



**OPRF Blueprint for a New Cooperative Framework
on the Straits of Malacca and Singapore**

Ocean Policy
Research Foundation

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Foreword

Since April 2003 the Ocean Policy Research Foundation has been engaged in a three-year research project entitled “International Straits Cooperation Framework for Coastal and User States,” funded by the Nippon Foundation from the proceeds of speedboat racing.

To pursue this project, a research unit called the International Straits Research Team was established, consisting primarily of scholars in the field of international law. Of the many international straits that exist across the globe, the team has selected the Straits of Malacca and Singapore, described as the “lifeline” of the Asian economy, as its first and foremost focus; specifically, it has been exploring a framework for international cooperation on ensuring safe navigation, protecting the environment, and guaranteeing security on the Straits.

The OPRF Blueprint for a New Cooperative Framework on the Straits of Malacca and Singapore distills the essence of the team’s three years of research and discussion into proposals. It calls for the establishment of a cooperative framework for the Straits of Malacca and Singapore mediated by a new consultative body — a framework that does not undermine the sovereignty of coastal states and is built on a fair, equitable basis. This idea is a creative application of the United Nations Convention on the Law of the Sea (UNCLOS), particularly Article 43.

I would be delighted if this blueprint served as the basis for discussion on constructing a cooperative framework for the Straits of Malacca and Singapore.

Masahiro AKIYAMA
Chairman
Ocean Policy Research Foundation
March 2006



Organization of the International Straits Research Team and Its Activities to Date

The International Straits Research Team was launched by the Ocean Policy Research Foundation in April 2003 to implement the project “International Straits Cooperation Framework for Coastal and User States.”

The team is advised by Tadao Kuribayashi, Professor Emeritus of Keio University and Professor of Toyo Eiwa University and overseen by Hiroshi Terashima, Executive Director of the Foundation. It also includes two research fellows currently researching international law at the Foundation, Yasuhiko Kagami and Yumiko Tanaka.

The team has been examining the possible design of a framework for cooperation on international straits, focusing primarily on issues of international law. In the course of their work the research fellows have not only attended conferences both in Japan and abroad to collect information, but also raised new questions.

They have participated, for example, in the following conferences: Conference on the Straits of Malacca: Building a Comprehensive Security Environment, organized by the Maritime Institute of Malaysia (MIMA) (October 2004); the Seminar on Maritime Terrorism and the Straits of Malacca, hosted by the Malaysian Ministry of Defence (September 19, 2005); Enhancing Security in the Straits of Malacca: Amalgamation of Solutions to Keep the Straits Open to All, co-organized by HMLIMA and MIMA (December 2005); and the Symposium on Maritime Security in the South China Sea, co-organized by the Chinese National Institute for the South China Sea Studies and the Hainan Maritime Safety Administration of the People’s Republic of China (December 2005).

The team has also paid a research visit to the International Maritime Organization (IMO), where it collected a wide array of opinions. We would like to take this opportunity to express our deepest gratitude to the IMO staff for their kind assistance on that occasion.

Among past outcomes of these efforts has been the publication of two project reports:

- Cooperative Framework between User States and States Bordering a Strait (March 2004)
- Initiatives towards International Cooperation between Coastal States and User States in the Straits of Malacca and Singapore (March 2005)

Now, bringing together the results of its third year of research, the International Straits Research Team hereby presents a Blueprint for a New Cooperative Framework on the Straits of Malacca and Singapore. This blueprint takes its cue from the concept, long advocated by the Nippon Foundation, of setting up a cooperative body to manage the Strait of Malacca, and is designed to flesh out that concept.



“The idea that the safety of the sea is provided free is out of date and must be changed. It is necessary to consider a new mechanism where the cost of safety is borne not only by the littoral countries but the countries that use the Strait.”

Hiroshi Terashima, Executive Director, OPRF
At the Seminar on Maritime Terrorism and the Straits of Malacca, Malaysia,
September 19, 2005

I Principal Research Results

The following are recapitulations, prepared by the International Straits Research Team, of studies that originally appeared in the two project reports earlier published by the team: Cooperative Framework between User States and States Bordering a Strait (March 2004) and Initiatives towards International Cooperation between Coastal States and User States in the Straits of Malacca and Singapore (March 2005).

1. In “Burden-Sharing in the Straits of Malacca and Singapore: Past Discussion and Future Prospects,” Associate Professor Robert C. Beckman (National University of Singapore) begins by reviewing efforts made at international conferences from 1994 to 1999 to reach a consensus on burden-sharing arrangements between littoral states and user states with respect to navigational safety and pollution control in the Straits of Malacca and Singapore pursuant to Article 43 of the United Nations Convention on the Law of the Sea (UNCLOS). He then examines possible arrangements or mechanisms for implementing Article 43 in the Straits.

Beckman observes that any system of burden-sharing between littoral states and user states based on Article 43 will need to be designed in such a way as not to undermine or threaten the sovereignty of the states bordering the Straits. But it would be helpful in constructing such a system, he adds, if the representatives of the three littoral states were mindful of the fact that their sovereignty and jurisdiction in the Straits are not absolute.

Representatives from Indonesia and Malaysia have proposed that a type of fund be established, either through voluntary contributions or through the imposition of some kind of charge or fee for services rendered to ships in transit. They argue that the fund should be controlled by the littoral states and expanded on a cost-recovery basis for the special purposes of improving safety or controlling pollution. Beckman, however, contends that few user states will be willing to contribute to a fund managed by the littoral states for the purpose of improving safety and controlling pollution unless they have a say in how the funds are managed and expended.


