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The Significance and Distinctive Characteristics of the Joint Statement on the Strait of Hormuz in light of the Law of the Sea

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Introduction

On the night of February 28, 2026, following the U.S. strikes against Iran, the Tasnim News Agency reported that the Strait of Hormuz had been closed[1]. It was also reported that, on March 2, a senior official of the Islamic Revolutionary Guard Corps (IRGC) explicitly stated that the Strait of Hormuz would be closed[2]. Furthermore, it was reported that, on March 11, the same official indicated a policy under which passage through the Strait of Hormuz would require Iranian permission, and that on March 12, Ayatollah Mojtaba Khamenei, who had been chosen as Iran's Supreme Leader, emphasized that the closure of the Strait of Hormuz would be thoroughly enforced[3]. In addition, the UK Maritime Trade Operations (UKMTO) reported that, between February 28 and March 11, 13 vessels were attacked in the vicinity of the Arabian Gulf (Persian Gulf), Strait of Hormuz, and Gulf of Oman[4]. Against this backdrop, on March 11, the United Nations Security Council (hereafter, the UN Security Council) adopted Resolution 2817, which condemning Iran's acts and threats aimed at obstructing or otherwise interfering with navigation through the Strait of Hormuz and demanding that Iran refrain from such measures[5]. Furthermore, on March 19, the United Kingdom, France, Germany, Italy, the Netherlands, and Japan issued a joint

statement (the Joint Statement from the Leaders of the United Kingdom, France, Germany, Italy, the Netherlands, and Japan on the Strait of Hormuz; hereafter, the “Joint Statement”) condemning the *de facto* closure of the Strait of Hormuz by Iranian forces, calling on Iran to immediately cease all acts, including intimidation, that obstruct the navigation of merchant (commercial) vessels, and to comply with Security Council Resolution 2817, while affirming that "freedom of navigation" is a fundamental principle established under international law and calling on all states to comply with international law[6]. After the 19th, more than 15 additional countries subsequently joined the Joint Statement, and as of March 21, 22 countries, including Oman and the United Arab Emirates (UAE), were parties to it[7].

One notable feature of the Joint Statement is that, with the exception of Oman and the UAE—both of which have suffered Iranian attacks within their own territory—it was issued by third states that were not direct combatants in the armed conflict between the United States and Israel, on one side, and Iran, on the other. From the standpoint of international law, and the law of the sea in particular, however, its significance and distinctive features lie in two points: first, in its focus on merchant shipping and maritime commerce as the content of the navigational interests in an international strait; and second, in its manifestation of freedom of navigation as a fundamental principle of the law of the sea that remains applicable even in situations of armed conflict. Thus, this paper begins by explaining why these two points can be regarded as distinctive characteristics from the standpoint of international law, particularly the law of the sea.

The Strait of Hormuz is an international strait composed of the territorial seas of coastal states situated between one part of an exclusive economic zone (or high seas) and another part of an exclusive economic zone (or high seas). Under the United Nations Convention on the Law of the Sea (UNCLOS), the right of transit passage is, in principle, recognized in such an international strait (Articles 37 and 38). Yet the Joint Statement makes no

mention of the right of transit passage, and identifies only freedom of navigation as the relevant principle of international law. Freedom of navigation, however, is properly a principle applicable to waters beyond the territorial sea, namely international waters such as the high seas and exclusive economic zones. It might therefore appear incongruous when invoked in relation to passage through the Strait of Hormuz, which is composed of the territorial seas of coastal states. Nevertheless, the Strait of Hormuz possesses distinctive legal and institutional characteristics, and the particular circumstances surrounding the conflict make it difficult to characterize Iran's *de facto* closure of the Strait simply as a violation of the right of transit passage. Against this background, the Joint Statement may have intentionally refrained from referring to rights on navigation such as the right of transit passage that are enjoyed by foreign vessels within the territorial sea of a coastal State, and instead used the term freedom of navigation. Hence, to accurately comprehend the purpose of the Joint Statement, it is necessary to grasp precisely in what respect Iran's *de facto* closure of the Strait of Hormuz may be regarded as unlawful under international law, particularly the law of the sea, and for that purpose, it is essential to have a proper understanding of the Strait's distinctive legal and institutional features, as well as the peculiarities discussed above. Accordingly, following the discussion of the two points mentioned above, this paper explains the distinctive legal and institutional characteristics of the Strait of Hormuz.

