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THE IMO – KL MEETING ON THE STRAITS OF MALACCA AND SINGAPORE

Major Maritime Nations and Stakeholders Need to Do More

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WHILST much attention has been paid to the IMF/World Bank Group of meetings in Singapore, a less reported but equally significant gathering of top officials was being held in Kuala Lumpur. The Meeting on Enhancing the Safety, Security and Environmental Protection of the Malacca and Singapore Straits organised by the International Maritime Organisation (IMO) and the three littoral states of Malaysia, Singapore and Indonesia was held in the Malaysian capital from 18 – 20 September 2006. The meeting was a follow-on to a similar one held in Jakarta a year earlier where the IMO was invited to consider a series of talks for the littoral states and user states to explore ways in which they could cooperate. The Kuala Lumpur Meeting rose to the challenge by proposing a mechanism for cooperation between the user states and the littoral states in accordance with Article 43 of the United Nations Convention on the Law of the Sea (UNCLOS).

The “Cooperative Mechanism”

The “Cooperative Mechanism” proposed consists of three components. The first is the setting up of a Forum for Cooperation under the Tripartite Technical Experts Group (TTEG), which presently comprises technical experts from the maritime authorities of Malaysia, Indonesia and Singapore. The Forum will form the main avenue for interested user states and other interested parties to be invited to meet and cooperate with the littoral states. The outcome of the Forum should then be transmitted to the TTEG and if necessary to the IMO.

The second component was a package of six projects by the littoral states to secure funding and participation from the user states and interested parties. The six projects included: (1) a proposal by Malaysia for the removal of ship wrecks in the Straits of Malacca and Singapore and the removal of 12 wrecks over the next 4 years amounting to US\$15 million per wreck; (2) another proposal by Malaysia for cooperation and capacity building on Hazardous and Noxious Substance (HNS) preparedness and response in the Straits of Malacca and Singapore including the setting up of HNS Response Centres; (3) a proposal by Singapore for a demonstration project of automatic identification system (AIS) transponders on small ships of less than 300 gross tonnes which are currently not required to do so under the Safety of Life Sea, or SOLAS, Regulations. The AIS will allow the tracking of the movements of small craft in the Malacca and Singapore Straits; (4) another proposal by Singapore for the setting up of a tide, current and wind measurement system for the Straits of Malacca and Singapore

to enhance navigational safety and marine environment protection; (5) a proposal by Indonesia for the replacement and maintenance of 17 aids to navigation in the Malacca and Singapore Straits; and (6) a proposal by Indonesia for the replacement of seven aids to navigation damaged by the tsunami. The total value of the projects is US\$43 million. The contributing parties may participate in the projects in close cooperation with the relevant littoral states through the Project Coordination Committee to be established under the TTEG.

The third component was the setting up of the Aids to Navigation Fund where interested stakeholders could volunteer financing of the maintenance of critical aids to navigation in the Malacca and Singapore Straits. The mechanism for the operation of the Fund has yet to be worked out.

Response of the User States and China's emerging role

It was clear at the Meeting that China viewed itself as a major regional player. China was the only country that committed to any of the projects proposed, even offering to undertake the Indonesian proposal to replace navigational aids damaged by the 2004 tsunami. It would also participate in the Singaporean proposal to set up a tide, current and wind measurement system, and the Malaysian proposal to develop an HNS preparedness and response capability. That China was the only country to come forward was surprising given that a TTEG-User States Cooperation Meeting was held in Singapore on 31 March 2006, where details of the projects were presented. In particular, the Singapore meeting involved the 11 major user states of Australia, China, Denmark, Greece, Japan, Netherlands, Norway, Panama, South Korea, United Kingdom, United States, and other stakeholders like the IMO and Intertanko.

At the IMO-KL Meeting, China also presented details of its bilateral cooperative agreements and programmes with the littoral states, which signalled its increasing interests in the region. The agreements included the MOU between China and Indonesia on Maritime Cooperation signed on 25 April 2005, the MOU between China and Malaysia on Maritime Cooperation signed on 25 August 2006, and the establishment of a mechanism for information exchange on the security of the Malacca Straits with Singapore, apparently to be signed by late 2006.

The US and Japan both had very specific interests at the Kuala Lumpur Meeting. The US, as well as the shipping industry represented, was deeply interested in upholding the transit passage regime under UNCLOS to ensure that the shipping of goods, raw material, and energy remained unimpeded. They were also ready to oppose any attempt to impose tolls or charges for transiting the Malacca and Singapore Straits. Preserving the freedom of navigation is a laudable goal, but the lack of response on how the user states could contribute was a diplomatic setback given that the US had hosted the Alameda Conference comprising of some of the stakeholders in February 2006. That conference was to facilitate possible assistance from the user states and sectors of the industry to enhance the capability and capacity of the littoral nations. The US ought to have revealed the conclusions of the Alameda Conference to the IMO-KL Meeting for the benefit of the littoral states.

