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Navigating a Critical Issue: The Legal Status of the Strait of Hormuz in International Law

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Abstract

The Strait of Hormuz connects the Persian Gulf with the Gulf of Oman and is indispensable to international energy trade. Its legal status remains contested because Iran signed but did not ratify the 1982 United Nations Convention on the Law of the Sea (UNCLOS), while Oman is a party. This article examines three questions: the treaty and customary rules governing passage; the rights and duties of coastal, belligerent, and neutral states during armed conflict; and the implications for maritime security and economic stability. Using doctrinal legal analysis, the article examines UNCLOS Part III, the 1958 Geneva Convention, the Corfu Channel judgment, the 1994 San Remo Manual, and documented state practice in Hormuz and comparable waterways. It argues that Iran's 1982 declaration is relevant to, but does not conclusively establish, persistent-objector status, and that the customary minimum of non-suspendable innocent passage cannot simply be displaced by unilateral security claims. The transit-passage regime affords additional rights

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whose customary reach requires careful evaluation. The analysis distinguishes lawful navigation-safety and pollution controls from discriminatory tolls, indiscriminate interdiction, and closure, while recognizing the jurisdictional limits of UNCLOS dispute settlement vis-à-vis non-parties. It concludes that cooperative incident management, evidence-based restraint, and enforceable environmental safeguards provide a more legally defensible policy response than unilateral restrictions on international navigation.

KEYWORDS *Law of the Sea, UNCLOS 1982, Strait of Hormuz, Transit Passage, Persistent Objector Doctrine, Maritime Security*

Introduction

The Strait of Hormuz is a strategic international chokepoint linking the Persian Gulf with the Gulf of Oman and the wider Indian Ocean. Its significance is both economic and legal: the U.S. Energy Information Administration estimates that approximately 20.9 million barrels per day of petroleum liquids passed through Hormuz in the first half of 2025, equivalent to about one-fifth of global petroleum liquids consumption.[1] Subsequent armed conflict severely disrupted the route, demonstrating the need to distinguish pre-conflict trade dependence from real-time traffic levels. The strait is bounded by Iran and Oman, whose territorial-sea claims and competing navigation positions frame the legal controversy.

The interruption of traffic through Hormuz raises three interrelated legal questions that are often treated as one. The first concerns the legal entitlement to navigate an international strait and whether the relevant rights arise by treaty or by custom. The second concerns the conduct of states during an armed conflict, when neutral ships may be exposed to hostilities and belligerent claims of interdiction. The third concerns the effectiveness of maritime institutions in responding to navigational hazards and protecting global supply chains. Economic dependence heightens the consequences of disruption, but it cannot itself settle what the applicable law permits. The analysis therefore separates the content of legal rights from the military and commercial conditions that affect their exercise.

[1] U.S. Energy Information Administration, "Short-Term Energy Outlook: Energy Security," 2026, https://www.eia.gov/outlooks/steo/report/energysecurity/article.php.

Modern international law of the sea distinguishes between ordinary innocent passage through the territorial sea and transit passage through qualifying straits used for international navigation. UNCLOS Articles 37–44 provide for continuous and expeditious navigation and overflight without impediment, subject to transit obligations, including abstaining from activities other than those incident to continuous and expeditious passage. Article 44 prohibits suspension of transit passage, but this treaty obligation cannot automatically be attributed to a state that has not ratified UNCLOS. The separate inquiry is whether an equivalent rule is opposable to that state as customary international law. The older 1958 Convention provides for non-suspendable innocent passage through qualifying international straits under Article 16(4), a protection narrower than the UNCLOS transit-passage package.[2]

At the operational level, narrow routes, concentrated traffic lanes, and advanced weapons can make international navigation vulnerable even when legal rules remain formally applicable. A coastal state's physical ability to interrupt traffic should not be confused with a legal entitlement to do so. Equally, a flag state's assertion of transit-passage rights should not be confused with permission to conduct military activities unrelated to continuous and expeditious passage. These separate propositions frame the relationship between sovereignty, navigation, and security in Hormuz. They also explain why a meaningful response to the crisis must combine legal interpretation, restrictions on coercive conduct, and realistic arrangements for the protection of civilian shipping.

Iran and the United States have not ratified UNCLOS. Iran also signed, but did not ratify, the 1958 Convention on the Territorial Sea and the Contiguous Zone. Accordingly, the latter treaty does not bind Iran as a contracting party; any comparable obligation must instead be established as customary law.[3] Tehran has argued that the distinct rights conferred by UNCLOS transit passage were negotiated concessions for states parties. That argument must be assessed against the evidence of general practice accepted as law rather than accepted solely because Iran is not a treaty party.[4]

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[2] United Nations, "Convention on the Territorial Sea and the Contiguous Zone," Geneva, April 29, 1958, United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetails.aspx?chapter=21&clang=_en&mtdsg_no=XXI-1&src=TREATY.

[3] United Nations, "Convention on the Territorial Sea and the Contiguous Zone."

[4] United Nations, "United Nations Convention on the Law of the Sea: Declarations and Reservations," Iranian Declaration upon Signature, December 10, 1982,

Iran also invokes national security and the right of self-defence under Article 51 of the United Nations Charter in responding to military attacks or threats. However, a claim of self-defence is not a general licence to close a strait, seize third-state merchant vessels, or restrict transit indiscriminately. The necessity and proportionality of any force must be assessed separately from the navigational rights that remain applicable under the law of the sea and, in armed conflict, from the rules of naval warfare and neutrality. The legal position differs according to a vessel's status, conduct, location, and the precise legal basis advanced for interference.

The central difficulty is therefore not simply a contest between formal law and political power. Rather, it concerns the interaction of treaty obligations, customary international law, the persistent-objector doctrine, rules applicable during naval hostilities, and institutional jurisdiction. This article addresses that interaction without treating the disputed customary scope of transit passage as definitively settled or assuming that the declaration of a security emergency extinguishes otherwise applicable rights.[5]

This study adopts a doctrinal, or black-letter, approach supported by qualitative examination of documented state practice. Primary materials include the 1982 UNCLOS, the 1958 Convention on the Territorial Sea and the Contiguous Zone, the United Nations Charter, the International Court of Justice's Corfu Channel judgment, and the International Law Commission's 2018 conclusions on customary international law. The 1994 San Remo Manual is examined as an influential restatement of naval-warfare rules rather than a treaty. Secondary materials include peer-reviewed scholarship and specialist analyses. For the 2026 crisis, primary institutional statements of the International Maritime Organization and United Nations are distinguished from unverified press reports, and no single operational incident is treated as conclusive proof of opinio juris.[6]

Materials were selected based on legal authority and other relevant international norms. Additionally, the Official treaty-depositary records were used to confirm ratification and signature status; the ICJ judgment provided

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https://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XXI/XXI-6.en.xml.

[5] Corfu Channel (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949, 4, 28–29, https://www.icj-cij.org/node/103099.

[6] International Law Commission, "Identification of Customary International Law," conclusion 15 and commentary, in Report of the International Law Commission on the Work of Its Seventieth Session, UN Doc. A/73/10 (2018), 110–12, https://legal.un.org/ilc/reports/2018/english/chp5.pdf.

the foundational straits test; the International Law Commission's conclusions provided the persistent-objector standard; and the San Remo Manual provided a structured framework for belligerent and neutral conduct at sea. Recent reports and institutional statements were used to illustrate operational developments only where their dates and descriptions could be traced to identifiable primary or credible contemporary sources.[7]

Four complementary methods structure the analysis. Treaty interpretation clarifies the language and institutional operation of the relevant maritime instruments without imposing treaty obligations on non-parties. Customary-law analysis separates widespread practice from evidence that states regard that practice as legally required. Case-law analysis considers the ratio decidendi of Corfu Channel while recognising that it did not decide every feature of UNCLOS transit passage. A comparative method identifies how different waterways reconcile coastal jurisdiction and user-state interests, distinguishing natural straits from artificial canals. Finally, an incident-based appraisal separates verified institutional findings from reported claims concerning seizures, tolls, blockades, and mine risks; each is treated in light of the legal regime governing the particular conduct.

