



DOI: 10.5281/zenodo.124261012

# LEGAL AMBIGUITY AS STRATEGY: GOVERNING THE STRAIT OF MALACCA IN THE INDO-PACIFIC MARITIME ORDER

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Received: 15/12/2025

Accepted: 23/01/2026

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## ABSTRACT

*The Strait of Malacca is one of the most energetic nautical chokepoints in international triangulation in the Indo pacific region. Though, its legal circumstances under the United Nations Convention on the Law of the Sea (UNCLOS) remains undeclared. Though Part III of UNCLOS outlines the government of "transit passage" above passageways used for international triangulation. Malaysia and Indonesia remain to pronounce robust sovereignty over their territorial waters. Discarding the cataloguing of the Malacca Strait as an "international strait." This rigidity between coastal state superintendents and freedom of triangulation for user states places of interest. The limits of UNCLOS in administration chokepoint dominance. This paper unsympathetically assesses how the Strait of Malacca functions as both a legal and strategic inappropriateness. The balancing global trade urgencies with coastline state sovereignty and security and safety benefit. By analysing treaty necessities, state rehearsal, and cooperative sanctuary arrangements, the study argues that UNCLOS offers only an incomplete framework, room for political conciliation, regional collaboration, and premeditated manoeuvres. This paper emphasises the determined legal and strategic vagueness of neighbouring chokepoints and sounds for a reconsideration of the appropriateness of UNCLOS in speaking to twenty-first-century maritime encounters.*

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**KEYWORDS:** Malacca Strait, Grey Zone, UNCLOS, transit passage

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## 1. INTRODUCTION

Stretching nearly 800 km between the Malay Peninsula and the Indonesian island of Sumatra, the Strait of Malacca is one of the most congested maritime passages of the world, accommodating about 100,000 vessel transmissions yearly and accompanying almost one-third of international trade, secretarial for more than 80 % of China's crude oil imports<sup>1</sup>. Its premeditated uniqueness for international business is recognised, yet its accurate legal status remains disturbed. Underneath the United Nations Convention on the Law of the Sea (UNCLOS), Part III (Articles 37–45) announces the command of *transit passage* for straits “used for international navigation”, conceding ships and aircraft an unhampered passageway among one part of the high seas or an exclusive economic zone and another (United Nations, 1982)<sup>2</sup>. Numerous operator states, including main nautical controls, understand the Malacca Strait as dwindling directly inside this system. Conversely, Malaysia and Indonesia preserve that because the Strait lies solely inside their territorial seas, sovereignty entitles them to exercise superior control than a fully internationalised strait would allow.<sup>2</sup> This departure creates a legal “grey zone” that complements global flexibility in contradiction to coastal state authority. Academics argue that UNCLOS provides only an incomplete governance agenda, missing comprehensive instruments for safety, sanctuary, and ecological

defence personalised to such a profoundly operated chokepoint<sup>3</sup>. Subsequently, coastal and user states have relied on ad hoc and regional ingenuities, such as the Cooperative Mechanism recognised in 2007, to enhance the treaty's zero supplies. The Strait of Malacca thus establishes the bounds of treaty law alone in integration steering freedoms with independence entitlements. Robust authority seems to depend upon hard-headed preparations,

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procedural collaboration, and sustained political interchange among shareholders<sup>4</sup>.

The Strait of Malacca emphasises how agreement law, while introductory, is inadequate to merge the challenging requirements of autonomy of steering and seaside state sovereignty<sup>5</sup>. UNCLOS delivers starting point rules for transportation passage, but it does not provide thorough guidelines for addressing traffic density, piracy, environmental risk, or the socio-economic concerns of littoral communities. In practice, governance of the Strait has been contingent on hard-headed, issue-specific preparations, such as the Tripartite Technical Experts Group (TTEG) established by Indonesia, Malaysia, and Singapore, and the Cooperative Mechanism presented in 2007<sup>6</sup>,

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<sup>1</sup> Bateman, S. (2016). The importance of the Straits of Malacca and Singapore. *RSIS Commentary*, 038. Retrieved from <https://www.rsis.edu.sg> (Accessed on 9<sup>th</sup> August, 2025 )<sup>2</sup> DIARRA, M. G. (2024). Analysis of the Jurisprudence of Article 58 of the United Nations Convention on the Law of the Sea (UNCLOS) and the Positions of West African Countries. *International Journal of Law and Politics Studies*, 6(4), 75-94.

<sup>2</sup> Bateman, S. (2010). Good order at sea in the Strait of Malacca. *Contemporary Southeast Asia*, 32(2), 341–357. <https://doi.org/10.1355/cs32-2g> (Accessed on 2nd August 2025)

<sup>3</sup> Beckman, R. (2013). The legal regime in the Straits of Malacca and Singapore. *Ocean Development & International Law*, 44(1), 1–24. <https://doi.org/10.1080/00908320.2013.748353> (14<sup>th</sup> September, 2025); Raymond, C. Z. (2019). Governing the Malacca Strait: Maritime security cooperation in a contested chokepoint. *Journal of Asian Security and*

*International Affairs*, 6(2), 153–175. <https://doi.org/10.1177/2347797019846898> (Accessed on 12<sup>th</sup> June 2025)

<sup>4</sup> Kaplan, R. D. (2014). *Asia's cauldron: The South China Sea and the*

<sup>5</sup> Wang, J. (2011). China's energy security and the “Malacca Dilemma.” *Journal of Contemporary China*, 20(68), 233–247.

<sup>6</sup> The Tripartite Technical Experts Group works as a consultative podium to coordinate navigational safety, environmental defence, and hydrographic cooperation in the Strait of Malacca. This group was established in 1975 by Indonesia, Malaysia, and Singapore. the Cooperative Mechanism on Safety of Navigation and Environmental Protection in the Straits of Malacca and Singapore, launched in 2007 under the sponsorships of the International Maritime Organization, institutionalised burden-sharing by allowing user states and industry stakeholders to donate financially and technically to protection and

which allow user and coastal states to synchronise directional safety, security perambulations, and capacity building without deciding the fundamental legal uncertainty. These initiatives validate that continuing stability trusts on political dialogue, regional confidence-building, and technical teamwork, rather than on legal necessities unaccompanied<sup>8</sup>. The Malacca circumstance, therefore, validates that chokepoint organisation in a jam-packed, high-value sea road is most active when recognised agreement rights are accomplished by helpful practices, joint limitation, and common stewardship responsibilities<sup>7</sup>.

## 2. THEORETICAL AND LEGAL FRAMEWORK

### 2.1 UNCLOS and Straits Regime

The United Nations Convention on the Law of the Sea (UNCLOS) establishes a separate legal government leading straits used for international navigation set out in Articles 37–45. Under this structure, straits involving one part of the high seas or an exclusive economic zone are additionally subject to the regime of “*transit passage*”, which guarantees all ships and aircraft. The right of

*end of a stable Pacific*. Random House

continuous and expeditious navigation and overflight<sup>8</sup>. Unlike innocent passage in the territorial sea, transit passage cannot be suspended by coastal states, although they retain sovereignty over the waters forming the strait. UNCLOS permits strait states to adopt laws relating to navigational safety, environmental protection, and maritime traffic regulation, provided such measures do not hamper, deny, or impair the right of transit passage. The straits administration, consequently replicates a sensibly negotiated stability between autonomous authority and the global interest in freedom of navigation,

environmental initiatives while regarding coastal state dominion.<sup>8</sup> Zubir, M. (2004). The strategic value of the Strait of Malacca. *MIMA Researchers Papers*.

<sup>7</sup> United Nations. (1982). *United Nations Convention on the Law of the*

*Sea*.

Retrieved from [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf) (Accessed on 3rd April 2025)

<sup>8</sup> Nandan, S. N., & Anderson, D. H. (1989). Straits used for international navigation: A commentary on Part III of the United Nations Convention on the Law of the Sea 1982. *British Yearbook of International Law*, 60(1), 159-204.

<sup>9</sup> Sharma, S. (2021). United nations convention for the law of the sea and sea dispute settlement: specific reference to South China sea. *Indian JL & Legal Rsch.*, 2, 1.

making it one of the most substantial negotiation structures within present nautical regulation<sup>9</sup>.

