The global framework against maritime terrorism
in the international legal context

Workshop for ASEAN Member States
Singapore, 9 June 2009
Structure of Presentation

- UN Global Counter-Terrorism Strategy
- Security Council resolutions
- Universal counter-terrorism treaties
- SUA treaties 1988 & 2005
- SUA treaties and piracy
- UNCLOS
- SUA treaties and non-proliferation
- NPT, BWC, CWC
- SUA treaties and environmental protection
- UN convention against transnational organized crime
- UNODC Technical Assistance
Plan of Action –
4 pillars ensuring an integrated approach

I. Measures to address the conditions conducive to the spread of terrorism

II. Measures to prevent and combat terrorism

III. Measures to build States’ Capacity to prevent and combat Terrorism and to strengthen the Role of the UN system in this regard

IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism

“Member States to take full ownership of the Strategy and its implementation”
Ban Ki-moon 16 Feb. 2007

United Nations to assist Member States
Co-ordination by CTITF
Security Council resolutions 1373
Security Council resolutions 1540 (weapons of mass destruction)
Security Council resolution 1822 (Al Qaida/Taliban sanctions regime)

1988 Convention on the safety of maritime navigation
1988 Fixed Platforms Protocol
2005 IMO Protocols on safety of maritime navigation & fixed platforms
The universal counter-terrorism treaties

United Nations Conventions

Instruments related to civil aviation

Maritime agreements

IAEA Conventions
## Instruments related to civil aviation

<table>
<thead>
<tr>
<th>Convention</th>
<th>States Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963 Convention on offences and Certain other Acts committed on Board Aircraft</td>
<td>184 States Parties</td>
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<tr>
<td>Convention</td>
<td>States Parties</td>
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<tr>
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<tr>
<td>1973 Convention on prevention and punishment of crimes against internationally protected persons</td>
<td>171 Parties</td>
</tr>
<tr>
<td>1979 International convention against the Taking of Hostages</td>
<td>166 Parties</td>
</tr>
<tr>
<td>1997 International convention for the Suppression of Terrorist Bombing</td>
<td>161 Parties</td>
</tr>
<tr>
<td>1999 Convention against Terrorist Financing</td>
<td>167 Parties</td>
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<tr>
<td>2005 International convention for the Suppression of acts of Nuclear Terrorism</td>
<td>52 Parties</td>
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<tr>
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<td>1980 Convention on the Physical Protection of Nuclear Material</td>
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<tr>
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<td>+ 2005 Amendment to the Convention on the Physical Protection of Nuclear Material</td>
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<tr>
<td>Maritime agreements</td>
<td>States Parties</td>
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<tr>
<td>+ 2005 Protocol to the Convention for the suppression of unlawful acts against the safety of maritime navigation</td>
<td>Cook Islands, Estonia, Fiji, Marshall Islands, Saint-Kitts-et-Nevis, Spain, Switzerland, Vanuatu</td>
</tr>
<tr>
<td>+ 2005 Protocol of 2005 to the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf</td>
<td>Estonia, Fiji, Marshall Islands, Spain, Switzerland, Vanuatu</td>
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</table>
Conventions’ common elements

• Criminalize specific offences

• Establish the principle *aut dedere aut judicare*

• Provide for extradition and mutual legal assistance mechanisms

• Compatibility with existing instruments dealing with WMD (ex. Chemical Weapons Convention, NPT treaty, etc.)
The universal counter-terrorism treaties – ratification status ASEAN

Brunei Darussalam 10 treaties
Cambodia 11 treaties
Indonesia 6 treaties (no SUA treaties)
Lao PDR 8 treaties (no SUA treaties)
Malaysia 9 treaties (no SUA treaties)
Myanmar 11 treaties
Philippines 12 treaties
Singapore 9 treaties (1 SUA treaty)
Thailand 9 treaties (no SUA treaties)
Vietnam 8 treaties
The SUA treaties 1988 & 2005
an international response against:

• Terrorism aboard and & against ships and fixed platforms

• Armed robbery at sea

• The proliferation of biological, chemical and nuclear weapons
The SUA treaties 1988 & 2005
an international response against:

- Terrorism aboard and against ships and fixed platforms
- Armed robbery at sea
- The proliferation of biological, chemical and nuclear weapons
Offences concerning vessels and fixed platforms
SUA 1988

• To seize or exercise control over a vessel or a fixed platform by force or threat thereof or any other form of intimidation

• Perform an act of violence against a person on board a vessel or a fixed platform if that act is likely to endanger its safety

• To destroy or seriously damaging a ship, its cargo or a fixed platform …
Piracy (Article 101 UNCLOS)

Article 101

Definition of piracy

The SUA treaties are a contribution to the criminalization of piracy.
UNCLOS – ratification status ASEAN

Brunei Darussalam
Indonesia
Lao PDR
Malaysia
Myanmar
Philippines
Singapore
Vietnam

Total: 158 States parties
The SUA treaties 1988 & 2005
an international response against:

• Terrorism aboard and & against ships and fixed platforms

• Armed robbery at sea

• The proliferation of biological, chemical and nuclear weapons

Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

The response of international criminal law to the certain illicit use of:

