

16 July 2026

HORMUZ: WAR AND THE LAW OF THE SEA



Agustin Blanco-Bazan is an Argentine lawyer and maritime specialist. For 25 years he held several posts including Head of the Legal Office at the International Maritime Organisation (IMO) and now practices as an independent lawyer, consultant and lecturer on maritime law from London.

Introduction: international law at a breaking point

The war unleashed in February around the Strait of Hormuz looks like yet another example of the decline of post-WWII international law. This seems to be better understood by historians than lawyers or diplomats: “What is most worrying today is the enthusiasm of the powerful to abandon even the slightest pretence of legality in their actions,”¹ comments Margaret MacMillan in a recent article in the *Financial Times*. She adds that “while the great powers go to war without arguing about its legality, even the defenders of legal rules speak of them in the past tense.”²

At stake in the Hormuz case is a *de facto* abrogation of the principle of unrestricted freedom of navigation across international straits, regulated by the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

Neither Israel nor the United States (USA) are among the 172 parties to this treaty. Nor is Iran, although on the very day of its solemn opening for signature (10 December 1982) Iran deposited with the United Nations a declaration that has subsequently defined a consistent geopolitical approach. It includes an *understanding* that small islands capable of supporting a human population or economic activity should benefit from the UNCLOS maritime zone delimitation regime for larger islands, in particular the establishment of a territorial sea surrounding them. In spelling out this understanding Iran intended to assert its right to establish a territorial sea around several islets in the Persian Gulf it had occupied by command of the Shah years before UNCLOS, with the support of the USA.

¹ *We still need international law*, by Margaret MacMillan, Emeritus professor of International History at the University of Oxford. *Financial Times*, 15.3.2026.

² *Ibid*

Access. Engagement. Resolution.

The declaration also includes a *persistent objection* to the UNCLOS' regulations on the unrestricted freedom of transit passage through international straits. This type of objection, frequently used by States as an "escape hatch" to avoid the application of treaties to which they are not party, aims at strengthening Iran's claim to a right to interfere with navigation in the Strait of Hormuz. Interferences in this case have been occasional rather than continuous, thus creating an unstable, yet workable *status quo* which persisted during decades, only to be smashed by the hostilities unleashed in February by the USA and Israel.

Illegal war versus international trade

The illegality of these hostilities arises out of the fact that they were started and further developed in violation of the UN Charter, which establishes that only the Security Council can authorise the initiation of armed action by air, sea or land (*jus ad bellum*). The Council should also supervise the progress of hostilities (*jus in bello*) which should be conducted in accordance with other international treaties, such as the four Geneva Conventions of 1949 which establish restrictions of proportionality and necessity, as well as the obligation to avoid collateral damage to civilian persons and property unrelated to military operations.

The departure from this legal order was formalized by the US decision to replace "stupid rules of engagement" with a policy of "maximum lethality."³ It was a decision carried forward with the unannounced air attack that killed not only Iranian officials the attackers were negotiating with, but also Iran's Head of State and members of his close family. In response, a similarly aggressive implementation of Iran's right to self-defence created a chance to enforce its permanent objection to UNCLOS's rules on unrestricted transit passage along international straits: how could they apply to Hormuz in a war launched without observing rules of engagement *precisely* aimed at protecting interests neutral to the conflict, such as commercial navigation?

The distortion of essential maritime transport and the trapping of vessels and seafarers unable to leave the Persian Gulf have not only demonstrated Iran's *de facto* power over Hormuz, they have also reinforced Iran's permanent objection to UNCLOS via formal proposals to impose charges. So far the nature of these remains unexplained: will they be tolls or fees? Will they be related to reparation or to services such as the removal from the waterway of mines which may be reinstalled in the case of further hostilities? Will charges apply to all ships or only to those which, on account of their flag or the final destination of their cargo, are considered to aligned with Iran's foes?

These questions, now distorting the international shipping business, are being considered in talks between Iran and Oman, the other coastal state bordering the narrowest point of the passage through the strait. They are talks that the 17 June Iran-US Memorandum of Understanding encourages. According to the MOU Iran not only accepts to conduct a dialogue with the Sultanate of Oman "aimed at defining the future administration and maritime services in the Strait of

³ Press Conference by the US Secretary of Defence on 2.4.2026. He had proclaimed the same doctrine in his address to the US military in Quantico, Virginia on 30.9.2025.

Hormuz,” but also agrees to discuss this issue “with other Persian Gulf Littoral States in line with applicable international law and the sovereign rights of coastal states of the Strait of Hormuz.”

Firmly against any initiative to monetize the passage through the strait are organizations such as INTERTANKO, the major non-governmental organization representing the tanker industry. It has declared his “amazement” that Iran’s charging of tolls “seemed to be one of the starting points of the negotiations.” ⁴

Similarly, the Secretary-General of the UN’s International Maritime Organization (IMO), has reaffirmed the view that “international straits are, according to international law, specifically for the use of all, and therefore imposing tolls is inappropriate.” ⁵ He has in mind not only UNCLOS but also the specific traffic separation scheme for Hormuz (TSS) sanctioned by IMO as early as 1968 to tackle the navigational hazards posed by the sinuous geographical features of a strait which at its narrowest point is only 30 miles wide: This TSS, normally used before the war, consists of two, two-mile wide shipping lanes respectively used for incoming and outgoing traffic. It is along these lanes that UNCLOS’ provisions for unrestricted navigation should apply to ensure that the free navigation in the high seas of the Persian Gulf and the Sea of Oman is also enforced in the strait separating them.

The clumsy attempt by the warring parties to use alternative lanes at the north (controlled by Iran) and the South (by the USA and Oman) is unfeasible not only due to uncertainties posed by broken ceasefires but also for technical reasons, such as the limited capacity for manoeuvre along such narrow passages. It is in this way that basic safety navigational rules regulated by UNCLOS and several IMO treaties and recommendations have become intrinsically associated with the aims of world peace and security at the core of the UN Charter.

Conclusion: no international law without the UN

The predictable unravelling of the Iran-US Memorandum should be analysed not only as an unavoidable consequence of an all-out and lawless war. It should also serve as yet another example of the futility of negotiations carried forward by autocrats and profit-seeking businessmen outside the framework established by the Charter of the United Nations. It is not through bullying but by global consensus that UNCLOS’s regime for international straits should be considered for adaptation to regional requirements, in Hormuz or any other part of the world. Otherwise, the international law of the sea will inevitably wither amidst the fragmentation imposed by those who, in the words of Margaret MacMillan, seem to have abandoned even the slightest pretence of legality in their actions.

⁴ <https://www.bbc.co.uk/news/articles/c3dl0gdvvveo>, 10.4.2026

⁵ *Ibid*

Access. Engagement. Resolution.

The Ambassador Partnership can help in connecting with networks around the world, with insights for business and government policy, to address global challenges

To discuss how we can help you please contact:

Tracey Stewart

Partnership Secretary

tracey.stewart@ambassadorllp.com

www.ambassadorllp.com