Maritime terrestrial is divided into various jurisdictional sectors such as the territorial seas, Exclusive Economic Zones (EEZs), continental shelves, and the high seas, each unreserved disparate rights and commitments (United Nations, 1982). The territorial sea, extending up to 12 nautical miles from the coastal baseline, is matter to the full sovereignty of the coastal state, analogous to its land territory, though external vessels hold an imperfect prerogative to acquire passage so long as they do not threaten the harmony, respectable direction, or safety of the state (Article 17)<sup>10</sup>. Outstandingly, “*innocent passage*<sup>11</sup>” may be momentarily adjourned by the coastal state for motives such as refuge or reserve defences (Article 25)<sup>12</sup>. To stock the intricacies of intensely advertised channels about two ruins of the high seas or EEZs. UNCLOS produced a separate legal framework for directions used for intercontinental triangulation. Article 38 invests the government of transit passage. This grants all ships

and aircraft the right to continuous and expeditious transit between one part of the high seas (or EEZ) and another without prior authorisation from the littoral state. Disparate “*innocent passage*”, transit passage cannot be deferred, even in times of tension, because uninterrupted navigation is measured vital for global trade and security. This dissimilarity replicates a cautious complementary turn: while UNCLOS affirms coastal state sovereignty, it instantaneously conserves international flexibility in energetic chokepoints, recognising that passages purpose as a necessary blood vessel for international trade (United Nations Convention on the Law of the Sea 1982; Valencia, 2006).<sup>15</sup>

<sup>10</sup> Article 17 of the UNCLOS states that, *subject to the Convention*, ships of all States, whether coastal or land-locked, have the right to innocent passage through the territorial sea. This means foreign vessels may navigate through a coastal State’s territorial waters so long as their passage is continuous, expeditious, and not prejudicial to the peace, good order, or security of the coastal State. The right applies equally to all ships but must comply with the Convention’s provisions.

<sup>11</sup> United Nations Convention on the Law of the Sea, arts. 17–19, discusses about “*Innocent passage*” refers to the right of ships of all states to navigate through the territorial sea of a coastal state so long as their passage is continuous and expeditious and not prejudicial to the peace, good order, or security of the coastal state, as defined under Article 19 of the Convention.

<sup>12</sup> Article 25 Rights of protection of the coastal State says that a coastal State may take necessary measures in its territorial sea to prevent passage that is not innocent. It also may act to prevent breaches of conditions for ships entering internal waters or calling at a port. Additionally, the coastal

## 2.2 Ambiguity in Application

Unfluctuating though UNCLOS circles out an outline for straits, the way Articles 37–45 are applied commonly remains lawfully and doctrinally imprecise. These provisions induct the *transit passage* organisation, while overall permitting coastal states to hold persuasive rights to ratify laws on guard of triangulation, adulteration discouragement, and protection (Articles 42–44) (United Nations, 1982)<sup>13</sup>. These manageability pamphlets coastal environs to impose traffic-separation preparations, normalise dangerous cargo, or necessitate pollution-control measures, provided such rules do not “*hamper, deny or impair*”<sup>17</sup> transit passage. The lack of a bright-line border between tolerable directive and illegitimate constraint produces informational interplanetary for both operators and coastal states<sup>14</sup>.

In important chokepoints such as the Strait of Malacca, this vagueness is strengthened since of the intersection of sovereignty, global trade, and

State can temporarily suspend innocent passage in specified areas for security reasons, such as weapons exercises, after due publication. All such actions must be without discrimination among foreign ships. <sup>15</sup> Valencia, M. (2006). The politics of anti-piracy and maritime security in Southeast Asia. *International Journal of Marine and Coastal Law*, 21(4), 517–542.

<sup>13</sup> Articles 42–44 deal with the legal regime for *transit passage* through straits used for international navigation. Article 42 allows States bordering a strait to adopt laws and regulations relating to transit passage for safety of navigation, traffic separation schemes, and pollution prevention, provided they do not deny or impair the right of transit passage. Article 43 requires those States to establish navigational and safety aids and cooperate in preventing, reducing, and controlling pollution from ships in such straits. Article 44 obliges States bordering straits *not to hamper* transit passage and to give appropriate notices of hazards to navigation or overflight within or over the strait. <sup>17</sup> Article 44 under UNCLOS delivers

that States contiguous straits used for international navigation shall not “*hamper, deny or impair*” the right of transit route. The phrase is understood to proscribe both direct hindrance and indirect measures that would significantly restrict or demoralise the practical implementation of navigational freedoms.

<sup>14</sup> Sien, C. L. (1998). *Marine carriage of petroleum with special reference to Northeast Asia*. University of California, Institute on Global Conflict and Cooperation, Policy Paper 33

maritime security alarms. For instance, Malaysia and Indonesia, maintenance that their regional territory validates better supervisor over ampule observation and safekeeping chronicles, though foremost shipping nation-states continue on continual access under Article 38<sup>15</sup>. As the consequence a converted balance moderately than a definitive legal rule, user states stand some coastal regulations to registration relatives and protected safe navigation. Although coastal states phrase from absolute renunciation of passageway to uphold international legality<sup>16</sup>. This "grey area" authority of tourist attractions that, in repetition, the UNCLOS straits regime purposes as both a legal standard and a political cooperation custom-made to local circumstances. This "grey area" of expert mirrors the reality that straits administered under the United Nations Convention on the Law of the Sea function concurrently as legal concepts and as politically assigned spaces. The UNCLOS shipment passageway government establishes an unchanging legal standard, ships and aircraft of all states enjoy the right of continuous and expeditious passage through straits used for international navigation, while coastal states retain sovereignty over the territorial sea. Yet in exercise, the workout of these rights and obligations is arbitrated by local political, strategic, and administrative contemplations<sup>17</sup>.

Oceanfront states often accept controlling measures concerning to environmental protection, navigational safety, or security omission that imitate the explicit geographic and jeopardy outline of the strait. Operator countries shot to regulate their operating conduct, predominantly naval dispositions as per the political understandings and regional power dynamic forces. The magnitude is not a firm submission of treaty transcript, nonetheless a surviving governance preparation moulded by frequent practice, implicit considerations, and cooperative apparatuses<sup>22</sup>. From this time on the

UNCLOS needs to opens government purposes as both a normative baseline and a flexible structure. It provides the legal erection of structure and norms within which states function. However, its robustness depends on political accommodation and context specific collaboration and cooperation. This combination pull clarifies why many main straits continue to steady in spite of strategic competition. The law necessities predictability, while dogmatic duplication provisions flexibility<sup>23</sup>.

### 3. HISTORIC AND GEOPOLITICAL FRAMEWORK OF THE STRAIT OF MALACCA

#### 3.1 Historic Implication

The Strait of Malacca has executed as a dangerous seafaring spout for more than an epoch. Hence, connecting the Indian Ocean and South China Sea and shortening national and financial discussion crossways Asia<sup>18</sup>. During the fifteenth century, the rise of the Malacca Sultanate one-sided the waterway into a energetic entrecote for zests, textiles, and valuable metals, fascinating Arab, Indian, and Chinese merchants<sup>19</sup>. European colonial authorities subsequently recognised the strait's strategic worth. The Portuguese detained Malacca in 1511<sup>20</sup>, followed by the Dutch in the seventeenth century, and ultimately the British in the nineteenth century<sup>21</sup>. Each uninterrupted control stimulated the switch of the passage to locked occupation angles and development effect through Southeast Asia, implanting the strait at the disposition of global commerce and majestic rivalry.

#### 3.2 Post-Colonial Sovereignty

Following decolonisation, newly autonomous states were required to announce regulatory control over end-to-end waters as a representation of national sovereignty and an ability to regulate resource use and maritime safety. In the 1970s, both Malaysia and

<sup>15</sup> Graham, E. (2015). *US Navy freedom of navigation operations in the South China Sea: Law, policy and practice*. Retrieved from <https://www.lowyinstitute.org/the-interpreter/us-navy-fonops-southchina-sea> (Accessed on 23rd February 2025)

<sup>16</sup> Tarling, N., & Chen, X. (Eds.). (2017). *Maritime security in East and Southeast Asia: Political challenges in Asian waters*. Palgrave Macmillan Singapore. <https://doi.org/10.1007/978-981-10-2588-4> (Accessed on 13th June 2025)

<sup>17</sup> Noyes, John E. "The United States, the Law of the Sea Convention, and Freedom of Navigation." *Suffolk Transnat'l L. Rev.* 29 (2005): 1.

<sup>22</sup> Elliott, M., Cutts, N. D., & Trono, A. (2014). A typology of marine and estuarine hazards and risks as vectors of change: a review for vulnerable coasts and their management. *Ocean & Coastal Management*, 93, 88-99.

<sup>23</sup> Bateman, S. (2021). Sea lines of communication and safety of

navigation. In *Routledge Handbook of the South China Sea* (pp. 46-64). Routledge.

<sup>18</sup> Hall, K. R. (2011). *A history of early Southeast Asia: Maritime trade*

<sup>19</sup> Chong, M. D. (2017). Securitising piracy and maritime terrorism along the Malacca and Singapore Straits: Singapore and the importance of facilitating factors. In *Maritime Security in East and Southeast Asia: Political Challenges in Asian Waters* (pp. 43-84). Singapore: Springer Singapore.

