

ASEAN Framework to Enhance Maritime Security in Southeast Asia

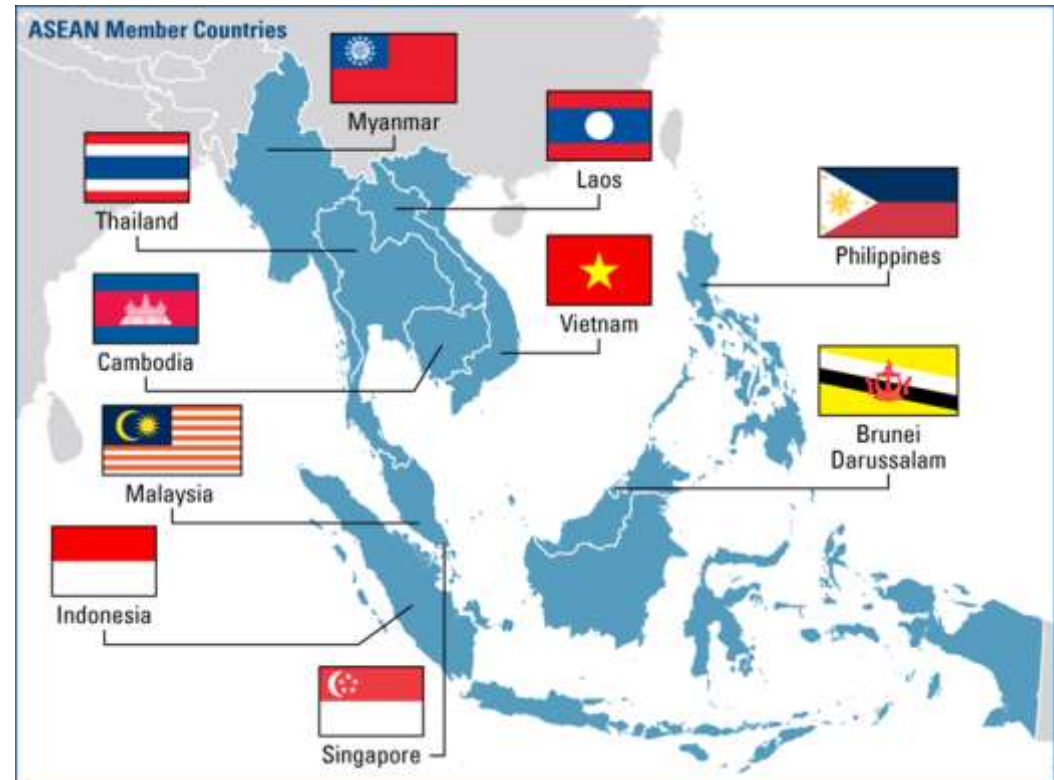
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CENTRE FOR INTERNATIONAL LAW
National University of Singapore

Uniting Force? – ‘Asian Values’ and the Laws

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www.quora.com

I. Maritime Security in Southeast Asia

Situation and Prevalence

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Legal Framework

ASEAN Sectoral Bodies and Mechanisms

ASEAN External Cooperation

III. Key Recommendations

I. Maritime Security in Southeast Asia

Maritime Security

Traditional Maritime Security

- Government owned or Military Vessels
- Threat to/Use of Force
- War

Non-Traditional Maritime Security

- **Piracy and Armed Robbery against Ships**
- **Maritime Terrorism**
- **Trafficking of Drugs**
- **Human Trafficking and Smuggling of Migrants**
- **Illegal Trade of Arms**
- **IUU Fishing**
- **[Others]**

Maritime Safety

- Safety of Navigation
- Design, Construction, Manning, Equipment
- Rules of the Road

I. Maritime Security in Southeast Asia

Piracy and Armed Robbery against Ships



Piracy:

Two ships;

Illegal acts of violence, detention, depredation;

For private ends;

On the high seas (inc. EEZ), or in a place outside the jurisdiction of any State;

Armed Robbery against Ships:

Within waters under national sovereignty;

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Maritime Terrorism



Bomb attack on the Lady Mediatrix 2000.
<http://news.bbc.co.uk>



Canadian hostage in Philippines 'executed' by ISIS 2015.
<http://www.dailymail.co.uk>

