

Chokepoint: The Strait of Hormuz

White Paper
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Abstract

The closure of the Strait of Hormuz, actual or *de facto*, has become the central issue in the conflict between the USA-Israel and Iran. This White Paper sets out the position in terms of politics, geography, and international law, reinforcing the belief that no one has the right to ‘choke’ the global economy. It supports the need for a regional agreement concerning the Strait of Hormuz, with a governing arrangement that is based on law and fact – and which secures international freedom of movement through this waterway.

Executive summary

With a seemingly ongoing war between the USA-Israel and Iran, the entire Gulf region is on edge – the situation continuing to evolve day by day, even hour by hour. Iran has sought to internationalize the conflict so that other countries will put pressure on the United States and its ally to end their air and missile offensives, now nominally on hold during a fragile ceasefire.

We remain, however, in the midst of a stand-off whose impacts will affect virtually everyone, everywhere. I refer, of course, to the closure of the Strait of Hormuz, that narrow, shallow, and uniquely vital waterway that connects the Gulf to the open seas – and haunts the minds of risk analysts.

In addition to people dying in countries that have little or nothing to do with the conflict, devastating socioeconomic consequences are spreading around the globe, and conditions can only get worse if the current blockades continue.

As everyone now knows, much of the world's oil and natural gas supplies – as well as derivative fuel and petrochemical products – ordinarily pass through the Strait, whether bound for Europe, India, China, or other countries across the Far East. Shortages are already apparent in products ranging from petrochemicals to polymers, from jet fuel to fertilizer. Diverse industries worldwide are affected, consumers face higher prices, and global food security is at risk.

The unfortunate targeting of oil and gas facilities in Qatar, Saudi Arabia, Kuwait, the UAE, Oman and Bahrain mean the risk to energy infrastructure in the Gulf remains very high. Before the current interruption, GCC energy products have been the lifeblood of the global economy. They have helped spread economic opportunity across the world, lifting millions out of poverty through affordable and reliable energy.

Irrespective of what happens next – whether a peace deal is negotiated or hostilities resume – the global misery caused by Iran's closure of the Strait

demonstrates a clear need for long-term solutions that are solidly rooted both in law and in fact.

There is an urgent need for durable solutions which necessitate immediate dialogue and diplomacy. Whatever form this process takes, it should be based on existing international legal provisions, upholding the rights of all states involved.

The potential gains and benefits from securing freedom of passage far outweigh any perceived ‘achievements’ of military action or the ongoing disruption to free movement in the Strait of Hormuz.

Background

The original War of the Straits took place almost 700 years ago – fought between the Republics of Venice and Genoa from 1350 to 1355. The third in a series of conflicts between the two major Italian maritime republics, the war resulted from intense rivalry over access to the Aegean Sea and Black Sea, revolving around a battle for control of passage through the Bosphorus Straits, from which the conflict drew its name.

The Battle of the Bosphorus in 1352 pitched the Genoese fleet against those of the Venetians and their allies, with the Genoese prevailing in a confused battle fought at night, during a storm. Since then, wars and conflicts over strategically important straits have erupted on a regular basis. (*See Appendix for details of the world’s major straits.*)

The Strait of Hormuz first acquired importance after World War II, given the discoveries of oil in neighbouring countries – namely Saudi Arabia, Iran, Kuwait, Iraq, Qatar, Bahrain, UAE and Oman – and became a crucial waterway following the Iran-Iraq War of the 1980s. Significant too is the nearby strait of

Bab-el-Mandeb, a narrow chokepoint separating Yemen from the Horn of Africa.

Today, around 25% of the world's oil and gas passes through Hormuz, while Bab-el-Mandeb carries a further 12%. Any closure of important straits like these will affect not only energy prices, but also global food security.

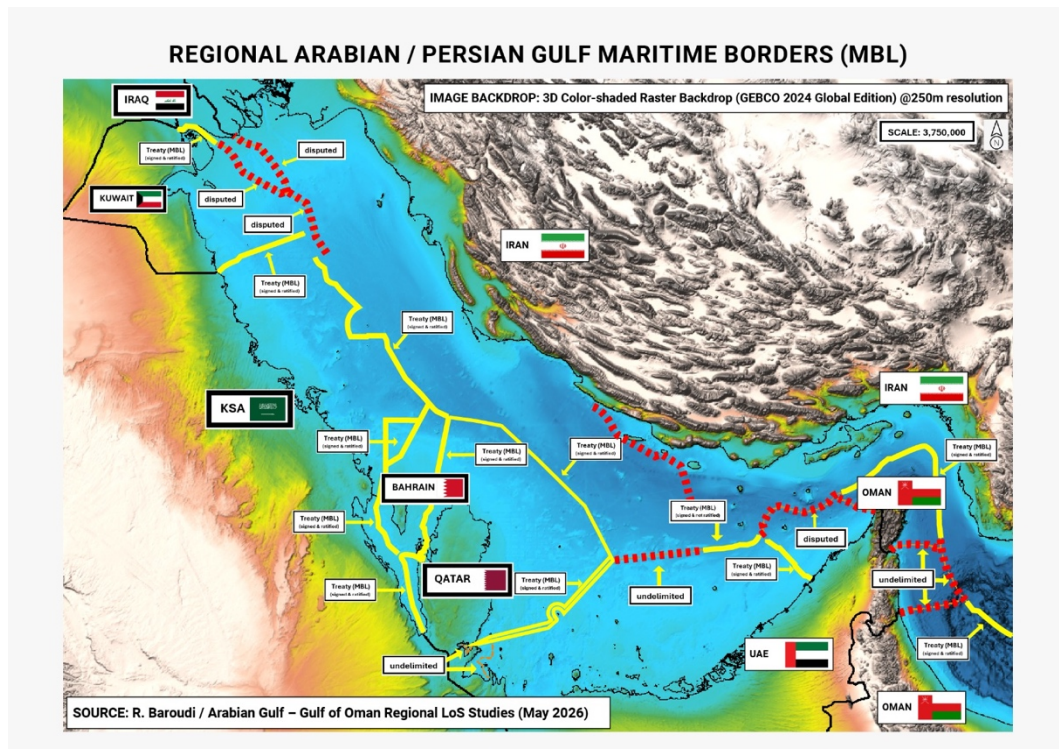
During the Iran-Iraq conflict, a tanker war erupted with civilian ships needing a military escort through Hormuz. In July 1987, President Ronald Reagan approved the escorting and US-flagging of Kuwaiti ships for free passage. In that war, considerable damage was caused by air attacks, missile hits, and mines, to which the United States responded with Operation Praying Mantis, striking Iranian naval targets – one of the most important US naval battles since World War II.

Around that time, aiming to ensure crude supply to the free world, Saudi Arabia's Aramco constructed its East-West Pipeline 2 – a 48-inch diameter connection across the Arabian Peninsula to Yanbu on the Red Sea coast. Later, the UAE launched a similar pipeline to Fujairah on the Gulf of Oman, together with an oil terminal there, to bypass the volatile Strait of Hormuz.

The Hormuz chokepoint

The significance of energy transit chokepoints through narrow channels cannot be overstated. As half of the world's crude oil supplies – and all its liquefied natural gas (LNG) – relies on maritime transportation, protecting the free flow of oil and gas through shipping routes is crucial for energy price stability worldwide, as well as the reliability of supply.

If we consider just the passage of hydrocarbons through the Strait of Hormuz, at April 2026 prices, the value of exports from countries adjacent to the Gulf is more than half a trillion dollars a year. The world economy cannot afford such a closure.



For decades, the Iranian government has claimed the right, boasted the ability, and vowed a willingness to close this waterway in response to various forms of military or other pressure from the United States.

