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OF MALACCA AND SINGAPORE:
ENHANCING SAFETY, SECURITY AND
ENVIRONMENTAL PROTECTION
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**THE CO-OPERATIVE MECHANISM BETWEEN
THE LITTORAL STATES AND USER STATES
ON SAFETY OF NAVIGATION AND ENVIRONMENTAL PROTECTION
IN THE STRAITS OF MALACCA AND SINGAPORE**

Submitted by Indonesia, Malaysia and Singapore

SUMMARY

Executive summary: The objective of this paper is to present the Co-operative Mechanism between the littoral States and user States on safety of navigation and environmental protection in the Straits of Malacca and Singapore.

Action to be taken: Paragraph 26

Related documents: IMO/KUL 1/2.6/1

Introduction

1 The Jakarta Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection organized by the three littoral States: Indonesia, Malaysia and Singapore and the International Maritime Organization (IMO) in Jakarta, Indonesia on 7 and 8 September 2005 (the Jakarta Meeting) agreed, among others, that a mechanism be established by the three littoral States to meet on a regular basis with user States, the shipping industry and other stakeholders with an interest in the safe navigation through the Straits of Malacca and Singapore (the Straits). Among others this is 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.

2 The Kuala Lumpur Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection held in Kuala Lumpur, Malaysia from 18 to 20 September 2006 (the Kuala Lumpur Meeting) further agreed, among others, that support should be given to the continuous efforts of the three littoral States and to the proposed Co-operative Mechanism on safety of navigation and environmental protection to promote dialogue and facilitate close co-operation between the littoral States and user States, shipping industry and other stakeholders.

3 The decisions of the Batam Ministerial Meeting¹, the Jakarta Meeting and the Kuala Lumpur Meeting provide a very important basis for the work on the establishment of the Co-operative Mechanism between the three littoral States and users of the Straits.

4 Since the Kuala Lumpur Meeting, the three littoral States have finalised and established the Co-operative Mechanism between the littoral States and user States on safety of navigation and environmental protection in the Straits. The Co-operative Mechanism is based on the conceptual framework² which was presented by the littoral States and received broad support from user States and other stakeholders at the Kuala Lumpur Meeting.

5 The establishment of the Co-operative Mechanism represents a landmark achievement in co-operation between coastal States bordering a strait used for international navigation and user States as well as other stakeholders, and, for the first time, brings to realization the underlying spirit and intent of article 43 of the United Nations Convention on the Law of the Sea (UNCLOS) which states that:

“User States and States bordering a strait should by agreement cooperate:

(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.”

6 The Co-operative Mechanism can be viewed as a historic breakthrough. For the littoral States, the Co-operative Mechanism provides an opportunity to engage user States, shipping industry and other stakeholders to participate and share the responsibility of maintaining and enhancing the safety of navigation and protection of the marine environment in the Straits. For the user States, shipping industry and other stakeholders, the Co-operative Mechanism provides an opportunity to co-operate, contribute and play a role in maintaining and enhancing the safety of navigation and protection of the marine environment in the Straits which is of strategic importance for regional and global trade.

Co-operative Mechanism

7 The objective of the Co-operative Mechanism is to promote dialogue and facilitate close co-operation between the littoral States, user States and other stakeholders. It is established based on the following fundamental principles:

- 1 Re-affirming the sovereignty, sovereign rights, jurisdiction and territorial integrity of the littoral States over the Straits;
- 2 It is consistent with international law and in particular article 43 of UNCLOS;
- 3 It is established within the framework of the Tripartite Technical Experts Group on the Safety of Navigation in the Straits of Malacca and Singapore (TTEG) and

¹ The Fourth Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore held in Batam, Indonesia on 1 and 2 August 2005.

² See document IMO/KUL 1/2.6/1 (Indonesia, Malaysia and Singapore).

that the primary responsibility over the safety of navigation and environmental protection in the Straits lies with the littoral States; and

- 4 Recognising the interests of user States and other stakeholders and the role they could play in respect of the Straits, and that such co-operation should be on a voluntary basis.

8 The scope of the Co-operative Mechanism focuses on safety of navigation and environmental protection in the Straits, and consists of three main components:

- 1 The Co-operation Forum for open dialogues and discussions;
- 2 Project Co-ordination Committee on the implementation of projects in co-operation with sponsoring users; and
- 3 Aids to Navigation Fund to receive direct financial contribution for renewal and maintenance of aids to navigation.