Terrorism:

Illegal acts of violence, detention, depredation; For political, ideological, religion causes etc.;

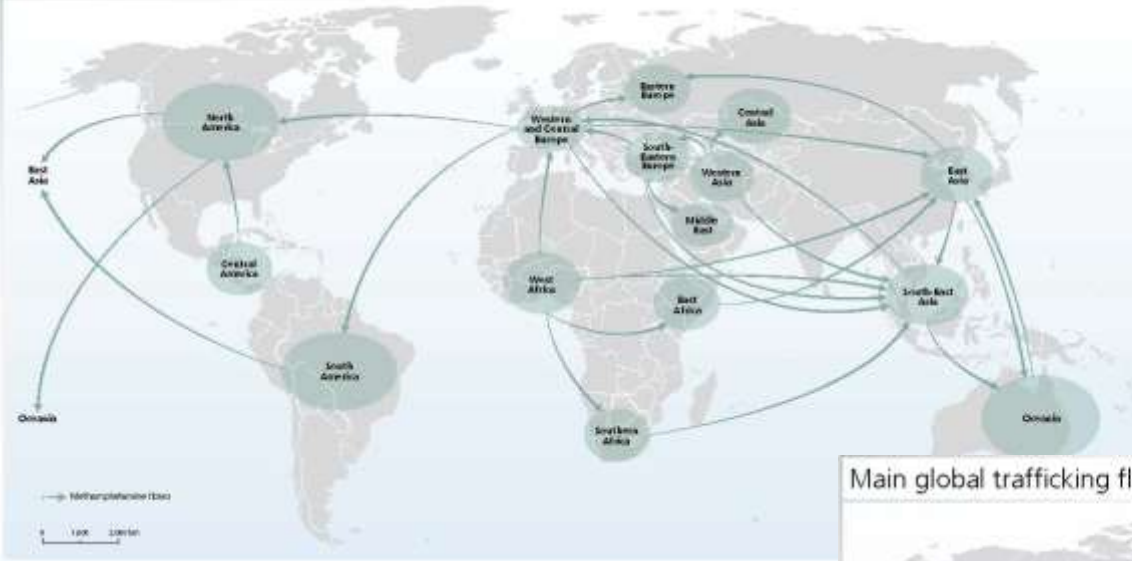
Connection with other types of crimes at sea:

Piracy & armed robbery involving kidnapping & hostage taking;
Smuggling of arms;

I. Maritime Security in Southeast Asia

Trafficking of Drugs

Methamphetamine flows as perceived by recipient countries, 2011-2013



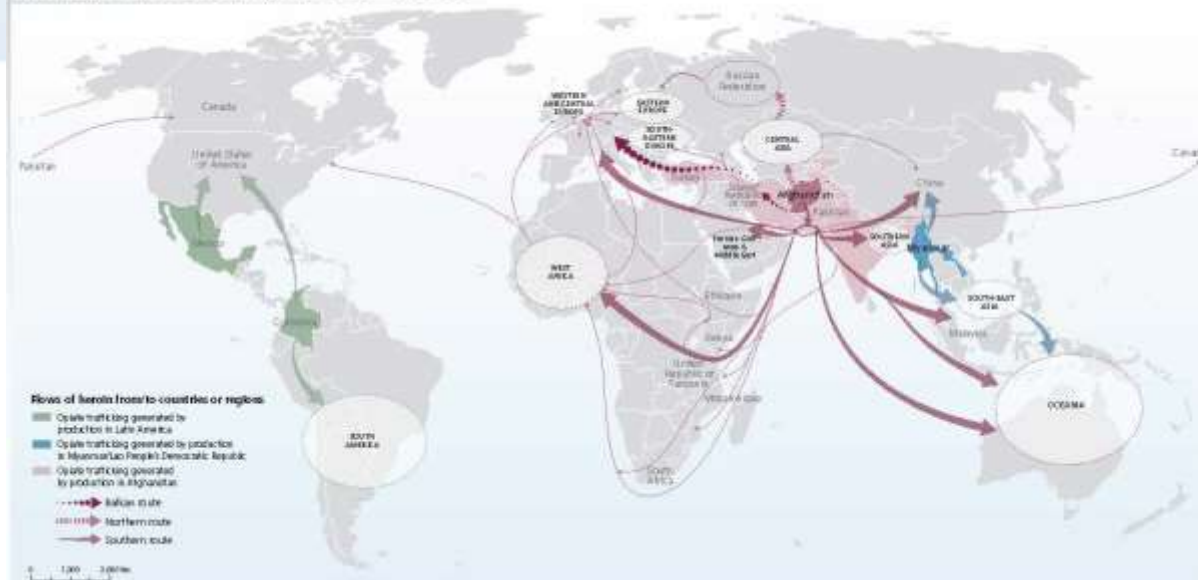
Southeast Asia States are source countries, transit sites, and/or destinations of illicit drugs.