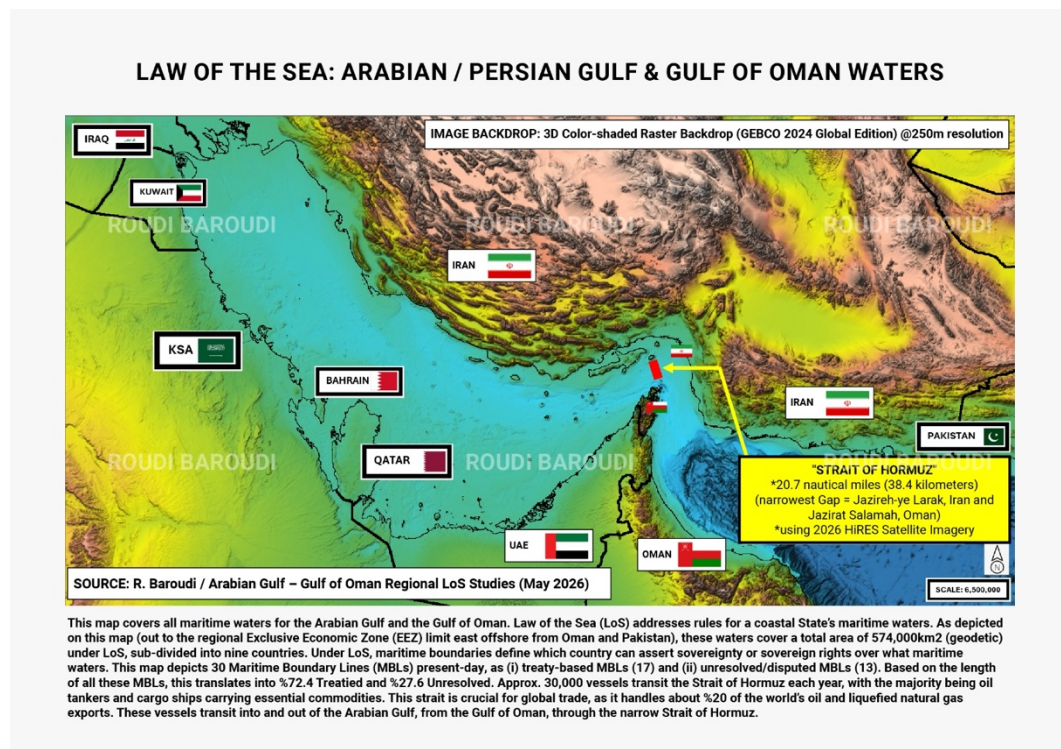
About a fifth of the world's oil transits this passage. For good measure, Hormuz is also the route by which some 200 million people, including most of the six-nation Gulf Cooperation Council (GCC), receive the majority of their food and other imports.

Outwardly, Iranian officials have denied targeting GCC countries and other states with missiles and drones, insisting that their forces were aiming instead at US military assets on their soil, even though most of these countries have not allowed their airspace to be used for the US-Israeli offensive.

Even if it were true, the Iranian interpretation would certainly be a distinction without a difference for those mourning lost loved ones, but there have now been countless attacks drone and missile attacks on homes and residential

buildings, port facilities, oil and gas infrastructure, and other civilian targets in several GCC countries. The Iranians seem to have calculated that inflicting some degree of pain on their neighbours will cause more voices – in this case from within US-allied countries – to demand a permanent end to the war.

The arithmetic of exports and imports makes Hormuz the world's ultimate chokepoint. The mere possibility of lasting disruption there has caused energy prices to rise on countless occasions, including the current crisis, and an actual closure for any length of time would be highly corrosive to the global economy. And since energy prices are baked into virtually everything else, the pain would be felt almost everywhere.



This Hormuz case study addresses the legal regime of the Strait of Hormuz as applicable to the Islamic Republic of Iran (Iran) and the Sultanate of Oman (Oman), being the coastal States bordering the Strait of Hormuz ('Strait states'), as well as countries using the Strait of Hormuz ('user states'), including merchant vessels flying the flag of user states, under the international Law of

the Sea. The rights of merchant vessels transiting the Strait of Hormuz are linked to the flag under which they are registered.

For this reason, it must be established: (i) what legal regime applies to the individual flag state concerned, and (ii) what maritime zone is involved. The Law of the Sea makes a basic distinction between a coastal State's territorial waters, a belt of sea of up to 12 nautical miles (nm) from their coastline and in which the coastal State has full sovereignty, and maritime zones beyond the territorial sea, where a coastal state enjoys more limited sovereign rights, not sovereignty. This affects the Strait passage regime.

From a legal perspective, the current situation in the Strait of Hormuz is complicated by the applicability of both the law of international armed conflict at sea (*jus ad bellum* or the laws of war, including naval warfare) and the Law of the Sea, including rules governing international navigation through straits. The belligerent states in the present conflict (Iran, Israel, and the United States) are not parties to the United Nations Convention on the Law of the Sea (UNCLOS), which was concluded in 1982 and entered into force in 1994. They have not ratified the UNCLOS. This means that the rules included in that treaty are not binding on them as treaty law.

The law of armed conflict imposes special rules on the use of force, which is lawful only in a situation of "self-defence if an armed attack occurs against a member of the United Nations" (Article 51 of the UN Charter) or following authorization by the UN Security Council. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has taken the position that international law requires proof of a specific intention of a state to attack a *particular* target, to trigger an "armed attack" permitting the use of force in responsive self-defence, including proof that the attack in question can be attributed to the accused state, such as through the actions of its armed forces. (*Oil Platforms [Iran v. USA]*, Judgment, *ICJ Reports 2003*, p. 191.)

Under the laws of war, a state using force in exercise of its inherent right of self-defence (including by firing missiles at ships or by laying submarine mines targeting ships) may have the right to use force also against foreign-flagged

merchant vessels carrying cargo that can be proven to be in transit to an attacking state, or which are transiting through an international strait while being escorted by warships of a belligerent state (here, the United States and Israel, the two countries that initially used force against Iran, triggering the current armed conflict), based on the theory that such vessels have become legitimate military objects as “enemy” merchant vessels.

Iran’s recent actions in the Strait of Hormuz do not (yet) amount to an effective “naval blockade” as this term is understood in international law. In the absence of an effective naval blockade, whatever strait passage regime applies in principle will continue to apply during an international armed conflict.

The Strait of Hormuz connects the Gulf of Oman, the Arabian Sea and the Indian Ocean with the Arabian Gulf. The coastal states bordering the Strait of Hormuz are Iran (to the north) and Oman (to the south), while the approaches to the Strait of Hormuz in the Arabian Sea (to the east) and the Arabian Gulf (to the west) also involve the maritime zones of the United Arab Emirates (UAE). An indication of the outer limits of the Strait of Hormuz can be derived from the “Agreement concerning the Delimitation of the Continental Shelf between Iran and Oman” concluded in July 1974 and fully in force. Through that treaty, the two Strait states agreed a boundary line delimiting the continental shelf between their territories. The 1974 treaty does not refer to the territorial sea of either country; it only delimits their continental shelf boundary.

A so-called Traffic Separation Scheme (TSS) is in force in the Strait of Hormuz. It was originally adopted by the Inter-Governmental Maritime Consultative Organization (IMCO) in November 1973 and was modified by the International Maritime Organization (IMO), IMCO’s successor, in June 1979. The TSS in the Strait of Hormuz comprises *inter alia* a separation zone and two traffic lanes for, respectively, westbound and eastbound traffic in the Strait. These special sea lanes are mandatory for merchant vessels transiting the Strait of Hormuz. Iran and Oman are both IMO member states and as such must respect the IMO-mandated shipping lanes in the Strait of Hormuz.

The UNCLOS includes specific provisions concerning the legal regime of straits used for international navigation in Part III, which is not limited to straits as territorial seas. However, Iran has signed but not ratified the UNCLOS, which means that the UNCLOS provisions and rules are not opposable to Iran *as treaty law*. The same applies to the UAE. Oman has ratified the UNCLOS and so have Panama and the People's Republic of China, both user states and prominent flag states. The USA, another user state, has not ratified the UNCLOS.

Under the international law of treaties, as codified in the 1969 Vienna Convention on the Law of Treaties, a state that has signed but not ratified a treaty is obligated to refrain from acts that would defeat the object and purpose of a treaty that it has signed, pending the ratification process. This rule, which is codified in Article 18 of the 1969 Vienna Convention, is widely considered as declaratory of customary international law, meaning it also is binding on a country that has not ratified the Vienna Convention (in the absence of a consistent objection). Iran has signed but not ratified the Vienna Convention.