He then goes on to examine the possibility of establishing a system of charges for ships transiting the Straits based on a “user pays” or “potential

polluter pays” principle. While there may be objections to such a charge or fee on navigation through international straits, it would arguably be consistent with UNCLOS if it were for specific services rendered to the ship in transit, such as vessel traffic systems (VTS), automatic identification systems, or electronic chart data information systems. Although such a charge or fee may be illegal if imposed unilaterally by the littoral states, it would arguably be permissible if proposed by the littoral states and adopted by the IMO. If a system of cooperation can be agreed upon by the littoral states and major user states, and submitted to the IMO for approval and adoption as an IMO regulation, all ships exercising transit passage through the Straits would be under a legal obligation to comply with this regulation.

One advantage of this option is that it would address the fears of user states that if they agree to pay charges or fees for transiting the Straits, many more littoral states around the world will ask for similar payments for other straits used for international navigation. The safeguard against this scenario is that IMO approval would be required. Another advantage of this option is that it avoids the difficult problem of defining user states. The arrangement would be established through an agreement among the littoral states, user states, and the IMO, but the burden of paying fees would not be on user states, but on the actual users. This would not only be easier to administer, but also more equitable, as the actual user would pay.

Beckman also touches on the issue of setting up a body to oversee the funds. He notes that user states and ship-owners might find the above proposal for charges and fees more acceptable if a commission or board were established for the Straits to ensure that the funds were managed and expended in a transparent manner for projects needed to improve safety and security and control pollution.

There is also the question of how the funds administered by this fund management organization would be used. With respect to navigational safety, they could be used for the same types of projects as those that have been funded by Japan. With respect to controlling pollution from ships, they could be used to provide reception facilities, oil spill contingency equipment, and the like; for spotter planes and other equipment designed to suppress intentional illegal discharges of oil in the Straits; and for other actions necessary to fully implement the major IMO conventions on pollution. As for the issue of



maritime security, which has been an especial focus of concern in recent years, Beckman argues that it may be possible for the littoral states and user states to enter into agreements whereby user states could assume some of the burden of ensuring safety and security in the Straits.

2. In “International Straits and Levying of Charges: Toward Establishment of a Sustainable System of Raising Funds in the Straits of Malacca and Singapore,” Mr. Yasuhiko Kagami (Research Fellow, Ocean Policy Research Foundation) examines the system of charges now being discussed as one promising means of equitably sharing the cost of, for example, aids to navigation in the Straits of Malacca and Singapore, an international strait governed by the provisions of the United Nations Convention on the Law of the Sea (UNCLOS). First he considers the legal basis of the question under UNCLOS; then he identifies several frameworks on which that system may be predicated.

Kagami begins by considering whether UNCLOS can be interpreted to allow for the introduction of charges in an international strait, a step of which it makes no explicit mention. With respect to passage through the territorial sea, Article 26 of Part II of UNCLOS stipulates that charges may be levied as payment only for specific services rendered; but no corresponding provision exists in Part III of the convention, which pertains to straits used for international navigation. During the drafting process, in fact, no conclusion was reached on the question of charges in international straits: the idea was neither rejected nor endorsed. This, Kagami observes, has allowed the document to be interpreted in sundry ways as either allowing for or prohibiting charges.

Nonetheless, he contends, the provisions of Article 43, which was reportedly drafted with the Straits of Malacca and Singapore in mind, should be understood to provide for the establishment of a flexible cooperation framework, being designed to take into account potential future institutional developments, including the possible imposition of charges. He then goes on to observe that, in its basic stance, UNCLOS is designed in so far as possible to eliminate situations in which, because of geography, signatory states enjoy unusually favorable rights or, conversely, face unusually heavy obligations;


hence the status of “states bordering straits” as defined in Part III of the convention, entitled “Straits Used for International Navigation,” should not result in unfair burdens or disproportionate benefits. He further argues that the international community would do well to direct its attention to the present state of affairs, which is behind the emergence of navigational aid services that were not even foreseen in the days when UNCLOS was drafted, discussion of how to share costs in a fair, balanced manner has been neglected, and littoral states bear the brunt of the burden.

In the course of constructing a fair, equitable system of cooperation, littoral states (especially Indonesia and Malaysia) should not be concerned solely with maintaining sovereignty and jurisdiction on the grounds that the international strait in question is properly part of their territorial waters; nor should user states be concerned solely with freedom of passage on the grounds that the strait constitutes an international shipping route. Respecting the territorial rights of littoral states and respecting freedom of international navigation do not present an either/or choice; rather, Kagami asserts, the conflict between the two needs to be resolved and transcended to create a cooperative framework truly capable of ensuring the safety of navigation.

In that regard particular hopes may be placed, he argues, in the role of the International Maritime Organization (IMO), which is designated by UNCLOS as the “competent international organization.” The IMO once concluded that the question of charges lay beyond its mandate. Nonetheless, Kagami concludes, the endorsement of the IMO, as the international body empowered to ensure the safety of maritime transport, will be indispensable to developing any system of charges into an internationally applicable set of rules and guidelines.

3. In “International Cooperation on the Straits of Malacca and Singapore: An Aspect from the User State Point of View,” Professor Zhan Renping (Dalian Maritime University) shares the perspective of a scholar from China, one of the main users of the Straits of Malacca and Singapore, while surveying the measures and policies pursued by that country in the area of cooperation on ensuring navigational safety and security on the Straits.

