
THE LEGALITY OF CLOSING THE STRAIT OF HORMUZ UNDER INTERNATIONAL MARITIME LAW: AN ANALYSIS OF TRANSIT PASSAGE RIGHTS AND STATE SECURITY INTERESTS

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ABSTRACT

The Strait of Hormuz is one of the most important maritime chokepoints in the world. It connects the Persian Gulf with the Gulf of Oman and serves as a major route for the transportation of oil and natural gas to international markets. Because of its strategic location, any threat to close the Strait has serious consequences for global trade, energy security, and international peace. In recent years, Iran has repeatedly threatened to close the Strait of Hormuz in response to political tensions, economic sanctions, and military activities in the region. These developments have raised important legal questions regarding whether a coastal state can lawfully close an international strait that is used for global navigation.¹

This paper examines the legality of closing the Strait of Hormuz under international maritime law. It focuses on the principles of transit passage, freedom of navigation, state sovereignty, and national security. The paper analyses the legal framework established under customary international law and the United Nations Convention on the Law of the Sea (UNCLOS). It argues that although coastal states possess sovereignty over their territorial waters, such sovereignty is not unlimited and cannot be exercised in a manner that completely restricts navigation through an international strait.²

The study concludes that a unilateral closure of the Strait of Hormuz would be inconsistent with international maritime law and contrary to the doctrine of transit passage. It further argues that maintaining open navigation through the Strait is essential for global economic stability and the preservation of the international maritime order.³

Keywords: Strait of Hormuz, UNCLOS, Transit Passage, International Maritime Law, Freedom of Navigation, State Sovereignty, Energy Security.

¹ James Kraska, *The Legal Vortex in the Strait of Hormuz*, 54 *Va. J. Int'l L.* 323, 324–26 (2014). ² United Nations Convention on the Law of the Sea arts. 37–44, Dec. 10, 1982, 1833 U.N.T.S. 397

³ Yoshifumi Tanaka, *The International Law of the Sea* 126–29 (4th ed. 2023).

INTRODUCTION

The Strait of Hormuz occupies a unique position in international maritime law and global geopolitics. Located between Iran and Oman, the Strait serves as the principal maritime gateway connecting the Persian Gulf with the Gulf of Oman and the Arabian Sea. It is one of the busiest shipping routes in the world and carries a substantial portion of internationally traded oil and liquefied natural gas. Due to its strategic importance, any disruption to navigation through the Strait has consequences that extend far beyond the interests of the coastal states.²

The importance of the Strait is not merely economic. It also has considerable legal and political significance because it raises fundamental questions regarding the relationship between state sovereignty and freedom of navigation. Coastal states generally enjoy sovereignty over their territorial sea; however, international law also recognizes that certain waterways are of such international importance that they must remain open to global navigation. The Strait of Hormuz is one such waterway.³

The legal debate surrounding the Strait has intensified because of repeated statements by Iran threatening to close the Strait in response to international sanctions and military tensions. Iran has argued that it possesses sovereign rights over waters adjacent to its territory and that it may take necessary measures to protect its national security. On the other hand, maritime powers such as the United States and many other states argue that the Strait is subject to the regime of transit passage under international law and therefore cannot be closed unilaterally by any coastal state.⁴

This debate reflects a broader tension within international maritime law. On one side lies the principle of territorial sovereignty, which allows states to exercise authority over maritime zones under their jurisdiction. On the other side lies the principle of freedom of navigation, which seeks to ensure that international shipping routes remain open and accessible to all states. Balancing these competing interests has been one of the major challenges in the development of the modern law of the sea.⁵

The United Nations Convention on the Law of the Sea, 1982, sought to address this challenge

² James Kraska, *supra* note 1, at 327–29.

³ Malcolm N. Shaw, *International Law* 586–89 (9th ed. 2021).

⁴ Ali A. El-Hakim, *The Middle Eastern States and the Law of the Sea* 173–76 (1979).