The right of "transit passage" applicable to a strait that meets the definition under UNCLOS Article 37 is more liberal and stronger than the right of "innocent passage" applicable to a coastal state's territorial sea in general. Article 38(2) of the UNCLOS defines transit passage as "the exercise in accordance with this Part [III] of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone, and another part of the high seas or an exclusive economic zone". The same provision makes clear that "the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a state bordering the strait, subject to the conditions of entry to that state".

According to Article 34 (1) of the UNCLOS, "the regime of passage through straits used for international navigation established in this Part [III] shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or sovereign rights over such waters and their air space, bed and subsoil". In other words,

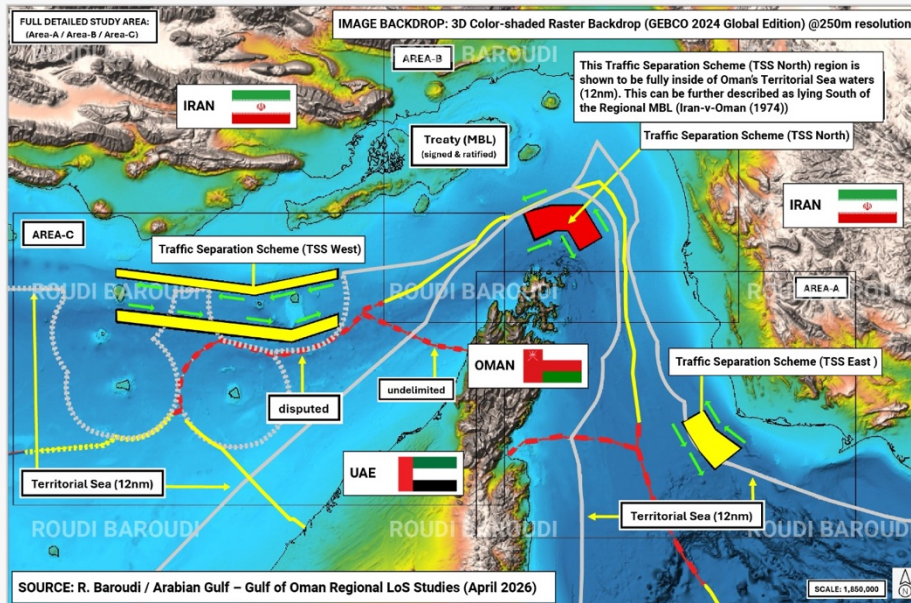
the UNCLOS strait transit regime is not restricted to the territorial sea of a coastal state.

Article 39 of the UNCLOS spells out the duties of ships during transit passage, including to “proceed without delay through...the strait.” Article 44 of the UNCLOS includes a treaty obligation for coastal states bordering straits not to hamper transit passage in any way. The same provision stipulates that “there shall be no suspension of transit passage” in an Article 37 strait by states bordering such a strait. Unlike the right of “innocent passage” through a coastal state’s territorial sea in general (*discussed below*), suspension of the exercise of the right of transit passage in territorial sea *straits* is hence unlawful under the UNCLOS.

Therefore, the applicable legal regime regarding strait passage depends on whether a given state is a party to the UNCLOS, having signed and ratified that treaty, or whether it is subject to customary international law in the absence of a treaty that is applicable to that state. According to Iran, the UNCLOS regime of transit passage applies only to states having ratified the UNCLOS; this regime does not apply to non-ratifying states that have objected to the right of transit passage, such as Iran, and the right to transit passage does not reflect customary international law. In contrast, the position of the United States is that the UNCLOS transit passage regime reflects customary international law, meaning it also applies to non-ratifying states unless they have consistently objected to it.

For states party to the UNCLOS, including Oman, Article 37 “applies to straits which are 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.” The Strait of Hormuz fits this definition which, as earlier noted, is not limited to straits as territorial seas. For Article 37 straits, the regime of “transit passage” applies. Thus, the Strait of Hormuz is a “transit passage” strait for states party to the UNCLOS, including both Oman as a Strait state and user states such as Panama and the People’s Republic of China.

HORMUZ EMPIRICAL MAP: ECONOMIC, LEGAL, AND SCIENTIFIC ANALYSIS



To the extent that the UNCLOS transit passage regime can be considered to reflect customary international law, which has not been authoritatively established, the UNCLOS transit passage regime is also applicable to user states that accept it as being declaratory of customary international law or which have not consistently objected to it, the United States being an example.

For States that are not party to the UNCLOS and which have objected to the UNCLOS transit passage regime as being declaratory of customary international law, including Iran, the Strait of Hormuz is subject to the right of “innocent passage” under general international law. The customary law status of the right to “innocent passage” was recognized by the ICJ in its judgment rendered in the *Corfu Channel* case between the United Kingdom and Albania in 1949, as follows: “It is, in the opinion of the Court, generally recognized and in accordance with international custom that states in time of peace have a right to send their warships through straits used for international navigation between two parts of the high seas without the previous authorization of a coastal state, provided that the passage is *innocent*. Unless prescribed in an international

convention, there is no right for a coastal state to prohibit such passage through straits in time of peace”. (*Corfu Channel* case, Judgment, *ICJ Reports 1949*, p. 4.)

This statement is reflected in Article 16(4) of the 1958 Convention on the Territorial Sea and the Contiguous Zone, which reads: “There shall be no suspension of the innocent passage of foreign ships through straits which are 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”. By its language, this provision extends the innocent passage regime to straits. Iran has signed but not ratified the 1958 Convention – while Oman has not signed this treaty but did ratify the UNCLOS in 1989. Iran’s signature means that it is obligated to refrain from acts that defeat the object and purpose of the treaty it has signed.

Understanding the waters

The fact of the matter is that Iran administers only a small section of the Strait, specifically a strip of the northern channel usually used for entering the Gulf, and international law gives it no legal authority to suspend shipping there for more than a few hours without compelling reasons.

Article 44 of the 1982 Law of the Sea specifically mentions that innocent passage cannot be denied. This is one reason why Tehran has been so cagey about its intent, for instance by having its parliament pass illegal legislation supposedly authorizing closure but then leaving the activation to the executive branch.

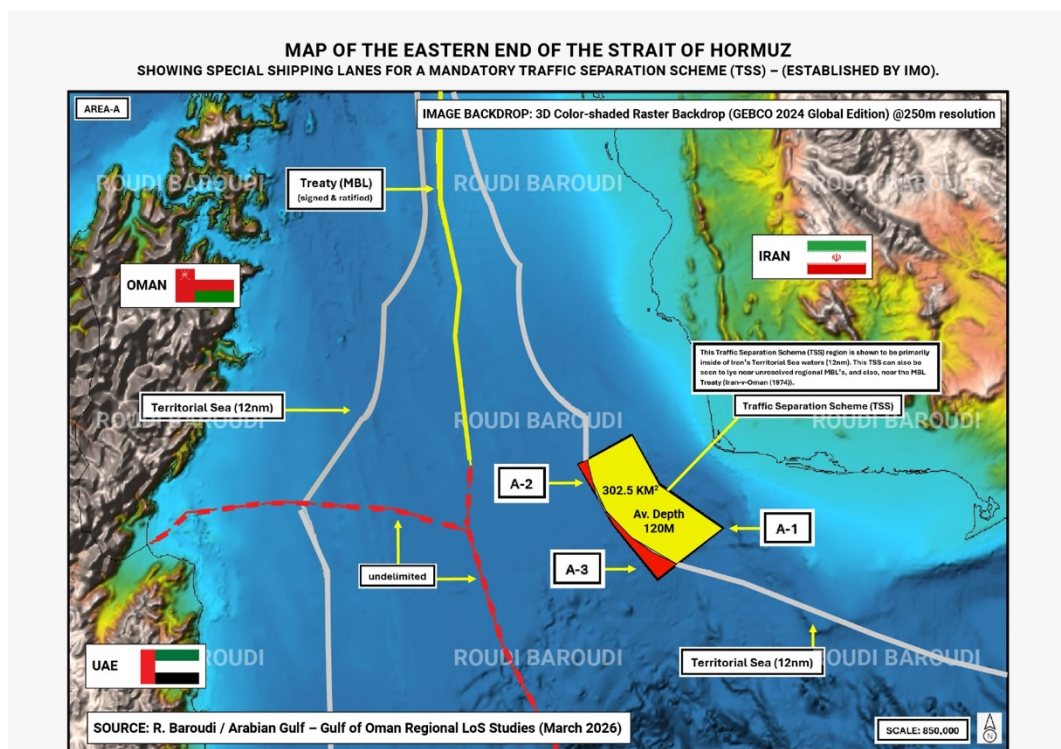
In legal terms, then, it is difficult to conceive of circumstances in which Iran could justify closing the Strait and imposing so much hardship on so many people around the world. Whatever its stated intentions, its actions would amount to little more than sabotage and extortion.