The Straits of Malacca and Singapore rank among the busiest shipping



corridors in the world, but its waters are fraught with peril. China imports 80 percent of its petroleum from the Middle East, most of it on massive tankers known as very large crude carriers (VLCCs). The only route through which these can pass is the Strait of Malacca, which however is vulnerable to terrorist attacks and blockades; if such an eventuality should ever occur, China, being so greatly dependent on oil imported from the Middle East, would face the prospect of a collapse in its energy supply chain.

Zhan identifies joint cooperation to combat piracy as the highest priority for maintaining safety of shipping in these waters. Such international cooperation will require mutual understanding between the ASEAN countries and the states that use the straits, to which end the countries concerned, including China, Japan, and South Korea, should establish a regional system of cooperation. This system would foster dialog at various levels — among governments, navies, shipping firms, and so forth; it would also involve sharing of information and incorporate, for example, ship-tracking systems, regional ship reporting systems, and contingency plans for emergencies. Financial support, Zhan argues, would also be required, as would technical support and training of maritime security personnel.

With the growth of its economic clout, China should employ an internationalist approach in order to ensure the world that China develops for global peace. For China, the essence of internationalism lies in dialog, cooperation, win-win outcomes, active involvement in international issues, mutual development, and evolution into a responsible power. China's foreign relations revolve around the following two principles: the country must give first priority to national sovereignty and security; but as long as its national interests are adequately protected, it is also committed to engaging actively in international cooperation with the goal of bolstering national “soft power”.

Thus, in its foreign policy, China needs internationalism as a means of fulfilling its responsibilities to the international community while pursuing its own national interests. Peaceful international cooperation can ensure navigation safety and security on the Straits of Malacca and Singapore, protect the shipping lanes of the Indian Ocean and South China Sea, and thus protect Asia as a whole.


4. In “Challenges to International Cooperation to Secure the Straits of Malacca and Singapore,” Dr. Kim Suk Kyoon (Chief, Wando Coast Guard, Republic of Korea) begins by summarizing the legal status of the Straits of Malacca and Singapore and the international situation with respect to these waters. He then describes steps taken by the Korean government to help ensure security and navigational safety in the straits, and explores possible approaches to international cooperation in the area of burden sharing.

The Straits are among the world’s most important international shipping routes, being characterized by Kim as “a lifeline to the Asian economy.” Since the 9.11 terrorist attacks, however, the threat of a terrorist attack targeting shipping that passes through the Straits has grown. The area also accounts for 10 percent of the world’s piracy.

Kim identifies three obstacles to the implementation in these waters of Article 43 of the United Nations Convention on the Law of the Sea (UNCLOS). First, a serious imbalance exists between littoral states and user states in terms of utilization of the Straits: only three states border the straits, but there are more than twenty major users, the majority situated outside the region. Second, the littoral states cannot on their own afford the cost of maintaining navigational safety and protecting the environment in the Straits. Third, maintaining navigational safety and protecting the environment in the Straits are transnational concerns, for both the littoral states and the user states derive benefits from the sea lanes that pass through them. For the littoral states the Straits are a primary source of economic growth: their economies depend on seaborne trade, and the Straits have the advantage of linking Europe and Asia.

Given these conditions, ensuring maritime security in the Straits is a global issue that goes beyond the capacities of states to address individually. To deal with that issue, Kim contends, consideration should be given to the establishment of a new maritime organization specific to Asia, to be tentatively named the Asia Maritime Council. This would be a permanent organization designed to address a number of increasingly significant issues in Asian waters, including illegal fishing and disputes over the exploitation of marine resources, piracy, ocean pollution, and the safety of navigation.

The Council, to be composed of the representatives of Asian states and user states of shipping lanes in Asian waters, would be designed to coordinate a



variety of maritime issues, including the promotion of cooperation in straits used for international navigation in Asian waters. It should, like the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), be formed on the basis of a multilateral agreement.

To finance the Asia Maritime Council, a funding source, the Asia Maritime Fund, would be set up. One solution to the problem of raising funds would be to combine the financing mechanisms of the UN and the IMO. The UN's budget is covered by contributions assessed in proportion to member states' ability to pay and approved by the General Assembly. Contributions to the IMO are determined in proportion to the tonnage of each state's merchant fleet. Applied to the Asia Maritime Council, the combined system would function as follows. Contributions would be initially assessed in proportion to traffic volume through the Straits as broken down by flag state. By that measure Panama would have to pay the largest share, but then a gap would arise with the actual beneficiaries because of the use of flags of convenience. To cover that gap, adjustments could be made using the UN system of assessing contributions. The result would be a method of burden sharing consistent with the principle that the beneficiaries should pay the costs.

Another funding source might be voluntary contributions by the shipping industry. It is not desirable, however, that shipping companies share the costs on an individual basis in proportion to their traffic volumes. After all, states are primarily responsible for the costs of ensuring safety of navigation and security of shipping lanes. Moreover, imposing additional costs on shipping companies would affect global trade by increasing shipping costs and in consequence raise the costs of global trade.

Kim concludes that, since a number of international conferences to date have failed to produce a consensus of opinion, these issues should be discussed at the governmental level and through regional cooperation frameworks such as ASEAN and APEC.