Three research questions guide the inquiry. First, how does the legal position of Hormuz differ under the treaty regimes of UNCLOS and the 1958 Geneva Convention, and which minimum navigational rules can be identified as customary law? Second, how are the rights of coastal states, belligerents, and neutral vessels affected by hostilities, including naval interdiction, safety regulation, and claims to self-defense? Third, what institutional and cooperative arrangements could reduce disruption to international shipping, energy security, and the marine environment without eroding coastal sovereignty? Each question is examined by separating treaty membership, evidence of custom, and the operational facts of particular incidents.

The study evaluates customary international law through the two-element method of a general practice accepted as law, rather than equating widespread treaty ratification with custom. State positions are classified as claims, objections, compliance practices, or institutional assessments; their probative weight differs. This approach is important because practical

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[7] International Institute of Humanitarian Law, San Remo Manual on International Law Applicable to Armed Conflicts at Sea (June 12, 1994), paras. 23–33, 146–52, https://iihl.org/wp-content/uploads/2022/01/SAN-REMO-MANUAL-on-INTERNATIONAL-LAW-APPLICABLE-TO-ARMED-CONFLICTS-AT-SEA-2.pdf.

acquiescence may reflect political expediency or navigational necessity instead of legal acceptance. The comparative material illustrates feasible governance techniques, not mechanically transferable solutions. The article therefore advances a qualified doctrinal conclusion while identifying areas where additional state records or vessel-level evidence would be necessary.[8]

The article proceeds in five parts. First, it clarifies the legal standards governing international straits, the contractual position of Iran and Oman, and Iran's persistent-objector claim. Second, it applies these standards to Hormuz using the geographic and functional reasoning of Corfu Channel. Third, it evaluates civilian, neutral, and belligerent navigation during hostilities, including documented seizures and proposals for tolls. Fourth, it compares Hormuz with the natural straits of Malacca and Gibraltar and the treaty-based canals at Suez and Panama. Finally, it considers remedies, regional cooperation, maritime environmental obligations, and implications for Sustainable Development Goals.

The Applicable International Legal Framework

The international legal framework governing the legal status of the Strait of Hormuz is a complex system primarily based on the United Nations Convention on the Law of the Sea (UNCLOS), which codifies and interacts with customary international law. This system grants commercial vessels and aircraft a robust right of transit passage while defining the limited regulatory authority of the coastal states, Iran and Oman.

A. UNCLOS, Customary International Law, and the Foundational Precedent of the Corfu Channel Case

Modern legal provisions governing passage through international straits trace their doctrinal origins to the International Court of Justice's first judgment in the Corfu Channel case (United Kingdom v. Albania) in 1949.[9] The dispute arose from the laying of mines in the Corfu Channel in 1946,

[8] International Law Commission, "Identification of Customary International Law," conclusion 15.

[9] Quincy Wright, 'The Corfu Channel Case' (1949) 43 American Journal of International Law <https://doi.org/10.2307/2193642>.

which resulted in damage to two British destroyers and the loss of 44 lives.[10] A key legal question before the Court was whether the passage of British warships through the Strait of Corfu—between the Greek island of Corfu and the Albanian coast—violated Albanian sovereignty by requiring prior permission.[11]

In Corfu Channel, the International Court of Justice held that the controlling tests for an international strait are geographic and functional: the waterway connects two parts of the high seas and is actually used for international navigation. The Court rejected the proposition that traffic volume or the absence of an alternative route is decisive on its own. It further held that, in peacetime, foreign warships could exercise innocent passage through such a strait without prior authorization, while recognizing the coastal state's authority to adopt proportionate security regulations. The judgment thus establishes a minimum customary protection for passage, but it predates and does not itself decide the customary status of the broader transit-passage regime created in 1982.[12]

Applied to Hormuz, the geographic element is straightforward: the strait is the maritime outlet connecting Persian Gulf waters with the Gulf of Oman and onward ocean routes. The functional element is also firmly supported by sustained passage of merchant ships, energy tankers, and naval vessels from numerous flag states.[13] The substantial share of global seaborne petroleum movements provides strong factual corroboration, although the Court's test does not require proof that the strait is indispensable. As a result, it is classified as a strait used for international navigation; classification alone does not determine whether the entire UNCLOS Part III package binds a non-party. That second step requires an independent treaty or customary-law analysis.[14]

The important distinction between Corfu Channel and the present problem is the scope of the protected activity. The 1949 judgment addressed innocent passage by surface warships in peacetime. By contrast, UNCLOS transit passage extends to normal modes of navigation and overflight,

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[10] Aftab Haider, Sunila Iqbal and Bushra Zeb, 'The Corfu Channel Case and the Limits of Self-Defense' [2023] Journal of Islamic and Social Studies <https://doi.org/10.30762/jiss.v2i1.1444>.

[11] Georges Malinverni, 'The Corfu Channel Case (Preliminary Objection)' *A Digest of the Decisions of the International Court / Précis de la Jurisprudence de la Cour Internationale* (2024) <https://doi.org/10.1163/9789004639904_003>.

[12] Corfu Channel (United Kingdom v. Albania), 28–29.

[13] Corfu Channel (United Kingdom v. Albania), 28–29.

[14] U.S. Energy Information Administration, "Short-Term Energy Outlook: Energy Security."

potentially encompassing military aircraft and the transit of submerged submarines. A state might therefore accept non-suspendable innocent passage while disputing some attributes of transit passage, without logically asserting an unlimited power of closure. This difference should govern how the Iranian declaration and the practice of user states are read, rather than collapsing all navigational claims into the general expression "freedom of navigation."[15]

The regime outlined in the Corfu Channel case was codified in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone.[16] Article 16(4) of that Convention provides that "there shall be no suspension of the peaceful passage of foreign ships through straits used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State."[17] This provision affirms the non-suspendable right of innocent passage through international straits—an important exception to the general system of innocent passage through territorial seas, which Article 16(3) allows coastal states to suspend temporarily for security reasons.[18]

Article 16(4) of the 1958 Convention makes innocent passage through specified international straits non-suspendable for contracting parties, distinguishing that regime from the ordinary territorial-sea rules in Article 16(3). Because Iran is not a party to the 1958 Convention, the text is relevant as evidence of the historical formulation of the rule, not as an independent treaty obligation owed by Iran. The content and opposability of a corresponding customary rule must be determined separately.[19]

The Third United Nations Conference on the Law of the Sea (1973–1982) fundamentally restructured the international straits regime, addressing the perceived inadequacy of the innocent passage standard and the conflicting

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[15] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[16] Harding F Bancroft and Eric Stein, 'The Corfu Channel Case: Judgment on the Preliminary Objection' (1949) 1 Stanford Law Review <https://doi.org/10.2307/1226351>.

[17] Koloman Roiger-Sime, '1958 - The Geneva Conventions on the Law of the Sea of 1958' (2020) 23 Austrian Review of International and European Law <https://doi.org/10.1163/15736512-02301006>.

[18] Dhiana Puspitawati and Fransiska Ayulistya Susanto, 'Protection People at Sea under International Law: How We Could Learn from Pushback Action to Boat People from Indonesia and Malaysia?' (2023) 10 Brawijaya Law Journal <https://doi.org/10.21776/ub.blj.2023.010.02.02>.