Yet the stand-off situation in and around the Strait of Hormuz has escalated rapidly. This is because Iran has threatened to directly target shipping in the

Strait, and indeed several vessels have come under deliberate fire from its forces. Even if insurance cover were available, these are risks to which most shipping companies would never subject their crews and hulls, especially when the cargo is something as volatile as oil or LNG.

So, in effect, the Strait is closed, meaning that one-fifth of the world's oil and LNG can no longer reach market and, therefore, that two pillars of global economic stability – affordable transport and affordable electricity – are becoming increasingly brittle. Likewise, significant percentages of the key commodities, including fertilizers, aluminium, helium, polymers, and various forms of chemical feedstock, are not available for supply. These are essential to many industries and to the jobs they provide around the world – from agriculture, construction, and heavy industry to food processing, clothing, and the latest digital technologies.

Let us consider three geographical areas of Hormuz in more detail:



Area A (see above map)

This area is located at the eastern end of the Strait where vessels enter the Strait en route to the Arabian Gulf. It includes special shipping lanes subject to a mandatory Traffic Separation Scheme (TSS), established by the International Maritime Organization. These shipping lanes are situated for the most part in the territorial waters of Iran.

Assuming that the special treaty regime of “transit passage” under the UNCLOS Part III does not apply to Iran, because Iran has not ratified the UNCLOS and Part III is not binding on Iran as customary international law (since Iran has objected to its customary status), Iran may treat this area, which lies in maritime space that it may claim as its territorial waters under contemporary international law and which lies to the south-east of the continental shelf boundary delimited in the Iran-Oman treaty of July 1974 and due east of a yet-to-be-delimited boundary between Iran and the UAE (and a future tri-junction point for Iran-Oman-UAE), as being subject to the “innocent passage” regime applicable to straits in territorial seas under general international law.

It is widely accepted that a coastal state may adopt laws and regulations, in conformity with the rules of international law, relating to innocent passage through its territorial sea, as recognized in Article 21(1) of the UNCLOS which is part of “Section 3. Innocent Passage in the Territorial Sea,” except that Article 42(2) of the UNCLOS provides that the application of such laws and regulations in a territorial sea subject to innocent passage shall not “have the practical effect of denying, hampering or impairing the right of transit passage” applicable to an Article 37 strait.

While Article 233 of the UNCLOS explicitly reserves the exercise of enforcement jurisdiction for states bordering an Article 37 strait, it is not applicable to Iran *as treaty law* because Iran has not ratified the UNCLOS. According to Article 8 of the “Act on the Maritime Areas of the Islamic Republic of Iran in the Arabian Gulf and the Oman Sea” adopted unilaterally by Iran in 1993, the Government of Iran “may suspend the innocent passage in parts of its territorial sea”.

According to Article 19 of the UNCLOS, passage is *innocent* “so long as it is not prejudicial to the peace, good order or security of the coastal state” and takes “place in conformity with this Convention and with other rules of international law”. Any suspension of innocent passage through *straits* within territorial seas likely violates general international law.

This rule is expressed in Article 45(2) of the UNCLOS (and it also follows from the 1949 *Corfu Channel* judgment of the ICJ): “There shall be no suspension of innocent passage through such straits” (that is, straits not subject to the UNCLOS Part III or subject to the regime of innocent passage).

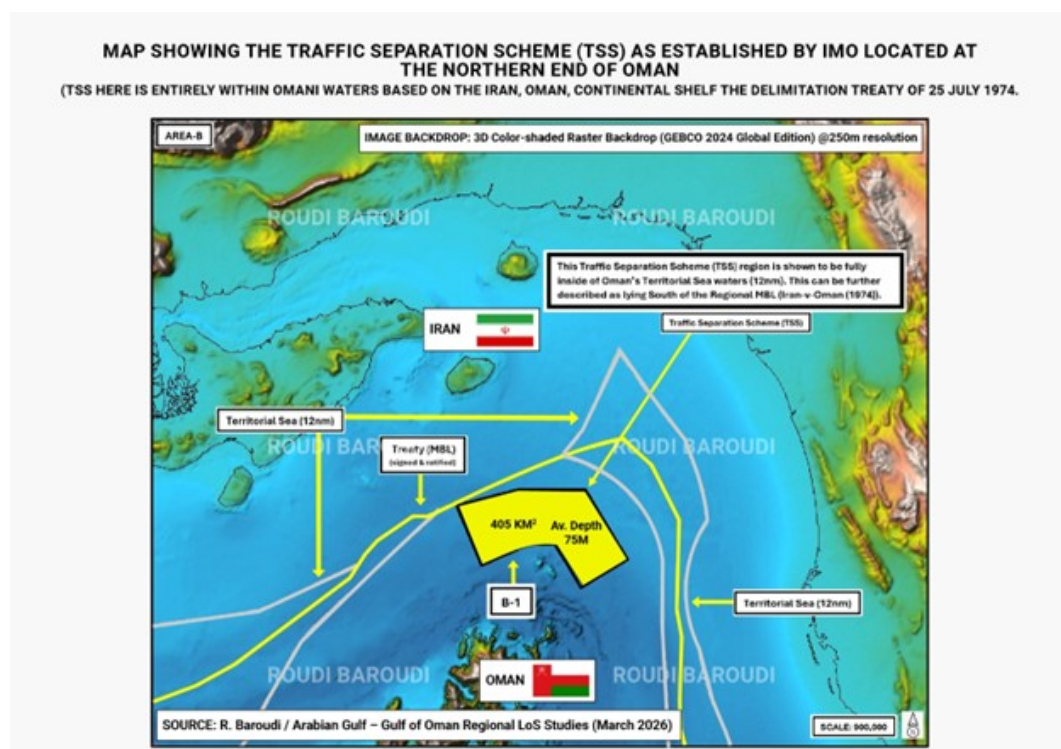
Therefore, the right of innocent passage in the Strait of Hormuz is non-suspendable innocent passage. The limited exceptions that Article 21 of the UNCLOS allows for non-suspendable passage apply only if passage is not “innocent”. The UNCLOS regime of transit passage does not allow for similar exceptions. As Article 38 of the UNCLOS makes clear, “all ships and aircraft enjoy the right of transit passage, which shall not be impeded” in Article 37 straits.

If merchant vessels using the IMO-mandated shipping lanes in Area A navigated in a straight line to the IMO-mandated shipping lanes in Area B, lying due north of Oman, they might navigate out of waters that could be considered as being the territorial sea of Iran and into what could be considered the contiguous zone of Iran adjacent to Iran’s territorial waters, and into what could be considered to be Oman’s contiguous zone before entering the Area B shipping lane that lies entirely in Oman’s territorial waters.

Article 33 (1) of the UNCLOS recognizes a zone contiguous to a coastal state’s territorial waters as the “contiguous zone” in which the coastal state may exercise functional jurisdiction by exercising the control necessary to “(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea; (b) punish infringement of the above laws and regulations committed within its territory or territorial sea.”

According to Article 33(2) of the UNCLOS, the contiguous zone as a rule “may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured”. Outside a coastal state’s territorial waters, the strait passage regime applicable to straits as territorial seas arguably no longer would apply if the “innocent passage” regime is applicable, because the UNCLOS (and presumably customary international law) limits “innocent passage” to territorial seas in Section 3 of Part II, whereas the UNCLOS “transit passage” regime applies to straits generally, whether within or outside of territorial waters.

The northeastern TSS lane in Area A is predominantly situated within 12 nm from the straight baselines that Iran has claimed along its coast abutting the Gulf of Oman and which it could legitimately claim as its 12 nm territorial waters based on contemporary international law. This is depicted as lane segment A1 on the above map (in green). The two separate southwestern smaller sections of the TSS lane in the Gulf of Oman are depicted as lane segments A2 and A3 (in red), to which the analysis regarding contiguous zones set forth in the previous paragraph applies.