** The views expressed herein are those of the individual authors; they do not represent the views of the countries or organizations to which the authors belong.*


II Developments since 2004

1. China Changes Course

The question of establishing a cooperative framework for the Straits of Malacca and Singapore was the topic of lively discussion in the 1990s, but little noticeable progress was made in the opening days of the twenty-first century. The situation took a sudden change, however, with the convening of the October 2004 Conference on the Straits of Malacca: Building a Comprehensive Security Environment, which was co-organized by the Maritime Institute of Malaysia (MIMA) and Universiti Putra Malaysia. At the conference a senior Chinese official presented a talk entitled “The Straits of Malacca and Challenges Ahead: China’s Perspective,” which included the remark, “China stands ready to cooperate with other countries in the region to combat maritime security threats and build an enduring and stable regional maritime security environment.” It should be noted that this remark referred to maritime “security” and not to maritime “safety”; nonetheless, those in attendance were uniformly surprised, regarding the comment as representing a change in course on the part of the Chinese government, which had after all until then stuck to the position that problems concerning the Straits of Malacca and Singapore were the business of the states that bordered them.

In the wake of the conference, cooperation between the governments of Japan and the other countries concerned paid off when, in December of the same year, China was successfully persuaded to attend the first Tripartite Technical Expert Group (TTEG) Familiarization Meeting with User States. Since then China has been a regular presence at international conferences on the subject. Not only that, in 2005 it convened an international conference of its own.

That conference was the Symposium on Maritime Security in the South China Sea, which was held in the city of Haikou, Hainan Province, on December 8-9, 2005. It was co-organized by the Chinese National Institute for the South China Sea Studies and the Hainan Maritime Safety Administration of the People’s Republic of China. Sixty-six delegates from ten countries and regions were invited to attend. This symposium was devoted primarily to the issue of international cooperation in the Straits of Malacca and Singapore, although the title gave no hint of the fact; and while the emphasis was on security, due attention was also paid to such topics as the environment and navigation safety, making for some interesting



discussion. This was probably the first international conference on the subject in China to be open to the general public.

A total of twenty-four papers were delivered during the one-and-a-half-day conference. The speakers, many of whom were Chinese researchers or businesspeople, were unanimous in stressing how dependent China's economic development was on the ocean. They argued that for China it was of critical importance to address the issue of maritime security, for threats to the safety of shipping through the South China Sea, and the Straits in particular, could imperil the country's economic development.

The October 2004 conference thus proved to be a watershed. That China, a major user state, has finally begun taking a more active view of its responsibilities is to be welcomed as a great step forward in the promotion of international cooperation on the Straits of Malacca and Singapore. Expectations now focus on what action will be taken by the advanced East Asian economy that is Korea.

2. The Two Intergovernmental Conferences of 2005

As user states shift to a more active role, how are the littoral states attempting to approach the issue? A conference of foreign ministers from the three states that border the Straits of Malacca and Singapore was held on Batam Island in Indonesia on August 1-2, 2005, and it revealed what forms of international cooperation those countries currently envisage.

On the last day of the meeting the ministers adopted a declaration entitled the Batam Joint Statement of the Fourth Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore (the Batam Statement; see Appendix 1). While reasserting the existing position of these countries that primary responsibility for the safety of navigation, environmental protection, and maritime security in the Straits of Malacca and Singapore lies with the littoral states (Item 4), this document also acknowledges the interest of user states and relevant international agencies and the role they can play (Item 5). It goes on to enumerate some of the problems that the littoral states currently confront: trans-boundary crimes such as piracy, armed robbery, and terrorism, as well as illegal trafficking in persons, smuggling of people and weapons, and other trans-boundary crimes (Item 11). Bearing in mind the responsibility and burden of littoral States and the interests of user States in maintaining the safety of navigation, environmental protection and

maritime security, therefore, the statement welcomes the assistance of the user States, relevant international agencies, and the shipping community in the areas of capacity building, training and technology transfer, and other forms of assistance in accordance with the 1982 United Nations Convention on the Law of the Sea (UNCLOS) (Item 13). The statement thus cites some of the specific types of assistance envisaged.

One can glimpse, then, how the littoral states are beginning to reach agreement on specific forms of cooperation in the Straits, albeit at a rather leisurely pace. Note also that the Batam Statement expresses regret at the Lloyd's Insurance group's categorization of the Straits of Malacca and Singapore as a high-risk zone, and urges it to reconsider in light of a risk assessment (Item 14).

On the heels of the Batam conference came the September 7-8 Jakarta Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection, which was hosted by the littoral state of Indonesia in partnership with the IMO. This meeting was attended by delegates from far and wide, including user states, and on its last day it adopted the Jakarta Statement on Enhancement of Safety, Security and Environmental Protection in the Straits of Malacca and Singapore (the Jakarta Statement; see Appendix 2).

The Jakarta Statement, having acknowledged the Batam Statement, lists several points of agreement. Among them: the littoral states are to hold regular meetings with the user states, the shipping industry, and others with an interest in safe navigation through the Straits, where issues relating to safety, security, environmental protection, and burden sharing are to be discussed; the results of which meetings will be reported to the IMO. As for security, the statement calls for efforts to establish mechanisms for information exchange, and to promote, build upon, and expand cooperative and operational arrangements, building, where possible, on existing arrangements, through coordinated maritime patrols in the Straits, maritime security training programs, maritime exercises, and other forms of cooperation.

III OPRF Blueprint for a New Cooperative Framework on the Straits of Malacca and Singapore

Here is our blueprint for a cooperative framework on the Straits of Malacca and Singapore.