‘Golden Triangle’ - Opium

Trafficking of methamphetamine and heroin in the region generates over USD \$32 billion per year.

UNODC, World Drug Report 2016

Main global trafficking flows of opiates



I. Maritime Security in Southeast Asia

Human Trafficking and Smuggling of Migrants

Major migration routes

Every year, tens of thousands of migrants from Myanmar and Bangladesh travel to destinations in South-east Asia.



Human Trafficking:

Against the person's will;

For exploitation;

Migrant Smuggling:

The procurement of the illegal entry of another State for financial benefit;

Rohingya migration: about 95,000 people have set off from the coasts of Myanmar and Bangladesh to make the treacherous sea crossing to Malaysia since 2014.

Strait Times 1 February 2016

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Illegal Trade of Arms



Small Arms Trafficking:

Manufacturing

Exportation;

Connection with other types of crimes at sea:

Piracy & armed robbery;

Smuggling of drugs;

Maritime terrorism;



<http://piratical.pbworks.com>; <http://www.worldpolicy.org>;

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Illegal, Unreported and Unregulated (IUU) Fishing



Indonesia has blown up and sank over 350 fishing boats that were caught illegally fishing in its waters since October 2014 when President Joko Widodo called for tougher action against poachers.

<http://www.straitstimes.com/asia/se-asia/indonesia-blows-up-and-sinks-another-81-fishing-boats-for-poaching>

IUU Fishing costs Indonesia USD 3bn annually

- Enormous area of fishing ground;
- Lack of surveillance;
- Large number of small vessels;
- By both foreign & domestic vessels;

Connection with other types of crimes at sea:

- Human Trafficking and Smuggling of Migrants;
- Smuggling of drugs/arms/other controlled goods;

I. Maritime Security in Southeast Asia

Re-Cap

- All maritime security threats have deep root cause on land including poverty, conflicts and development gaps;
- Threats to maritime security are penetrative, same group of perpetrators might be committing multiple crimes;
- All maritime security threats have transnational impact;
- All ASEAN States are affected by these threats but different States have different priorities;

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN - *Association of Southeast Asian Nations*

- Established on 8 August 1967 in Bangkok, Thailand
- Ten Member States: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam [Timor-Leste]
- Aims and purposes of the ASEAN:
 - To promote *regional peace and stability* through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;
 - To promote *active collaboration and mutual assistance* on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields;

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Legal Framework – *Soft Law*

- 1997 Declaration Transnational Crime
- 1998 Manila Declaration on the Prevention and Control of Transnational Crime
- 1999 Plan of Action to Combat Transnational Crime
- 2002 AMMTC Work Programme to Implement the 1999 Plan of A
- 2003 ASEAN Concord II
- 2004 Vientiane Action Programme
- 2009 ASEAN Political-Security Community Blueprint
- 2015 Kuala Lumpur Declaration in Combating Transnational Crime
- 2015 ASEAN Political-Security Community Blueprint 2025

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Legal Framework – *Soft Law Observations*

- Focus on other transnational crime (terrorism) both on land & at sea;
- Transnational crime is a dynamic concept that develops with the emerging issues faced by member States: terrorism, illicit drug trafficking, trafficking in persons, arms smuggling, sea piracy, money laundering, international economic crime, and cybercrime; other new forms include illicit trafficking of wildlife and timber and people smuggling (environmental crime, IUU fishing);
- Seeks to harmonize national laws and policy; to promote cooperation in areas of information-sharing, capacity and confidence building;
- Effectiveness: established ASEAN sectorial bodies/mechanism; leading up the adoption of hard law; demonstration of political will and commitments;