Clarifying the Content of "Freedom of Navigation": Commercial Shipping and International Shipping

The freedom of navigation of ships constitutes one of the freedoms of the high seas expressly recognized in UNCLOS (Art. 87). It is a principle of the law of the sea that

applies not only on the high seas but also in the EEZ (Arts. 58 and 87). The ~~territorial sea~~ regime that reflects the navigational interests protected by this principle of "freedom of navigation" into the territorial sea of a coastal State is the one of "innocent passage." Under this regime, ships of all States enjoy the right of innocent passage, and coastal States may not hamper the passage of foreign ships through their territorial sea so long as such passage is not prejudicial to the peace, good order, or security of the coastal State (Arts. 17-24). The concrete content of the interest protected by the principles and regimes of freedom of navigation and innocent passage under international law can thus be described as the navigation of ships subject to the jurisdiction of states (subject of international law), including warships and other government vessels. However, the principal controversies in the law of the sea concerning the scope of freedom of navigation and innocent passage have largely centered on warships. Examples include whether foreign warships may conduct military exercises or other military activities within a coastal state's EEZ as an exercise of freedom of navigation, or whether a foreign warship enjoys a right of innocent passage within a coastal state's territorial sea[8]. In that sense, it may be said that the focus of international law, specifically the law of the sea, concerning freedom of navigation and innocent passage has traditionally been placed chiefly on the navigation of warships. The same observation applies to the regime of transit passage, newly established under UNCLOS for international straits consisting of the territorial seas of coastal States. One basis for this is that the creation of the transit passage regime was motivated in part by a demand from the United States and the Soviet Union. Following the institutionalization of a twelve-nautical-mile territorial sea, international straits came to be composed of coastal states' territorial seas, and the two powers sought a regime that would permit the submerged transit of nuclear submarines through international straits, a form of passage not permitted under the regime of innocent passage[9]. Further evidence for this proposition is provided

by the fact that, where views diverge over whether the transit passage regime applies to vessels navigating an international strait when the coastal state bordering that strait is a party to an armed conflict (a belligerent), the disagreement concerns chiefly the submerged transit of submarines belonging to states not party to the armed conflict (neutral states)[10].

Thus, whereas the points of contention under the law of the sea concerning the content of freedom of navigation have traditionally focused primarily on warships, the present Joint Statement on the Strait of Hormuz proclaims that "freedom of navigation is a fundamental principle of international law, including under the UNCLOS," and identifies, as the concrete interests impaired by Iran's *de facto* closure of the Strait, commercial shipping and international shipping. This focus on the navigation of merchant ships and international shipping as the concrete content of freedom of navigation, emphasizing that both constitute maritime interests protected under the law of the sea, represents a perspective distinct from the traditional focus on warships. In this respect, the indication may be regarded as one of the Joint Statement's distinctive features from the standpoint of the law of the sea.

Furthermore, recalling Security Council Resolution 2817's declaration that "any attempt to impede lawful transit passage or freedom of navigation in these international waterways constitutes a serious threat to international peace and security," the Joint Statement emphasizes that interference with international shipping constitutes a threat to international peace and security. Because the UN Charter authorizes the Security Council to decide upon measures, including military measures, for the maintenance or restoration of international peace and security (Art. 39), the Joint Statement may be interpreted as suggesting that interference with the maritime interest of international shipping could, in certain circumstances, constitute a basis for Security Council measures, including military action. This reflects a perspective not traditionally associated with the category of threats to international peace and security and may therefore be regarded as one of the Joint

Statement's distinctive features from the standpoint of international law, particularly the law of the sea and international security law.

A Law-of-the-Sea Principle to Be Observed Even during Armed Conflict: Freedom of Navigation

Before the outlawing of war, when international law was conceived in terms of a dualistic distinction between peacetime and wartime, it was generally understood that the law of war applied in wartime, whereas the rules of peacetime international law were, in principle, suspended except where their content was capable of continued application[11]. With the conclusion of the Kellogg-Briand Pact and the adoption of the UN Charter, war came increasingly to be regarded as unlawful. In the contemporary international legal order[12], in which the application of international law is generally understood in monistic rather than dualistic terms, war is no longer conceived of as a distinct legal condition giving rise to a separate legal order. Rather, the law of armed conflict and the law of the sea are understood as distinct fields of international law. Since no hierarchical relationship exists between these fields, any conflict between their respective norms must be addressed through the rules governing conflicts of norms in international law such as “priority of *lex specialis* (special law)” or “priority of *lex nova* (new law)”. In practice, this means that such conflicts are principally resolved in accordance with the principle of *lex specialis derogat legi generali* (“the special law prevails over the general law”). The question then arises as to which of the law of armed conflict and the law of the sea should be regarded as the special law and which as the general law in their mutual relationship. For example, given that, under the law of armed conflict, enemy warships may be attacked as military objectives and enemy merchant ships may be captured, it may be argued that the guarantee