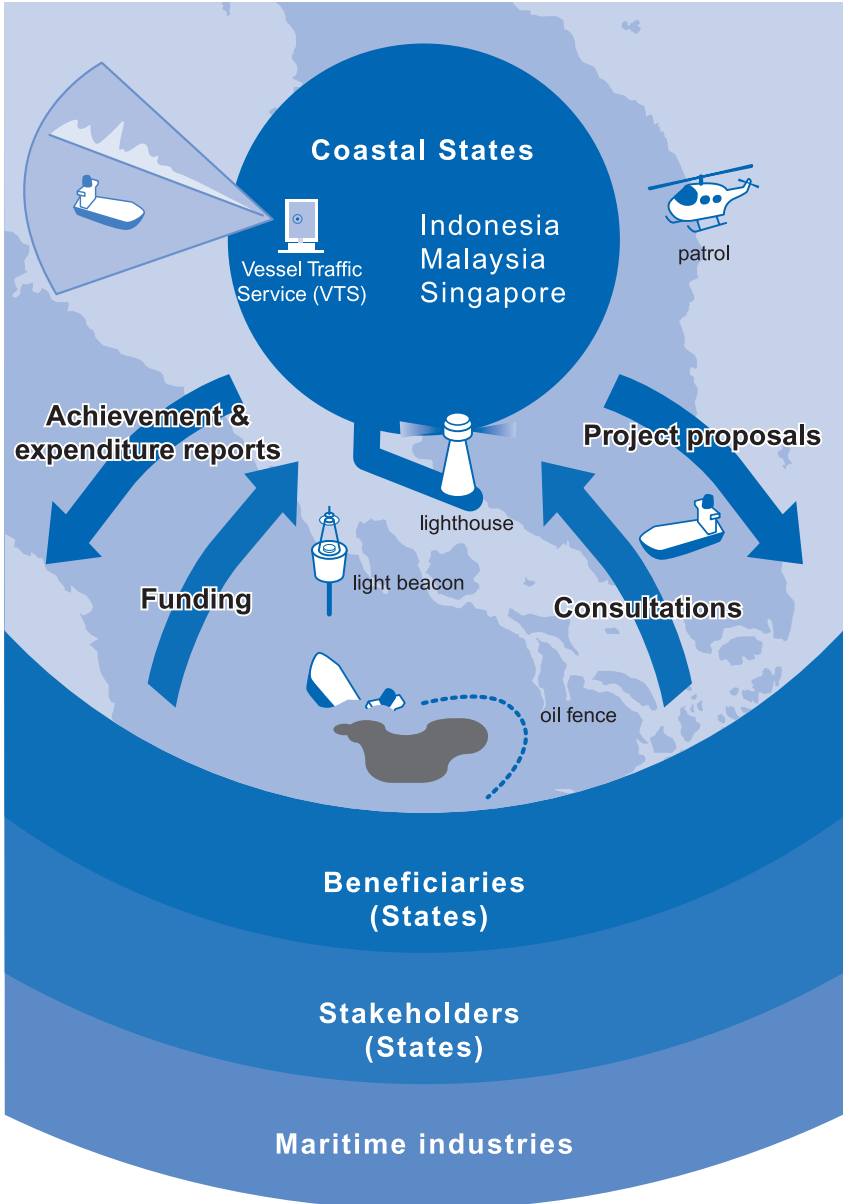
The international cooperative framework should be underpinned by the following three core principles:

- The Straits of Malacca and Singapore are the lifeline of the Asian economy, and issues pertaining to them, including safety of navigation, environmental protection, and ensuring security, are closely interrelated and need to be considered as a whole.
- Any measures taken within the international cooperative framework must conform to the spirit of the United Nations Convention on the Law of the Sea (UNCLOS) and with the provision of Article 43 thereof. The chief objective of UNCLOS is to achieve sustainable development in the oceans. In that process, no specific country should have to bear an excessive burden; the common interests of the international community must be ensured on a fair, equitable basis.
- With respect to the system of burden sharing between littoral states and user states of the Straits of Malacca and Singapore to be developed in conformity with the provisions of Article 43, a system of international cooperation must be established that maximizes benefits for both the littoral states and the user states, by respecting the sovereignty and jurisdiction of the littoral states while accomplishing such ends as ensuring the safety of international shipping.

Recommendations on building an international cooperative framework:

- Ensuring the safety of navigation, protecting the environment, and guaranteeing security on the Straits are issues beyond the ability of states to undertake individually; moreover, were specific states to engage in cooperation among themselves without proper coordination, the balance of the region could be undermined as a result. To deal with these issues, therefore, a new consultative body should be set up dedicated specifically to this region; this will be tentatively called the Straits of Malacca and Singapore Consultative Organization.
- Any and all initiatives undertaken under the aegis of the Straits of Malacca and Singapore Consultative Organization should be carried out by the littoral states; user states should cooperate in proportion to the degree of benefit that they derive therefrom. Such a cooperation regime should be discussed by the littoral states and major user states together; once agreed upon, it should be proposed by the littoral states to the IMO and obtain its endorsement.