[19] United Nations, "Convention on the Territorial Sea and the Contiguous Zone."

interests between maritime powers and coastal states.[20] The result was Part III of UNCLOS (Articles 34–45), which introduced the concept of transit passage as the regime governing straits used for international navigation between one part of the high seas or an exclusive economic zone (EEZ) and another.[21] Article 37 defines the scope of Part III, stipulating that this Part applies "to straits used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone."[22]

The relationship between the two convention regimes should be understood historically. In 1958, the non-suspension rule was framed within the law of innocent passage, which continued to differentiate lawful transit from conduct prejudicial to the coastal state's peace, good order, or security. During UNCLOS III, wider territorial seas made freedom of movement through narrow international straits strategically important to commercial and naval states. Part III responded with a broader legal package, including navigation and overflight as normal modes of continuous, expeditious transit. The resulting convention did not simply rename the 1958 right; it modified its substantive scope. This historical difference explains why Iran's objection to Part III is not necessarily an objection to every pre-existing customary guarantee against suspension of peaceful passage. Nor does Iran's objection require UNCLOS parties to disregard their own treaty commitments. Any argument about customary obligations must preserve these distinct sources and functions.[23]

The distinction also influences the assessment of warship rules. Under the innocent-passage framework, the classification of a passage as innocent depends on the behaviour of the vessel and on rules governing the territorial sea. Under the UNCLOS transit-passage regime, conduct must instead be incident to continuous and expeditious transit and comply with duties including those established in Article 39. Both frameworks limit misconduct by foreign vessels, but they do so by reference to different entitlements and

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[20] Kristin Bartenstein, 'United Nations Convention on the Law of the Sea - Article 234' *Elgar Concise Encyclopedia of Polar Law* (2025) <https://doi.org/10.4337/9781035300112.00147>.

[21] Philip C Jessup, 'The Geneva Conference on the Law of the Sea; a Study in International Law-Making' (1958) 52 American Journal of International Law <https://doi.org/10.2307/2195593>.

[22] *Ibid.*

[23] United Nations, "Convention on the Territorial Sea and the Contiguous Zone."

conditions.[24] It would be inaccurate to describe the transit regime as an unrestricted right of military manoeuvre or to suggest that all harmless transit becomes permissibly suspendable whenever a coastal state declares security concerns. The precise act—transit, overflight, submerged movement, weapons exercise, intelligence collection, or interdiction—determines the legal question. This functional approach offers a more reliable basis for assessing maritime incidents than generic invocation of "sovereignty" or "freedom of navigation."[25]

UNCLOS Article 38 defines transit passage as navigation and overflight solely for continuous and expeditious passage. Article 39 imposes duties on ships and aircraft, including proceeding without delay and refraining from threats or uses of force inconsistent with the UN Charter. Article 44 requires states bordering straits not to hamper transit passage, to publicize dangers to navigation or overflight of which they have knowledge, and not to suspend transit passage. Thus, the regime protects passage rather than authorizing unrestricted operations in coastal waters.

The transit passage regime grants rights that go beyond navigation. Aircraft enjoy the right to fly overhead, submarines may transit submerged without surfacing (as this is their normal mode of operation), and warships may exercise transit passage without prior notification or permission.[26] As noted by one authoritative commentary, transit passage "specifically permits the transit of aircraft and possibly also submarines underwater, while there are fewer restrictions on conduct during transit and the coastal state's power to control transit is more limited than in the case of innocent passage."[27]

UNCLOS Articles 41–43 delimit the regulatory competence of states bordering straits. States may maintain traffic separation schemes and lawful laws on navigational safety, pollution prevention, fisheries, and limited customs matters, but they must not discriminate against foreign vessels or have the practical effect of denying, hampering, or impairing transit passage. Article 43 calls for cooperation between strait states and user states on navigational aids and prevention of ship-source pollution. Under the distinct

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[24] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[25] Corfu Channel (United Kingdom v. Albania), 28–29.

[26] IMO, 'SOLAS - International Convention for the Safety of Life at Sea, Consolidated Edition 2009' [2009] IMO - Convention.

[27] Saleh Hussain Ali and others, 'UNCLOS' Role and Limitations in Resolving Marine Territorial Disputes: Integrating Islamic Jurisprudence for Enhanced Effectiveness' (2024) 9 Al-Istinbath: Jurnal Hukum Islam <https://doi.org/10.29240/jhi.v9i2.11323>.

provisions governing innocent passage, states cannot impose charges merely for passage through the territorial sea, although they may charge for specific services rendered. These provisions support risk-based maritime regulation, not a general revenue charge simply for crossing a natural international strait.[28]

The regulatory space preserved to a strait state is especially important in environmental disputes. UNCLOS Article 42 permits certain pollution-related laws, provided they are compatible with the international rules applicable to vessel-source discharges, and Article 43 envisages cooperation to prevent, reduce, and control pollution from ships. It does not follow that a coastal state may require every tanker to obtain political clearance or pay a general transit fee as an environmental precaution. The legal design must connect the measure to navigational safety or pollution prevention, apply it without discrimination, and avoid the practical effect of depriving ships of an applicable passage right. A targeted traffic-management measure grounded in navigational evidence may therefore differ materially from an indefinite exclusion zone. The same distinction informs the proposed Hormuz cooperative mechanism: environmental jurisdiction should be operationalized through agreed technical standards and risk response, not invoked as a substitute legal basis for maritime closure.[29]

In a high-risk strait, early warning duties are more than procedural formalities. Knowledge of mines, navigation hazards, damaged vessels, and other threats can be decisive for masters choosing a route or deciding whether passage is safe. Article 44 of UNCLOS expressly requires strait states to give appropriate publicity to dangers to navigation or overflight of which they have knowledge; this duty is linked to the non-hampering obligation. In parallel, practical coordination among flag states, shipping companies, insurers, and regional authorities can help translate warnings into usable action. Nevertheless, hazard notifications must be distinguished from compulsory political permissions: warning a vessel about a genuine risk does not confer a unilateral right to suspend all passage. This is a suitable domain for technical cooperation, even when states disagree on some military transit rights.

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[28] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs," accessed October 17, 2026, https://www.imo.org/en/mediacentre/hottopics/pages/faq-safety-of-straits-used-for-international-navigation-.aspx.

[29] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

Transparency can support coastal safety while protecting the integrity of international navigation.[30]

The customary status of transit passage requires separate analysis because Iran is not a party to UNCLOS. Many maritime states maintain that the fundamental elements of Part III reflect general customary international law, citing extensive international navigation and the incorporation of transit-passage rules in state practice. Yet the conclusion should not be stated without qualification: the exact customary extent of overflight, submerged transit, and coastal enforcement limits is contested, and a treaty provision does not become universal custom solely by attracting widespread ratification.[31]

A further methodological caution is warranted: international organizations, courts, and diplomatic declarations perform different evidentiary functions. A treaty rule is directly opposable to its parties subject to the treaty's conditions, whereas a customary rule requires proof of a general practice accepted as law and a reasoned assessment of contrary practice. Diplomatic and military statements may help identify opinio juris, but their language must be matched to the conduct being regulated. The present analysis therefore distinguishes a strong baseline against suspension of innocent passage from unresolved questions about normal-mode military passage and the precise reach of Iran's objection.[32]

UNCLOS reflects an influential compromise between coastal and user states, but identifying custom depends on both state practice and opinio juris. The operation of traffic schemes and the absence of widespread suspension in other major straits support a rule of uninterrupted international navigation. At the same time, special declarations, objections, and differentiated treatment of warships have evidentiary significance.[33] The defensible minimum is the non-suspendability of innocent passage through an international strait of the Corfu Channel type; whether each additional UNCLOS Part III entitlement applies against Iran remains analytically distinct.[34]

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[30] International Maritime Organization, "IMO Condemns Attacks on Shipping, Calls for Safe-Passage Framework in Strait of Hormuz," March 19, 2026, https://www.imo.org/en/mediacentre/pressbriefings/pages/imo-calls-for-safe-passage-framework-in-strait-of-hormuz.aspx.

[31] International Law Commission, "Identification of Customary International Law," conclusion 15.

[32] International Law Commission, "Identification of Customary International Law," conclusion 15.

[33] Corfu Channel (United Kingdom v. Albania), 28–29.