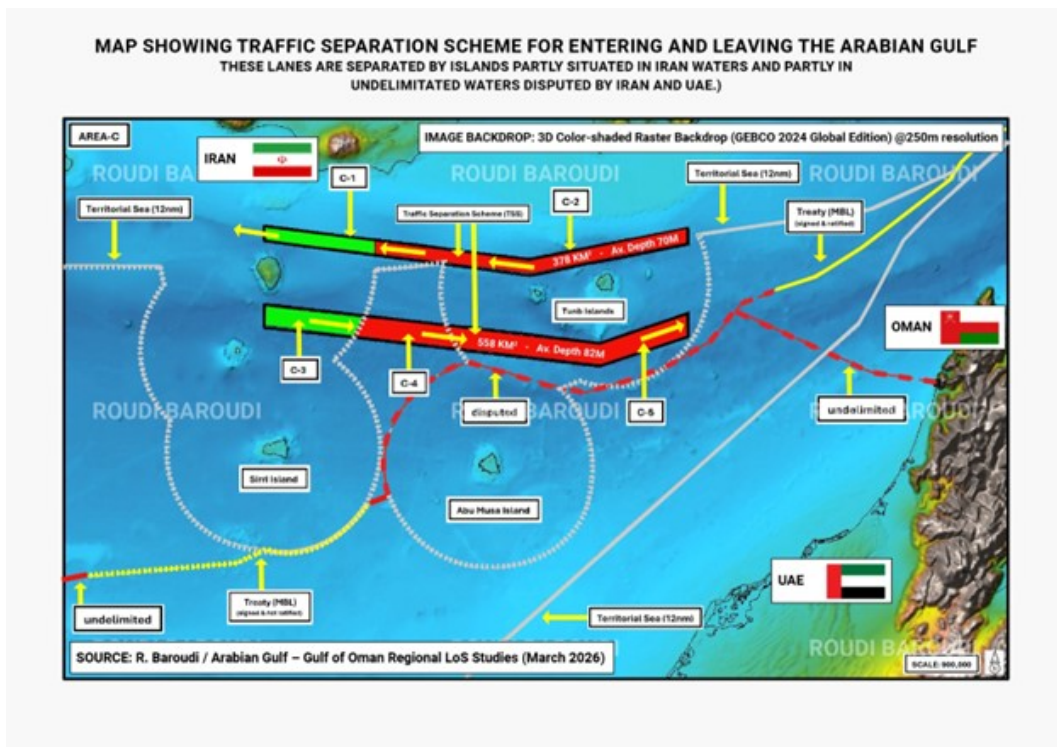
Area B (see above map)

This area is located at the northern end of Oman, where vessels round the narrowest portion of the Strait, north of Oman, en route to the Arabian Gulf. At the narrowest point of the Strait in this area – calculated to be 20.7 nm (or 38.4 km) based on 2026 satellite imagery, the territorial waters of Iran and Oman overlap. The TSS shipping lanes mandated by the IMO in this area are located entirely within Omani waters, based on the Iran-Oman Continental Shelf Delimitation Treaty of July 1974.

This area within the Strait of Hormuz, including the mandatory TSS shipping lanes (depicted as B1), lies entirely within waters that are subject to the sovereignty or jurisdiction of Oman, as established through the maritime boundary line agreed in the Iran-Oman Treaty of July 1974. This includes Oman's sovereignty over a belt of sea not exceeding 12 nm from Oman's baselines along Oman's northern coast (these are "straight" baselines connecting points along the coast). Given that Oman has signed and ratified the UNCLOS, the UNCLOS "transit passage" regime applies to Oman and any user State having ratified the UNCLOS (and by extension to vessels flying their flag) in Area B.

Given that Iran has no jurisdiction over this area of Hormuz, is an IMO member state, and has signed the UNCLOS, Iran is obligated to respect the rights, including the right to unimpeded transit passage through IMO-mandated sea lanes, that other states (including Oman and strait user states) and vessels flying their flags enjoy under the UNCLOS, if such other states have ratified the UNCLOS.

As noted earlier, as a state that has suffered an armed attack by other states (namely, Israel and the United States), Iran may be able to claim rights under the international law applicable to international armed conflict in relation to foreign-flagged merchant vessels that may conflict with the applicable passage regime in this area.



Area C (see above map)

This area is located at the western end of the Strait of Hormuz facing the Arabian Gulf. It includes special shipping lanes subject to a mandatory TSS established by the IMO, divided into inbound (north) and outbound (south) lanes. These lanes, which are separated by islands, are both situated partly in what Iran can claim as its waters and partly in undelimited waters disputed between Iran and the UAE. The area used for international shipping lies near islands that are disputed between Iran and the UAE, including Abu Musa and the Greater and Lesser Tunb islands. There is no agreed/delimited maritime boundary around the disputed islands.

This area within of Hormuz, closest to the Arabian Gulf, includes mandatory TSS shipping lanes that are situated partly in waters that have not been delimited by treaty and hence are subject to future delimitation in accordance with international law. The analysis of Area C involves a separate analysis of the northern TSS lane, dedicated to traffic transiting into the Gulf, and the southern TSS lane for traffic transiting from the Gulf.

The northern TSS lane in Area C is partly situated within 12 nm from the straight baselines that Iran has claimed along its coast abutting the Arabian Gulf and which it could legitimately claim as its territorial waters based on contemporary international law. This is depicted as lane segment C1 on the above map (in green). The westernmost point of the northern TSS lane is situated just north of the Iranian island of Sirri, which is located in waters north of the maritime boundary delimiting the continental shelf agreed in the Iran-UAE (Dubai) Delimitation Treaty of August 1974. This treaty was ratified by Iran in March 1975, but the UAE has not ratified it according to the website of the UN Division of Ocean Affairs and the Law of the Sea (DOALOS) (see the yellow dotted line on the map).

Short of ratification by both countries, it would not be considered a delimitation treaty binding on Iran or the UAE. However, this treaty line can be considered as representing a *de facto* maritime boundary, because all regional hydrocarbon blocks, as issued by both Iran and the UAE according to the Enverus (Drilling Info) database, appear to respect this boundary line.

Article 1 of the 1974 treaty stipulates that from its Point 3 “the boundary line coincides with the southern 12-nm limit of the territorial waters of the Sirri island,” which belongs to Iran. Under international law, Sirri island generates a 12 nm arc of territorial sea. In the northern TSS lane designated for inbound traffic entering the Arabian Gulf, Iran must respect the customary non-suspendable right of *innocent* passage of ships using that lane and arguably it must respect the unrestricted right of transit passage enjoyed by (neutral) vessels flying the flag of a state having ratified the UNCLOS.

The eastern half of the northern TSS lane in the Strait of Hormuz is situated just north of the Greater and Lesser Tunb islands that are subject to a sovereignty dispute between Iran and the UAE (although Iran has controlled these disputed islands since the early 1970s). This segment is depicted as lane segment C2 on the accompanying map (in red). This segment of the northern TSS lane is located in waters that are yet to be delimited, and no delimitation can be made until the question of the sovereignty over the Tunb islands has been resolved in accordance with international law.

The maritime zones that the disputed Tunb islands may generate under international law, including a possible 12-nm territorial sea around each island, will depend on which of the two states has sovereignty and what maritime boundaries flow from sovereignty over the insular landmass involved.

If sovereignty over both Tunb islands is determined to belong to Iran, it could in principle claim a 12-nm territorial sea around both islands, except that the maritime boundary to the south of the Tunb islands remains to be delimited between Iran and the UAE (Sharjah) in accordance with international law.

If sovereignty over both Tunb islands is determined to belong to the UAE (Sharjah), it could in principle claim a 12-nm territorial sea around both islands, except that it would create an area of overlap with the 12-nm territorial sea limit that Iran could claim, measured from the straight baselines along its mainland coast, and such an area would need to be delimited by Iran and the UAE in accordance with international law. On the map, the unresolved 12-nm territorial sea limits around all disputed islands are shown as grey dotted lines.

