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Introduction

In September 2007, after three years of discussions and negotiations, the three littoral States bordering the Straits of Malacca and Singapore (Indonesia, Malaysia and Singapore) formally launched a cooperative mechanism that is designed to enable user States and other stakeholders to cooperate with the littoral States in enhancing navigational safety and environmental protection in the Straits of Malacca and Singapore. The cooperative mechanism is intended to implement Article 43 of the 1982 United Nations Convention on the Law of the Sea (LOS Convention)1 which provides that user States and States bordering a strait should by agreement cooperate with respect to navigational safety and environmental protection. This is the first time that Article 43 has been implemented for a strait used for international navigation. This contribution will trace the development of this cooperative mechanism and evaluate its significance.

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The Importance of the Straits of Malacca and Singapore

The Malacca Strait is 520 nautical miles in length. Its width varies from 200 nautical miles in the north to 11 nautical miles in the south. The lower half of the Malacca Strait is within the territorial sea (or archipelagic waters) of Indonesia and Malaysia. At its southern end it joins with the Singapore Strait, which is narrower and more difficult to navigate. The Singapore Strait is within the territorial sea (or archipelagic waters) of Singapore and Indonesia.

The littoral States of Indonesia, Malaysia and Singapore agreed in 1971 to adopt a common policy in the two Straits. As a result, the two straits are treated as one at the International Maritime Organization (IMO) and are commonly referred to together as the Straits of Malacca and Singapore.

The Straits are one of the world’s most important shipping lanes. They are the major route used for international navigation between the Indian Ocean and the South China Sea. Ships that pass through the Straits carry an estimated one quarter of the world’s trade and one half of the world’s oil. Approximately 11 million barrels oil transit the Straits each day, carrying a significant portion of the crude oil supplies of China, the Republic of Korea and Japan.

Figures on vessel traffic through the Straits vary. According to a study conducted by the Secretariat of the IMO, approximately 60,000 vessels per year transit the Straits. However, a study by the Ministry of Land, Infrastructure and Transport of Japan in cooperation with the Nippon Foundation found that in 2004 approximately 94,000 vessels of more than 100 gross tonnage passed through the Straits. (The discrepancy in the numbers may be a result of the size of the vessels being monitored, as only vessels of 300 gross tonnage and above are required to participate in the Straits’ mandatory ship reporting system.) According to the Japanese study, the number of tankers passing through the Straits in 2004 was

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2 Joint Statement of the Foreign Ministers of the Republic of Indonesia, Malaysia and the Republic of Singapore, announced simultaneously by the three Governments on 16 November 1971.

3 Profile of the Straits of Malacca and Singapore, Annex, Note by the Secretary-General, Protection of Vital Shipping Lanes, IMO Document C 93/15, 7 October 2004, Annex, p. 3.

4 Ibid.