[34] International Law Commission, "Identification of Customary International Law," conclusion 15.

The Straits of Malacca and Singapore offer a model of cooperation among littoral and user states, rather than evidence that national security concerns can be ignored. Indonesia, Malaysia, and Singapore established an IMO-supported Cooperative Mechanism in 2007 covering navigational aids, traffic safety, and marine environmental protection. Its support arrangements are voluntary and do not create a general per-vessel toll for mere transit. The comparison illustrates how coastal jurisdiction and uninterrupted navigation can coexist through agreed institutions.[35]

A regional-security perspective is developed in recent Indonesian scholarship on the strategic role of maritime law and deterrence in the Malacca Strait. That literature is relevant as contextual comparison, but the present analysis does not assume that greater naval capability alone establishes compliance with international-strait obligations. Deterrence and navigational governance are distinct instruments: cooperative infrastructure, incident reporting, and transparent rules may reduce security dilemmas even without resolving broader strategic competition.[36]

Like Hormuz, the Strait of Gibraltar is a natural waterway used for international navigation and borders coastal states with important sovereignty and security interests. It is therefore a useful doctrinal comparator for transit-passage rights, though its political and institutional environment differs. Neither Gibraltar nor Malacca should be presented as proving that every element of the transit-passage regime is uncontested custom; the legally relevant inquiry is the nature of state conduct, official legal claims, and consistent non-impairment of international navigation.

These comparisons suggest that maritime governance is strongest where coastal-state security concerns are addressed through practical coordination rather than unilateral restrictions. The Malacca mechanism is especially relevant because it incorporates user-state contributions to navigational infrastructure without conditioning lawful passage on payment. A similar arrangement for Hormuz would require consent, political trust, and

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[35] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

[36] Rizki Marman Saputra, Gumilar Rusliwa Somantri, and Athor Subroto, "Deterrence Effect in the Making: The Strategic Role of Indonesia's Maritime Law in ASEAN," International Law Discourse in Southeast Asia 4, no. 2 (2025), https://doi.org/10.15294/ildisea.v4i2.25028.

information-sharing arrangements. It cannot, by itself, decide the customary-law debate or confer compulsory jurisdiction over Iran.[37]

Iran's objection to the asserted customary status of transit passage must be tested against the persistent-objector doctrine, rather than presumed valid or dismissed as irrelevant. Under International Law Commission Conclusion 15, a state must object to an emerging customary rule while it is forming, make that objection clearly known to other states, and maintain it persistently. The doctrine is not a general right to opt out of established rules, nor does treaty non-ratification alone amount to persistent objection.[38]

Iran's position rests on its 1982 signature declaration. It described certain UNCLOS provisions as negotiated benefits that do not necessarily codify existing custom, expressly mentioning Article 38 transit passage and arguing that such contractual rights should benefit parties to UNCLOS. This statement constitutes relevant contemporaneous evidence of an objection to particular claimed customary entitlements. It does not, however, establish when each component of the rule crystallized or conclusively demonstrate a uniform subsequent position in every instance of state practice.[39]

The declaration should be interpreted precisely. Iran did not declare that it could freely suspend every form of passage through Hormuz; it challenged the characterization of transit passage as an already existing customary right and invoked coastal security powers over ordinary innocent passage, particularly regarding foreign warships.[40] A persistent-objector argument must therefore specify which obligation is contested—overflight, submerged passage, prior consent, or the general non-impediment duty—and assess evidence of continuous objection to that particular element. The official declaration provides stronger evidence than diplomatic inferences based only on non-ratification.[41]

Iran's declaration and subsequent non-ratification make its persistent-objector argument plausible for some additional features of UNCLOS Part III, but do not prove a comprehensive exemption from customary

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[37] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

[38] International Law Commission, "Identification of Customary International Law," conclusion 15.

[39] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[40] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[41] International Law Commission, "Identification of Customary International Law," conclusion 15.

navigational obligations. Any inquiry must weigh contrary and subsequent evidence, including user states' reactions and operational practice, and distinguish peacetime international navigation from belligerent interdiction.[42] Crucially, even a successful objection to a particular transit-passage entitlement would not automatically invalidate the pre-existing customary minimum of non-suspendable innocent passage through international straits. The safer doctrinal conclusion is conditional: the scope of customary transit passage remains contested, while a claim to close Hormuz to all innocent foreign shipping is substantially more difficult to defend.[43]

The persistent-objector doctrine also has a conceptual limit. The doctrine concerns the opposability of a customary rule to a particular state; it does not convert objections to one treaty provision into a general authorization to depart from all related customary law. The objections must be assessed against a specific proposition of legal content. An objection to submerged passage, for instance, would not necessarily encompass the uninterrupted surface passage of an innocent merchant ship. Similarly, a refusal to ratify UNCLOS may reflect dissatisfaction with unrelated parts of the convention and, without supplementary evidence, cannot satisfy the requirement of a clear and persistent objection to a particular norm. These constraints provide a response to overbroad assertions that either UNCLOS ratification alone binds Iran in every particular or that its non-ratification removes every international-law obligation. Both positions bypass the state-practice inquiry required by modern customary-law methodology.[44]

For an objector argument to succeed, the chronology should specify when relevant general practice and opinio juris coalesced. Iran's declaration is contemporaneous with the adoption of UNCLOS, which may make it significant for newly articulated rights.[45] Yet the protection of peaceful navigation through international straits long predates that treaty, and the Corfu Channel judgment is direct evidence of its customary standing in 1949. Iran would face a more substantial burden in asserting an exemption from that earlier minimum than in disputing whether later, more extensive treaty rights had become opposable as custom. The analysis thus rejects a binary choice between complete Iranian sovereignty and unrestricted UNCLOS transit. The

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[42] International Law Commission, "Identification of Customary International Law," conclusion 15.

[43] Corfu Channel (United Kingdom v. Albania), 28–29.

[44] International Law Commission, "Identification of Customary International Law," conclusion 15.

[45] Corfu Channel (United Kingdom v. Albania), 28–29.

stronger conclusion is differentiated customary protection calibrated to the particular right claimed, the time of its formation, and the available evidence of legal opposition.[46]

An objector cannot establish the requisite temporal element merely by pointing to a signature declaration if the rule in question was already customary before 1982. Conversely, an objection made during negotiations can matter if the asserted broader entitlement crystallized later.[47] The assessment thus requires a norm-by-norm chronology and attention to conduct following the declaration. Because the available public record documents Iran's express interpretative position more securely than every later operational event, this article treats objector status as an arguable defence rather than a settled exception. It also excludes the conclusion that a coastal state may invoke the doctrine to disregard general obligations of due regard, notification of navigational dangers, or protections independently applicable under the law of armed conflict.[48]

This nuanced distinction improves legal certainty for foreign shipping. An operator need not resolve the full customary controversy in order to identify a core prohibition on arbitrary, blanket interference with peaceful passage.[49] Military transit, however, demands closer attention to the applicable customary regime, the vessel's actual conduct, and any ongoing hostilities. The doctrinal disagreement is therefore most consequential at the margin of enhanced military mobility and regulation, not as an automatic legal foundation for an indiscriminate closure. Such precision also prevents the law of the sea from being treated as a substitute for the independent rules governing the use of force.[50]

B. Which Regime Applies? The Central Question

Hormuz satisfies the geographic and functional tests identified by the International Court of Justice in Corfu Channel: it connects maritime areas forming a continuous route between the Persian Gulf and the Gulf of Oman

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[46] International Law Commission, "Identification of Customary International Law," conclusion 15.

[47] International Law Commission, "Identification of Customary International Law," conclusion 15.

[48] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[49] Corfu Channel (United Kingdom v. Albania), 28–29.