9. These three components will provide and allow for a comprehensive basis to establish co-operation between the three littoral States and user States, the shipping industry and other stakeholders. These components include a discussion forum as well as avenues where user States, the shipping industry and other stakeholders may contribute, either in kind, for example, by sponsoring identified projects, or in direct financial form, for example, by making monetary contributions to the Aids to Navigation Fund. To facilitate the wider participation of IMO member States and in recognizing the role of the IMO, the IMO will also be invited to participate in the Co-operative Mechanism. The TTEG will be the principal co-ordinating body of the three littoral States in the Co-operative Mechanism. The overall structure of the Co-operative Mechanism is illustrated in annex 1.

Co-operation Forum

10 The Co-operation Forum is the main avenue for user States, the shipping industry and other stakeholders to be invited to meet and co-operate with the littoral States.

11 The Co-operation Forum will serve to promote general dialogue and exchange of views on issues of common interests in the Straits. In recognizing the role they could play, the Co-operation Forum will also facilitate concrete and practical co-operation between the littoral States and user States, shipping industry and other stakeholders in the maintenance of safety of navigation and environmental protection in the Straits. In this respect the Co-operation Forum will be a useful avenue for the littoral States to gather feedback from users of the Straits on a co-ordinated basis.

12 The general terms of reference and rules of procedure of the Co-operation Forum are elaborated in annex 2.

Implementation of Projects - Project Co-ordination Committee

13 The implementation of projects to promote safety of navigation and environmental protection provides a concrete demonstration of co-operation and burden sharing between littoral States and user States, the shipping industry and other stakeholders, as promoted under article 43 of UNCLOS.

14 The implementation of specific projects, identified and agreed upon through the Co-operation Forum, would allow user States, the shipping industry and other stakeholders to contribute either by financing a project or individual component of a project, or by providing in-kind resources such as technical assistance and equipment to specific aspects of a project. Any agreed project could be implemented, on a bilateral or multi-lateral arrangement, through the co-operation and co-operation and agreement of one or more user States/ stakeholders with one or more littoral States.

15 The Project Co-ordination Committee (PCC), comprising the littoral States and sponsors of projects, will oversee the co-ordination of the implementation of these projects. The PCC will enable the sponsors of projects to have a role in the overall project co-ordination. In addition to the PCC, the littoral States directly involved and the sponsor of a specific project can establish a joint project implementation team, or an agreed mechanism, for the technical management and implementation of the project. The PCC and the project implementation teams will ensure that projects are implemented smoothly and that sponsors are involved in the management and implementation of the projects.

16 The general terms of reference and rules of procedures of the Project Co-ordination Committee is provided in annex 3.

17 At present, five of the six projects presented at the Kuala Lumpur Meeting remain available for sponsorship, either in full or in part, through co-operation with user States or other stakeholders³. The remaining project, Project 6 on "Replacement of aids to navigation damaged by tsunami incident" has been sponsored in full by China, and implementation is already in progress.

Aids to Navigation Fund

18 An important element of safety for ships navigating the Straits is the aids to navigation that are put in place. The continued maintenance of aids to navigation remains a vital component of ensuring the safety of ships navigating through the Straits. In addition to the substantial funding provided by the littoral States, Japan remains the only User State that has been consistently providing financial assistance on a voluntary basis for the maintenance of critical aids to navigation in the Straits.

19 In order to ensure that there is long-term and sustainable means of financing the maintenance of critical aids to navigation in the Straits, a special fund for aids to navigation is set up as a component of the Co-operative Mechanism. The Aids to Navigation Fund will provide the means for all users of the Straits to also contribute financially towards the maintenance of the aids to navigation in the Straits, such as light beacons and light buoys. In the future, other relevant aids to navigation in the Straits could also be identified for funding under the Aids to Navigation Fund.

³ These projects are Project 1 (Removal of Wrecks in the Traffic Separation Scheme in the Straits of Malacca and Singapore), Project 2 (Co-operation and capacity building on Hazardous and Noxious Substance preparedness and response in the Straits of Malacca and Singapore), Project 3 (Demonstration project of Class B AIS transponder on small ships), Project 4 (Setting up a tide, current and wind measurement system for the Straits of Malacca and Singapore), and Project 5 (Replacement and maintenance of aids to navigation in the Malacca and Singapore Straits).

20 Contributions to the Aids to Navigation Fund shall be on voluntary basis. Contributions may be received from States, industry, private benefactors, non-governmental organizations and inter-governmental organizations, including the IMO. The administration of the Aids to Navigation Fund will be by the littoral States on a rotational basis and will not at this stage involve the establishment of a permanent secretariat. In addition, a committee, comprising representatives from littoral States as well as invited contributors, will be formed to manage the Aids to Navigation Fund in accordance with the best international financial practices of transparency and accountability. These will include a clearly defined scope of application, an independent audit, annual reporting to the contributors and the disbursement of the Aids to Navigation Fund based on an approved work plan.