of innocent passage under the law of the sea through a State's territorial sea does not operate as between belligerents. In the light of the content of the respective rules, it is therefore appropriate, as a matter of principle, to regard the law of armed conflict as the *lex specialis* and the law of the sea as the lex generalis. The San Remo Manual on International Law Applicable to Armed Conflicts at Sea, prepared by international law and naval experts drawn from a number of countries, is likewise premised on this understanding[13].

In the light of the foregoing, the principles of the law of the sea function as general-law principles in relation to the rules of the law of armed conflict. Accordingly, where the two come into conflict, the rules of the law of armed conflict take precedence. This raises a further question under the law of the sea, namely, which law of the sea principles does not conflict with the law of armed conflict and therefore remain applicable even during armed conflict. The Joint Statement condemns the *de facto* closure of the Strait of Hormuz by Iranian forces, calls for an end to interference with the navigation of merchant ships, and emphasizes that "freedom of navigation is a fundamental principle of international law, including under UNCLOS." It may therefore be understood as suggesting that freedom of navigation, in particular the freedom of merchant ships of States not party to the armed conflict to navigate through the Strait of Hormuz, remains applicable even during armed conflict. In this respect, the Joint Statement may be regarded as both important and significant from the standpoint of the law of the sea. It may also be noted that the above-mentioned San Remo Manual provides that the right of transit passage, which applies in peacetime to international straits as a rule of the law of the sea constituting the *lex generalis* in relation to the law of armed conflict as *lex specialis*, continues to apply during armed conflict[14].

Distinctive Legal and Institutional Characteristics of the Strait of Hormuz

Geographically, the Strait of Hormuz lies between the Musandam Peninsula of the Arabian Peninsula and the mainland on the opposite shore. Legally, however, it consists of the territorial seas of Iran and Oman. Iran has signed UNCLOS but has not ratified it and is therefore not a State Party to the Convention. At the time of signature, Iran issued an interpretative declaration stating that the regime of transit passage applies only to States Parties to the Convention[15]. Under its domestic law, Iran permits the passage of foreign vessels through its territorial sea only within the scope of innocent passage[16], requires prior authorization from the relevant Iranian authorities for the passage of warships and other government ships[17], and provides in its domestic law that innocent passage may be suspended for reasons of national security or national defence[18]. The United States has protested this Iranian domestic legislation[19], and the European Union, Saudi Arabia, the UAE, Kuwait, Qatar, and Bahrain have likewise lodged protests or objections, maintaining that it is contrary to international law[20]. Oman, by contrast, is a party to UNCLOS. At the time of signature, however, it issued an interpretative declaration expressing a negative view regarding the application of the transit-passage regime to its territorial sea[21]. Nevertheless, examples of the case that Oman formally protested the passage, including submerged transit, of foreign warships through the Omani territorial-sea portion of the Strait of Hormuz cannot be confirmed.

Pursuant to Rule 10 of the 1972 Convention on the International Regulations for Preventing Collisions at Sea, a traffic separation scheme prescribed by the International Maritime Organization (IMO) has been established in the Strait of Hormuz, and foreign ships transiting the Strait generally navigate within that scheme. Owing to depth considerations, however, the traffic separation scheme is located within Oman's territorial

sea. Consequently, Iran's refusal to recognize the right of transit passage within its territorial sea, as well as any suspension of innocent passage in the Iranian territorial-sea portion of the Strait, has little practical impact on international shipping transiting the Strait. To obstruct the passage of merchant ships through the Strait of Hormuz for the purpose of impeding international shipping, Iran would therefore need to lay mines or attack merchant ships within Oman's territorial sea. Such conduct would constitute a violation of Oman's territorial sovereignty [22] and would be unlawful under general international law. At the same time, it would also violate the prohibition on the use of force. As to whether such conduct would rise to the level of an "armed attack" giving rise to the right of self-defense, Professor Kazuhiro Nakatani has observed that "although much depends on the particular circumstances, the Definition of Aggression contained in UN General Assembly Resolution 3314 (1974) identifies, as an example of aggression, 'the blockade of the ports or coasts of a State by the armed forces of another State.' To that extent, an Iranian blockade of the Omani side of the Strait of Hormuz may be presumed to constitute an armed attack against Oman." [23]