Article 38 (1) of the UNCLOS provides for a limited exception to the right of transit passage in Article 37 straits “if the strait is formed by an island of a state bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics”. Article 38(1) is not applicable here, if only because an island over which sovereignty is disputed is not “an island of a state bordering the strait” pending the determination of sovereignty, and Article 38 (1) is not binding on Iran *as treaty law* because Iran has not ratified the UNCLOS.

The southern TSS lane in Area C, which is used for outbound traffic entering the Strait of Hormuz from the Arabian Gulf, is more complex and can be divided into three separate segments for purposes of analysis, depicted as TSS lane segments C3 (in green) and C4 and C5 (in red) on the Area C map.

The segment of the southern TSS lane, the entry point of which lies due south of Iran's Sirri island, depicted as segment C3, is situated within waters allocated to Iran under the Iran-UAE (Dubai) Delimitation Treaty of August 1974, Article 1 of which refers to "the southern 12-nm limit of the territorial waters of the Sirri island". As noted above, it appears that Iran has ratified the 1974 treaty but that the UAE has not, meaning the treaty has not entered into force and the boundary remains undelimited pending ratification. Segment C3 lies within the 12-nm limit measured from the normal baselines of Iran's Sirri island that Iran can claim as its territorial sea. The first paragraph under Area A above is applicable to this segment.

The southern TSS lane segment lying between the eastern 12-nm limit generated by Iran's Sirri island and the western 12-nm limit generated by the disputed island of Lesser Tunb (the smaller of the Tunb islands) claimed by both Iran and the UAE (and controlled by Iran since the early 1970s) is depicted as lane segment C4 on the map. This segment can be considered as being a contiguous zone outside the territorial waters of Sirri and outside the yet-to-be-limited territorial waters of Lesser Tunb island.

Given that segment C4 is not situated within the territorial sea of any insular landmass, no "innocent passage" regime applicable to territorial seas is applicable in this segment, but the more liberal "transit passage" regime of the UNCLOS may be applicable, at least to states that have ratified the UNCLOS (and by extension vessels flying their flag). As a member state of the IMO, Iran is obligated to respect this segment as an IMO-mandated TSS lane, which implies that Iran must refrain from interfering with vessels transiting through this segment.

The southern TSS lane segment, lying between the western 12-nm limit generated by the disputed island of Lesser Tunb (situated to the east of Iran's Sirri island) and the eastern 12-nm limit generated by the disputed island of Greater Tunb (situated to the east of Lesser Tunb), which are claimed by both Iran and the UAE (and controlled by Iran since the early 1970s), is depicted as TSS lane segment C5 on the accompanying map (in red).

This segment of the southern TSS lane is located in waters that are yet to be delimited, and no delimitation can be made until the question of the sovereignty over the Tunb islands has been resolved in accordance with international law.

If sovereignty over both Tunb islands is determined to belong to Iran, it could in principle claim a 12-nm territorial sea around both islands, except that the maritime boundary to the south of the Tunb islands remains to be delimited between Iran and the UAE in accordance with international law.

If sovereignty over both Tunb islands is determined to belong to the UAE (Sharjah), it could in principle claim a 12-nm territorial sea around both islands, except that this would create an area of overlap with the 12-nm territorial sea limit that Iran could claim measured from the straight baselines along its mainland coast, and such area would need to be delimited by Iran and the UAE (Sharjah) in accordance with international law.

Notwithstanding the fact that segment C5 of the southern TSS lane lies in yet-to-be-delimited waters, which could be territorial sea waters generated by the disputed Tunb islands, Iran, as the country currently exercising control over these islands, must arguably also respect the customary non-suspendable right of *innocent* passage of ships using that lane segment, and arguably it should respect the unrestricted right of transit passage that (neutral) vessels flying the flag of a state that has ratified the UNCLOS enjoy in this segment. This follows from the authoritative statements made by the ICJ in its 1949 judgment rendered in the *Corfu Channel* case.

Legal obligations

Whether in attacking ships and or closing the Strait of Hormuz, Iran is in pure violation of its obligations as a member of the IMO. As such, Iran must respect decisions taken and rules adopted by the IMO, including the operation of mandatory TSS shipping lanes such as those in effect in the Strait of Hormuz.

Any conduct impeding or interfering with innocent passage by foreign-flagged merchant vessels through the TSS lanes violates Iran's IMO obligation to act in good faith, which is a principle of international law.

With regard to the international law of treaties, Iran has signed but not ratified the Vienna Convention of 1969. Treaties, and the law of treaties, remain applicable during armed conflict. The rules set forth in them are not automatically set aside or suspended during an armed conflict, and an armed conflict as such is no valid ground for terminating a treaty such that it is no longer applicable. If this were otherwise, international humanitarian law, including as codified in the 1949 Geneva Conventions, would no longer apply during an international armed conflict, resulting in a situation of lawlessness.

Under Article 51 of the Charter of the United Nations, Iran as a UN member has the right to use force in exercise of its inherent right to self-defence after suffering an "armed attack." International humanitarian law (*jus ad bellum* or the laws of war, including of naval warfare), including as codified in the Geneva Conventions, imposes limits on what states can do during a situation of international armed conflict. Military action during armed conflict (*jus in bello*) always is subject to the twin conditions of reasonableness and proportionality. The blocking of an international strait by a strait state in retaliation for an armed attack, or during international armed conflict, is clearly a disproportionate action in violation of international law. The current situation in the Strait of Hormuz does not qualify as an effective "naval blockade" as that term is understood under international law of warfare, and to which separate rules apply.

Equally, international law does not permit the 'hijacking' or blocking of international straits. As a state bordering on a strait, Iran is obligated to respect the customary international law regime of non-suspendable "innocent passage" of merchant vessels in an international strait such as the Strait of Hormuz. Iran has stated that it does not consider itself bound by the special UNCLOS regime of "transit passage," but that the less restrictive regime of "innocent passage" under customary international law applies to it as a strait state.

The fact that Iran has suffered an armed attack by Israel and the United States does not nullify the non-suspendable “innocent passage” regime that is applicable to Iran. That customary regime continues to apply, while Iran does arguably have a right to deny innocent passage to belligerent warships (US and Israeli naval vessels) in the Strait of Hormuz, as well as a right to use force against “enemy” merchant vessels transiting the Strait, including merchant vessels that are part of a naval convoy led by belligerent states and/or that can be shown to carry cargo destined for a belligerent states – but the latter right is debated by international law scholars and hence is not clear.

On the legal question of whether Gulf countries could sue Iran for the damage inflicted, there is no system of compulsory jurisdiction in today’s world that would allow sovereign countries to sue each other, including collectively as claimants. No sovereign state can be sued without its consent. There are hundreds of existing treaties that include a “compromissory clause” whereby the states party to the treaty containing the clause agree in advance to consent to the jurisdiction of some court or tribunal, typically the International Court of Justice – the principal judicial organ of the United Nations seated in The Hague, Netherlands – or some arbitral tribunal in the event of a dispute regarding the application or interpretation of the treaty.

Only 75 of the UN’s 193 member states have accepted the ICJ’s compulsory jurisdiction under the “Optional Clause” of Article 36(2) of the ICJ Statute (a unique “advance consent” mechanism), and many of them have attached restrictive reservations to their Optional Clause declarations that are intended to shield them from future proceedings before the ICJ. Only in a situation where both states party to an ICJ case have accepted the ICJ’s compulsory jurisdiction could they end up suing each other before the ICJ, and always subject to the limitations set forth in the Optional Clause declarations of the two states.

For present purposes, Panama (a Strait user) and the United Kingdom have accepted the ICJ’s compulsory jurisdiction under the Optional Clause. Iran accepted the ICJ’s compulsory jurisdiction under the Optional Clause in June 2023, but none of the countries bordering the Arabian Gulf have done so,

meaning this mechanism is of no use to Iran or its neighbours. Iran's Optional Clause declaration accepting the ICJ's compulsory jurisdiction is limited to two categories of dispute: (i) the jurisdictional immunities of the state; and (ii) immunity from measures of constraint against the state. In other words, it is quite limited.