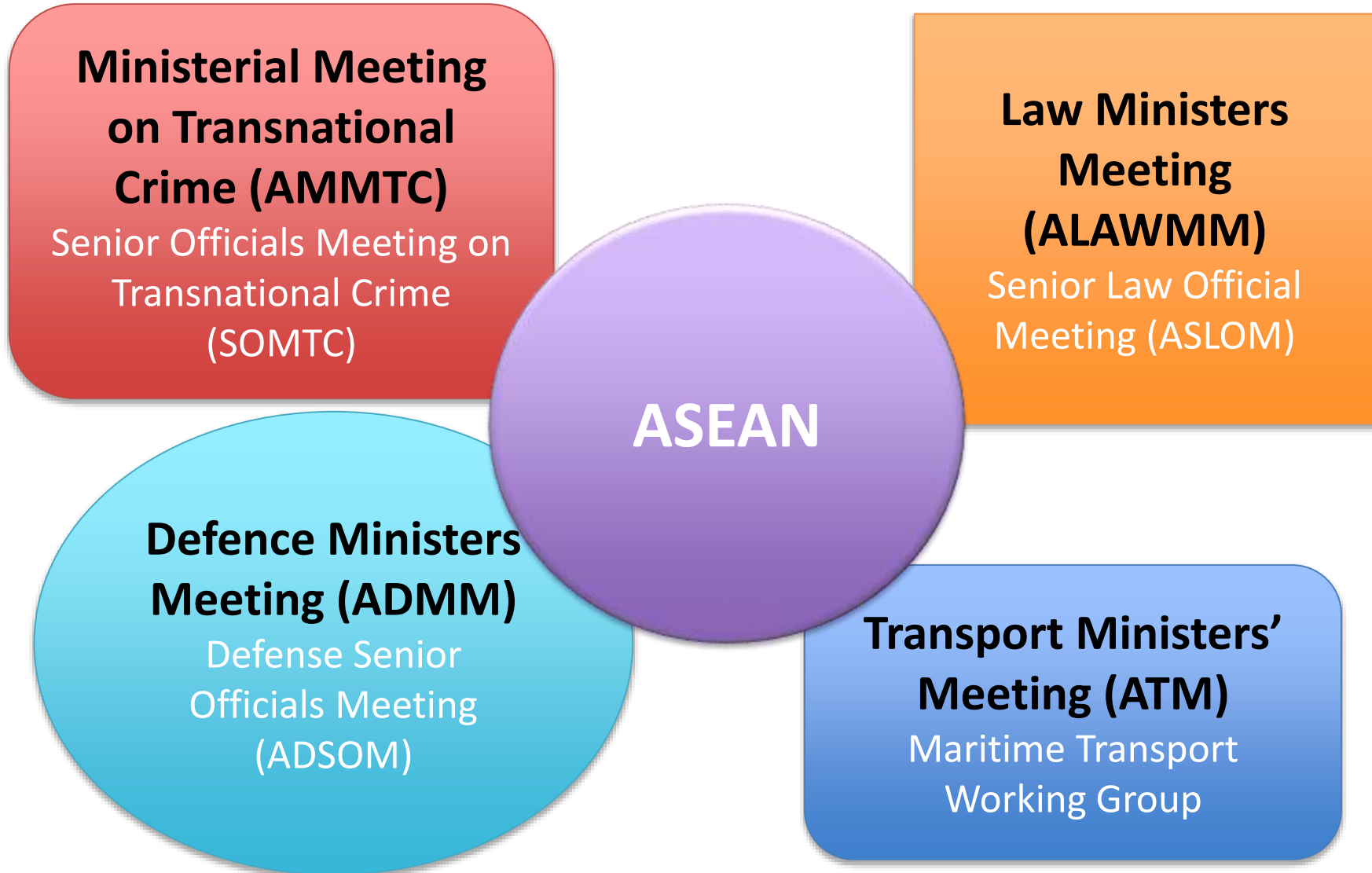
II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Legal Framework – *Hard Law*