Taking into account the press reports and UKMTO announcements discussed in the introduction, Iran's current *de facto* closure of the Strait of Hormuz appears to rely primarily on acts of intimidation implying that even merchant ships transiting the traffic separation scheme within Oman's territorial sea may be subjected to mine, drone, or missile attacks. As the Joint Statement itself notes, such intimidation is effective because Iran has in fact attacked merchant ships, including tankers, in the Persian Gulf, thereby making the threat appear highly plausible. Moreover, especially in the case of tanker crews, when they are threatened with being attacked, it can be believed that their level of fear will be very high because damage to tankers will be particularly fatal to crews. Therefore, they will often choose not to transit the Strait at all. The Joint Statement identifies acts of

intimidation first among the forms of interference with merchant ships that it calls upon Iran to cease, presumably in view of the circumstances described above.

And it is likely that Iran's reliance, at present, chiefly on acts of intimidation as its means of achieving a *de facto* closure of the Strait of Hormuz reflects the legal circumstances discussed above. Even so, insofar as the aim of such intimidation is to obstruct the navigation of merchant ships through the traffic separation scheme within Oman's territorial sea in the Strait of Hormuz, and insofar as it is in fact producing that result, the unlawfulness and the reprehensibility of such conduct can be regarded as considerable.

Conclusion

The Joint Statement issued by the leaders of the United Kingdom, France, Germany, Italy, the Netherlands, and Japan on the Strait of Hormuz calls on Iran to immediately cease all acts, including intimidation, that obstruct the navigation of merchant (commercial) ships, and to comply with Security Council Resolution 2817, while affirming that freedom of navigation is a fundamental principle established under international law and calling on all states to comply with international law. From a policy standpoint, the Joint Statement might be understood as stating what is essentially common sense. From the standpoint of international law, specifically the law of the sea, however, it can be regarded as distinctive because, whereas the points of contention under the law of the sea regarding the content of freedom of navigation have traditionally concerned mainly warships, this Joint Statement focuses on the navigation of merchant ships and international shipping, emphasizing that both constitute maritime interests protected under the law of the sea, thereby articulating the content of freedom of navigation under international law from a perspective distinct

from the traditional focus on warships.

Furthermore, as noted above, in the contemporary era, in which the application of international law has become monistic, the law of armed conflict and the law of the sea stand in the relationship of special law to general law. Accordingly, which law of the sea principles remain applicable even during armed conflict is itself a point of contention within the law of the sea. Because the Joint Statement suggests that the freedom of navigation of merchant ships is one such principle, it can be regarded, in this respect, as both important and meaningful from the standpoint of the law of the sea.

Finally, as noted above, the Strait of Hormuz consists of the territorial seas of two States, Iran and Oman. Oman is a party to UNCLOS, which provides for a transit-passage regime that may not be suspended, whereas Iran is not. Because the traffic separation scheme within the Strait of Hormuz is located within Oman's territorial sea, however, foreign ships transiting the strait for the most part navigate through Omani territorial waters. Consequently, (although, at the time of writing, a number of vessels are transiting the Strait of Hormuz and some of these may be navigating within Iran's territorial sea,) Iran would need to prevent the navigation of vessels within Oman's territorial sea in order to close the Strait of Hormuz, and Iran has relied chiefly on intimidation as its means of obstructing passage. On the other hand, the Joint Statement makes no mention of the transit passage regime applicable to international straits. Thus, bearing in mind the circumstances described above will also be important in analyzing developments regarding the Strait of Hormuz and the responses of individual states going forward.

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[1] *Yomiuri Shimbun*, March 2, 2026.

[2] Ibid.

[3] Ibid, March 13, 2026.

[4] Shruti Menon, "How Many Ships Have Been Struck?," BBC, last updated March 12, 2026, https://www.bbc.com/news/live/cd70wzw9vqlt?post=asset%3A15bac971-80e8-4608-a5b1-6e2c7f978b3e#post.

[5] United Nations Security Council, Article 8 of Resolution 2817, March 11, 2026.