⁵ R.R. Churchill, A.V. Lowe & Amy Sander, *The Law of the Sea* 105–09 (4th ed. 2022).

by establishing the doctrine of transit passage for international straits. The Convention recognizes the sovereignty of coastal states while simultaneously guaranteeing the right of continuous and expeditious passage for ships and aircraft through straits used for international navigation. The Strait of Hormuz falls within this legal framework and therefore occupies a special status under international maritime law.⁶

This paper examines the legality of closing the Strait of Hormuz through an analysis of the historical development of the law governing international straits, the doctrine of transit passage, Iran's claims based on sovereignty and national security, and the broader position of international law regarding the closure of strategic maritime chokepoints. The paper argues that international maritime law strongly favours uninterrupted navigation through the Strait and places significant limitations on the ability of coastal states to interfere with transit passage.

CHAPTER I:

EVOLUTION OF THE LEGAL REGIME GOVERNING INTERNATIONAL STRAITS

The legal regulation of international straits developed from the broader principle of freedom of the seas. Early scholars of international law, particularly Hugo Grotius, argued that the seas should remain open to all nations and free from exclusive territorial claims. This idea gradually became one of the fundamental principles of international maritime law.⁷

Historically, coastal states exercised sovereignty over a limited area of territorial waters adjacent to their coastlines. However, international law also recognized that certain waterways served an international purpose and should remain accessible to all states. Therefore, straits connecting one part of the high seas to another were generally regarded as international waterways where navigation could not be arbitrarily restricted.⁸

An important step in the development of the law relating to international straits was the Hague Codification Conference of 1930. Although the Conference did not produce a binding convention, it contributed significantly to discussions regarding territorial waters and passage

⁶ UNCLOS, *supra* note 2, arts. 37–44.

⁷ Malcolm N. Shaw, *International Law* 586–87 (9th ed. 2021).

⁸ R.R. Churchill, A.V. Lowe & Amy Sander, *The Law of the Sea* 105–08 (4th ed. 2022) ¹¹ Yoshifumi Tanaka, *The International Law of the Sea* 120–22 (4th ed. 2023).

rights. The principles debated during the Conference later influenced the codification of the law of the sea.¹¹

Further developments occurred during the First United Nations Conference on the Law of the Sea in 1958. The Convention on the Territorial Sea and the Contiguous Zone recognized the right of innocent passage through territorial waters. However, the subsequent expansion of territorial seas from three nautical miles to twelve nautical miles created new legal problems because several important international straits became completely enclosed within territorial waters of coastal states.⁹

To resolve this issue, the United Nations Convention on the Law of the Sea, 1982, introduced the doctrine of transit passage. This doctrine was a compromise between coastal states seeking greater control over adjacent waters and maritime powers seeking unrestricted navigation. Under this regime, ships and aircraft of all states enjoy the right of continuous and expeditious passage through straits used for international navigation. Coastal states may adopt laws concerning safety, pollution control, and navigation, but they cannot suspend or deny transit passage.¹⁰

The evolution of the legal regime governing international straits demonstrates that international law has increasingly recognized the global importance of strategic waterways. Modern maritime law seeks to balance the sovereignty of coastal states with the broader interests of the international community in maintaining open and secure sea routes.¹¹

CHAPTER II

THE STRAIT OF HORMUZ AND THE DOCTRINE OF TRANSIT PASSAGE

The Strait of Hormuz is one of the most important international straits in the world. It lies between Iran and Oman and connects the Persian Gulf with the Gulf of Oman and the Arabian Sea. A significant portion of the world's oil and natural gas exports passes through this narrow waterway, making it an essential route for international trade and energy security.¹²

⁹ United Nations Convention on the Law of the Sea arts. 37–44, Dec. 10, 1982, 1833 U.N.T.S. 397

¹⁰ Convention on the Territorial Sea and the Contiguous Zone arts. 14–16, Apr. 29, 1958, 516 U.N.T.S. 205.

