it will be to arrive at any kind of unanimity considering the multiple

divergent political interests the countries in South Asia have. Ideally, the second provision should have mitigated the above mentioned in-built resistance to some extent and imparted some momentum to decision-making in the organization. However, this clause too has been violated as some countries have insisted that bilateral problems be included in the discussions (Pattnaik 2004: 430). By contrast, in the SCO charter under Article 16 decisions are taken by 'agreement without vote' and a decision is assumed to be taken if no state has raised an objection except for the decision on suspension of membership of a country which is decided by 'consensus minus one'. China and Russia who were instrumental in forming the organization can therefore, make sure that there are minimum political obstacles and projects can be pushed through. Additionally, if one or more states are not interested in implementing a particular project its non-participation does not affect such cooperation among other states with the choice open for the concerned states joining the bandwagon at the later stage.

### **Impact Assessment of India-China Trade-Off for Full Membership into SCO and SAARC**

Both China and India have been stalling or delaying each other's accession to various regional institutions and multilateral bodies and the strategic distrust clearly reflects in their approach towards their view each other's membership to these forums. India's wish to join the SCO and China's wish to join SAARC therefore has largely been seen by this prism of strategic mistrust.

Is there a possible quid-pro-quo between India and China for India's membership in SCO in the context of Afghanistan and China's in SAARC? What are the political and economic incentive mechanisms at work in each case?

SAARC was an idea that was expected to undergo metamorphosis and evolve even as there were major irritants and mutual suspicion

between the nations that mooted it. Initially formed to encourage and commence cooperation in avenues of mutual interest between the states forming it, SAARC envisioned an integrated economic block which could culminate into a security community. Held hostage to India-Pakistan rivalry, even with the modest expectations with which it was formed, SAARC failed to make any reasonable impact in most areas in South Asia.

The genesis of the problem lies in the decision making process which depends on 'unanimous decision making' as per the SAARC charter, an inertia-bound and ineffective mechanism leading to inordinate delays in arriving at any kind of consensus. India's smaller neighbors were visibly nervous about a superior behemoth in India when the institution was envisaged and the incorporation of 'decision by unanimity' in the charter must therefore, be seen in this context.

Meanwhile, the perceived threat from China becoming a full member of SAARC is exaggerated. Multilateral cooperation through SAARC has largely failed and the biggest evidence is the bilateral agreements inked instead by India to foster deeper relationship with all its immediate neighbors except Pakistan. Not incorporating China has not stopped it from making deep inroads into the South Asian region. It has good to very good bilateral ties with every other neighbour and has taken up a number of infrastructure projects in these countries, and trade and economic cooperation too have been on the upswing. Whether or not China is in SAARC as a full member should not prevent India from going ahead with or maintaining its policy of maintaining close cordial ties with the countries in these regions (Abdujjaher 2012: 3).

China's membership in SAARC is being espoused mainly by Pakistan and Nepal, and some strategic commentators believe that countries willing to counter-balance India are the ones that want to include China at SAARC as a full member (Datta 2011: 497). It is also argued that the smaller South Asian countries

will start employing their 'China Card' and their 'Pakistan Card' to India's strategic and political disadvantage (Kapila 2012). While it is true to some extent that an alternate power center in SAARC would create a platform for power politics, the fact of the matter is that the 'China card' is already being played by countries like Sri Lanka, Bangladesh and Nepal while Pakistan has a 'deeper than the seas and higher than the mountains' relationship with China. Therefore, whether or not China is in SAARC as a full member, it already appears to exercise some of the main advantages of being a full member. Also since decisions are taken by unanimity, as per the SAARC charter, India can stall any development that it deems unfit for its interest in the region.