[6] Ministry of Foreign Affairs of Japan, [Joint Statement from the Leaders of the United Kingdom, France, Germany, Italy, the Netherlands, and on the Strait of Hormuz], March 19, 2026, https://www.mofa.go.jp/mofaj/me_a/me2/pageit_000001_02807.html; Ministry of Foreign Affairs of Japan, "Joint Statement from the Leaders of the United Kingdom, France, Germany, Italy, the Netherlands and Japan on the Strait of Hormuz," March 19, 2026, https://www.mofa.go.jp/me_a/me2/pageite_000001_01536.html.

[7] The participating states are the United Kingdom, France, Germany, Italy, the Netherlands, and Japan, together with the United Arab Emirates, Canada, South Korea, New Zealand, Denmark, Latvia, Slovenia, Estonia, Norway, Sweden, Finland, the Czech Republic, Romania, Bahrain, Lithuania, and Australia. "'We Call on Iran to Cease Immediately...': 20+ Nations Issue Joint Statement over Hormuz Disruption," Business Today Desk, MSN, last updated March 21, 2026, https://www.msn.com/en-in/money/topstories/we-call-on-iran-to-cease-immediately-20-nations-issue-joint-statement-over-hormuz-disruption/ar-AA1Z94Ve?ocid=BingNewsSerp.

[8] Yuji Iwasawa, *Kokusaiho* [International Law], 2nd ed. (Tokyo: University of Tokyo Press, 2023), p. 261.

[9] Soji Yamamoto, *Kaiyo-ho* [The Law of the Sea] (Tokyo: Sanseido, 1992), pp. 151-52.

[10] Kentaro Wani, "Buryoku Funso-ji ni Okeru Kokusai Kaikyo no Hoteki Chii" [Development of the Law of the Sea and the Legal Status of International Straits in Time of International Armed Conflict], in *Kokusai Kaikyo* [International Straits], ed. Shigeki Sakamoto (Tokyo: Toshindo, 2015), pp. 272-273.

[11] Masahiro Kurosaki, Shigeki Sakamoto, Yumi Nishimura, Tomoaki Ishigaki, Tadashi Mori, Akira Mayama, and Hironobu Sakai, *Boei Jitsumu Kokusaiho* [Law of Armed Conflict and International Security: A Practitioners' Manual], 2nd ed. (Tokyo: Kobundo, 2026), p. 473.

[12] Iwasawa, *Kokusaiho* [International Law], pp. 75-76.

[13] Masayuki Takemoto, supervising trans., *Jindoho Kokusai Kenkyujo:* Kaijo Buryoku Funsoho San Remo Manyuaru (Kaisetsusho) [International Institute of Humanitarian Law: San Remo Manual on International Law Applicable to Armed Conflicts at Sea (Commentary)] (Tokyo: Toshindo, 1997), p. 61; International Institute of Humanitarian Law, *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (Cambridge: Cambridge University Press, 1995), p.105.

[14] Ibid.

[15] *Law of the Sea Bulletin*, vol. 25 (1994), pp. 29-30.

[16] *Law of Marine Areas of the Islamic Republic of Iran in the Persian Gulf and Oman Sea*, art. 5.

[17] Ibid, art. 9.

[18] Ibid, art. 8; *Law of the Sea Bulletin,* vol. 25 (1994), pp. 10-15.

[19] *Law of the Sea Bulletin,* vol. 25 (1994), pp. 101-3. Among its grounds for protest, the United States has stated that requiring prior authorization for the passage of foreign warships through Iranian territorial waters has no basis in UNCLOS and violates international law. Kazuhiro Nakatani, "Horumuzu Kaikyo to Kokusaiho" [The Strait of Hormuz and International Law], in

Kokusai Kaikyo [International Straits], ed. Shigeki Sakamoto (Tokyo: Toshindo, 2015), p. 143.

[20] Charles A. Allen, Persian Gulf Disputes, in Myron H. Nordquist and Jhon Norton Moore (eds.), *Security Flashpoints: Oil, Islands, Sea Access and Military Confrontation* (Leiden: Brill, 1998), pp. 341-342.

[21] Said Mahmoudi, Passage of warships through the Strait of Hormuz, *Marine Policy*, vol. 15, no. 5 (September 1991), pp. 345-346.

[22] Kazuhiro Nakatani, "Horumuzu Kaikyo to Kokusaiho, [The Strait of Hormuz and International Law]" p.151.

[23] Ibid.

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