

# Preface

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More than half of the world's annual merchant tonnage traverses Southeast Asia's waters. With their economic and political interests closely linked to the sea, the ten Member States (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) of the Association of Southeast Asian Nations (ASEAN) have long recognized the need to cooperate to protect commercial navigation and communications in these waters.

While there have been various efforts to combat transnational maritime crimes such as piracy and armed robbery at sea in Southeast Asia, there has been no study on whether ASEAN member states can muster adequate and effective legal frameworks, consistent with the relevant international law, to arrest, prosecute and punish the perpetrators of maritime crimes. The issue is all the more critical in light of the seemingly intractable legal and judicial issues confronted by the international community in dealing with piracy off the coast of Somalia since 2007.

This book brings together international experts in the fields of law of the sea, transnational crimes and ASEAN to examine whether and how ASEAN member states enhance legal cooperation to combat piracy and other maritime crimes. It argues that if ASEAN member states ratify and effectively implement certain global and regional instruments, they will be able to address incidents of piracy and maritime crimes in a comprehensive and wide-ranging manner. The global instruments examined include the 1982 UN Convention on the Law of the Sea (UNCLOS); the 1988 Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988 SUA Convention) and its 2005 Protocol; the 1979 International Convention Against the Taking of Hostages (1979 Hostages Convention); the 1999 International Convention for the Suppression of the Financing of Terrorism (1999 Financing of Terrorism Convention); the 2000 UN Convention on Transnational Organized Crime (2000 UNTOC); and the 2003 UN Convention against Corruption (2003 UNCAC). On a regional level, the book also examines the 2004 Treaty on Mutual Legal Assistance in Criminal Matters among ASEAN member states and the 2007 ASEAN Convention on Counter-Terrorism.

The book critically examines the above instruments to determine the

extent they can be used to establish an effective legal framework against piracy and maritime crimes. Equally important, it explores in detail the challenges faced by ASEAN member states in ratifying and implementing the global instruments. The chapter on 'Problems in Ratification and Implementing Global Conventions' outlining these challenges is primarily drawn from the *Research Project on Regional Cooperation to Combat Piracy and Maritime Crimes* by the Centre for International Law (CIL) of the National University of Singapore (NUS). The Research Project carried out a comparative examination of the ratification and implementation practices of six coastal ASEAN member states (Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam), as well as seven other countries outside the region (Australia, China, Germany, Japan, Netherlands, New Zealand and South Korea). Country Reports were prepared by selected academics from these 13 states with the ultimate objective of identifying the problems encountered by these states in the ratification and implementation of the global and regional conventions relevant to maritime crimes. The chapter draws together the analysis made in these Country Reports to give an overall view of the issues faced by ASEAN member states in treaty ratification and implementation with a specific focus on the global conventions applicable to maritime crimes.

We believe this book is important and timely for several reasons.

First, the discussions, writings and the resulting measures on piracy and maritime crimes, particularly in relation to Somali piracy, are primarily centered on the act of piracy as a 'stand-alone' event which can only be dealt with by the traditional framework provided by UNCLOS. Recognizing the inadequacy of the prevailing framework, this volume explores the desirability of using other international conventions as part of the mechanism to address piracy and maritime crimes. It recognizes that maritime crimes are not limited to the act itself and involve a chain of actors not necessarily dealt with by UNCLOS. No other volume has taken this approach, and, as such, the book opens a field of research in crafting a legal toolbox for implementing international conventions that states can and should use against piracy and other maritime crimes.

Second, although a number of books have been written on the history, development and state of piracy and armed robbery in Southeast Asia, they are written mainly from political and socio-economic perspectives. This book is the first to look strictly at the legal dimension of maritime crimes with an ASEAN focus and should be a valuable contribution to states wanting to enhance their laws and policies to combat maritime crimes.

Third, though ASEAN has existed as an informal grouping since 1967, and efforts have been made to discuss how ASEAN member states imple-

ment their domestic laws with the view of harmonizing them, there remains a dearth of comparative literature on this subject. This volume examines the domestic implementation of selected international conventions from a comparative perspective and may well be the first book to do so.

Fourth, with the entry into force of the ASEAN Charter in 2008 conferring legal personality to ASEAN, there is now great interest in how ASEAN member states can enhance regional cooperation in various areas. Much of what has been written about ASEAN regional cooperation in the past is about traditional security issues and socio-economic issues such as food security, health, environment and disaster management. This book may be the first to be published post-2008 to consider regional cooperation in combating international and transnational crimes and offer insights to enhance ASEAN regional cooperation.

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