Moreover, Iran has expressly excluded the following disputes from the ICJ's compulsory jurisdiction in its Optional Clause declaration: (i) disputes relating to questions which fall essentially within the domestic jurisdiction of Iran; (ii) disputes relating to sovereignty, sovereign rights or jurisdiction over land or maritime areas; and (iii) disputes with any state not recognized by Iran. In other words, Iran's acceptance of the ICJ's compulsory jurisdiction through the ICJ Statute's Optional Clause is of no use in the present circumstances, in addition to the fact that none of the regional countries have accepted the ICJ's compulsory jurisdiction under Article 36(2) of the ICJ Statute, meaning they could not sue each other before the ICJ.

An unfolding crisis

The problems caused by effective closure of the Strait could have been overcome, provided the disruption did not persist for too long. And indeed, early releases of strategic oil reserves by the United States (172 million barrels) and members of the International Energy Agency (400 million barrels) initially helped to calm markets when they were announced. This effect soon began to wear off, however, when markets realized that those releases amount to only about one month of the usual transit cargoes through Hormuz. The United States then found two other cards to play by temporarily "de-sanctioning" Russian oil and an estimated 140 million barrels of Iranian crude currently held in floating storage, helping to alleviate the supply gap and reduce upward pressure on prices.

Sadly, we are now well beyond that point. After Israel attacked Iranian infrastructure associated with the latter's South Pars gas field (part of the world's largest single field, known in the Qatari sector as the North Field), Iran's response was not just to attack Israel's largest refinery – it also lashed out at energy production and export facilities in several of its Arab neighbours. Refineries, LNG plants, and other assets have now been damaged or destroyed in all six member states of the GCC: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

This loss of production capacity constitutes an exponential worsening of the situation – for, even if Hormuz were to reopen tomorrow, there is no way to fully compensate for the oil, gas, and other products that have been taken off the market. Delay alone is costly and disruptive, but the destruction of production capacity constitutes a massive step-change because much of it simply cannot be replaced any time soon.

In some cases, repairs may take weeks or months, but others entail more lasting impacts. QatarEnergy says the damage at Ras Laffan, for example, has taken 17% of Qatar's national LNG capacity offline – and that it will take five years to repair. Given that Qatar is among the world's leading exporters of natural gas, a long period of elevated gas prices is unavoidable. Of course, several countries have new LNG capacity at various stages of design or construction, including Qatar itself, plus the US, Australia, and Canada. These will help in the longer term, but not with the current price surge. Even when they do come online, much of their output will already be accounted for.

As catastrophic as these setbacks are, they pale in comparison to what awaits billions of people if current situation continues or deteriorates.

First, consider the GCC countries themselves. They did not ask for this war, several of them expended considerable diplomatic effort trying to prevent it, and yet they are incurring enormous physical and economic damage, not to mention the lives and livelihoods lost. Much of the focus has been on what is no longer coming out of the Gulf, but the GCC states also have to worry what is no longer coming in: this includes most of their food and other essential

products, and virtually all of their cars, computers, televisions, and industrial machinery. Of course they can arrange alternative delivery routes, but that will impose significantly higher costs for virtually everything – a burden that will be particularly onerous for the millions of migrant labourers who live in the GCC countries.

These same countries have shown remarkable restraint (thus far) by not retaliating for Iranian missile and drone strikes, but a recent meeting of Arab foreign ministers in Riyadh signalled that this patience is not infinite. These countries cannot be expected to remain on the receiving end of so much undeserved devastation without responding in kind, and if and when that happens, the global supply crisis is liable to get even worse.

Especially in poorer countries unable to pay exorbitant prices for oil and gas, the results could include widespread power outages and record-breaking inflation, possibly leading to famine, social unrest, and even political instability. Wealthy countries have more ways to cushion the blow, but higher energy prices will, of necessity, hurt those least able to take the hit. I stress here that the vast majority of countries are members of the United Nations, and many of them are likewise generous contributors to the UN and the developing world. Many of the poorer countries have made enormous sacrifices in the name of international peace and security, often by sending their troops to act as peacekeepers in some of the world's dangerous hotspots.

The duty to protect civilians during armed conflict is a universal and overriding one, and while many belligerents harm civilians and their interests by accident, Iran's actions deliberately target the welfare of civilians around the world. The number of countries that Iran can hit with missiles or drones is relatively limited. But closing the Strait of Hormuz triggers consequences and to which no country on earth will be immune, causing many of them to demand a return to diplomacy.

In reality, Iran is already getting some of what it wants. Information published by Navionics and other ship tracking services indicates that until the current interruption, increasing numbers of ships were avoiding Iranian waters

altogether, sailing entirely or almost entirely in Omani waters. But several ships have already been damaged, putting instant upward pressure on insurance rates and convincing most shipping companies that the risk is too great. Hundreds of hulls – carrying oil, LNG, and all manner of general cargo – are now waiting to leave the Gulf, with hundred more piling up outside it. Prices are already starting to rise, and each day that passes makes energy scarcer and more expensive.

It won't take long for the consequences of disruption to grow in size and severity. Traders and speculators may be able to stave off the full impact for a few weeks, and other oil producers can pump more to compensate, but eventually most of the GCC states will run out of storage and have to halt production. The situation for LNG could be even worse because there are so few producers, and Qatar has already halted production over safety concerns, idling almost a fifth of global output.

For all of these reasons, this war involves far more than the official belligerents. Anyone who uses energy in any way has a direct stake in the outcome. Even countries that export oil and gas have a vested interest in a return to stability: rising prices might be tempting in the short term, but they inevitably damage economies and weaken demand over time.

The question of tolls or taxes

Amid conflict in the Gulf, Iran has begun to monetize the closure of the world's most important waterway by allowing its own oil shipments to reach the open sea, and by collecting tolls for vessels from friendly or neutral nations. Everyone else remains in limbo: GCC oil and gas producers have seen their revenues drop; their customers in Asia, Europe, and elsewhere are scrambling to find alternatives; some 250,000 seafarers are stranded aboard ships inside the Gulf, many of them low on food, water and other essentials.

Yet the imposition of levies by a state bordering an international strait on vessels passing through it is incompatible with (even illegal under) both the UNCLOS “transit passage” regime and the “innocent passage” regime of customary international law.

The essential difference between the two regimes is that “transit passage” includes the right of overflight for aircraft and allows submarines to travel submerged, whereas “innocent passage” arguably applies to vessels only and requires submarines to navigate on the surface. Transit passage allows unrestricted and continuous transit through an international strait – “unrestricted” meaning no levies may be imposed for transit, for a levy is considered to constitute a restriction.

The International Maritime Organization (IMO) warned recently that imposing fees on ships transiting the strategic Strait of Hormuz would set a “dangerous precedent.” It also stressed the need to uphold freedom of navigation in accordance with international laws governing maritime routes.

The UN agency confirmed that no international agreement permits the charging of fees, tolls, or taxes for transiting international straits. It stressed that such a move would constitute a clear violation of the legal rules governing maritime navigation. The organization pointed out that the United Nations Convention on the Law of the Sea clearly stipulates the right of passage for ships through international straits without the imposition of restrictions or charges that impede this right.

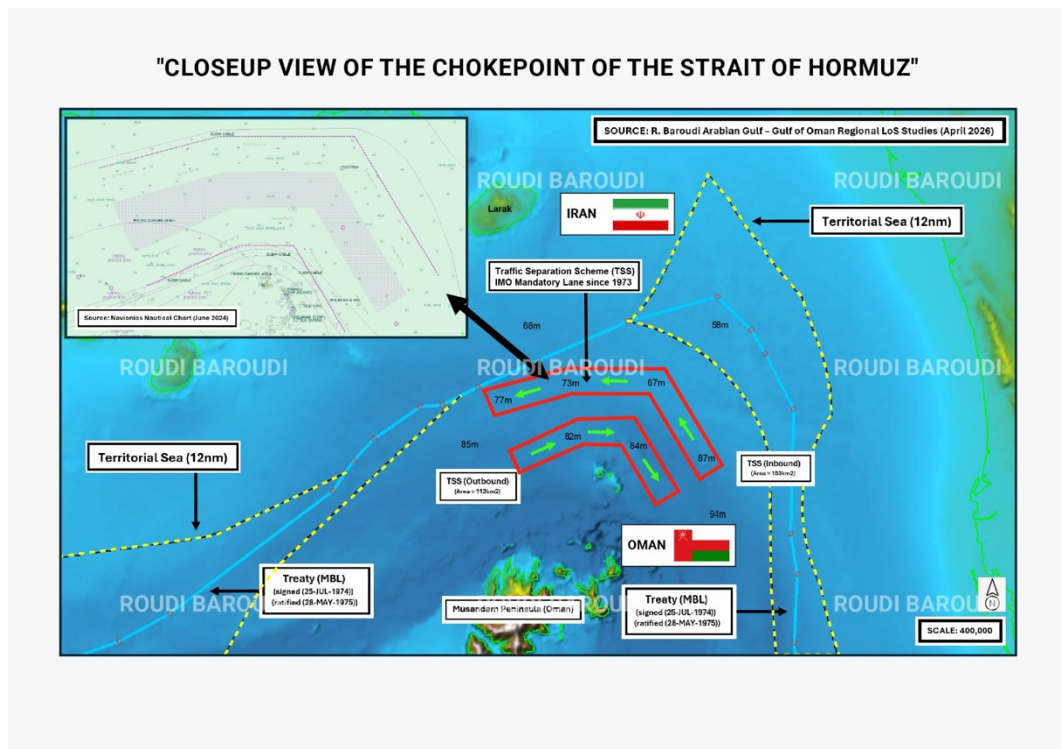
It added that states bordering straits are legally obligated not to obstruct or restrict navigation, emphasizing that any unilateral actions that violate these rules could escalate international tensions.

