

**International Conference on Maritime Non-Traditional
Security Challenges in Asian-Pacific
Shanghai, China**

Mechanisms under the 1988 SUA Convention for Combating Maritime Security Threats

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Outline of the Presentation

- Main Components of the SUA Convention
- Maritime Security Threats in South-East Asia
- Ratification and Implementation of SUA Convention in South-East Asia
- Conclusions

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

- **Background**

- The hijacking of the *Achille Lauro* in 1985
- Insufficiency of UNCLOS piracy provision

- **Status**

- Adopted 10 March 1988
- Enter into force 1 March 1992
- 164 States parties representing 94.52% of the gross tonnage of the world's merchant fleet
- Amendment by the 2005 SUA Protocol which entered into force 28 July 2010 with 32 States parties

Comparing Jurisdictions

- **Piracy** – offence on the high seas/EEZ; all States can arrest and prosecute;
- **Armed robbery against ships** – offence within internal waters, territorial sea and archipelagic waters; only coastal State can arrest and prosecute;
- **SUA offences** – offence can take place in any maritime zones; no special power to arrest at sea; State parties must arrest if the alleged offenders enter their territory;

Offences under the 1988 SUA Convention (Article 3)

- Seizure of or exercise of control over a ship by any form of intimidation;
- Endanger or likely to endanger the safe navigation of a ship by:
 - Perform an act of violence against a person on board;
 - Destroy a ship or cause damage to a ship or to its cargo;
 - Place on a ship a device/substance that is likely to damage it;
 - Destroy or seriously damage, or seriously interfere with maritime navigational facilities;
 - Communicate false information;
- Injure or kill any person in connection with the commission of the abovementioned offences;

Jurisdiction under the 1988 SUA Convention (Articles 5-6)

- States **shall** establish jurisdiction when the offence is committed:
 - Against or on board a ship flying its flag;
 - In its territory/territorial sea;
 - By its nationals;
- States **may** establish jurisdiction when the offence is committed:
 - By a stateless person habitually resident in its territory;
 - Against its nationals;
 - In an attempt to compel it to do or abstain from doing any act;
- States **shall** establish jurisdiction where the alleged offender is present in its territory and it does not extradite him to any States that have established jurisdiction

Obligations of the States Parties

- Make SUA offences crimes under national law
- Establish jurisdiction over alleged offenders
- Prosecute or extradition
- Co-operation and mutual legal assistance

Major Non-Traditional Maritime Security Threats in SEA



- Piracy and armed robbery against ships
- Unlawful acts threaten the safety of navigation, cause damage to a ship or its cargo, injure or kill any person

States Parties to the SUA Convention

States	Enter into Force	States	Enter into Force
Brunei Darussalam	3 Mar. 2004	Cambodia	16 Nov. 2006
China	1 Mar. 1992	Japan	23 Jul. 1998
Laos	18 Jun. 2012	Myanmar	18 Dec. 2003
Philippines	5 Apr. 2004	Republic of Korea	12 Aug. 2003
Singapore	3 May 2004	Viet Nam	10 Oct. 2002

- **Non-Parties:**
 - **Malaysia, Indonesia and Thailand**

Implementation of SUA Convention

- Passed implementing legislation:
 - Singapore and The Republic of Korea
- No specific implementing legislation:
 - Brunei, Cambodia, China, Japan, Laos, Myanmar, the Philippines, and Viet Nam

Jurisdiction under SUA

- Ship flying Singapore flag, hijacked by Indonesian nationals in Malaysian territorial sea. Hijackers enter a Philippine port to sell the cargo/ship.
- If all parties to SUA and have implementing legislation:
 - The Philippines must take the hijackers into custody and prosecute, or extradite them to
 - 1) Indonesia – State of nationality;
 - 2) Singapore – Flag State;
 - 3) Malaysia – State of territory;

Conclusions

- The 1988 SUA Convention fill many of the limitations in dealing with piracy, armed robbery against ships and other violent acts threatening the safety of navigation
- If all States in South-East Asia ratify and effectively implement SUA, it would give the them a set of useful tools to combat non-traditional maritime security threats

Thank You for Your Attention

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