

INTRODUCTION

"The Straits of Malacca is fast becoming one of the world's dirty maritime backlanes." by Tan Sri Abdul Kadir bin Yusof, Attorney-General and Minister of Law, Malaysia.¹

The fear which generated this statement springs from the uncompromising attitude of the international maritime community. Heavy use of the Straits of Malacca which is one of the world's major natural waterways, have placed an onerous burden on the coastal states. With a daily average of 150 ships plying its treacherously shallow waters in all directions (most carrying crude oil) the coastal states live in constant fear of an ecological disaster should an accident occur.

Unfortunately the predicament of the coastal states does not produce the sympathy and consideration due. The grounding of the supertanker "Showa Maru" on January 7th, 1975, which resulted in a spillage of 3,400 tons of crude oil, destruction of marine resources, and massive clean-up operations for which Indonesia alone has submitted a bill of \$34.5 million, merited a mere mention in Newsweek and Times. The Japanese government's response to the incident was shockingly irresponsible. To an appeal by Japan's Association of Captains pressing for limitation of passage through the Straits, the Japanese government conveniently replied that Japan would not limit passage until Malaysia,

¹Statement made at the Plenary Session of the 3rd United Nations Conference to the Law of the Sea at Caracas on 10th of August, 1974.

Indonesia and Singapore reach a decision on safety regulations to prevent future accidents. It is predictable however that such regulations when drawn up by the coastal states would be met with opposition from the maritime community who would rather see coastal state interests repressed, than theirs sacrificed.

Besides the grim forebodings of maritime disasters and fears of massive pollution, the Straits have also been the focus of super-power politics. The crisis which has erupted as a result of the Malaysian-Indonesian claim of a 12 mile territorial sea and their subsequent declaration that the Straits are not an international waterway is likely to produce strange alignments among the maritime powers and to turn the Straits into a new area of Chinese-Soviet conflict. Russia, hotly in pursuit of her policy of global maritime expansion has persistently protested that the Straits should be kept open as an international waterway, free for passage of foreign ships, while China, having strong views herself on the question of territorial waters in relation to her own coastline finds that it suits her to back the Malaysians and Indonesians against the Russians. On the other side, the Americans who are always mindful of Soviet expansionist activities in the Indian Ocean and actively concerned in maintaining a balance of power in the region have suddenly found themselves bedfellows of the Russians for technical reasons. They too are opposed to the characterising of the Straits as territorial.

However the power most seriously affected economically by any

restriction on the use of the Straits would be Japan whose giant oil tanker each ply the Straits nine times yearly carrying Middle-East crude for her oil-hungry industries. A ban on the passage of these mammoth tankers of above 200,000 tons would substantially increase her import bill. The Japanese government however must decide whether it is worth saving the estimated 0.2 per cent increase in costs and face hostility from three Southeast Asian nations.

This paper examines the conflicting interests in the Straits and the implications of the extension of their territorial seas by Malaysia and Indonesia.

Chapter One deals with the geographical position of the Straits area, its historical background and status.

the effect of the Anglo-Dutch Treaty 1824 on the status of the
Chapter Two considers the/ adoption of a twelve-mile territorial sea by Malaysia and Indonesia, its validity in international law and its effect on the status of the Straits as an international waterway. Also dealt with in this Chapter are the reactions of the international maritime community towards the claims made by the coastal states and state practice regarding the status of other international straits.

Chapter Three documents the conflicting interests of the maritime nations and the coastal states in the Straits. Dealt here are the military and economic pursuits of the maritime nations as opposed to the interests of the coastal states namely national security, safety of navigation and the attendant perils of pollution.

Chapter Four is a survey of draft articles submitted by various states to the Seabed Committee at Caracas in attempts to solve the problem of the right of passage through territorial waters which fall within international straits.

The coastal states have proposed several measures to ensure and maintain the safety of navigation and the prevention of pollution in the Straits. These proposals and the right of the coastal states to take action to implement them are discussed in Chapter Five.

Chapter Six is an assessment and discussion of some proposed solutions to the problems existent in the Straits. Also dealt with are the diversity of opinions existing not only between the coastal states and the maritime community, but between the coastal states themselves.