- [2002 Agreement on Information Exchange and Establishment of Communication Procedures]
- 2004 Treaty on Mutual Legal Assistance in Criminal Matters (MLAT)
- 2007 ASEAN Convention on Counter Terrorism
- 2015 ASEAN Convention against Trafficking in Persons, Especially in Women and Children

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Sectorial Bodies



II. ASEAN Efforts to Address Maritime Security Threats

ASEAN Mechanisms – *AMF*

- 2010 ASEAN Maritime Forum (AMF)
 - 2003 Declaration of ASEAN Concord II (Bali Concord II)
 - 2009 ASEAN Political Security Community (APSC) Blueprint
- Fostering maritime cooperation through constructive dialogue, promoting and developing common understanding and views on regional and global maritime issues and undertaking confidence building measures and preventive diplomacy.
- Addressing maritime concerns such as human trafficking, smuggling of migrants, IUU fishing, illegal logging, issues relating to damages to the maritime environment, piracy and armed robbery at sea.
- 2012 Expanded ASEAN Maritime Forum (EAMF) – Track 1.5

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN External Relations – *ARF*

- Established in 1993
- With the objectives “to foster constructive dialogue and consultation on political and security issues of common interest and concern and to make significant contribution to efforts towards confidence-building and preventive diplomacy in the Asia-Pacific region.”
- 17 dialogue partners: Australia, Bangladesh, Canada, China, European Union, India, Japan, Democratic Peoples’ Republic of Korea, Republic of Korea, Mongolia, New Zealand, Pakistan, Papua New Guinea, Russian Federation, Sri Lanka, Timor Leste, and the United States.

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN External Relations – *ARF*

- 2003 Statement on Cooperation against Piracy and Other Threats to Maritime Security
- 2004 Statement on Strengthening Transport Security against International Terrorism
- 2008 ARF Inter-Sessional Meeting on Maritime Security (ISM-MS)
- 2015-2017 ARF Work Plan on Maritime Security

II. ASEAN Efforts to Address Maritime Security Threats

ASEAN External Relations – *Others*

- ASEAN Plus Three - China, Japan, and South Korea (APT)
ASEAN Plus Three Ministerial Meeting on Transnational Crime (AMMTC + 3)
- ASEAN Plus China
ASEAN Plus China Ministers Meeting on Transnational Crime (AMMTC + China)
- ASEAN declarations for cooperation to combat international terrorism with Australia, Canada, the European Union, India, Japan, Republic of Korea, New Zealand, Pakistan, Russian and the United States

II. ASEAN Efforts to Address Maritime Security Threats

Re-cap

- Extensive efforts have been made to address threats to maritime security: from not been on ASEAN agenda to be perceived as part of the overall security issue and then to be separated as an independent issue, from having no forum to be discussed to being addressed at various sectoral bodies and then to have a designated leading forum;
- ASEAN's maritime security cooperation is primarily along functional or operational terms such as information sharing, confidence building, capacity building, etc.
- Moving towards strengthening legal framework;

III. Key Recommendations

Legal Framework

- Encourage ASEAN Member States to ratify\accede to, and implement, relevant international and regional agreement;
- ASEAN to develop model laws for relevant national legislations;
- ASEAN to assist governments to review their domestic laws, with a view to updating existing legislation or enacting new ones to discharge their commitments under these binding instruments;
- Make effective use of the MLAT to promote mutual legal assistance at all levels pertaining to criminal proceedings;

III. Key Recommendations

Sectoral Bodies and Mechanisms

- ADMM – to identify legal arrangements needed by military/police agencies of member States
- ALAWMM – to spearhead the implementation of international and regional agreement and the harmonization of legal framework
- AMMTC – to continue pursuing cooperation activities, especially legal matters and law enforcement
- AMF (EAMF) – to discuss and exchange views on concerned maritime security issues and present such assessment and recommendations through their respective Ministers at the ASEAN meetings for further actions

III. Key Recommendations

External Relationship

- Retain ASEAN's central role as a regional forum;
- Maintain and further strengthen existing cooperation in the increasingly transactional world;
- Ensure their efforts on maritime security do not get jeopardised by concerns over other sensitive issues;
- Focus areas could be financial and technology support, confidence and capability building, information sharing and exchange of best practice, and providing mutual legal assistance in criminal proceedings.

THANK YOU

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