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Cooperative Mechanism for
Strait of Malacca and Singapore:
Model for Governance in the Arctic?

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Part 1

Straits of Malacca & Singapore and the Cooperative Mechanism
**Straits of Malacca & Singapore**

- More than 500 nm in length / One of the busiest shipping lanes
- Parts of strait are in territorial waters of Indonesia, Malaysia and Singapore
- In 1971 the 3 Littoral States agreed to manage the two straits as a single strait
- In 1975 established Tripartite Technical Experts Group (TTEG) to enhance safety of navigation and ship-source pollution
- 3 Littoral States played active role in negotiating provisions in 1982 UNCLOS on Straits used for International Navigation
Cooperation on Proposals to IMO

• 1975 IMO adopted Resolution on Navigation through SOMS
  – Routeing system including traffic separation scheme, deep water routes, under-keel clearance requirements
• 1988 Traffic Separation Scheme amended and extended
• 1998 Mandatory Ship Reporting System
Cooperative Mechanism – Background Article 43 of UNCLOS

• UNCLOS Article 43.
  – **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.
Cooperative Mechanism – Background
New Spirit of Cooperation in 2005

• Events leading to new spirit of cooperation
  1. Increased concern for maritime security after attacks on World Trade Center on 9/11
  2. Japan indicated that it intended to reduce its funding for aids to navigation in SOMS
  3. Increase in “piracy” in SE Asia in early 2000s
  4. IMO began new initiative on security of vital shipping lanes
Cooperative Mechanism – Background
New Spirit of Cooperation in 2005

• August 2005 Statement of 3 Foreign Ministers in Batam, Indonesia
  – Reaffirmed that Littoral States have “primary responsibility” for safety of navigation, environmental protection and maritime security
  – Acknowledged “interests” of user States, the IMO and the international shipping community
  – Stated that any cooperative measures must be consistent with UNCLOS
  – Reaffirmed importance of TTEG in cooperation
Cooperative Mechanism – Agreement after 3 IMO initiated meetings

• IMO-initiated meetings held in:
  – Jakarta, Indonesia in September 2005
  – Kuala Lumpur, Malaysia in September 2006
  – Singapore in September 2007

• Agreement reached in September 2007 in Singapore on a new Cooperative Mechanism
Cooperative Mechanism – Key Features

• Three Components
  1. Aids to Navigation Fund
  2. Project Coordination Committee
  3. Cooperation Forum
Aids to Navigation Fund (ANF)

- ANF receives financial contributions for the provision and maintenance of aids to navigation in the SOMS.
- ANF has received over US$20 million in financial contributions to date.
- ANF continues to play an important role in ensuring a sustainable means of financing the upkeep of aids to navigation that are critical in facilitating the safe navigation of ships in the SOMS.
Contributors to Aids to Navigation Fund

- **STATES:**
  - United Arab Emirates, Republic of Korea, Saudi Arabia, India, China, Japan

- **ORGANIZATIONS:**
  - The Nippon Foundation, International Foundation for Aids to Navigation (IFAN), Malacca Strait Council (MSC)

- **IMO Malacca and Singapore Straits Trust Fund**
PCC coordinates the implementation of Straits Projects aimed at enhancing navigational safety and environmental protection in the SOMS.

- User States such as Australia, China, Germany, India, Japan, the Republic of Korea and the United States, as well as stakeholders such as the IMO and the European Commission, have contributed to and participated in the Straits Projects.

- In 2009, the IMO Malacca and Singapore Straits Trust Fund was also established to support projects under the Co-operative Mechanism
PCC – Examples of Projects

- Project 1 – Removal of Wrecks in the Traffic Separation Scheme in the SOMS
- Project 5 – Replacement and Maintenance of Aids to Navigation in the SOMS
- Project 9 – Ship Traffic Management System in the SOMS
- Project 10 – Study of the Blueprint for the Future Development of Safety of Navigation and Marine Environment Protection in the SOMS

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8th Meeting of Cooperation Forum, October, 2015, Singapore

- 8th Meeting of Cooperation Forum held in Singapore together with the 40th Meeting of the TTEG
- Participants included:
  - Officials from 3 Littoral States
  - International Maritime Organization
  - User States
  - Shipping organizations such as ICS, INTERTANKO, BIMCO, Lloyd’s Registry, Malacca Straits Council
1. Lead Littoral States provided update on 4 of Straits Projects listed earlier

2. NAVIGATIONAL SAFETY - Participants of the Co-operation Forum made presentations on recent projects or developments on topics such as:
   - Applications of technology in navigational safety (e.g. e-Navigation)
   - Initiatives to promote a safety culture at sea
   - Emerging challenges to navigational safety (e.g. cyber security risks to navigational systems)
3. MARINE ENVIRONMENTAL PROTECTION - Participants of the Co-operation Forum made presentations on recent projects or developments such as:

- Sustainable port and shipping initiatives
- Enhancing energy efficiency of ships
- Use of clean fuels
- Managing the environmental impact of shipping (e.g. ballast water management, conservation of marine biodiversity)
Participation in the Cooperative Mechanism enables user States, the industry and other stakeholders to:

- Discuss and work together with the littoral States on key issues and projects relating to the SOMS;
- Participate in the implementation of Straits Projects that will enhance navigational safety and environmental protection in the SOMS; and
- Contribute towards ensuring that the SOMS remain safe and open for international shipping.
Cooperative Mechanism – Keys to success

1. Is consistent with 1982 UNCLOS
2. It recognizes the sovereignty of the littoral States and their primary responsibility for safety & the environment
3. It limits role of IMO to that of facilitator
4. It gives user States a forum where they can meet officials from the 3 littoral States and voice their concerns
5. It provides a mechanism whereby the user States who benefit from the straits can make financial and in-kind contributions to enhance safety and environmental protection
Part 2

SOMS Cooperative Mechanism – Any Relevance for the Arctic?
Differences in the Arctic

- Arctic is not narrow strait bordered by different States
- Potential routes for international navigation are currently in waters under the sovereignty of only one State
- Canada and the Russian Federation currently rely on Article 234 to legitimize national legislation that may not conform to the generally accepted international rules and regulations set out in UNCLOS & relevant IMO Conventions
- Arctic Council is existing Cooperative Mechanism for the Arctic
Issues for Cooperative Mechanism in the Arctic

1. Which coastal State(s) would drive and control it?
2. Would it complement the Arctic Council or be incorporated into it?
3. Would the “user States” be the same States that are now observers in the Arctic Council?
4. Would it be useful for coastal States to create a forum where they can exchange views and obtain assistance from the IMO, shipping organizations and user States?
A Cooperative Mechanism for the NSR?

- If Russia’s policy is to further develop the Northern Sea Route, it may be in its interests to create a mechanism similar to the Cooperative Mechanism for the SOMS.
- Initially the Cooperative Mechanism could be limited to a Cooperation Forum organized by the Russian Federation.
- Russia hold an annual meeting and invite interested user States and the international shipping community for an exchange of ideas on how to enhance safety and environmental protection in the NSR.
- Could also include an Aids to Navigation Fund or Projects.
As the coastal State with sovereignty and sovereign rights in the NSR, Russia should maintain that it has primary responsibility for safety and environmental protection in the NSR.

At the same time Russia should acknowledge that the IMO, user States and the international shipping community have interests in safety and environmental protection in the NSR.

Russia should consider inviting user States to cooperate by participating in an annual forum and in studies on the NSR.

One benefit of such cooperation is that Russia is likely to receive strong support from the IMO for measures it proposes on safety and environment in the NSR.
Thanks for your Attention

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