[50] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.

and is routinely used by foreign shipping.[51] The commercial intensity of navigation reinforces the functional requirement, but neither the volume of traffic nor the absence of an alternative route is an independent legal prerequisite. UNCLOS Article 37 supplies the treaty definition of the straits to which Part III applies. The further issue is not whether Hormuz is an international strait, but which treaty and customary obligations are opposable to each coastal state.[52]

Iran signed UNCLOS on December 10, 1982 but has not ratified it; it likewise signed, without ratifying, the 1958 Convention on the Territorial Sea and the Contiguous Zone.[53] The Iranian declaration at signature disputed the customary character of certain negotiated UNCLOS benefits, expressly including transit passage. Accordingly, Article 16(4) of the 1958 Convention is not directly binding on Iran by treaty.[54] Its significance here is as evidence of a historically established conception of non-suspendable innocent passage, complemented by the customary reasoning of Corfu Channel.[55]

Iran's signature of UNCLOS also engages a distinct interim issue under the law of treaties. Article 18 of the 1969 Vienna Convention describes the duty of a signatory to refrain from acts defeating a treaty's object and purpose pending clarification of its intention regarding ratification.[56] Iran has signed but not ratified the Vienna Convention itself. Any reliance on Article 18 therefore requires a carefully substantiated customary-law analysis; it does not make all of UNCLOS Part III directly enforceable against Iran. The present article grounds the navigational minimum primarily in the straits-related customary rules rather than assuming that treaty signature converts contested treaty privileges into binding obligations.[57]

Oman's treaty commitments under UNCLOS are legally significant within the waters subject to its jurisdiction, and no unilateral Iranian

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[51] Corfu Channel (United Kingdom v. Albania), 28–29.

[52] U.S. Energy Information Administration, "Short-Term Energy Outlook: Energy Security."

[53] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[54] United Nations, "Convention on the Territorial Sea and the Contiguous Zone."

[55] Corfu Channel (United Kingdom v. Albania), 28–29.

[56] United Nations, "Vienna Convention on the Law of Treaties, 1969: Status," United Nations Treaty Collection, https://treaties.un.org/pages/ViewDetailsIII.aspx?TEMP=mtdsg3&chapter=23&lang=en&mtdsg_no=XXIII-1&src=TREATY.

[57] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

declaration can modify those obligations. The position is not simply that two unrelated legal regimes are mechanically selected for individual ships based on which side of a median line they enter. The navigational regime applies to the strait as a geographic and functional route, while the opposability of particular treaty rules and enforcement jurisdiction must be analyzed separately for each coastal state. Traffic separation arrangements do not transfer sovereign rights or authorize one state to regulate all traffic unilaterally.

The difference between non-suspendable innocent passage and transit passage should not be minimized. Both constrain arbitrary closure, but their scope diverges concerning overflight, submerged navigation, and the range of activities incident to a continuous voyage.[58] Under ordinary innocent passage, vessels must comply with the applicable innocence standard, and aircraft enjoy no parallel general right of overflight. By contrast, transit passage under UNCLOS covers aircraft as well as ships and operates subject to the specific duties in Article 39. Consequently, the legal significance of Iran's objection depends on the precise conduct and right at issue, even while complete interdiction of innocent shipping remains difficult to reconcile with longstanding customary standards.[59]

The resulting proposition is narrower but more robust than a claim that every provision of UNCLOS binds Iran. Hormuz is an international strait; substantial customary authority protects peaceful passage against unilateral suspension; Oman is independently bound by UNCLOS; and particular transit-passage entitlements asserted against Iran require proof of custom and examination of its objection. Claims to regulate hazardous navigation or interdict a vessel in a legally cognizable naval conflict must be assessed under the additional and distinct rules governing those actions.

The Suez and Panama Canals are artificial waterways with special legal arrangements, rather than natural straits governed principally by the law of international straits. Article I of the 1888 Constantinople Convention protects freedom of navigation through the Suez Canal in peace and war.[60] The Panama Canal is governed by its own canal and permanent-neutrality treaty framework, with nondiscriminatory access and regulated charges for canal services. These regimes must not be used to infer an inherent right of Iran or

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[58] Corfu Channel (United Kingdom v. Albania), 28–29.

[59] United Nations, "UNCLOS: Declarations and Reservations," Iranian declaration (1982).

[60] Suez Canal Authority, "Constantinople Convention of 1888," art. 1, https://www.suezcanal.gov.eg/English/About/CanalTreatiesAndDecrees/Pages/ConstantinopleConvention.aspx.

Oman to levy an equivalent toll upon ships solely for transiting the natural Strait of Hormuz.[61]

The relevant comparison turns on the legal instrument and the nature of the charge, not simply on whether the waterway is strategically important. Artificial canals operate costly infrastructure under specialized administration; agreed, nondiscriminatory canal tolls are therefore distinct from a charge demanded as the condition of transit through a naturally occurring international strait.[62] Coastal states may require payment for specific services actually supplied when permitted by the applicable regime, but the unilateral creation of an across-the-board transit fee is not justified merely by proximity to a territorial sea.[63]

TABLE 1. Comparative legal regimes of selected strategic waterways

Waterway	Sovereignty / control	Passage regime	Warship rules	Primary legal instrument
Hormuz	Iran / Oman territorial-sea jurisdiction	UNCLOS transit passage for parties; disputed customary reach against Iran	Transit under Part III for treaty parties; customary scope contested for Iran	UNCLOS arts. 34–44; custom; Corfu Channel
Malacca / Singapore	Indonesia, Malaysia, Singapore	Transit passage; cooperative safety measures	Continuous, expeditious transit subject to applicable legal duties	UNCLOS Part III; IMO-supported Cooperative Mechanism
Gibraltar	Spain, Morocco; UK role at Gibraltar	International-strait transit passage	Warship navigation under transit-passage framework, subject to duties	UNCLOS Part III; general law of the sea

[61] Office of the Historian, U.S. Department of State, "Panama Canal Treaty and Neutrality Treaty: Summary of Key Elements," 1977, https://history.state.gov/historicaldocuments/frus1977-80v29/d79.

[62] Suez Canal Authority, "Constantinople Convention," art. 1.

[63] Office of the Historian, "Panama Canal Treaty and Neutrality Treaty."

Waterway	Sovereignty / control	Passage regime	Warship rules	Primary legal instrument
Suez Canal	Egyptian sovereignty and canal administration	Treaty-protected canal navigation	Warship passage subject to canal regime and applicable wartime law	1888 Constantinople Convention
Panama Canal	Panamanian sovereignty and canal administration	Permanent-neutrality and canal access regime; tolls	Access under special treaty and canal rules	1977 Neutrality Treaty; 1977 Panama Canal Treaty; relevant 1901 Hay–Pauncefote background

Source: Various sources, analzyed by the Authors

Table 1 shows why a canal analogy cannot supply a lawful toll argument for Hormuz. Even the Suez Canal, subject to an express navigation guarantee in the 1888 treaty, is regulated through an institutional arrangement tied to the construction and operation of the waterway. Panama's treaty-based neutrality accommodates charges for canal use without authorizing discrimination among flags. Hormuz, by contrast, is a natural strait in which user-state rights operate alongside territorial sovereignty. Its coastal states may improve navigational safety and pollution response, but they cannot transform those interests into a unilateral permission-to-transit system merely by legislating domestically.[64]

Comparative cooperation also has limits. The Malacca experience rests on negotiated responsibilities among three coastal states, user-state participation, voluntary financial support, and years of institutional practice; none can be replicated by decree in Hormuz. Nevertheless, the design principles are transferable: shared hydrographic information, transparent traffic separation, emergency communication, joint environmental response planning, and funding that does not make lawful passage contingent on payment. These measures address real coastal-state vulnerabilities without

[64] Office of the Historian, "Panama Canal Treaty and Neutrality Treaty."

taking a position on a contested entitlement to unrestricted military operations.[65]

C. State Practices and Contemporary Challenges

In March 2026, Iranian lawmakers publicly discussed charging vessels for passage through Hormuz while regional hostilities disrupted international shipping. The material reviewed establishes a legislative proposal and political claims regarding control; it does not independently establish that a universally applicable and legally effective transit-charge statute had entered into force at that time. This distinction matters because threats, proposals, reported payments, and formally promulgated measures have different evidentiary status.