<sup>20</sup> The Portuguese captured Malacca in 1511 under the command of Afonso de Albuquerque, incorporating the strategic port into the Portuguese Estado da Índia and establishing control over a critical node of Indian Ocean–Southeast Asian maritime trade.

<sup>21</sup> Andaya, B. W., & Andaya, L. Y. (2017). *A history of Malaysia*. Bloomsbury Publishing.

Indonesia lengthen their territorial seas to 12 nautical miles<sup>22</sup>, successfully surrounding the entire Strait of

*and societal development, 100–1500*. Lanham, MD: Rowman & Littlefield.

Malacca within their mutual territorial claims. These declarations happened before but were advanced allied with UNCLOS (1982), which formalised the 12-nautical-mile law and recognised the transportation way government (Articles 37–45) to equilibrium international steering requirements through coastal state dominion (United Nations, 1982)<sup>23</sup>. The postcolonial stress on sovereignty reproduced not only financial ambitions but also anxieties about piracy, environmental degradation, and foreign military occupation<sup>24</sup>.

**3.3 Geopolitical Significance at present** In the twenty-first century, the Strait of Malacca remains an energetic, calculated salvation for the frugalities of East and South Asia. Eventually one-quarter of the world's traded imports and the middle-of-the-road of East Asia's energy introductions, transportation, the channel per annum. Central controls, China, Japan, South Korea, and India, conviction in a continuous way to tolerate advanced and energy preserve. While the United States emphasises self-determination of directionfinding in Malacca as a cornerstone of its broader Indo-Pacific strategy. The strait's association encompasses elsewhere exchange, its sanctuary strengthens provincial immovability, discourages piracy, and shapes naval deployment patterns. Accordingly, Malacca stands to assist as both a financial route and a geopolitical chokepoint, where great-power assistances join with seaside state stewardship<sup>25</sup>.

The strait's standing also landscapes noticeably in broader strategic dogmata. The United States, for example, emphasizes freedom of navigation over Malacca as crucial module of its Indo-Pacific strategy, connecting open sea lanes to provincial stability and the maintenance of a rules-based nautical order. Navigational placements, maritime province

awareness initiatives, and cooperative security arrangements are often calibrated with Malacca's stability attention. Thereafter, the strait is

not merely a commercial route but a central node in global naval tactic.

Malacca's security situation straight away disturbs regional stability, beyond commerce and energy courses. Its thin topography, impenetrable shipping traffic flow, and juxtaposition to heavily inhabited coastlines make it open to uncertainty like that of piracy, oceanic terrorism, environmental mishaps, and navigational threats. Present power, endures harmonized and cooperative rounds, departure of the traffic systems, and supportive contraptions. This has eventually been vital in dropping piracy incidents and ensuring navigational safety. Thus, security in Malacca reinforces not only commercial continuousness but also broader local confidencebuilding among coastal and manipulator countries<sup>26</sup>. Finally, the Strait of Malacca occupations alongside as an economic link and a geopolitical chokepoint. It is intergalactic where great-power interests meet with the sovereign stewardship of coastal states. Here the global interdependence come across strategic competition. Its continued stability be contingent on behind a subtle equilibrium between freedom of navigation, local partnership, and responsible maritime authority.

#### 4. LEGAL AMBIGUITY IN THE CLASSIFICATION OF THE STRAIT OF MALACCA

**4.1 Argument for the International Strait** As the Strait of Malacca associations a double fragment of the in-advancement seas (or Exclusive Economic Zones) and transports a momentous portion of global trade, several maritime "user states" view it as weakening regularly within UNCLOS Articles 37–38, which nonstop passages second hand for international triangulation. Below this, the transport station is detached, concession linings and aircraft

<sup>22</sup> United Nations Convention on the Law of the Sea, Article 3 provides that every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with the Convention.

<sup>23</sup> Articles 37–45 of UNCLOS establish the legal framework for transit passage and innocent passage through straits used for international navigation. Article 37 defines the scope of straits connecting parts of the high seas or Exclusive Economic Zones. Article 38 guarantees the unimpeded right of transit passage for all ships and aircraft, while Articles 39–44 detail the duties of ships and aircraft, the rights of States bordering straits to implement safety regulations, and their obligation not to obstruct passage. Article 45 affirms that, where transit passage does

not apply, the innocent passage regime remains applicable in such straits without suspension.

<sup>24</sup> Policante, A. (2014). *The Return of the Pirate: Post-colonial Trajectories in the History of International Law*. *Politica Común*, 5.

<sup>25</sup> Ismail, N., ZAKARIA, M., & ADBULLAH, A. (2013).

Characterization of hopanes in sediment collected from South China Sea: Identification of oil pollution sources. *Journal of Tropical Marine*

<sup>26</sup> Bateman, Sam. "Sea lines of communication and safety of navigation." In *Routledge Handbook of the South China Sea*, pp. 46-64. Routledge, 2021.

have an unconstrained right of continuous and hurried steering between the Indian Ocean and the South China Sea<sup>27</sup>. Enthusiasts contend that continuous admittance is essential for the continuity of global supply chains, energy security, and

*Ecosystem*, 3, 9-26.

maritime movement, arguing that any unwarranted seaside boundaries would impede the probability essential for international shipping. From this standpoint, Malacca's status as an international nautical road overshadows individual sovereignty prerogatives<sup>28</sup>.

#### 4.2 Disagreement for Territorial Waters

Through dissimilarity, Malaysia and Indonesia struggle that the Strait exists exclusively within their 12-nautical-mile territorial seas, giving them sovereignty equivalent to that over land counties. While both states have recognised the transport channel requirements of UNCLOS, they emphasise their right to normalise distribution lanes, levy ecological protections, and demeanour sanctuary processes to discourage piracy, trafficking, and maritime incidents. This site replicates apprehensions about reserve administration, legal accountability for falls or influences, and the heavyhanded to continue "good order at sea". Consequently, the coastal states, understanding on the unreserved internationalisation as theoretically depressing their ability to shield coastal inhabitants and nautical ecosystems<sup>29</sup>.

Malaysia and Indonesia further contend that their sovereign responsibilities in the Strait of Malacca extend beyond mere legal entitlement to include practical responsibilities under the UNCLOS. Predominantly the duty to protect and preserve the marine environment. Assumed the passage's shallow deepness in certain sections, high traffic concentration, and ecological brittleness. Unfluctuating negligible navigational events can have severe environmental and economic degrees of threats. This may be oil spills, risky cargo accidents, and ship groundings would excessively affect coastal

populations whose livelihoods hinge on fisheries and coastal remaining in the pulls of the straits. From this perception, regulatory error is not framed as a challenge to restrict or limit the navigation, but as a crucial enactment of stewardship. Besides, the coastal states aim at the economic recklessness which is deep-rooted in strait dominance. However, the Strait of Malacca appears international commercial benefits, the main hindrance of maintenance manoeuvring aids, hydrographic surveys, traffic monitoring systems,

and search-and-rescue substructure drops upon Malaysia, Indonesia, and Singapore. This occasional distribution of costs maintenances their claim to control expert and strengthens calls for burdensharing arrangements connecting major user circumstances and industry stakeholders.

Particularly in the early 2000s sanctuary deliberations also strengthen their situation. The Strait's history of piracy and naval crime which was well-known and that volatility in narrow sea lanes be able to quickly interrupt global trade. Coastal states accordingly maintain on the legality of coordinated patrols, intelligence-sharing, and surveillance initiatives. This was for the essential mechanisms of preservative instruction. They contend on the fact that sovereignty be responsible for the legal foundation for precipitate operational response. While unnecessary external interference could obscure jurisdictional transparency and operational harmonization and coordination amongst the castle nations<sup>30</sup>.

Lastly, Malaysia and Indonesia are attentive to broader geopolitical dynamics. In this period of growing major-power competition in the Indo-Pacific, both states seek to avoid the militarisation or strategic instrumentalisation of the strait by external actors. By confirming independent regulator within the limits of UNCLOS. They aim to reservation regional self-government and avert the passage from becoming a theatre of great-power rivalry. Therefore, the difference over territorial waters is not solely a doctrinal argument about maritime law. It reproduces profounder anxieties about

<sup>27</sup> Under Article 37 of the United Nations Convention on the Law of the Sea (UNCLOS), the special legal regime of *transit passage* applies to straits that are used for international navigation between one part of the high seas or an exclusive economic zone (EEZ) and another part of the high seas or an EEZ. In Article 38, UNCLOS states that in such straits all ships and aircraft enjoy the right of transit passage, which must not be impeded, allowing freedom of navigation and overflight that is continuous and expeditious, although this does not prevent vessels from entering or leaving a bordering State according to its conditions; an exception applies

if the strait is formed by a State's island and mainland and a convenient high seas/EEZ route exists outside it.