Illegal weaponisation of the Strait of Hormuz would set a dangerous precedent, according to Singapore’s Prime Minister, Lawrence Wong. “The world therefore cannot afford to go down this path,” he stressed. “If we were to do so, we will end up in a more disorderly and unstable world – one governed by coercion and force rather than rules.” Singapore has consistently supported

efforts to keep critical sea lanes open and stands ready to work with partners to restore a free and open Strait of Hormuz, in accordance with international law. “That means no tolls, no restrictions, and a return to the situation before the war.”

Conclusion: on securing freedom of passage

I conclude that the Strait of Hormuz is clearly an international waterway and that no country may choke the global economy. The following map provides empirical evidence of who owns the waters and, by applying the IMO conventions that all the belligerent countries have subscribed to, the situation can be resolved by negotiation, without resorting to military action that would cause further death and destruction. All of the important tools are in place to solve the international differences. Let’s work towards dialogue and intensive diplomacy to achieve a durable peace.



Transit and free passage regimes apply to all nations using the passage, as does customary international law. Both Iran and Oman have sovereignty over waters within their own maritime boundary lines and can enforce neutral shipping only there.

Diplomacy takes place on multiple levels, from public statements and backchannel communications to purely procedural exchanges and informal trust-building exercises. In the current circumstances, given how many people are being affected, no stone can be left unturned in convincing Iran to release its chokehold on the global economy, or in convincing its opponents to maintain a ceasefire. All responsible participants, willing or otherwise, should push for a negotiated solution.

Dialogue and diplomacy are never wasted efforts. Even when they fail to prevent or end a conflict, discussions carried out in good faith can leave behind the building blocks for a future understanding. The mere fact of direct or indirect contacts can also relieve the intensity of operations – therefore limiting potential casualties and reducing the impetus for war – as planners consider the impact of military action on ongoing negotiations.

As human beings, therefore, we should never give up on the possibility of peace. But nor can we sit and say nothing as Iran lashes out at peoples and countries who have nothing to do with this conflict, destabilizing the entire region and undermining standards of living the world over. Qatar and Oman, it should be noted, had worked tirelessly to keep Iran out of a war in the first place.

No one has a greater stake in such solutions than Iran and its Arab neighbors. They all use the Strait to reach customers worldwide and to feed their own people. Now, they will have not only to repair wartime damage, but also to restore international confidence in the world's most critical waterway.

Moving forward, the significance of energy transit chokepoints cannot be overstated. Protecting the free flow of oil and gas through maritime shipping routes is crucial for energy security and price stability in global markets.

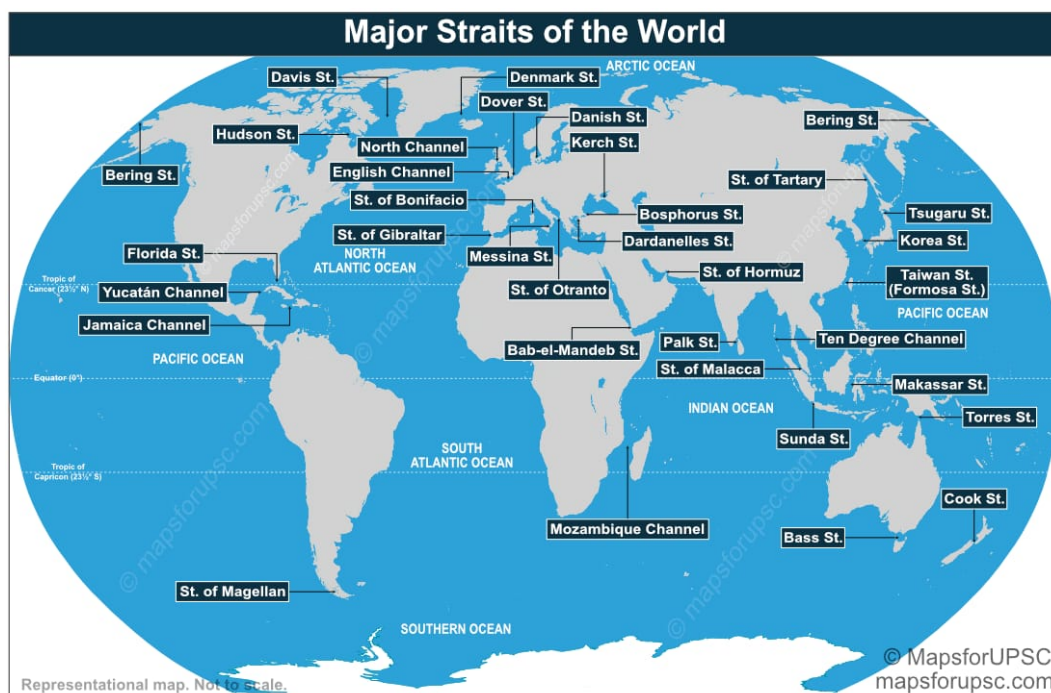
Dialogue and diplomacy are essential – and should be based on existing international legal provisions, upholding the rights of all states involved.

As mentioned earlier, the potential gains and benefits from securing freedom of passage far outweigh any perceived ‘achievements’ of military action or the ongoing disruption to free movement in the Strait of Hormuz.

We all need peace.

Roudi Baroudi, is CEO of Energy and Environment Holding, an independent consultancy based in Doha. As an author who has written and spoken extensively on the need for dialogue and diplomacy, his efforts to promote peace and cooperation in the Euro Mediterranean region earned him the 2024 Leadership Award from the Transatlantic Leadership Network, a Washington think-tank.

Appendix: World straits and shipping canals



This appendix details a selection of those straits and shipping canals around the world that are most significant to international trade.

Strait of Malacca

A vital artery connecting the Indian and Pacific Oceans – important for global hydrocarbons and commercial trade flows involving:

- Indonesia
- Malaysia
- Singapore

English Channel

Connects the North Sea and the Atlantic, handling hundreds of vessels daily – crucial for European trade involving:

- United Kingdom
- France
- Belgium
- Netherlands
- Germany
- Denmark
- Norway
- Plus vessels from Asia, the Middle East, Africa, and the Americas, going to European ports

Strait of Hormuz

A key passageway for global hydrocarbons – critical to:

- United Arab Emirates
- Saudi Arabia
- Qatar
- Kuwait
- Bahrain

- Iraq
- Iran
- Oman

Suez Canal

A critical waterway in Egypt, linking the Mediterranean with the Red Sea – important to:

- China
- India
- Japan
- South Korea
- Saudi Arabia
- United Arab Emirates
- Qatar
- Italy
- Greece
- United Kingdom

Bosphorus Strait

The world's narrowest strait for international navigation, connecting the Black Sea with the Mediterranean – vital to:

- Russia
- Ukraine
- Romania
- Bulgaria
- Georgia
- Turkey

Panama Canal

Connects the Atlantic and Pacific Oceans – crucial to:

- United States
- China

- Japan
- South Korea
- Chile
- Peru
- Mexico
- Canada