Any compulsory charge imposed solely as the price of traversing an international strait raises serious legal objections under the applicable law of navigation. UNCLOS Article 42 prohibits discriminatory rules that in practice deny or impair transit passage and Article 26 distinguishes mere passage from specific services in the territorial sea. Iran's non-party status prevents treating every UNCLOS article as a direct treaty duty owed by Iran, but does not extinguish the relevant customary prohibitions on arbitrary obstruction. The legal inquiry should identify the charge's factual basis, whom it targets, and whether it is genuinely compensation for a specific service rather than a disguised restriction on navigation.

Responses by international institutions offer more reliable evidence than unverified political quotations. At its extraordinary meeting on March 18–19, 2026, the IMO Council condemned threats and attacks on civilian shipping and called for a coordinated safe-passage framework. The IMO Legal Committee subsequently criticized reported tolls and discriminatory restrictions and affirmed that transit passage should not be impeded under international law. Those statements are important institutional assessments, not binding judicial determinations of the entire customary-law dispute.[66]

In addition to the proposed toll, Iran has carried out a series of actions disrupting navigation through the Strait of Hormuz. These actions include the armed seizure and detention of commercial vessels, demands that ships

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[65] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

[66] International Maritime Organization, "IMO Condemns Attacks on Shipping."

coordinate with Iranian authorities, and restrictions on vessels based on their flag or perceived hostility.[67]

A documented pre-2026 example is the April 2024 boarding of the Portuguese-flagged container ship MSC Aries by Iranian authorities while it was transiting Hormuz. The operator reported that personnel boarded the vessel by helicopter and diverted it toward Iran. The event illustrates the operational possibility of coercive interdiction, but the legality of any particular seizure cannot be established from a flag, location, or asserted political association alone. A lawful assessment would require the vessel's conduct, jurisdictional coordinates, the stated legal grounds, the applicable peacetime or wartime regime, and any available evidence supporting those grounds.[68]

The MSC Aries example also illustrates the evidentiary limits of incident-based research. Its operator confirmed the fact of boarding and diversion; that evidence should not be conflated with a judgment about the ship's ownership structure, commercial connections, or the legality of the asserted reason for its capture.[69] During peacetime, the baseline inquiry concerns territorial-sea jurisdiction and navigational rights. During an armed conflict, an additional inquiry concerns whether the vessel is neutral, whether it engaged in a legally relevant activity, and whether naval-warfare law permitted the specific interference in its location. A maritime incident matrix would therefore record the date, location, flag, commercial operator, asserted legal basis, nature of interference, and availability of a legal forum. Treating these variables separately improves reliability, avoids selective presentation, and permits subsequent empirical verification without converting disputed factual allegations into doctrinal conclusions.[70]

During the 2026-armed conflict, reports of restrictions on vessels categorized as hostile further underscored the need to separate navigational duties from belligerent rights. A coastal state cannot convert general security concerns into unlimited licensing discretion over civilian international transit. At the same time, legal evaluation cannot ignore that naval warfare may create

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[67] Deepika Badhan and Rupam Jagota, 'Geopolitical Interests and Contemporary Conflicts in the Middle East' [2025] International Journal of Innovations in Science Engineering And Management <https://doi.org/10.69968/ijisem.2025v4i2244-252>.

[68] MSC Mediterranean Shipping Company, "MSC Statement on MSC Aries Incident in the Strait of Hormuz," April 15, 2024, https://www.msc.com/en/newsroom/press-releases/2024/msc-statement-on-msc-aries-incident-in-the-strait-of-hormuz.

[69] MSC Mediterranean Shipping Company, "MSC Aries Incident."

[70] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.

limited rights of visit, search, or capture outside neutral waters under specified conditions. The nationality, ownership, cargo, destination, conduct, and neutrality of each vessel are therefore material rather than incidental details.

The crisis caused severe disruption to merchant shipping, but the term "closure" requires precision. A de facto decline in traffic may be produced by armed attacks, mines, insurance exclusions, commercial decisions, or formal coastal-state orders, each with distinct legal implications. The U.S. Energy Information Administration's 2026 figures show an extreme reduction in oil flows through Hormuz during the conflict, providing evidence of economic consequences without itself establishing the legal authorship of every interruption.[71]

The IMO Council's March 2026 response and the later work of its technical bodies demonstrate international concern for civilian navigation and seafarer protection. United Nations Security Council Resolution 2817 (2026) formed part of the diplomatic background cited by the IMO. The Council, the maritime technical committees, and states exercising coastal or flag-state jurisdiction must nevertheless maintain their distinct responsibilities: institutional condemnation does not, on its own, adjudicate an individual vessel's rights or create compulsory jurisdiction over Iran.[72]

Military transits and claims concerning maritime blockades during the 2026 hostilities illustrate an additional risk: the language of freedom of navigation can obscure differences between an ordinary exercise of passage rights, a coercive naval operation, and enforcement of a purported blockade. The legality of these acts requires separate analysis under the UN Charter, the law of the sea, and the law of naval warfare. A passage claim does not authorize hostile activities unrelated to transit, and a naval-warfare claim does not by itself extinguish neutral navigation rights.[73]

The 1994 San Remo Manual provides a specialized, non-binding restatement of the international law applicable to armed conflicts at sea. Paragraphs 23–26 recognize passage rights for belligerent and neutral vessels and aircraft through international straits under general international law. Paragraph 27 provides that peacetime transit-passage rights continue during armed conflict, and paragraph 29 states that neutral states may not suspend or impede them. Paragraph 33 separately protects non-suspendable innocent passage through the straits to which that customary right applies. These

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[71] U.S. Energy Information Administration, "Short-Term Energy Outlook: Energy Security."

[72] International Maritime Organization, "IMO Condemns Attacks on Shipping."

[73] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.

distinct provisions matter particularly where the full customary status of UNCLOS transit passage is disputed.[74]

The Manual does not place belligerent warships beyond regulation. Paragraph 30 requires belligerents passing through neutral international straits to proceed without delay and refrain from offensive operations or threats against the neutral coastal state. Conversely, paragraphs 146–52 address the capture of neutral merchant vessels outside neutral waters in specified circumstances, including contraband carriage and blockade breaches, with procedural protections. These rules cannot be interpreted as a general authorization to board or seize all neutral ships in a strait: neutrality, location, target status, grounds of capture, and the applicable passage regime remain decisive.[75]

Neutrality is not equivalent to a guarantee against every maritime security action, but it is a central constraint on the exercise of belligerent powers. The San Remo Manual differentiates passage through neutral straits from capture of neutral merchant vessels outside neutral waters and from offensive operations within a neutral state's territorial domain. This differentiation addresses both coastal-state concerns and the position of third states whose ships trade with parties to a conflict. In practice, a vessel's flag does not alone resolve questions concerning cargo, destination, control, or contractual use; nor is a commercial association with a belligerent always sufficient to justify capture. Documentation of a lawful basis, respect for procedures, and proportionate treatment of crews remain essential. Claims that a ship was linked to an adversary require fact-specific examination, and a blanket policy of treating a class of national or commercial connections as grounds for seizure risks eroding the distinction between belligerent and neutral commerce.[76]

Blockade law requires similar precision. An asserted naval blockade is subject to conditions concerning declaration, notification, effectiveness, impartial application, and limits protecting civilian populations; it does not arise simply from an announcement that a coastal state will deny navigation through a strait. Where a third-state ship is alleged to have breached a blockade, the grounds for intervention must be tested against applicable naval-warfare law, including its treatment of neutral ships and the location of the interdiction. The existence of hostilities therefore makes legal analysis more demanding, not less necessary. In Hormuz, the rules on the use of force,