The conceptual diagram of
the Straits of Malacca and Singapore Consultative Organization




**THE BATAM JOINT STATEMENT
OF THE 4TH TRIPARTITE MINISTERIAL MEETING OF THE LITTORAL STATES
ON THE STRAITS OF MALACCA AND SINGAPORE**

BATAM, INDONESIA, 1 - 2 AUGUST 2005

1. The Minister of Foreign Affairs of Indonesia, H.E. Dr. N. Hassan Wirajuda, Minister of Foreign Affairs of Malaysia, Hon. Dato' Seri Syed Hamid Albar, and Minister for Foreign Affairs of Singapore, H.E. George Yeo , met in Batam, on 1-2 August 2005 to discuss matters pertaining to the safety of navigation, environmental protection and maritime security in the Straits of Malacca and Singapore.
2. The Foreign Ministers of Malaysia and Singapore appreciated the initiative of the Foreign Minister of Indonesia for convening this timely Meeting in view of the current challenges faced by the littoral States and user States of the Straits.
3. The Ministers noted the series of Tripartite Ministerial Meetings of the Straits of Malacca and Singapore as well as Meetings at the technical level held annually within the context of the Tripartite Technical Experts Group (TTEG) on safety of navigation and Revolving Fund Committee (RFC) in dealing with issues of environmental protection in the Straits of Malacca and Singapore.
4. The Ministers reaffirmed the sovereignty and sovereign rights of the Littoral States over the Straits of Malacca and Singapore, defined under UNCLOS 1982 as straits used for international navigation. As such, the primary responsibility over the safety of navigation, environmental protection and maritime security in the Straits of Malacca and Singapore lies with the littoral States.

5. The Ministers emphasized that whatever measures undertaken in the Straits should be in accordance with international law including UNCLOS 1982. In this regard they acknowledged the interest of user States and relevant international agencies and the role they could play in respect of the Straits.
6. The Ministers recognized the importance of the Tripartite Ministerial Meeting on the Straits of Malacca and Singapore in providing the overall framework for cooperation. They agreed that the Ministers and the Senior Officials should meet on a more regular basis to address relevant issues in a timely manner. Such meetings may include, if necessary, representatives of other relevant agencies of the respective littoral States.
7. The Ministers recognized the importance of engaging the states bordering the funnels leading to the Straits of Malacca and Singapore, and the major users of the Straits. In this regard, the Ministers supported continuing discussion on the overall subject of maritime security in the South East Asian region within the framework of ASEAN and the ASEAN Regional Forum (ARF).
8. The Ministers acknowledged the good work carried out by the Tripartite Technical Experts Group (TTEG) on Safety of Navigation in the Straits of Malacca and Singapore. They also recognized the efforts of the Revolving Fund Committee (RFC) in dealing with issues of environmental protection in the Straits. In this regard, the Ministers welcomed the convening of the 30th TTEG on Safety of Navigation Meeting scheduled to be held in Penang, Malaysia, in September 2005.
9. The Ministers encouraged cooperation between littoral States and the International Maritime Organization (IMO) to put in place the Pilot Project of Marine Electronic Highway (MEH) as a step forward for the enhancement of the safety of navigation and



environmental protection in the Straits. The Ministers also took note of the forthcoming establishment of the ReCAAP Information Sharing Center in Singapore. In this regard the Ministers of Indonesia and Malaysia indicated their respective countries' preparedness to cooperate with the Center.

10. The Ministers supported the convening of the Chiefs of Defence Forces of Malaysia, Indonesia, Singapore and Thailand Informal Meeting (CDF-MIST Informal Meeting) in Kuala Lumpur on August 1-2, 2005, and encouraged them to further strengthen their cooperation.
11. The Ministers acknowledged that the littoral States should address the issue of maritime security comprehensively which includes trans-boundary crimes such as piracy, armed robbery and terrorism. The Ministers also recognized the need to address the issue of trafficking in persons, and smuggling of people, weapons and other trans-boundary crimes through appropriate mechanisms.
12. The Ministers agreed to establish a TTEG on Maritime Security to complement the works of the existing TTEG on Safety of Navigation and the Revolving Fund Committee.
13. Bearing in mind the responsibility and burden of littoral States and the interests of user States in maintaining the safety of navigation, environmental protection and maritime security, the Ministers welcomed the assistance of the user States, relevant international agencies, and the shipping community in the areas of capacity building, training and technology transfer, and other forms of assistance in accordance with UNCLOS 1982. In this regard they also welcomed closer collaboration between littoral States and the international community.
14. The Ministers expressed regret at Lloyds' categorization of the

Straits of Malacca and Singapore as a high risk zone for piracy and terrorism without consulting and taking into account the existing efforts of the littoral States to deal with the problems of safety of navigation and maritime security. The Ministers urged the Committee to review its risk assessment accordingly.

15. The Ministers welcomed the forthcoming "Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection" in collaboration with the International Maritime Organization to be held on 7-8 September 2005 in Jakarta, Indonesia.

Batam, August 2, 2005

Source: Department of Foreign Affairs Republic of Indonesia
<[http://www.indonesian-embassy.or.jp/menue/information/
state/jo-statmnt-menlu-selat-malaka.htm](http://www.indonesian-embassy.or.jp/menue/information/state/jo-statmnt-menlu-selat-malaka.htm)>

JAKARTA STATEMENT ON ENHANCEMENT OF SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION IN THE STRAITS OF MALACCA AND SINGAPORE

Jakarta, Indonesia, on 8 September 2005

The Government of the Republic of Indonesia and the International Maritime Organization (IMO) convened, pursuant to the decisions of the ninety-third and ninety fourth sessions of the IMO Council in relation to the Protection of Vital Shipping Lanes, a Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection, which took place in Jakarta on 7 and 8 September 2005 (hereinafter referred to as “the Jakarta Meeting”). The Jakarta Meeting was organized in co-operation with the Government of Malaysia and the Government of the Republic of Singapore.