- Biological, Chemical & Nuclear weapons
- Nuclear Material
- Explosive & Radioactive Material
- Oil, liquefied gas, or other hazardous or noxious substances
WMD-related offences in the 2005 SUA treaties

• Amend existing maritime legal regime
• Definitions of chemical and biological weapons in line with existing conventions
• New offences
  ✓ Using a WMD against or on a ship (or fixed platform)
  ✓ Discharging a WMD from a ship (or fixed platform)
  ✓ Transporting nuclear weapons on board ships
Non-Proliferation Treaty
Biological Weapons Convention
Chemical Weapons Convention
– ratification status ASEAN

Brunei Darussalam
Cambodia
Indonesia
Lao PDR
Malaysia
Myanmar (not BWC & CWC)
Philippines
Singapore
Thailand
Vietnam

Total States parties: NPT 190; BWC 163; CWC 188
Protection of the environment through criminal law
- the 2005 SUA treaties

Criminalization of the use or discharge of

- Explosives, radioactive material, nuclear, biological or chemical weapons or
- Oil, liquefied natural gas or other hazardous or noxious substance

in a manner that causes or is likely to cause death or serious injury or damage
(including “substantial damage to the environment, including air, soil, water, fauna, or flora”)

If the purpose is

- to intimidate a population or
- compel a government or an international organization
International Cooperation through the
UN Convention against
Transnational Organized Crime

In the absence of a required treaty basis, the “Palermo Convention” applies (subsidiary application):

1. **Confiscation and Seizure** (Art. 13.6)
The Convention shall be considered the necessary and sufficient basis

2. **Mutual Legal Assistance** (Art. 18.7)
The relevant provisions of the Convention shall apply

3. **Extradition** (Art. 16.4 and 5)
States Parties may consider the Convention the legal basis (notification to the United Nations Secretary General)

4. **Mutual Law Enforcement Cooperation** (Art. 27.2)
States Parties may consider the Convention the legal basis
Palermo Convention – ratification status ASEAN

Brunei Darussalam
Cambodia
Indonesia
Lao PDR
Malaysia
Myanmar
Philippines
Singapore

Total: 148 States parties
Technical assistance

UNODC’s instruments

UNODC’s technical assistance

Partnerships
UNODC’s instruments

Legislative guides

Legislative database

Manuals on international cooperation
Legislative guide

Legislative overview of the conventions

Advice for the incorporation of international provisions into domestic law

Examples of implementing laws

Legislative models
Tips on accessing convention-related information

TPB Electronic Resources on International Terrorism
- Password-restricted access
- Text of conventions in all UN official languages
- Ratification Status Database
- www.unodc.org/tldb

United Nations Treaty Collection
http://untreaty.un.org/English/Terrorism.asp
Free-access site

Contact the Depositaries directly

<table>
<thead>
<tr>
<th>United Nations Secretariat</th>
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<tbody>
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<td>Organisation des Nations Unies</td>
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<th>ICAO</th>
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<td>Tel.: +1 (514) 954-8219</td>
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<td>Fax: +1 (514) 954-6077</td>
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<tr>
<td>E-mail: <a href="mailto:icaohq@icao.int">icaohq@icao.int</a></td>
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<tr>
<th>IMO</th>
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<tbody>
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<tr>
<td>Fax: (+431) 2600-7</td>
</tr>
<tr>
<td>Email: <a href="mailto:Official.Mail@iaea.org">Official.Mail@iaea.org</a></td>
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Online Training

Global norms against terrorism at work

Getting International Law in Motion

Call for applications: July 2009

Who can apply:

Criminal justice officers, practicing diplomats, civil servants, and others who work in the legal areas of international cooperation in criminal matters, or are involved in legislative drafting of criminal law texts:

<table>
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<tr>
<th><strong>TPB Accomplishments: Highlights</strong></th>
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<tr>
<td><strong>January 2003 – August 2008</strong></td>
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<tr>
<td>Overall assistance provided</td>
<td>158 countries</td>
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<td>Direct assistance provided</td>
<td>114 countries</td>
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<tr>
<td>Legislative drafting assistance/advise provided</td>
<td>85 countries</td>
</tr>
<tr>
<td>Criminal justice officers provided with specialised briefings on counter-terrorism legal regime</td>
<td>7,350</td>
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<td>Regional and sub-regional workshops held</td>
<td>58</td>
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The partners

Partnerships with:

The Counter-Terrorism Committee (CTC) and its Executive Directorate

Other international and regional organizations
Working in complementarity with Partners

a few examples

- **ASEAN**
  - Bali, 13-15 November, 2006

- **African Union**
  - Karthoum, 13-20 January 2004

- **Commonwealth Secretariat**
  - Kingston, 13-17 March 2006

- **Commonwealth of Independent States**
  - Moscow, 28-30 November 2005

- **Francophonie**
  - Sharm El-Sheik, 7-9 February 2006

- **League of Arab States**
  - Cairo, 16-17 February 2005

- **OAS**
  - Cartagena, 8-12 May 2006

- **OSCE**
  - Vienna, 22-23 March 2007