[74] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[75] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[76] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.

navigational passage, neutrality, and humanitarian protection may all apply to a single episode, but each answers a different legal question. Maintaining these distinctions allows more precise criticism of unlawful interference and avoids suggesting that wartime navigation rights and belligerent rights are always mutually exclusive.[77]

The first distinction concerns neutral coastal waters. Belligerent operations in neutral territory are ordinarily prohibited, and recognizing transit through a neutral international strait does not turn that waterway into a lawful theatre for unrestricted offensive action. Transit is compatible with neutrality precisely because the strait state is not required to treat the mere continuous passage of a belligerent warship as a hostile use of its territory. A state that regulates a ship's conduct must distinguish between conduct truly incident to transit and offensive operations conducted during transit. The neutrality analysis would be different if the littoral state itself became a belligerent.[78]

The second distinction concerns neutral merchant shipping. Under the San Remo Manual, lawful prize capture depends on specified grounds and is not equivalent to indefinitely detaining a civilian ship based on broad political disapproval.[79] The right of visit and search is bounded by the vessel's location and the requirements of the armed-conflict regime; paragraph 146 expressly addresses neutral merchant vessels outside neutral waters. Accordingly, evaluate seizure evidence vessel by vessel. The examples examined in this article demonstrate risks of operational interference but do not establish that all ships seized in the region shared the same legal status or justification.[80]

Third, mine warfare creates an acute tension between military necessity and the protection of navigation. Even where military operations are otherwise governed by the law of armed conflict, the use of naval mines is subject to precautions and prohibitions intended to protect neutral and civilian shipping.[81] The IMO Legal Committee's condemnation of threats relating to mine-laying in and around Hormuz demonstrates the practical importance of these duties. Coastal states retain legitimate interests in navigation warnings, route information, and pollution response, but such measures must not be employed as a pretext for indiscriminate impediments.[82]

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[77] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[78] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[79] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[80] MSC Mediterranean Shipping Company, "MSC Aries Incident."
[81] International Institute of Humanitarian Law, San Remo Manual, paras. 23–33, 146–52.
[82] International Maritime Organization, "Legal Committee, 113th Session (LEG 113)."

D. Enforcement Mechanisms and Legal Remedies

Freedom-of-navigation operations may signal a state's legal position concerning excessive maritime claims, but they are not an international judicial enforcement mechanism. Their legal assessment turns on the conduct of the vessels or aircraft involved, the relevant navigational regime, and the separate rules restricting the threat or use of force. In an active conflict, reliance on such operations may intensify the need for deconfliction and reliable communication, especially where commercial shipping is present.

The legal value of state practice must also be distinguished from its deterrent effect. A warship's transit may evidence its flag state's understanding of navigational rights, while a coastal state's response may evidence acceptance, protest, or a divergent view. Neither a single transit nor an incident of armed interference conclusively establishes the customary rule. For affected merchant vessels, practical relief usually requires coordinated diplomatic protection, information sharing, insurance access, incident investigation, or other available legal processes.

Diplomatic and economic pressure may deter interference with navigation, but neither automatically determines the legality of a particular belligerent operation nor displaces humanitarian protections for civilian crews. The IMO's 2026 interventions placed special emphasis on food, fuel, crew changes, and communications for ships unable to leave the region. A legally durable response must therefore treat seafarer protection as an immediate operational obligation rather than only an incidental consequence of geopolitical negotiations.[83]

UNCLOS provides a comprehensive system for mandatory dispute settlement under Part XV. States parties may submit disputes over the Convention's interpretation or application to the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice, or an arbitral tribunal.[84] However, these mechanisms are limited in the Strait of Hormuz for several reasons.

First, Iran is not a party to UNCLOS and has not accepted its mandatory dispute-settlement procedures. Second, even for states that are parties, UNCLOS contains exceptions and optional reservations that may limit the scope of mandatory jurisdiction. Third, dispute resolution under

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[83] International Maritime Organization, "IMO Condemns Attacks on Shipping."

[84] Tiago V. Zanella, 'International Straits' *Law of the Sea and Maritime Security* (2026) <https://doi.org/10.4324/9781003715696-5>.

UNCLOS ultimately depends on states' compliance with rulings and awards, a possibility that may be absent in situations of geopolitical tension.[85]

Because Iran is not a UNCLOS party, the compulsory procedures of Part XV cannot simply be invoked against it without a separate basis of consent. States parties such as Oman may have Part XV rights and obligations in disputes with other parties, subject to applicable exceptions and jurisdictional preconditions; an advisory opinion is not a substitute for establishing contentious jurisdiction over a non-consenting state. For the Iran-related elements of a dispute, consensual arbitration, a special agreement, diplomatic processes, and other jurisdictionally competent procedures must be distinguished from compulsory UNCLOS litigation.

The enforcement deficit is real, but it is not an absolute absence of legal remedies. Flag states may protest interference, seek release or compensation where a forum has jurisdiction, pursue diplomatic protection, and support independent fact-finding; states parties to UNCLOS may use its dispute-settlement arrangements against other states parties within the scope of jurisdiction. The chief structural obstacle is that compulsory proceedings under Part XV do not attach to Iran merely because another coastal state has ratified UNCLOS. The normative argument is consequently strongest when it is joined to practical cooperation, evidence preservation, and clear legal grounds for any interdiction.

Legal responsibility must likewise be separated from the forum in which it might be determined. A substantive violation of an applicable customary obligation does not automatically confer jurisdiction upon ITLOS, the ICJ, or an Annex VII arbitral tribunal. Compulsory jurisdiction in the UNCLOS system principally follows from being bound by the relevant treaty and meeting applicable procedural conditions. Where Iran has not consented to the treaty's dispute settlement, possible avenues include negotiations, a special agreement to arbitrate, recourse to institutions with distinct jurisdictional bases, and the exercise of flag-state diplomatic claims. These mechanisms have different evidentiary thresholds and consequences, and their availability does not guarantee prompt relief to a detained ship. For this reason, incident documentation and preventive operational protocols deserve attention alongside proposals for eventual adjudication.

A regional arrangement could be designed to respect the juridical positions of both coastal and user states without prejudging the entire

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[85] Yurika Ishii, 'THE MYTH OF THE INTEGRITY AND UNIVERSALITY OF LAW OF THE SEA: INCIDENTS AT SEA BY NON-PARTIES OF UNCLOS' (2020) 17 Indonesian Journal of International Law <https://doi.org/10.17304/ijil.vol17.4.798>.

customary-law dispute. Its initial mandate might be limited to publishing navigational hazards, establishing real-time communication points, protecting medical and humanitarian voyages, exchanging traffic-safety data, and providing a transparent procedure for reporting and investigating interference. Further stages might establish joint exercises for marine pollution incidents and neutral expert support for disputed navigation events. Participation should be voluntary and nondiscriminatory; any financial contributions should be expressly linked to agreed services and should not operate as an arbitrary condition of lawful passage. By focusing on practical obligations that can be accepted despite wider geopolitical disagreement, the arrangement would create incremental compliance incentives without conferring disputed policing powers upon the participating states.[86]

The IMO's institutional response to the 2026 crisis combined political decisions, technical guidance, and humanitarian coordination. These measures distinguish regulatory competence from compulsory enforcement. The IMO can facilitate route safety, information exchange, seafarer assistance, and environmental protection, but its meeting resolutions alone do not turn the Organization into a maritime police authority or an international court.[87]

The IMO Council met in an extraordinary session on March 18–19, 2026, condemned threats and attacks against merchant shipping and the purported closure of Hormuz, and called for a coordinated international response. It emphasized the needs of seafarers stranded in the Gulf, including supplies and crew relief, and called for the creation of a safe maritime framework. The Council directed the Secretary-General to begin work with relevant parties. The public record thus supports pursuing a framework; it does not justify describing the March decision itself as the establishment of a fully operational, legally compulsory corridor.[88]

At its 113th session in April 2026, the IMO Legal Committee addressed the reported toll system, discriminatory shipping measures, and threats related to naval mines. Its institutional assessment reaffirmed navigation rights and criticized impediments to transit passage under international law. These conclusions provide authoritative evidence of the Organization's response but should not be presented as an adjudication of

[86] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."
[87] International Maritime Organization, "IMO Condemns Attacks on Shipping."
[88] International Maritime Organization, "IMO Condemns Attacks on Shipping."