¹¹ Tullio Treves, *The Law of the Sea*, in *Max Planck Encyclopedia of Public International Law* 45–49 (2012).

¹² James Kraska, *The Legal Vortex in the Strait of Hormuz*, 54 Va. J. Int'l L. 323, 327–29 (2014).¹⁶
United Nations Convention on the Law of the Sea arts. 37–38, Dec. 10, 1982, 1833 U.N.T.S. 397

Under international maritime law, the Strait of Hormuz is considered a strait used for international navigation. Therefore, it is governed by the doctrine of transit passage established under the United Nations Convention on the Law of the Sea (UNCLOS). Transit passage allows ships and aircraft of all states to pass continuously and expeditiously through international straits without unnecessary interference from coastal states.¹⁶ Transit passage differs from innocent passage. Under innocent passage, coastal states have wider powers to regulate the movement of foreign vessels within their territorial sea. In contrast, transit passage provides stronger protection for navigation because coastal states cannot suspend or deny this right. Their authority is limited to adopting reasonable regulations relating to safety of navigation, environmental protection, and maritime traffic management.¹⁷

The legal significance of transit passage is particularly important in the Strait of Hormuz because the waterway serves the interests of the entire international community. Global trade and energy supplies depend heavily on uninterrupted access through the Strait. Any restriction on navigation would not only affect the coastal states but would also have serious consequences for international commerce and economic stability.¹⁸

For this reason, the doctrine of transit passage seeks to maintain a balance between the sovereignty of coastal states and the freedom of navigation enjoyed by all states. While Iran and Oman possess sovereignty over their territorial waters, such sovereignty cannot be exercised in a manner that completely obstructs passage through the Strait. Therefore, the Strait of Hormuz enjoys a special legal status under international maritime law. The doctrine of transit passage ensures that this strategic waterway remains open for international navigation and protects the interests of both coastal states and the wider international community.

CHAPTER III

IRAN'S CLAIMS OF SOVEREIGNTY AND NATIONAL SECURITY

Iran has consistently emphasized its sovereign rights and national security interests in relation to the Strait of Hormuz. Iranian authorities argue that, as a coastal state, Iran has the right to protect its territorial integrity and regulate activities that may threaten its security. These concerns have become more prominent during periods of political tension, economic sanctions,

¹⁷ R.R. Churchill, A.V. Lowe & Amy Sander, *The Law of the Sea* 117–20 (4th ed. 2022). ¹⁸ Yoshifumi Tanaka, *The International Law of the Sea* 126–29 (4th ed. 2023).

and increased foreign military presence in the region.¹³

Iran has also maintained that foreign warships operating near its territorial waters should respect its domestic laws and security requirements. From Iran's perspective, measures taken to safeguard national security are a legitimate exercise of state sovereignty recognized under international law.²

International law undoubtedly recognizes the sovereign equality of states and their right to self-defence. States may adopt reasonable measures to protect their territorial integrity and national interests. However, these measures must comply with established principles of international law, including necessity, proportionality, and respect for the rights of other states.¹⁴

In the context of the Strait of Hormuz, a complete closure of the Strait would have consequences extending far beyond Iran's security interests. Such a measure would affect numerous states that rely on the Strait for trade, energy transportation, and maritime communication. Therefore, any action taken in the name of national security must be balanced against the international obligation to preserve freedom of navigation through international straits.²¹

Accordingly, while Iran possesses legitimate security concerns and sovereign rights over its territorial waters, these rights do not provide unlimited authority to restrict or prohibit navigation through a strait used for international navigation. International maritime law requires that national security measures remain consistent with the broader legal framework governing transit passage.

CHAPTER IV

THE INTERNATIONAL LEGAL POSITION ON CLOSURE OF THE STRAIT

The prevailing view under international maritime law is that international straits used for global navigation cannot be closed unilaterally by coastal states. This principle is based on the doctrine of transit passage established under the United Nations Convention on the Law of the Sea

¹³ James Kraska, *The Legal Vortex in the Strait of Hormuz*, 54 Va. J. Int'l L. 323, 333–36 (2014).

