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Burden Sharing in the Malacca and Singapore Straits: Sailing in the Right Direction by Mark J. Valencia

The Malacca and Singapore Straits are hazardous to navigate. There were 44 collisions and 15 groundings in the straits between 1995 and 2005. According to Japanese estimates, traffic in the already congested Straits is projected to increase dramatically from 94,000 ships in 2004 to 141,000 ships in 2020, with all attendant negative consequences. The majority of vessels using the straits do not call at any straits state port and thus the straits states – Indonesia, Malaysia, and Singapore – receive no direct benefit from their passage. Yet they bear the brunt of the burden in providing for safety of navigation, and the costs of pollution caused by accidents. Therefore the straits states, and Japan, which depends on the straits for delivery of oil from the Middle East, are exploring ways and means to share the costs of maintaining safety of navigation there.

A ministerial meeting of the straits states in August 2005 and International Maritime Organization (IMO)-sponsored meetings in Jakarta in September 2005, and in Kuala Lumpur in September 2006, between the straits states and user states produced a list of six projects to enhance the safety of navigation. But financial support for these projects is voluntary and other than long-term contributor Japan, the only other user state that has offered concrete assistance is China. India, South Korea, and the United States have made tentative verbal offers of assistance, however.

A March 13-14 interim track-two meeting in Kuala Lumpur offered some hope of more rapid progress toward burden sharing. At that meeting, Japan's Nippon Foundation chairman, Sasakawa Yohei, a man of considerable influence, particularly in the ocean industrial sector, suggested that a voluntary fee of U.S. 1 cent per dead-weight tonne be solicited from all ships transiting the straits. These contributions, estimated at as much as $40 million a year, would be used to establish a Malacca Strait Fund for maintaining and improving navigational safety in the Straits. The Fund would obviously increase over time but so would the cost of maintaining aids to navigation estimated at some $300 million over the next decade.

This idea has considerable merit because it would spread the burden equitably among users, and the cost per ship per transit is not great – $2,500 for a 250,000 ton tanker – and should not significantly impact freight rates. It also avoids the complex and controversial task of having to define "users" because the marginal costs, if any, will presumably be passed on by the shipping companies to indirect "users" such as oil producers and consumers. Further, the contributions would provide enough money to finance the proposed projects.

In what amounted to a breakthrough, the Japan Shipowner's Association director general said it would support the scheme, and other shipping associations like Intertanko said they would consider it. The Singapore Shipping Association has urged the Asian shipping industry to participate in discussions regarding the Fund.

There are still many issues to be addressed before the next official IMO meeting on the topic in September 2007 in Singapore. Among them are:

- **Hosting and Control of the Fund and its Disbursements**

  The straits states – or at least Indonesia and Malaysia – will likely want to host and control the Fund as a derivative of their sovereignty over the straits. But Japan, which has offered to establish the Fund, and other users will want input to the decisions as well as transparency and accountability. It may even want to attach "strings" to their assistance. A third possibility is IMO administration of the Fund – although that may be a time-consuming, bureaucracy-laden, and politically charged process that may not be acceptable to some straits states. The issues of the roles and governance of multiple funds may also arise, including the existing Malacca Straits Revolving Fund that covers immediate costs of oil spill clean-up, a Malacca Strait Fund, and an IMO-managed trust fund.

- **Unity among the straits states**

  Singapore's economic livelihood and political independence is dependent on continued use of the straits by maritime powers. Thus, its interests overlap those of user states more than those of Indonesia and Malaysia, which are primarily concerned with sovereignty and environmental impacts of ship-sourced pollution. Given these divergent interests, maintaining a united straits states' front on various issues will be difficult, and sharp differences between them could destroy the fragile progress already made.

- **Transiting Ships vs. Ships That Call at Straits Ports**

  Ships that transit the straits without calling at straits state ports should contribute to the fund. But a significant number of ships do call at straits ports and pay port or light dues. Should the two types of use be distinguished in terms of expected contributions to the fund? Also what is the minimum dead weight tonnage of ships that should contribute?

- **Free Riders**

  It is not at all clear that all user states and shipping associations will contribute their voluntary share to the fund. If they do not, the scheme would be unfair to contributors and would not satisfy the needs of the straits states.

- **Voluntary vs. "Mandatory" Contributions**

  Although the maritime powers and most shipping associations like the Singapore Shipping Association oppose a mandatory fee in principle, a voluntary system may not work. In addition to the free rider problem, users may fund only the cheapest projects, ignoring important but more costly ones. If sufficient contributions to enhance the safety of navigation in the straits are not forthcoming, then this issue of voluntary vs. mandatory contributions may have to be revisited. Another alternative, suggested by Robert Beckman of NUS, is to persuade user states to impose as a condition of entry into their ports, a fee on ships that transit the straits, to be allocated to a fund for maintaining aids to navigation in the straits. Or user states could impose a fee on any of their flag vessels that transit the straits. The problem with these schemes is that all user states must agree to impose the fee; otherwise countries implementing this scheme will be putting their ports or their fleets at a disadvantage.

- **Environment and Security Issues**

  While it is logical to begin with a focus on the least controversial aspect of shipping in the straits, sooner or later the focus must progress to environmental protection and ultimately to security. This progression will be difficult and contentious.

- **Contrasting Long-Term Views**

  Japan appears to think that continuous improvement of safe navigation systems can accommodate the ever-increasing number and size of vessels using the straits. In contrast, Indonesia and Malaysia perceive that there is a "tipping point" for maritime traffic – regardless of improvements – beyond which further increases are too dangerous and costly. If sufficient contributions are not forthcoming, the current straits navigational environment will continue.

The bottom line is that after many years of frustration and shop talk, there has been movement – in the right direction – to address the issues. With patience, goodwill, a sense of corporate social responsibility, and enlightened national self-interest – as well as skillful diplomacy – equitable burden sharing for the safety of navigation in the Malacca and Singapore Straits may become a reality.

Mark J. Valencia (mjvalencia@hawaii.rr.com) is a Visiting Senior Fellow at the Maritime Institute of Malaysia.