The fear of containment of India being expressed by some Indian analysts is however, completely overblown. There are certain geographic and political realities that exist for India's smaller neighbors and which they have to confront before they give in to any kind of centrifugal force that tries to wean them away from India. It is also argued that bringing in China as a full member would impede the progress of the organization and the integration of the region. But what is already largely a defunct organization given to rhetoric cannot fail twice. Bringing in China may not particularly help in getting everyone on board on issues of political and ethnic importance in South Asia but chances are that it may give an impetus at least to economic cooperation in the region. China has always prioritized economics and trade over security-related and other irritants in its foreign policy towards most countries. This has been the traditional Chinese way of conducting business and in this sense it could well be the lever that can control Pakistan in reforming its policy towards prioritizing economic cooperation over political confrontation. However, it is also important to be cautious given that the weaker South Asian economies cannot compete with China; having free trade with China could well turn them into mere exporters of raw material and even possibly impede industrialization

(Datta 2011: 500). Most countries in the region, including India, face large deficits in their bilateral trade with China but this also makes the case for a multilateral effort through SAARC to put pressure on China to reduce the trade deficit and get access to Chinese markets.

Similar multilateral cooperation to put pressure on China for river cooperation can also be pursued by bringing Bangladesh and Nepal on board who are also lower riparian states on rivers that generally originate from China, to rally more support for river cooperation on one platform. This should largely be feasible as the issue will transition from being a bilateral issue to a multilateral one which can then be discussed and debated at SAARC. Although China has shown reluctance to discuss issue on multilateral platforms and prefers to deal with individual countries bilaterally, like in the case of ASEAN, it can be made to accede to a 'code of conduct on river resources and cooperation' as happened with the code of conduct in the case of South China Sea. If Pakistan makes the case that 'no such conditionality' be imposed on China, then India can argue that as during the addition of Afghanistan the SAARC charter remained un-amended and no protocol had been evolved for adding new members, they are well within their right to set such terms of accession (Pandey 2011: 516).

With China in SAARC, the organization would acquire a lot of political weight in the international arena, India and China along with other South Asian countries can then articulate a common regional climate change strategy and also negotiate as a common bloc to exact more concessions from the West and the developed countries.

The Chinese view on full membership of SAARC is to forward its view of an Asian security architecture devoid of external actors like the US and safeguard its interest in the Indian Ocean Region. Xi Jinping has called on China to become a great maritime power and the PLA Navy has already started making forays

into the Indian Ocean. If India incorporates China as a full member in SAARC, doing so would mean validating and legitimizing China as a resident power in South Asia. The Chinese wish to join SAARC is with a comprehensive worldview which takes into account its competition with the US and reflects in its reservations about anti-terrorism cooperation in SAARC. The latter, since different South Asian nations perceive and define terrorism and anti-terrorism combat differently and therefore multilateral cooperation especially on political and terrorism-related issues is bound to remain sluggish and inefficient; in this context China wishes to engage with nations only bilaterally (Hu 2007:90-91).

The Chinese do recognize the legitimate interests of India in the South Asian region and even though strategic competition cannot be ruled out, they will not wish to antagonize India to a point where India is pushed into the US-Japan-India triumvirate. In any case one must not forget that apart from India, Pakistan is also keen on full membership in the SCO. It is not going to be the case that there are going to be different parameters for Indian and Pakistani accession to full membership of the SCO; Indian membership into the SCO will inevitably be accompanied with full membership of China's 'all weather ally'. In that case the whole purpose and objective of joining SCO for India could be attenuated to some extent but a similar move can be made in the SAARC to balance the inclusion of China by inviting Japan to be a full member of SAARC on the same political parameters on which Chinese membership is considered; like China, Japan also enjoys very good relations with almost all South Asian countries (Pandey 2011: 516).

Some commentators have also argued for China's observer status to be upgraded into Associate membership for now with all the privileges of membership keeping two terms in hand i) power to terminate China's membership and ii) absence of any veto power for China in SAARC (Abdujjaher 2012: 12). However, this

looks highly unlikely, as the argument here can be reversed that when Afghanistan was incorporated no such protocol was evolved and the SAARC charter remained un-amended (Pandey 2011: 516). The deal may become politically unviable if the Chinese protest this discrimination plus India should then be prepared for a similar treatment in the SCO.