¹⁴ Ali A. El-Hakim, *The Middle Eastern States and the Law of the Sea* 173–76 (1979).

²¹ Yoshifumi Tanaka, *The International Law of the Sea* 128–30 (4th ed. 2023).

(UNCLOS) and supported by customary international law.¹⁵

The doctrine of transit passage guarantees the right of continuous and expeditious navigation through international straits. Coastal states may adopt laws relating to navigation safety, environmental protection, and maritime traffic, but they cannot suspend or deny the right of transit passage. Therefore, a unilateral closure of the Strait of Hormuz would be inconsistent with the legal framework governing international straits.

Many maritime nations, including the United States and several European states, maintain that navigation through the Strait of Hormuz is an established legal right that cannot be restricted for political or economic reasons. This position is supported by state practice, which emphasizes the importance of maintaining open sea lanes for international trade, communication, and security.²³

The closure of the Strait would also have broader legal and political consequences. It could lead to diplomatic protests, economic countermeasures, and collective responses by the international community. Since the Strait is vital to international peace and economic stability, any prolonged disruption may attract the attention of international institutions, including the United Nations Security Council.¹⁶

Therefore, the current position of international law strongly supports the continued openness of the Strait of Hormuz. While coastal states possess sovereignty over their territorial waters, such sovereignty cannot be exercised in a manner that prevents lawful transit through an international strait used by the global community.

CHAPTER V

ECONOMIC IMPLICATIONS AND CONCLUSION

The Strait of Hormuz is one of the most important maritime trade routes in the world. A large share of internationally traded oil and liquefied natural gas passes through the Strait every day. Therefore, any disruption to navigation through this waterway would have immediate

¹⁵ United Nations Convention on the Law of the Sea arts. 37–44, Dec. 10, 1982, 1833 U.N.T.S. 397

²³ R.R. Churchill, A.V. Lowe & Amy Sander, *The Law of the Sea* 117–20 (4th ed. 2022).

¹⁶ James Kraska, *The Legal Vortex in the Strait of Hormuz*, 54 Va. J. Int'l L. 323, 340–42 (2014).

consequences for global energy markets, transportation costs, and economic stability.

The effects of closing the Strait would be particularly severe for both energy-exporting and energy-importing countries. Gulf states would face difficulties in exporting oil and gas to international markets, while importing countries would experience rising fuel prices and increased economic uncertainty. Developing economies, which are heavily dependent on affordable energy supplies, would be among the most affected.¹⁷

The economic importance of the Strait strengthens the legal principle that international straits should remain open for navigation. International maritime law recognizes that strategic waterways are not only matters of national interest but also serve the broader interests of the international community. Maintaining uninterrupted navigation through such waterways is essential for global trade and economic security.

The analysis in this paper demonstrates that the legal regime governing the Strait of Hormuz is based on a balance between state sovereignty and freedom of navigation. Although coastal states possess legitimate security interests, these interests do not extend to the unilateral closure of international straits used for global commerce. The doctrine of transit passage provides strong protection for navigation and limits the ability of coastal states to interfere with the movement of ships and aircraft through such waterways.²⁶

In conclusion, the closure of the Strait of Hormuz cannot be justified under contemporary international maritime law except in exceptional circumstances recognized by international law.

The doctrine of transit passage, supported by UNCLOS and customary international law, strongly favours the continued openness of the Strait. Any unilateral attempt to close the Strait would conflict with established legal principles, disrupt global trade, and undermine international peace and economic stability.

Therefore, preserving free and uninterrupted navigation through the Strait of Hormuz remains essential for maintaining the international maritime order.

¹⁷ James Kraska, *The Legal Vortex in the Strait of Hormuz*, 54 Va. J. Int'l L. 323, 327–29 (2014).

²⁶ Yoshifumi Tanaka, *The International Law of the Sea* 128–30 (4th ed. 2023).

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