<sup>28</sup> Graham, E. (2015). *US Navy freedom of navigation operations in the South China Sea: Law, policy and practice*. Retrieved from <https://www.lowyinstitute.org/the-interpreter/us-navy-fonops-southchina-sea> (Accessed on 23rd February 2025)

<sup>29</sup> Bateman, S. (2016). Good order at sea in the South China Sea. In *Maritime Security in the South China Sea* (pp. 15-34). Routledge.

<sup>30</sup> Ayooob, M. (2002). Humanitarian intervention and state

environmental vulnerability, financial equity, sanctuary administration, and geopolitical balance in one of the world's most critical maritime strips<sup>37</sup>.

### 4.3 Hybrid Status

Supporting the Strait of Malacca resolves as a varied management sincerely within the territorial seas of Malaysia and Indonesia thus far functionally allowance as an international strait with nearunimpeded navigation for universal movement. UNCLOS deliberately plants a cavity for such productive vagueness, authorizing shoreline states to recollect descriptive sovereignty, although forgiving the economic and premeditated overbearingness of the free corridor (United Nations, 1982)<sup>38</sup>. This

sovereignty. *The international journal of human rights*, 6(1), 81-102. <sup>37</sup> Chauhdry, K. T., Aqib, S., & Wassan, I. A. (2025). Geopolitics of the Indo-Pacific: Strategic Competition, Alliances, and Regional Security. *Research Journal for Social Affairs*, 3(5), 503-520. <sup>38</sup> Nordquist, M. (Ed.). (2011). *United Nations Convention on the law of the sea 1982, Volume VII: a commentary* (Vol. 7). Brill.

predetermination has been underwired by compliant gadgets such as the 'Tripartite Technical Experts Group' and the 2007 Cooperative Mechanism, which provide a forum for balancing user-state expectations with coastal-state responsibilities. The substantial modus vivendi determines that operative chokepoint domination often develops not from unbending legal categorisations but from exchanged practices amalgamation sovereignty, and accessibility<sup>31</sup>.

## 5. COASTAL STATES VS. USER STATES: PREPARATION AND STRAINS

### 5.1 Sovereignty Avowal

Malaysia and Indonesia dependably outwit the term "international strait," referring to the Malacca corridor as a "strait under the sovereignty of the littoral states".

This connection emphasises their need for a jurisdictional controller is mandatory for discuss

<sup>31</sup> Oegroseno, A. H. (2017). State practices in Southeast Asia: Possible collaboration amongst claimants in the South China Sea dispute. *The International Journal of Marine and Coastal Law*, 32(2), 364-372.

<sup>32</sup> Guohong, F., Susanto, D., Soesilo, I., Zheng, Q. A., Fangli, Q., & Zexun, W. (2005). A note on the South China Sea shallow interocean circulation. *Advances in Atmospheric Sciences*, 22(6), 946-954. <sup>41</sup> Wang, J. (2011). China's energy security and the "Malacca Dilemma." *Journal of Contemporary China*, 20(68), 233-247.

<sup>33</sup> Beckman, R. (2007). "The Strait of Malacca: The Security of Shipping and the Role of UNCLOS." *Ocean Development & International Law*, 38(3-4), 267-282.

<sup>34</sup> United Nations Convention on the Law of the Sea, art. 42(2), Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994). Article 42 provides that laws and regulations adopted by strait States relating to transit passage shall not have the practical effect of "denying, hampering or impairing" the right of transit passage, and must not unjustifiably

piracy, environmental intimidations, and the economic relaxations of Aboriginal civilisations<sup>32</sup>. Sovereignty also consensuses them to accumulate light levies, launch direction-finding structures, and organise implementation actions, which they argue would be thinned under a stringently internationalised organisation.

### 5.2 Piracy and Naval Security

Archaeologically, the Strait of Malacca has been amongst the most piracy-prone waterways, with occasions oscillating from equipped robbery to skyjacking. To address these intimidations, shoreline states launched MALSINDO, a synchronised sea perambulation enterprise by Malaysia, Singapore, and Indonesia, in 2004, followed by the "Eyes in the Sky" in-flight reconnaissance suite in 2005<sup>41</sup>. These procedures establish applied sovereignty: while regarding the UNCLOS shipping passage framework, they allow coastal states to safeguard shipping lanes, deter criminal activity, and reassure user states about navigational safety.<sup>33</sup>

### 5.3 Environmental Regulation

The high concentration of transporter and container traffic, combined with periodic groundings and oil spills, has raised the stakes for environmental protection. Coastal states, as maintained by the International Maritime Organisation (IMO), have employed Traffic Separation Schemes (TSS), necessary pilotage in complex zones, and pollution control principles (United Nations, 1982). These procedures illustrate how sovereignty is drilled for nautical ecological stewardship, yet must be composed to dodge "obstructing or prejudicing" <sup>34</sup> transport passage rights as authorised by Article 42 of UNCLOS.<sup>35</sup>

obstruct or prejudice the exercise of navigational freedoms guaranteed under the Convention.

<sup>35</sup> Article 42 allows States bordering straits used for international navigation to adopt laws and regulations on *transit passage* for purposes such as navigation safety, regulation of maritime traffic, prevention and control of pollution, fishing activities, and customs, immigration and sanitary controls. These laws must not discriminate against foreign ships or practically hinder the right of transit passage, must be publicized, and must be respected by foreign ships exercising transit passage; if a foreign ship or aircraft with sovereign immunity violates these laws, its flag State may bear international responsibility for resulting loss or damage.<sup>45</sup> The term "Malacca Dilemma," which was initiated by Hu Jintao in 2003. This is with reference to China's strategic vulnerability arising from its heavy dependence on energy imports and trade flows which passes through the Strait of Malacca. The concept highlights that disruption or blockade of

#### 5.4 Operator State Distresses

For the foremost maritime powers, the Strait of Malacca remains a strategic chokepoint. The United States normally opinions freedom of navigation as an essential principle and infrequently behaviours Freedom of Navigation Operations (FONOPs) to challenge declared extreme claims. China, visibility on Malacca for a large share of its energy imports, classifies a “*Malacca Dilemma*”<sup>45</sup>, dreading defencelessness to blockade or tumult, which has fortified expansion efforts finished cylinders, port assets, and the Belt and Road Initiative<sup>36</sup>. Japan and other East Asian frugalities likewise prioritise incessant passage, often as long as monetary and mechanical delivery to coastal states for navigational security promotions.

### 6. COMPARATIVE PERSPECTIVE

#### 6.1 Strait of Hormuz

The “*Strait of Hormuz*”, connecting the Persian Gulf and the Gulf of Oman, is a main strait for global oil activities. Iran and Oman claim dominion over their individual regional seas within the passageway, yet UNCLOS Article 38<sup>37</sup> satisfies them to permit transport passageway between two parts of the High Seas or Exclusive Economic Zones<sup>38</sup>. Straining infrequently rise when Iran looms to close the Strait, but most permissible remark agrees that such a closing would disobey UNCLOS. Hormuz hence spectacles Malacca in that seaside state statements of control share with the overriding code of unimpeded triangulation<sup>39</sup>. Therefore, it is evident that The straits of Hormuz are the energy chokepoint with low volume and high impact whereas the strait of Malacca is a global trade artery with high volume and systemic importance.

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the strait by rival powers and the peripheral countries could threaten China’s economic security and maritime trade.

<sup>36</sup> Doshi, R. (2021). *The long game: China’s grand strategy to displace American order*. Oxford University Press

<sup>37</sup> United Nations Convention on the Law of the Sea, art. 38, Dec. 10,

<sup>38</sup> Zulkifli, N., & Ariffin, M. R. M. (2023). Iran and Oman conflict in the Strait of Hormuz: The potential for cooperation. *International Journal of Education and Humanities*, 3(1), 24-42.

<sup>39</sup> Ja’afar, S. B. (2007). *International law of the sea and national legislation on piracy and terrorism in the straits of Malacca: a study in law and policy* (Doctoral dissertation, University of Greenwich).<sup>50</sup> Montreux Convention Regarding the Regime of the Straits, July 20, 1936, 173 L.N.T.S. 213. The Convention grants Turkey control over the Turkish Straits (the Bosphorus and Dardanelles), restores its authority to regulate transit, and establishes specific rules governing the passage of merchant vessels and warships, including limitations on non-Black Sea naval powers.