Japan, on the other hand, had been major contributors in maintaining the safety of navigation and environmental protection in the Straits. For example, Japan had contributed, through the Malacca Straits Council, a total of 13.2 billion yen (US\$113 million) for the maintenance of navigation aids from 1968 to 2005, and a total of 1.5 billion yen (US\$13 million) for environmental protection from the period 1973 to 2005. Japan must have come away disappointed that none of the other user states or stakeholders were going to share their

burden.

Security measures and issues were also absent from the IMO-KL Meeting, which focussed more on the implementation of UNCLOS Article 43. This was understandable because of the steady decline in the number of piracy and armed robbery cases over the last two years, which have been attributed to the security measures undertaken by the three littoral countries. However, security issues will still need to remain on the future agenda as the *raison d'être* for the IMO-Littoral States series of meetings, which was endorsed by the United Nations General Assembly, was primarily to address the security issues in the Malacca and Singapore Straits.

Moving Forward

Given the contrasting priorities of the littoral and user states, how can the momentum of the IMO-Littoral States series of meetings be sustained? Firstly, as the littoral states have presented several projects for adoption, the major user states and interested stakeholders, like the shipping companies, will have to contribute to some of them, like what China has done. This will ensure continued goodwill between the user states, stakeholders and the littoral countries. In particular, dual-use projects which improve both safety and security, like Malaysia's proposal for the setting up of HNS Response Centres and Singapore's demonstration project of AIS transponders on small ships, should be supported. These projects will not only improve the safety of navigation but also security for ships plying the regional sea lanes.

Secondly, a comprehensive approach will need to be taken to include safety and environment protection. Increased ratification of major conventions, which affect both the safety of navigation as well as the security of ships, should be encouraged. In particular, the littoral states should be encouraged to ratify the 1979 Convention on Maritime Search and Rescue (SAR Convention), the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), and its 2005 Protocols, as well as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). Consistent with the comprehensive approach, the littoral states should also be encouraged to ratify conventions that serve to preserve the maritime environment.

Thirdly, the interests of Japan to burden-share their contribution to maintain the navigational aids in the Malacca and Singapore Straits should be supported. In particular, the Japanese interest could be supported through the Aids to Navigation Fund. Greater support for this fund would also benefit Indonesia, as many of the navigational aids that need maintenance are on the Indonesian side, as witnessed by the two navigation projects proposed by Indonesia. However, the governance of this fund will have to take the form of an international organisation, where contributors have a say in how the funds are distributed and to what projects the funds are used for. Only when transparency and full accountability are assured will user states and other stakeholders be willing to contribute to the Fund.

Stepping Up to the Plate

In a world of growing economic interdependence, local disruptions can have global ramifications. Disruptions to the flow of shipping traffic in the Malacca and Singapore Straits could come in the form of terrorist acts at sea or at port; transnational crimes, like piracy or armed robbery; international or internal armed conflict; natural disasters; accidents due to

navigational errors; gridlock; and restrictions to passage, either through excessive sovereignty claims or through excessive control of shipping. For example, one study has estimated that the cost of re-routing tankers to Japan could increase the cost of doing business by US\$88 million (for a 3-day diversion) or by US\$1.2 billion (for a 2-week diversion).

If we were to take into account the impact to other economies, the amount would be significantly more because two-way trade between Asia and other parts of the world has been increasing at an astounding annualised rate of beyond 25 percent for the period of 2002 to 2004. This figure includes two-way trade between Asia and Europe, Asia and the Middle East, as well as Asia and Africa. This annualised figure is set to increase in the future as the economic centre of gravity continues to shift to Asia. As a result, beneficiaries from the increasing openness of the global trading system, be it states or corporations, will have to increasingly share the costs of maintaining this global trading system if they want to continue benefiting from it.

As Joseph E. Stiglitz, the nobel laureate, has suggested, globalisation has increased the inequality between the skilled and the unskilled, giving rise to a growing gap that could derail globalisation itself. One way to make globalisation work therefore is for the winners to compensate the losers, and still come out ahead. It is in this spirit that the major maritime nations and shipping corporations will have to step up to the plate when it comes to enhancing the safety, security and environmental protection of the Malacca and Singapore Straits.

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