

# CIL Workshop on International Maritime Crimes

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## ASEAN Maritime Security: A Proposal for Legal Cooperation

**Is there a legal dimension to ASEAN's  
maritime security cooperation?**

**Is there legal cooperation?**

## **Development of Maritime Security Cooperation**

- **1997-98 – first entered the ASEAN agenda**
  - **1997 ASEAN Declaration on Transnational Crime – scope of transnational crimes (TNC) to be addressed by ASEAN expanded to piracy, etc.**
  - **1998 Hanoi Declaration of 1998 – to intensify individual and collective efforts against TNC such as piracy.**
- **2000s – piracy and maritime crimes fused w/ terrorism**
  - **The ASEAN Regional Forum, existing since 1994, officially entered maritime security as part of its agenda in 2003.**

## Development of Maritime Security Cooperation

- After the 2003 ASEAN Concord II – subsequent ASEAN plans and programmes included maritime security cooperation
  - Vientiane Action Programme (2004-2010)
  - APSC Blueprint

## 4 ASEAN Sectoral Bodies

- ASEAN Defence Ministers Meeting (ADMM)
- ASEAN Law Ministers Meeting (ALAWMM) – considered a proposal for *model law on maritime security*
- ASEAN Ministerial Meeting on Transnational Crime (AMMTC)
- ASEAN Regional Forum (ARF)

## AMMTC

### 1999 ASEAN Plan of Action to Combat Transnational Crime

- Includes piracy as 1 of the 8 priority areas

### 2002 Work Programme to Implement the Plan of Action

- Legal Matters
  - Consider the feasibility of developing multilateral or bilateral legal arrangements to facilitate apprehension, investigation, hot pursuit, prosecution and extradition, exchange of witnesses, sharing of evidence, inquiry, seizure and forfeiture of the proceeds of the crime in order to enhance mutual legal and administrative among AMS.
- Law Enforcement Matters
  - Enhance programmes for anti-piracy coordinated patrols.
  - Enhance cooperation and coordination in law enforcement and intelligence sharing of piracy and armed robbery at sea activities and ...other unlawful transnational crimes.

## **Some Observations:**

- **Plan of Action encourages AMS to work for criminalization of transnational crimes, BUT criminalization of piracy was not included in the Work Programme.**
- **Plan of Action seeks harmonization of relevant national policies among AMS, BUT harmonization of piracy and maritime terrorism laws is not part of the Work Programme.**

## **ARF**

- **2003 ARF Statement on Cooperation Against Piracy and Other Threats to Security**
- **2003 ARF Statement on Cooperative Counter-Terrorist Action on Border Security**
- **2004 ARF Statement on Strengthening Transport Security Against International Terrorism**
- **2009/2010 ARF Inter-sessional Meeting on Maritime Security**
- **2011 ARF draft Work Plan on Maritime Security**

## Agreements

- **2002 Agreement on Information Exchange and Establishment of Communication Procedures**
- **2004 Treaty on Mutual Legal Assistance in Criminal Matters**
- **2004 Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia**
- **2007 ASEAN Convention on Counter-Terrorism**

# Legal Dimension?

**For now, although efforts are made to include legal matters in the agenda, ASEAN's maritime security cooperation is primarily along functional or operational terms such as information-sharing, capacity building, etc.**

# Functional Cooperation

- **Functional or operational cooperation is an absolute necessity, in ASEAN's context.**
- **However, we wonder if it can be enhanced with legal cooperation?**

# Proposal: Research Programme

- All three sectoral bodies (ALAWMM, AMMTC and ARF) have long since talked about needing a study on the existing national legal frameworks of each AMS on piracy and maritime-related crimes. But so far, due to time and resource constraints, an in-depth study has yet to be done.
- Research:
  - To determine issues and gaps in domestic implementation of international conventions
  - To analyze how each country's effort can be harmonized at the regional level
  - To look at the levels of legal cooperation that is most appropriate for ASEAN, whether bilateral, sub-regional or regional, for specific activities
  - To see how MLAT can be made effective

# Proposal: Legal Technical Assistance

- To assist AMS in studying relevant conventions – in view of ratification/accession
- To assist AMS in complying with the conventions
- To assist in studying and drafting domestic legislation
- To assist in coming up with working procedures to facilitate effective MLA arrangements
- To augment resources of AMS and ASEAN Secretariat
- ETC.

## Proposal: ASEAN Sectoral Bodies

- **ADMM** – to identify legal arrangements needed by military/police agencies of AMS
- **ALAWMM** – to spearhead research programme
- **AMMTC** – to continue pursuing cooperation activities, especially legal matters and law enforcement
- **ARF** – to maintain interest and momentum by keeping maritime security in its regular dialogues

**END.**

*Thank you for your attention.*