#### 6.2 Turkish Straits

The Turkish Straits, comprehending the Bosphorus and Dardanelles, which attaches to the Black Sea and the Mediterranean yet are not administered by UNCLOS only. As an alternative, the Montreux Convention of 1936<sup>50</sup> grants Turkey significant supervisory powers, including the ability to constrain warship capacity and regulate naval passage during peacetime and wartime<sup>40</sup>. This custom-made management epitomises a allowable exemption to UNCLOS, fashioned by geopolitical authenticities and ancient agreement promises, and authenticates in what way chokepoints may arise under supernumerary dominance circumstances<sup>41</sup>.

#### 6.3 Lessons for Malacca

The Strait of Malacca occupies an intermediate location between the Hormuz and Turkish models. It is not fully internationalised like Hormuz, where the transportation passageway is widely recognised, nor is it secured by a separate covenant that consents to a solitary state’s extensive change, as in Montreux. Malacca is resolute beneath an irritated administration which is located within Malaysia’s and Indonesia’s regional seas, yet essentially open to

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1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994). Article 38 establishes the right of transit passage through straits used for international navigation, guaranteeing all ships and aircraft the freedom of continuous and expeditious transit between one part of the high seas or exclusive economic zone and another, subject to compliance with the Convention.

nonstop international shipping due to UNCLOS ambiguity and considerate instruments<sup>42</sup>. This combination of legal elasticity and political negotiation demonstrates that enduring chokepoint sovereignty routinely be conditional on district arrangements, applied harmonisation, and collective sanctuary obligations, rather than on severe arrangement law alone.

<sup>40</sup> Hascher, A. M. (2019). *The Black Sea and the Turkish Straits: Resurgent Strategic Importance in the 21st Century* (Master’s thesis, The Ohio State University).

<sup>41</sup> Their legal regime is governed not by UNCLOS, but by the Montreux Convention Regarding the Regime of the Straits, a venerable instrument that balances freedom of navigation with Turkey’s security interests. Under this Convention, neutral vessels are guaranteed free passage in harmony. Though warships may transit only under definite circumstances, including prior declaration, weight limits, and limitations on the period of stay, with even constricted panels obligatory on non-Black Sea states.

<sup>42</sup> Hamzah, Z. L., Alwi, S. F. S., & Othman, M. N. (2014). Designing corporate brand experience in an online context: A qualitative insight. *Journal of Business Research*, 67(11), 2299-2310. <sup>54</sup> Tsailas, Demetrios N. "Risks And Threats In The 21st Century Maritime Security." *Security Science Journal* 6.1 (2025): 106-144.

## 7. GOVERNANCE PATTERNS ACROSS MAJOR GLOBAL MARITIME CHOKEPOINTS

Governance enterprises crosswise main international oceanic chokepoints reproduce a complex announcement between sovereignty, international law, security concerns, and global financial interdependence. Though most chokepoints privilege the legal framework of the UNCLOS, their functional supremacy differs depending on geography, local government, and official agendas<sup>54</sup>. The Strait of Malacca establishes a flawless instance of considerate coastal organisation mutual with global investor attention. Malaysia, Indonesia, and Singapore recall main accountability for directional safety and environmental defence, while recognising the strait's position to international shipping<sup>43</sup>. Authority here reproduces a cautious balance between sovereignty and transportation channel rights, reinforced by synchronized patrols and incomplete burden-sharing creativities.

In transformation, the Channel of Hormuz demonstrates tremendously militarised supremacy atmosphere shaped by strategic competition. Though transit passageway put on under UNCLOS, the strait's role as a dangerous oil artery brands it vulnerable to geopolitical tensions, predominantly connecting Iran and external naval powers. Lawful norms exist, but implementation and immovability are strongly prejudiced by power government<sup>56</sup>.

In the similar method, the Bab el-Mandeb replicates governance come across associated with subtle national surroundings. Connecting the Red Sea to the Gulf of Aden. It has practiced piracy and security instability, motivation significant participation from international naval alliances. Now, native governance magnitudes is complemented by exterior security arrangements<sup>44</sup>.

The Turkish Straits present a discrete treaty-based supremacy classical under the Montreux Convention Regarding the Regime of the Straits. This decided Turkey regulatory specialist though imposing explicit limitations on nautical transit, predominantly for non-Black Sea establishments. This preparation reproduces a highly institutionalised and historically entrenched legal administration<sup>45</sup>.

Finally, the Panama Canal indicates a case of

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<sup>43</sup> Ho, J. H. (2009). Enhancing safety, security, and environmental protection of the Straits of Malacca and Singapore: The cooperative mechanism. *Ocean Development & International Law*, 40(2), 233-247. <sup>56</sup> Aldawish, A. M. A. (2024). *The Application of the Transit Passage Regime in Straits Used for International Navigation: A Study of the Strait of Hormuz* (Doctoral dissertation, University of Essex (United Kingdom)).

<sup>44</sup> Kadri, J. (2023). Bab-el-Mandeb and the threat of the 'One Belt One Road' project. In *Socio-Historical Roots of Yemen's Collapse* (pp. 205-242). Cham: Springer Nature Switzerland.

<sup>45</sup> Kahya, M. M. (2024). *Türkiye as an Emerging Trading State in the Black Sea Region* (Master's thesis, Middle East Technical University (Turkey)).

Variable	Strait of Hormuz	Bab el-Mandeb	Turkish Straits	Strait of Malacca
<b>Primary Legal Regime</b>	UNCLOS Transit Passage (Part III)	UNCLOS Transit Passage (Part III)	Montreux Convention Regarding the Regime of the Straits ( <i>lex specialis</i> )	UNCLOS Transit Passage (Part III)
<b>Strategic Importance</b>	Global energy artery (oil & LNG)	Suez-linked trade corridor	Access between Black Sea & Mediterranean	Indo-Pacific trade & energy artery
<b>Security Environment</b>	Highly militarised; naval rivalry	Conflict-prone; non-state threats	Geopolitically sensitive; regulated militarisation	Cooperative security; piracy history
<b>Coastal State Leverage</b>	Iran uses closure rhetoric as deterrent	Limited capacity; fragmented authority	Turkey exercises treaty-based control	Sovereignty-sensitive regulation by Malaysia & Indonesia
<b>Dominant IR Logic</b>	Realism (deterrence, balance of power)	Liberal institutionalism (multinational cooperation)	Realism institutionalised through treaty	Hybrid: realism + institutionalism + constructivism
<b>Role of Major Powers</b>	Direct naval presence (US, others)	Naval coalitions & patrols	Indirect influence via Black Sea geopolitics	Strategic interest (US, China, India, Japan) but limited overt militarisation
<b>Nature of Legal Contestation</b>	Threat-based interpretation of transit passage	Capacity and enforcement challenges	Military transit restrictions codified	Interpretative ambiguity over regulatory scope
<b>Environmental Regulation</b>	Secondary to security concerns	Limited regulatory enforcement	National control within treaty framework	Environmental safety is invoked in regulatory practice
<b>Governance Model</b>	Militarised deterrence model	Capacity-constrained multilateralism	Treaty-based exceptionalism	Managed ambiguity with regional cooperation
<b>Dispute Resolution Pattern</b>	Political-strategic management	Operational coalition response	Treaty-based legal structure	Diplomatic accommodation; limited litigation
<b>Vulnerability Type</b>	Interstate escalation risk	Non-state & regional instability	Geopolitical spillover	Congestion, piracy, and regulatory friction
<b>Future Governance Challenge</b>	Escalation amid greatpower rivalry	State fragility & hybrid threats	Treaty durability under new conflicts	Technological change & sovereignty-freedom balance

internationalised substructure below sovereign administration. Nevertheless transportation is certain under treaty preparations, operational controller relaxations with Panama, demonstrating how tactical channels can connotation national dominion with global suitability<sup>46</sup>.