According to the SCO charter, decisions are taken by consensus and therefore inclusion of Pakistan might reduce benefits that India hopes to accrue from its inclusion in the SCO. In fact, this India-Pakistan rivalry is as much a cause for concern for even the Chinese who will not want the duo to impede the swift decision-making process in the SCO. Even then it must be mentioned here in the context of Afghanistan that India joining SCO along with Pakistan is not too bad an alternative, as there is no country other than Pakistan that can play a bigger role in Afghanistan and unless India engages with Pakistan in the SCO along with China and Russia who have a broad convergence of interest with India as far as Afghanistan goes, it cannot hope to pursue the objectives with which it wishes to join the SCO.

In the SCO charter, the most important goals of the organization - cooperation in counter terrorism, science and technology, energy - are the ones that are most crucial to Indian interests. However, there are some other Russia-led organizations in Central Asia to which India could look forward to as far security cooperation such as the CSTO which has been formed by Russia as a guard against Chinese influence in the region. Nevertheless, China's banking and financial clout is gradually but surely establishing it as the player to watch out for in Central Asia, even as Russian influence erodes despite its linguistic and cultural links.

The issue of Tibet and the Dalai Lama could once again prove to be a major bottleneck in India-China relations if India chooses to join SCO. The SCO charter and its Convention on Combating Terrorism, Separatism and

Extremism make very little distinction in real terms between ‘the three evils’ of terrorism, extremism and separatism. In the 2007 Treaty on Long-Term Good-Neighborliness, Friendship and Cooperation between the Member States of the SCO, Article 4 states that member states are bound to respect state sovereignty and territorial integrity and take measures to prevent any activity on their territory which is incompatible with the above mentioned principles. India could argue that the Tibetan activity on its soil is a demand for more autonomy within China and is not secessionist in any way; further, India has also accepted the Tibet Autonomous Region as a part of China. However, Article 4 also goes on to say that the Contracting Parties ‘shall not support any actions hostile to other Contracting Parties’. Here ‘support’ is a very vaguely defined term and a broad interpretation could manifest in significant levels of friction between the two countries. When and if India joins SCO as a full member it must consider the potential repercussions of this treaty on India-China ties in the context of the historical strategic distrust that Tibet has caused between the two countries.

In the case of SAARC Article II of the Regional Convention on Suppression of Terrorism says that for the case of extradition between contracting states they may ‘decide by agreement to include any serious offence involving violence’ and ‘which is not regarded as a political offence’. Since it is difficult to conclude an extradition agreement between nations that are geopolitical rivals and when most serious offences in one country are inevitably related to larger issues of political and strategic nature, it is no surprise that achieving an extradition especially in the context of India-Pakistan is nearly impossible.

From a long-term perspective, India’s engagement with SCO is to gain a foothold in Central Asia in both the economic and security realms. Here, it is important to remember the contours of Central Asia are as artificial as in South Asia and that there are ethnic fault-lines. Western liberal democratic ideas and processes

have not made inroads into Central Asia (apart from Kyrgyzstan) and therefore, the SCO practically acts as a guarantor of political stability rather than only of security for these states. The tussle over Ukraine between the West led by the US on the one hand and Russia on the other or a US offensive interest in Central Asia similar to the one shown in case of Syria, Libya or like in the case of Ukraine could accentuate ethnic fault-lines and be a cause for political instability and sectarianism. Such an event could drastically alter the map of Central Asia as well as India’s regional security interests in Central Asia with potential implications for Kashmir. It is therefore important for India to understand that the SCO is not the only gateway to Central Asia and that India must ensure it engages all communities in Central Asia and possible future political forces. It is not without reason that despite SCO being much more functional than SAARC, China still relies heavily on its bilateral relationship with many of these Central Asian countries (Cabestan 2010: 33).

While India pushes for a new BRICS-led world financial architecture and full membership to the SCO, the latter with its potential association with the likes of Iran, Russia, China and Pakistan are sure to draw some negative attention from US which would naturally view its so-called strategic ally in South Asia as having joined an anti-US conglomerate. India must make sure in light of its immediate short-term to medium-term interests therefore, not to antagonize the US and that the underlying tensions in the Indo-US relationship are not exacerbated.

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