The purpose of the Jakarta Meeting was to provide a forum for discussions with the aim of agreeing on a framework of co-operation to enhance the safety of navigation, environmental protection and security in the Straits of Malacca and Singapore (hereinafter referred to as “the Straits”).

The Jakarta Meeting was attended by delegations from:

AUSTRALIA
BAHAMAS
CANADA
CHINA
CROATIA
DENMARK
EGYPT
FRANCE
GERMANY

IRAN (ISLAMIC REPUBLIC OF)
ITALY
JAPAN
KUWAIT
LAO PEOPLE'S DEMOCRATIC
REPUBLIC
MALAYSIA
NETHERLANDS
NEW ZEALAND

GREECE	NORWAY
INDIA	PAKISTAN
INDONESIA	PHILIPPINES
REPUBLIC OF KOREA	UNITED KINGDOM
RUSSIAN FEDERATION	UNITED REPUBLIC OF TANZANIA
SINGAPORE	UNITED STATES
SPAIN	VIET NAM
THAILAND	YEMEN
TURKEY	

by observers from the following intergovernmental organizations:

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)
ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)


and by observers from the following non-governmental organizations:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)
INTERNATIONAL FEDERATION OF SHIPMASTERS'
ASSOCIATIONS (IFSMA)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER
OWNERS (INTERTANKO)
INTERNATIONAL GROUP OF P AND I CLUBS (P AND I)
MALACCA STRAIT COUNCIL

The Jakarta Meeting,

RECOGNIZING the strategic importance of the Straits for regional and global seaborne trade and the need to ensure that they remain safe and open to shipping at all times;

RECOGNIZING ALSO that the Straits are located within the



territorial sea of Indonesia, Malaysia and Singapore (hereinafter referred to collectively as the “littoral States”) and within the continental shelf and the exclusive economic zone of Indonesia and Malaysia and are straits used for international navigation as defined in the United Nations Convention on the Law of the Sea (hereinafter referred to as “UNCLOS”);

RECOGNIZING FURTHER the safety, security and environmental vulnerabilities of the Straits and the possibility that unlawful acts committed therein may have a serious negative impact on the flow of traffic there-through;

NOTING with particular concern the number of incidents of unlawful acts and armed robbery against ships and seafarers reported to have taken place in the Straits;

BEING AWARE of the multiplicity of interests in the Straits and the importance of balancing the interests between littoral and user States, while respecting the sovereignty of the littoral States;

ACKNOWLEDGING the rights and obligations of States under the international law of the sea, including the provisions of UNCLOS and, in particular, article 43 thereof calling for co-operation by agreement among user States and States bordering straits used for international navigation on matters relating to navigational and safety aids and the prevention, reduction and control of pollution from ships;

ACKNOWLEDGING ALSO the efforts and achievements of the Tripartite Technical Experts Group on Safety of Navigation (hereinafter after referred to as “TTEG”) comprising officials of the three littoral States in enhancing the safety of navigation in, and the environmental protection of, the Straits and, in particular, through routing measures, including Traffic Separation Schemes, deep water routes, precautionary areas and ship reporting systems adopted by IMO, as well as the TTEG’s

progress in advancing cooperation in the maintenance of the Straits, consonant with article 43 of UNCLOS;


RECALLING that the United Nations General Assembly resolution A/RES/59/24 on Oceans and the Law of the Sea, while addressing the issues relating to maritime safety and security and the marine environment, has, *inter alia*:

1. urged all States, in cooperation with IMO, to combat piracy and armed robbery at sea;
2. noted the concerns of the IMO Council and IMO Secretary-General with regard to keeping shipping lanes of strategic importance and significance safe and open to international maritime traffic and thereby ensuring the uninterrupted flow of traffic, and welcomed the Council's request, in this regard, that the Secretary-General of IMO continue work on the issue in collaboration with parties concerned; and
3. emphasized the importance to protect and preserve the marine environment and its living marine resources against pollution and physical degradation;

RECALLING ALSO the ASEAN Declarations, Statements, Joint Communiqués and Action Plans on Combating Terrorism; including the ASEAN Regional Forum Statements on Cooperation Against Piracy and Other Threats to Maritime Security and on Strengthening Transport Security Against International Terrorism;

UPHOLDING the Batam Joint Statement, adopted on 2 August 2005 by the Fourth Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore, which, *inter alia*:

1. reaffirms that the primary responsibility over the safety of



navigation, environmental protection and maritime security in the Straits lies with the littoral States;

2. emphasizes that whatever measures are undertaken in the Straits should be in accordance with international law including UNCLOS and in this regard acknowledges the interests of user States and relevant international agencies and the role they could play in respect of the Straits;
3. recognizes the importance of the Tripartite Ministerial Meeting on the Straits of Malacca and Singapore in providing the overall framework for cooperation;
4. recognizes the importance of engaging the States bordering the funnels leading to the Straits and the major users of the Straits;
5. acknowledges that the littoral States should address the issues of maritime security comprehensively which includes transboundary crimes such as piracy, armed robbery and terrorism;
6. acknowledges also the work of the TTEG on Safety of Navigation and the Revolving Fund Committee which manages a fund for enabling the prompt response to oil spills from ships;
7. provides for the establishment of a Tripartite Technical Expert Group on Maritime Security to complement the work of the TTEG on Safety of Navigation and the Revolving Fund Committee; and
8. recognizes the importance of and welcomes the closer collaboration between the littoral States and the international community and, in particular, the assistance of the user States, relevant international agencies, and the shipping community in areas of capacity building, training and technology transfer, and other forms of assistance in accordance with UNCLOS;