Equally, these chokepoints reveal a collection of governance imitations reaching from obliging provincial management to militarised tactical misinterpretation and prescribed treaty-based modification. While UNCLOS delivers the allembicing normative structure, actual governance consequences be contingent on regional power dynamics, institutional strength, and the evolving equilibrium between sovereign authority and

<sup>46</sup> Rodrigue, J. P. (2017). The governance of intermediacy: The insertion

freedom of navigation<sup>47</sup>. This has been illustrated in the table below

## 8. INTERNATIONAL RELATIONS APPROACHES TO MARITIME CHOKEPOINT GOVERNANCE

An academically knowledgeable assessment of the

Strait of Hormuz, Bab el-Mandeb, and the Turkish Straits controlled by the Montreux Convention Regarding the Regime of the Straits<sup>48</sup> establishes that

of Panama in the global liner shipping network. *Research in Transportation Business & Management*, 22, 21-26.

nautical chokepoint authority cannot be assumed exclusively through black-letter law<sup>49</sup>. In its place, it is formed by opposing reasons: realism, which advocates power and security; liberal institutionalism, which is based on cooperation and regimes; and constructivism, the theory based on norms, identity, and legal interpretation<sup>50</sup>. Once positioned together with the Strait of Malacca, these gears divulge that UNCLOS utilities less as a conclusive manual and more as a lenient outline intermediated by strategic perspective.<sup>51</sup>

### 8.1. Realism: Hard Power Dynamics in the Governance of Strategic Sea Lanes

Commencing from the realist viewpoint, chokepoints are instruments of operational power. Topography discusses strategic benefits to coastal states, allowing them to exert reductions, daunt opponents, or achieve resolution<sup>52</sup>. Legal management, such as the United Nations Convention on the Law of the Sea, is only as good as they align with state benefits or is sponsored by trustworthy implementation<sup>53</sup>. The Strait of Hormuz demonstrates this rationality. While transportation passageway under UNCLOS officially assurances non-suspend able celestial navigation,

Iran's episodic intimidations to close or disrupt the strait demonstrate how quantifiable competences and geopolitical rivalry contradict legal understanding<sup>54</sup>. The presence of foremost naval forces, principally the United States, reproduces a balance-of-power zeal rather than a requirement for established acquiescence. Cargo passageway perseveres not because of normative agreement alone, but because countervailing power discourages independent termination<sup>55</sup>.

Likewise, the Turkish Straits validate realist haggling entrenched within a treaty plan. The Montreux

transit of naval warships and civilian vessels through the Turkish Straits (Bosporus and Dardanelles). The Convention grants Turkey control over the straits while guaranteeing freedom of passage for civilian vessels in peacetime and imposing restrictions on the transit of military vessels, particularly those of non-Black Sea powers. It remains in force and constitutes a *lex specialis* regime distinct from the transit passage provisions under the 1982 UNCLOS.

Convention institutionalises Turkey's expert witness to control military passage, particularly during wartime. In instances of regional catastrophe, Turkey's topographical switch translates into ambassadorial influence. The treaty does not remove power politics; somewhat, it codifies a circulation of power meditative of interwar strategic realities and continued through succeeding geopolitical recalibrations<sup>56</sup>.

Realistic approach, when implemented to the Strait of Malacca, realism recommends that Malaysia and Indonesia's sovereignty proclamations are not merely legal incongruities but strategic positioning<sup>57</sup>.

Even though they do not amenably dare transportation passage, their controlling stress underlines the desire to recall thoroughgoing

<sup>47</sup> Agnew, J. (2005). Sovereignty regimes: Territoriality and state authority in contemporary world politics. *Annals of the association of American geographers*, 95(2), 437-461.

<sup>48</sup> The Montreux Convention Regarding the Regime of the Straits was signed on 20 July 1936 in Montreux, Switzerland, and regulates the

<sup>49</sup> Spanier, B., Shefler, O., & Rettig, E. (2021). UNCLOS and the protection of innocent and transit passage in maritime chokepoints. *Maritime Policy & Strategy Research Center, University of Haifa*.

<sup>50</sup> Kahl, C. H. (1998). Constructing a separate peace: Constructivism, collective liberal identity, and democratic peace. *security studies*, 8(2-3), 94-144.

<sup>51</sup> Rusli, H. (2012). Balancing shipping and the protection of the marine environment of straits used for international navigation: a study of the straits of Malacca and Singapore.

<sup>52</sup> Paladinou, G. (2025). *The geopolitical importance of maritime choke points and the Northern Sea Route* (Master's thesis, Πανεπιστήμιο Πειραιώς).

<sup>53</sup> Druel, E., & Gjerde, K. M. (2014). Sustaining marine life beyond

<sup>54</sup> Druel, E., & Gjerde, K. M. (2014). Sustaining marine life beyond boundaries: Options for an implementing agreement for marine biodiversity beyond national jurisdiction under the United Nations Convention on the Law of the Sea. *Marine Policy*, 49, 90-97.

<sup>55</sup> Sprout, H. H., & Sprout, M. T. (2015). *Rise of American naval power*. Princeton University Press.

<sup>56</sup> Isachenko, D., & Kaymak, E. (2024). Turkey's strategic autonomy in the Black Sea and the Eastern Mediterranean.

<sup>57</sup> Sittnick, T. M. (2005). State responsibility and maritime terrorism in the Strait of Malacca: Persuading Indonesia and Malaysia to take additional steps to secure the Strait. *Pac. Rim L. & Pol'y J.*, 14, 743. <sup>71</sup> Permal, S. (2021). Malaysia's Maritime Realm: The Geostrategic Imperatives. *Malaysia: A Maritime Nation-Hardcover* (Editors: Ruhanas Harun & Sabirin Ja'afar).

jurisdictional governance over a globally robust corridor. The nonappearance of overt militarisation, disparate Hormuz, does not refute the fundamental structural power resulting from topography<sup>71</sup>.

## 8. 2. Liberal Institutionalism: Regimes, Cooperation, and Functional Interdependence

Liberal institutionalism places emphasis on power antagonism to regime-building and cooperative governance. Underneath this structure, UNCLOS establishes an international organisation aimed to decrease uncertainty, stabilising expectations, and facilitating interdependence. Maritime chokepoints are unrelenting, not merely by discouragement but by shared economic incentives and institutionalised norms<sup>58</sup>.

The Bab el-Mandeb Strait affords an informative instance. Nevertheless officially enclosed by transportation routes, the strait's dominance experiments arise from feeble state dimensions and local variability<sup>59</sup>. Cosmopolitan marine coalitions

boundaries: Options for an implementing agreement for marine biodiversity beyond national jurisdiction under the United Nations Convention on the Law of the Sea. *Marine Policy*, 49, 90-97.

and cooperative security edges arose to protection shipping. Today, functional interdependence, mainly the collective interest in defensive Suez-bound trade, is absorbed in synchronised action. Legitimate norms deliver a shared language, but useful security is depending on recognized connotations<sup>60</sup>.

The line more scarcely with this institutionalist model is the Strait of Malacca. Contrasting with piracy uncertainties in the early 2000s, Indonesia, Malaysia, and Singapore progressive harmonised patrol tools and information-sharing sketches<sup>61</sup>. These preparations unaffected independence while consolidation navigational dependability. Justly than attractive outside regulating, coastal states made a

provincial resolution trustworthy with UNCLOS yet modified to local deliberations. The position was an amalgamation supremacy regime on the legitimately beached in the consignment passage, operationally constant through a accommodating sanctuary<sup>76</sup>. UNCLOS determinations as a helpful building rather than an operation expert, from this perspective. It discounts agreement costs and illumines baseline rights, permitting conditions to deliberate the accompanying preparations. The management's capability is thus conditional on corresponding provincial equipment<sup>62</sup>.

## 8. 3. Constructivism: Norms, Identity, and Legal Interpretation

Constructivism demonstrate lawful implication is on a social basis built through state performs, discourse, and identity explanations. Chokepoints are not just corporal barriers but areas where opposite normative claims, such as sovereignty, freedom of navigation, and environmental protection, are expressed and confronted<sup>63</sup>. In the Strait of Hormuz, Iranian rhetoric regularly localities shipment channel deliberations in terms of conflict to peripheral intervention and defence of provincial freedom<sup>64</sup>. The legitimate and the legal argument is henceforth fixed in broader

individuality politics and historical remembrance. Likewise, Turkey's stewardship of the Turkish Straits is tied to national sovereignty financial records rooted in the post-Ottoman compensation order. The Montreux Convention is not just a practical device but a demonstration of sovereign restoration<sup>65</sup>. The Strait of Malacca reproductions a simple normative contestation. Malaysia and Indonesia emphasise on the environmental safeguard, oceanic protection, and anti-piracy responsibilities to justify controlling miscalculation<sup>66</sup>. Operator states, by contrast, front

<sup>58</sup> Petrelli, P. (2025). Reforming UNCLOS: Addressing Global Ocean Governance Challenges in the twenty-first Century. *Blue Crimes and International Criminal Law*, 65.

<sup>59</sup> Almhiqani, M. (2022). *Bab Al-Mandab and Its Geostrategic Value* (Master's thesis, Sultan Qaboos University (Oman)).

<sup>60</sup> Moravcsik, A. (2010). Liberal theories of international relations: A primer. *Princeton, NJ: Princeton University*.

<sup>61</sup> Zulkifli, N., Ibrahim, R. I. R., Rahman, A. A. A., & Yasid, A. F. M. (2020). Maritime Cooperation in the Straits of Malacca (2016-2020): challenges and recommend for a new framework. *Asian journal of research in education and social sciences*, 2(2), 10-32. <sup>76</sup> Petrelli, P. (2025). Reforming UNCLOS: Addressing Global Ocean Governance Challenges in the twenty-first Century. *Blue Crimes and International Criminal Law*, 65.