Iran's individual legal responsibility or as proof that every alleged mine had been laid.[89]

The technical and humanitarian response developed over subsequent months rather than materializing automatically in March. IMO announced an evacuation plan for stranded seafarers in June 2026, while later official information identified operational difficulties and reported that the evacuation plan was paused.[90] The Maritime Safety Committee and Marine Environment Protection Committee adopted measures addressing safety and environmental risks, respectively.[91] It would be inaccurate to portray a specifically designated corridor with independent binding requirements as having been activated solely on the basis of the Council's March announcement.[92]

The Secretary-General's role has been to coordinate states, maritime stakeholders, and United Nations processes around humanitarian passage and the security of crews.[93] This does not replace the continuing legal responsibilities of coastal states, flag states, or belligerents. The policy lesson is therefore institutional rather than coercive: timely reporting, navigational risk assessment, contingency planning, vessel assistance, and negotiated safe movement can help maintain access even where no tribunal has jurisdiction to resolve the underlying treaty dispute.[94]

The case is directly relevant to Sustainable Development Goal 16, especially Target 16.3 on the rule of law and equal access to justice and Target 16.1 on reducing violence. Legal predictability in an international strait protects seafarers, decreases the likelihood of miscalculation, and offers a basis for transparent accountability. Yet claims of illegality should rest on documented incidents and clearly applicable rules. A narrowly designed regional safety arrangement, impartial incident reporting, and access to peaceful dispute settlement would advance SDG 16 more credibly than treating every navigation controversy as an already adjudicated breach.

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[89] International Maritime Organization, "Legal Committee, 113th Session (LEG 113)."

[90] International Maritime Organization, "IMO Announces Evacuation Plan in the Strait of Hormuz," June 23, 2026, https://www.imo.org/en/mediacentre/pressbriefings/pages/imo-accounces-evacuation-plan-in-strait-of-hormuz.aspx.

[91] International Maritime Organization, "Middle East: Shipping and Seafarers."

[92] International Maritime Organization, "Update to the Council (C 137)—Protection of Vital Shipping Lanes," July 8, 2026, https://www.imo.org/en/mediacentre/secretarygeneral/pages/update-to-council-137.aspx.

[93] International Maritime Organization, "IMO Condemns Attacks on Shipping."

[94] International Maritime Organization, "Middle East: Shipping and Seafarers."

The institutional response also underscores the need to avoid overstating international organizations' authority. The IMO may assemble technical information, issue recommendations, coordinate safety arrangements, and mobilize humanitarian assistance, but many operational measures still require state cooperation.[95] In its March 2026 statement, the Council called for a safe maritime framework; later official information recorded both evacuation planning and interruptions to that effort. These developments show how a normative position favoring safe passage can coexist with severe physical and diplomatic limitations. They also explain why transparency about operational status matters. A proposed route is not necessarily an established safe corridor, an institutional condemnation is not a judicial judgment, and an agreed humanitarian evacuation does not extinguish underlying legal disagreements concerning military passage or the conduct of hostilities.[96]

SDG 14 does not dilute navigational rights in order to promote environmental protection. Instead, it supports efforts to exercise coastal regulatory competence in ways that are consistent with those rights. Oil spill contingency planning, safe-routing information, reporting of drifting mines or damaged tankers, and coordinated assistance to vessels in distress all serve maritime biodiversity and the human communities that depend on marine resources.[97] An operational framework should assign clear responsibilities for incident communication, evidence preservation, and marine pollution response, while allowing the lawfulness of specific restrictions to be reviewed against their actual purpose and effect. In this sense, the strongest environmental policy is neither unrestricted state coercion nor regulatory abstention; it is predictable, non-discriminatory implementation of safety and pollution duties accompanied by effective interstate cooperation.[98]

The maritime-environmental dimension also engages SDG 14, particularly Target 14.1 on preventing and reducing marine pollution. Heavy tanker traffic, the risk of collision during military disruption, and the hazards posed by mines or damaged ships increase the risk of oil spills and broader harm to marine ecosystems. UNCLOS Articles 42 and 43 recognize the roles of states bordering international straits and the need for user-state cooperation in pollution prevention, while the broader treaty architecture on ship-source pollution and maritime safety remains relevant. Such authority is regulatory

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[95] International Maritime Organization, "IMO Condemns Attacks on Shipping."

[96] International Maritime Organization, "Middle East: Shipping and Seafarers."

[97] International Maritime Organization, "Update to the Council (C 137)."

[98] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

and preventive: safety reporting, oil-spill preparedness, lawful routing, and emergency response must be designed without imposing discriminatory restrictions that defeat applicable passage rights. A Hormuz arrangement should therefore integrate environmental contingency exercises, shared spill-response capacity, and transparent warnings to mariners.[99]

The connection between the two SDGs is substantive. The rule of law under SDG 16 creates predictable responsibilities for coastal states and ship operators, while the cooperative environmental measures contemplated by SDG 14 reduce the direct ecological consequences of navigational breakdown. An effective legal framework should include protocols for reporting groundings and oil releases, common technical standards for spill response, and practical assistance to distressed ships. Funding for such measures can draw upon voluntary user-state contributions and institutional partnerships, as the Malacca mechanism illustrates; it should not be designed as a mandatory permit to exercise a right of international passage.[100]

Conclusion

Hormuz satisfies the geographic and functional criteria of a strait used for international navigation. For Oman, UNCLOS Part III establishes the transit-passage framework; for Iran, which has not ratified UNCLOS or the 1958 Geneva Convention, treaty and customary duties must not be conflated. Corfu Channel and the historical law of straits support a customary minimum of non-suspendable innocent passage. Iran's 1982 declaration is material to a possible persistent objection to additional transit-passage rights, but the exception requires evidence of timely, clearly expressed, and maintained opposition to the particular alleged customary rule. Neither non-ratification nor invocation of sovereignty alone establishes a general authority to close the strait.

Armed conflict does not remove the need to classify the applicable right of passage and to distinguish neutral navigation from belligerent conduct. The San Remo Manual confirms the continuing relevance of passage rights during hostilities while recognizing narrowly conditioned rights of visit, search, and capture under naval-warfare law. Documented vessel seizures and the 2026

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[99] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

[100] International Maritime Organization, "Safety of Straits Used for International Navigation—FAQs."

maritime crisis reveal a serious gap between formal protection and safe commercial movement. They do not justify treating every seizure, transit restriction, or naval operation as governed by the same legal rule.

The most practical path is a cooperative maritime-security and environmental arrangement among Iran, Oman, affected flag states, user states, and appropriate international institutions. It could combine incident notifications, deconfliction communications, impartial vessel reporting, navigational assistance, and common pollution-response protocols. UNCLOS compulsory dispute settlement remains relevant among consenting or treaty-bound states but cannot be used against Iran without an independent jurisdictional basis.[101] Regional agreement, dialogue, and the documentation of maritime conduct should therefore complement, rather than replace, legal remedies within existing jurisdictional limits.

These findings have implications for SDG 16 and SDG 14. Protecting a lawful baseline of international passage advances predictable governance and reduces incentives for confrontation, while coordinated oil-spill prevention, ship safety, and marine environmental protection reduce the ecological costs of disruption. Clarification of the customary scope of transit passage is important; the immediate policy priority is to preserve safe, nondiscriminatory civilian navigation without negating legitimate and properly bounded coastal-state regulation.

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