RECOGNIZING the previous efforts of IMO through international conferences and regional workshops in 1993, 1996, 1999 and 2001, and other regional fora such as the ASEAN and the ASEAN Regional Forum, to promote greater co-operation among littoral States and stakeholders in maritime safety and marine environment protection, as well as in regional anti-piracy co-operative arrangements;

COMMENDING the efforts of the defense forces of the littoral States and Thailand in strengthening modalities for co-operation such as the initiative of Indonesia on the Malacca Strait Security Initiative in an effort to enhance maritime security in the Straits;


RECOGNIZING the positive results of co-ordinated maritime patrols among the security forces of the littoral States and other co-operative maritime security arrangements and measures in the Straits;

ACKNOWLEDGING the potential of the Marine Electronic Highway concept, currently under development by IMO in co-operation with the littoral States and other stakeholders, in enhancing navigational safety and environmental protection in the Straits and the littoral States' decision to establish a pilot project of the Marine Electronic Highway, with the Project Management Office in Batam, Indonesia;

NOTING the valuable role and function of the Maritime Enforcement Coordination Center in Perak, Malaysia in addressing unlawful acts and armed robbery against ships;

NOTING ALSO the importance of the forthcoming establishment of the ReCAAP Information Sharing Center in Singapore, in addressing piracy and armed robbery against ships and welcoming the signing of ReCAAP by five States;

NOTING WITH APPRECIATION the contribution States and other stakeholders have made and continue to make towards the enhancement



of the safety of navigation in, and the protection of the environment of, the Straits;

RESPECTING FULLY the sovereignty, sovereign rights, jurisdiction and territorial integrity of the littoral States, the principle of non-intervention, and the relevant provisions of international law, in particular the UNCLOS;

DESIRING that the Straits remain safe and open to international shipping at all times, as provided for under international law, in particular UNCLOS, and where applicable, domestic law, and to build upon and enhance existing cooperative arrangements and measures towards this end;

DESIRING FURTHER to enhance the safety, security and environmental protection of the Straits;

HAS AGREED:

- (a) that the work of the TTEG on Safety of Navigation in enhancing the safety of navigation and in protecting the marine environment in the Straits, including the efforts of the TTEG in relation to the implementation of article 43 of UNCLOS in the Straits should continue to be supported and encouraged;
- (b) that a mechanism be established by the three littoral States to meet on a regular basis with user States, the shipping industry and others with an interest in the safe navigation through the Straits, to discuss issues relating to the safety, security and environmental protection of the Straits, as well as to facilitate co-operation in keeping the Straits safe and open to navigation, including exploring the possible options for burden sharing, and to keep the IMO informed, as appropriate, of the outcome of such meetings;

- (c) that efforts should be made through the three littoral States to establish and enhance mechanisms for information exchange within and between States, building, where possible, on existing arrangements such as Tripartite Technical Expert Group mechanisms, so as to enhance maritime domain awareness in the Straits and thus contribute to the enhancement of cooperative measures in the areas of safety, security and environmental protection;
- (d) to promote, build upon and expand co-operative and operational arrangements of the three littoral States, including the Tripartite Technical Expert Group on Maritime Security, co-ordinated maritime patrols in the Straits through, inter alia, maritime security training programmes and other forms of co-operation, such as maritime exercises, with a view to further strengthening capacity building in the littoral States to address security threats to shipping;

HAS INVITED the IMO to consider, in consultation with the littoral States, convening a series of follow-on meetings for the littoral States to identify and prioritize their needs, and for user States to identify possible assistance to respond to those needs, which may include information-exchange, capacity-building, training and technical support, with a view to promote and co-ordinate co-operative measures;

EXPRESSES DEEP APPRECIATION to the Government of the Republic of Indonesia for the excellent arrangements made for, the facilities and generous hospitality provided during, the Jakarta Meeting; and to the Governments of the Republic of Indonesia, Malaysia and the Republic of Singapore and the International Maritime Organization for their strenuous efforts to prepare for the Jakarta Meeting and ensure its successful conclusion.

Source: IMO/JKT 1/2, 8 September 2005

UNITED NATIONS CONVENTION ON THE LAW
OF THE SEA 1982

Done at Montego Bay, Jamaica, 10 December 1982
Entry into force, 16 November 1994

Article 43

Navigational and safety aids and other improvements and
the preservation, reduction and control of pollution

User States and States bordering a strait should by agreement co-operate:

- (a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and
- (b) for the prevention, reduction and control of pollution from ships.

1982年海洋法に関する国際連合条約

1982年12月10日 署名(モンテゴ・ベイ)
1994年11月16日 効力発生

第43条

航行及び安全のための援助施設及び他の改善措置並びに
汚染の防止、軽減及び規制

海峡利用国及び海峡沿岸国は、合意により、次の事項について協力する。

- (a) 航行及び安全のために必要な援助施設又は国際航行に資する他の改善施設の海峡における設定及び維持
- (b) 船舶からの汚染の防止、軽減及び規制

Map of the Straits of Malacca and Singapore

マラッカ・シンガポール海峡の地図