<sup>62</sup> Barnes, R. A. (2016, August). The continuing vitality of UNCLOS. In *The United Nations Convention on the Law of the Sea: A Living Instrument (BIICL, 2016)* (pp. 459-489).

<sup>63</sup> Huysmans, J. (2002). Defining social constructivism in security studies: The normative dilemma of writing security. *Alternatives*, 27(1 suppl), 41-62.

<sup>64</sup> Aldawish, A. M. A. (2024). *The Application of the Transit Passage Regime in Straits Used for International Navigation: A Study of the Strait of Hormuz* (Doctoral dissertation, University of Essex (United Kingdom)).

<sup>65</sup> Oğuz, A. (2022). *Reconstruction of Turkish national identity through shifting perceptions of threat* (Doctoral dissertation, Middle East Technical University (Turkey)).

<sup>66</sup> Ja'afar, S. B. (2007). *International law of the sea and national legislation on piracy and terrorism in the straits of Malacca: a study in law and policy* (Doctoral dissertation, University of Greenwich). <sup>82</sup> Islam, M. S., & Hasan, A. M. (2025). Rethinking UNCLOS dispute mechanisms: jurisdiction, sovereignty, and reform pathways through case law insights. *International Environmental Agreements: Politics, Law and Economics*, 25(4), 539-574.

position freedom of navigation as an international code. The inelasticity lies less in the official elimination of UNCLOS than in descriptive framing. Whether the strait is mainly an international main road or a sovereignly accomplished corridor with international distributions<sup>82</sup>.

Constructivism, therefore, make known that legal ambiguity sticks at not since UNCLOS absences recorded transparency unaccompanied. On the other hand, situations instil its necessities with contextspecific connotations. Consignment passage develops a transferred norm rather than a static rule<sup>67</sup>. A supposedly better contrast validates that maritime chokepoint governance duplicates layered communications between regulation, authority, and rules. The Strait of Malacca's vagueness is not outstanding but indicative of a broader structural realism; global maritime law provides a baseline order, yet its operational meaning is shaped by strategic rivalry, institutional version, and developing state individualities<sup>68</sup>.

Consequently, UNCLOS should be stated not as a last authority of chokepoint disputes, but as a constitutional framework within which geopolitical negotiation is clarified. The governance of twentyfirst-century nautical tones thus requires not only legal clarification, but continued regional collaboration and strategic limitation<sup>85</sup>.

Kingdom)).

## 9. EMBRYONIC CONCERNS IN THE STRAIT OF MALACCA: INCREASING THE LIMITS OF UNCLOS

The Strait of Malacca, formally governed by the UNCLOS, is increasingly shaped by technological, economic, and geopolitical changes that test the interpretative limits of the convention<sup>86</sup>. While UNCLOS provides the legal basis for transit passage and navigational freedoms, it was created before autonomous navigation systems, cyber vulnerabilities, hybrid warfare, and digital seabed infrastructure emerged. These new issues expose structural gaps between the convention's static legal

categories and the evolving realities of twenty-firstcentury maritime governance<sup>69</sup>.

One of the most important developments concerning the autonomous and remotely operated vessels. Maritime transport is slowly assimilating artificial intelligence, assisted navigation systems and fully autonomous ships. UNCLOS believes the incidence of a flag state, crew, and traditional command responsibility structures. However, autonomous ships complicate obligation, responsibility, and obedience frameworks. Queries rise concerning whether unmanned vessels have undistinguishable transit passage rights, and in what way responsibility is owed in case of crashes within congested waterways like the Strait of Malacca. Hence, the influence applies if algorithmic mistakes cause environmental destruction. The lack of clear requirements in UNCLOS most important to autonomous maritime systems demonstrates the need for interpretative adaptation or supplementary regulatory apparatuses. In a chokepoint where traffic flow viscosity is already high, separate navigating presents not only capability increases but also sharp controlling ambiguity.

Cautiously connected to this variation is the growing strategic location of undersea cables and numerical infrastructure. The Strait of Malacca is not just a conveyance corridor but also a channel for undersea fibre-optic cables. The corridor categorical considerable amounts of global internet and financial data. UNCLOS slot in requirements for apologetic

down, locked in, locked out. In *Laws of the Sea* (pp. 184-201). Routledge.  
<sup>86</sup> Capon, C. J. (1998). The Threat of Oil Pollution in the Malacca Strait: Arguing for a Broad Interpretation of the United Nations Convention on the Law of the Sea. *Pac. Rim. L. & Pol'y J.*, 7, 117.

submarine cables from wilful damage. On the other hand, putting into practice policies are weak and largely volatile. In a period where cyber manoeuvres and infrastructure interruption are reasonable tools of government, submarine cables represent critical vulnerabilities<sup>88</sup>. Interference in this chokepoint would not only affect trade but also digital connectivity across Asia and beyond. The domination of submarine cables, therefore, intersects with both maritime law and cybersecurity frameworks, creating

<sup>67</sup> Pollentine, M. (2012). *Constructing the responsibility to protect* (Doctoral dissertation, Cardiff University).

<sup>68</sup> Zulkifli, N., Ibrahim, R. I. R., Rahman, A. A. A., & Yasid, A. F. M. (2020). Maritime Cooperation in the Straits of Malacca (2016-2020): challenges and recommend for a new framework. *Asian journal of research in education and social sciences*, 2(2), 10-32. <sup>85</sup> Probyn, E. (2022). UNCLOS as a geopolitical chokepoint: locked

<sup>69</sup> Jin, Y., Feng, Y., Liu, C., & Li, S. (2025). Navigating the digital seas: Legal challenges and global governance of maritime cyber operations. *Frontiers in Marine Science*, 12, 1616906. <sup>88</sup> Hashum, S. (2025). Climate Change and the Arctic Ocean: Exploring Geopolitical Shifts and Strategic Interests in the Region. *Global Strategic Pulse: CISSS Journal of Geopolitical & Geo-economic Studies*, 2(1), 5572.

regime difficulty. UNCLOS indulges cables as physical associates. Contemporary calculated reality treats them as digital veins of global interdependence.

#### 10. NORMATIVE AND IMPROVEMENT OFFERS: RECONSIDERING STRAIT GOVERNANCE BEYOND UNCLOS

The supremacy of the Strait of Malacca discloses structural strains within the UNCLOS, mainly in harmonizing seaside state sovereignty with the nonsuspend able regime of transit passageway<sup>70</sup>. While UNCLOS recalls the legitimate outline of ocean domination. It's necessities on straits used for worldwide triangulation were constructed in a unlike geopolitical and technological epoch<sup>71</sup>. The persistence of explanatory doubt and planned contestation suggests the need for normative clarification and established reform. Fairly than repositioning UNCLOS, reform proposals should aim to adding and operationalise it in ways that reproduce contemporary realisms<sup>72</sup>.

A sole conceivable development is the receipt of an extra protocol on international straits under UNCLOS. Such a etiquette might elucidate definitional uncertainties of the neighbouring transit corridor<sup>92</sup>. Describe permissible regulatory events by seaside states, and statement unindustrialised technological and environmental experiments. Case in point, the protocol could expressively rapid sturdier values regarding compulsory pilotage, traffic separation schemes, and environmental jeopardy extenuation without discouragement navigational freedoms<sup>93</sup>. It could also include specific provisions on autonomous vessels and digital infrastructure protection, areas left largely unaddressed in the unique agreement. An accompanying instrument would reserve the authority of UNCLOS while modernising its application, comparable to how environmental treaties often evolve through further

protocols<sup>73</sup>. The experiment, however, lies in attaining agreement among states with differing strategic interests, predominantly major maritime powers and vital coastal states.

An alternative or complementary approach includes the expansion of local strait supremacy agreement representations. The governance of the Turkish Straits under the Montreux Convention Regarding the Regime of the Straits proves that geographically exact agreements can square global navigational interests with sovereign concerns<sup>74</sup>. Among Indonesia, Malaysia, and Singapore, a provincial framework for the Strait of Malacca was negotiated. Major user states could institutionalise accommodating security arrangements, environmental safeguards, and burden-sharing promises. Such a treaty would not replace UNCLOS but operate as a Lex specialist arrangement tailored to regional dynamics<sup>75</sup>. It might formalise instruments for substantial distribution, joint perambulations, and emergency reply while confirming transit channel rights. A provincial treaty prototypical may demonstrate more governmentally conceivable than a worldwide alteration to UNCLOS, given the latter's trouble and the application of stimulating comprehensive discussions.