21 The detailed mechanics of administering and participating in the Aids to Navigation Fund are explained in its terms of reference and the rules of procedure attached in annex 4.

Flexibility of Co-operative Mechanism

22 The Co-operative Mechanism is deliberately intended to be simple and flexible. It may accommodate other forms of co-operative arrangements and allow for the special circumstances of certain users. Nevertheless, these other forms of co-operative arrangements should be in accordance with the overall framework of the Co-operative Mechanism and should not detract from or compete with the Co-operative Mechanism. Hence, for example, the Co-operation Forum does not preclude any other form of specific forum any user State may want to establish with the littoral States on the basis of a 3+1. Similarly, the implementation of projects under the Co-operative Mechanism does not preclude any bilateral arrangement on a specific project which a user State may want to embark directly with any of the three littoral States. Hence, new projects, in addition to the six that were originally proposed at the Kuala Lumpur Meeting, may be agreed upon between the littoral States and users for implementation on a co-operative basis.

23 On the same premise, the Aids to Navigation Fund is flexible and open to various forms of contributions to accommodate the contributing party's varied considerations and financial circumstances. As an example, a contribution may be made on a one-off basis or as a pledge to contribute given amounts at specified intervals over a period of time. If necessary and if there is general consensus for a specific manner of contribution, an agreement may be established between the parties involved to determine the manner of contribution to the Aids to Navigation Fund. The Aids to Navigation Fund also does not discount contributions that may be made directly or indirectly, for example directly from the contributor or indirectly through an industry association or grouping. In general, while direct financial contributions are preferred the Aids to Navigation Fund does not preclude other forms of financing arrangements that may be set up by parties so long as these are in accordance with the framework of the Co-operative Mechanism and do not duplicate or detract from the Aids to Navigation Fund.

Conclusion

24 The Co-operative Mechanism serves to meet the spirit and intent encapsulated in the Batam Joint Statement⁴, the Jakarta Statement⁵ and the Kuala Lumpur Statement⁶. The Co-operative Mechanism duly respects the sovereignty, sovereign rights, jurisdiction and territorial

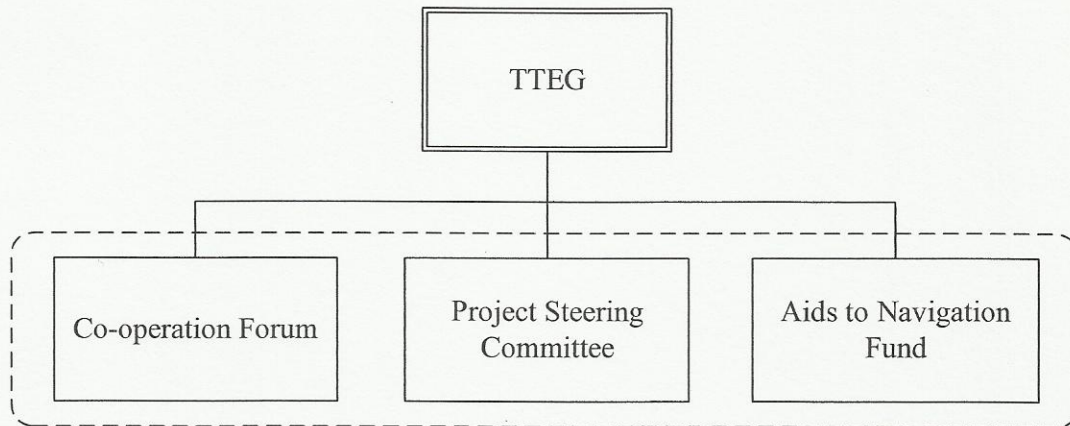
⁴ A copy of the Batam Joint Statement is provided in document IMO/SGP 1/INF.3, annex 3.

⁵ A copy of the Jakarta Statement is provided document IMO/SGP 1/INF.3, annex 4.

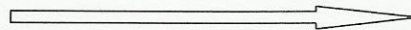
⁶ A copy of the Kuala Lumpur Statement document IMO/SGP 1/INF.3, annex 5.

ANNEX 1

**CO-OPERATIVE MECHANISM
FOR SAFETY OF NAVIGATION AND ENVIRONMENTAL PROTECTION
IN THE STRAITS OF MALACCA AND SINGAPORE**



Promote dialogue and exchange of views on issues of common interests in the Straits.



Identify and prioritise projects for safety of navigation and environmental protection in the Straits.



Oversee the co-ordination of implementation of projects.



Receive direct financial contribution from user States and other stakeholders for the provision and maintenance of aids to navigation in the Straits.