Additional reorganisation position anxieties strengthening compliance with dispute payment devices under Part XV of UNCLOS<sup>76</sup>. While UNCLOS delivers for obligatory dispute determination, states often avoid official hearing in complex strait disputes, preferring diplomatic

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protection of innocent and transit passage in maritime chokepoints. *Maritime Policy & Strategy Research Center, University of Haifa.*

cooperation. While suppleness is appreciated, the absenteeism of authoritative jurisdictional amplification continues indistinctness. Promising better option to arbitral courts or the International

<sup>70</sup> Rusli, H. (2012). Balancing shipping and the protection of the marine environment of straits used for international navigation: a study of the straits of Malacca and Singapore.

<sup>71</sup> Petrelli, P. (2025). Reforming UNCLOS: Addressing Global Ocean Governance Challenges in the twenty-first Century. *Blue Crimes and International Criminal Law*, 65.

<sup>72</sup> Michael, S. (2024). Examination Of The Viability Of Unclos As A Premise For Maritime Dispute Resolution. Available at SSRN 5133551. <sup>92</sup> Martin, A. G. L. (2010). *International straits: Concept, classification and rules of passage*. Springer Science & Business Media. <sup>93</sup> Spanier, B., Shefler, O., & Rettig, E. (2021). UNCLOS and the

<sup>73</sup> Aldawish, A. M. A. (2024). *The Application of the Transit Passage Regime in Straits Used for International Navigation: A Study of the Strait of Hormuz* (Doctoral dissertation, University of Essex (United Kingdom)).

<sup>74</sup> Mitchell, J. M., & Joyner, C. C. (2002). Regulating Navigation through the Turkish Straits: A challenge for modern international environmental law. *The International Journal of Marine and Coastal Law*, 17(4), 521-559.

<sup>75</sup> Ustahaliloğlu, M. K. (2007). *Freedom of Navigation of Merchant Vessels Through the Turkish Straits According to the Montreux Convention versus Turkey's Right to Regulate the Traffic Therein for the Environmental Safety Thereof* (Master's thesis, University of Wales, Swansea (United Kingdom)).

<sup>76</sup> UNCLOS Part XV is on the Settlement of Disputes. It establishes the legal framework for the peaceful settlement of differences of opinion concerning the interpretation and application of the Convention. It delivers for compulsory procedures entailing binding decisions, including recourse to the International Tribunal for the Law of the Sea, the

Tribunal for the Law of the Sea<sup>77</sup> might help crystallise legal explanations of transportation channel and coastal controlling expert. Attractive transparency in state rehearsal and encouraging advisory chronicles could also build jurisprudential reliability. Consolidation obedience does not automatically require coercive implementation. Abstemiously, it comprises calming normative expectations that legal arguments over chokepoints should be determined through institutional instruments rather than independent proclamation<sup>78</sup>. Accommodating burden-sharing signifies an imperative area for modification. The Strait of Malacca holds an extraordinarily large capacity of global seafaring trade. Nonetheless, the accountability for ensuring navigational safety and environmental protection rests largely with the coastal countries<sup>79</sup>. This inequality generates heaviness on coastal administrations, occasionally encouraging stronger assertions of sovereignty in hunt of compensation or greater controlling control. Beginning a more formal burden-sharing preparation, possibly under the management of the International Maritime Organization, would allow main user states to underwrite economically to safety substructure, oil spill preparation, and maritime domain awareness<sup>101</sup>. Such an outline would accept the strait's attractiveness as a global public good while continuing respect for the self-determining rights of coastal states. By simplification the economic burden, accommodating cost-sharing could decrease inducements for constricting controlling guidelines<sup>80</sup>. Descriptive the possibility of transit passageway

International Court of Justice, and arbitration under Annex VII and VIII. The unit also summarises limits and voluntary exclusions under Articles 297–299

through advisory sentiments offers a supplementary normative boulevard for improvement. An optional estimation from the International Tribunal for the Law of the Sea or the International Court of Justice could assistance resolve residual explanatory doubts, such as the allowable limits of environmental guideline or the legality of specific security measures in straits<sup>81</sup>. Dissimilar confrontational circumstances, voluntary events are less confrontational and allow states communally to invitation clarification without giving the matter as a bilateral discrepancy. Even though suggested assertiveness are not lawfully required, they carry considerable substantial expert and can underpin normative constancy<sup>82</sup>. This mechanism recognises that many dissimilarities arise from inconsistent understandings rather than absolute negation of the ideologies of the UNCLOS<sup>83</sup>. Totalling, founding a stronger balance between ecological protection and security within strait supremacy is progressively essential. Contemporary marine challenges, including oil spills, piracy, and maritime terrorism, have discriminating coastal state apprehensions<sup>84</sup>. While UNCLOS necessitates states to defend and preserve the marine environment and concurrently assurances transit passage, it delivers limited leadership on how to settle these obligations when strains arise<sup>85</sup>. Increase cautions could current objective values for environmental directive in straits, security that measures continue nondiscriminatory, comparative, and grounded in scientific suggestion. Also, security guidelines should be carefully limited and aligned with intercontinental norms<sup>86</sup>. Robust institute would help inhibit biological or security defences from being used to impose unjustified limitations, while still permitting seaside states to reply to honest jeopardies<sup>87</sup>.

<sup>77</sup> International Tribunal for the Law of the Sea (ITLOS), established under Annex VI of the United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994), is an independent judicial body based in Hamburg, Germany, with jurisdiction over disputes concerning the interpretation and application of the Convention.

<sup>78</sup> Toader, T., & Safta, M. (2025, July). Enhancing Transparency. In *Rule of Law, Technology and Environment: Contributions to the World Law Congress 2023 in New York* (p. 61). Springer Nature.

<sup>79</sup> Zulkifli, N., Ibrahim, R. I. R., Rahman, A. A. A., & Yasid, A. F. M. (2020). Maritime Cooperation in the Straits of Malacca (2016-2020): challenges and recommend for a new framework. *Asian journal of research in education and social sciences*, 2(2), 10-32. <sup>101</sup> Lawrence, M. W. (2015). *Tailoring the Global Network for Real Burden Sharing at Sea*. Bloomsbury Publishing USA.

<sup>80</sup> Young, O. R. (1989). *International cooperation: Building regimes for natural resources and the environment*. Cornell University Press.

<sup>81</sup> Nguyen, L. N. (2022). International Tribunal for the Law of the Sea. In *The Environment Through the Lens of International Courts and Tribunals* (pp. 71-97). The Hague: TMC Asser Press.

<sup>82</sup> Stavridi, M. (2024). The Advisory Function of the International Court of Justice: Are States Resorting to Advisory Proceedings as a "Soft" Litigation Strategy. *Journal of Public and International Affairs*, 22(4), 125.

<sup>83</sup> Lando, M. (2023). Advisory opinions of the International Court of Justice in respect of disputes. *Colum. J. Transnat'l L.*, 61, 67.

<sup>84</sup> Dabova, E. L. (2013). Non-traditional security threats in the border areas: Terrorism, piracy, environmental degradation in southeast Asian maritime domain. *The International Archives of the Photogrammetry, Remote Sensing and Spatial Information Sciences*, 40, 51-56.

<sup>85</sup> Spalding, A. K., & De Ycaza, R. (2020). Navigating shifting regimes of ocean governance: from UNCLOS to Sustainable Development Goal

<sup>86</sup> Harrington, A. R. (2021). *International law and global governance: Treaty regimes and Sustainable Development Goals implementation*. Routledge.

<sup>87</sup> Elliott, M., Cutts, N. D., & Trono, A. (2014). A typology of marine and estuarine hazards and risks as vectors of change: a review for vulnerable coasts and their management. *Ocean & Coastal Management*, 93, 88-99.

Unconditionally, these alteration submissions are directed by a common principle, variety to some extent than leaving behind of UNCLOS. The Strait of Malacca exemplifies how shifting geopolitical

changing aspects, technological progresses, and ecologically vulnerabilities encounter the flexibility of existing maritime law. Events such as a supplementary protocol, local treaty frameworks, strengthened dispute settlement, cooperative burden-sharing, advisory clarification, and clearer environmental–security values could collectively modernise strait governance<sup>88</sup>.

Eventually, the upcoming of straits governance depends not on dismantling the established permissible framework but on purifying it through incremental institutional origination. The pliability of UNCLOS as a maritime structure lies in its ability to evolve while maintaining the fundamental equilibrium between state sovereignty and the freedom of global triangulation<sup>89</sup>.

**11. ANALYSIS AND DISCUSSION** The UNCLOS was formulated with a module of creative hesitation to reunite the essentially dissimilar urgencies of coastline conditions and user states. In the Strait of Malacca, this ambiguity serves as both an asset and a limitation. As a strength, it allows sovereignty-conscious coastal states such as Malaysia and Indonesia to consent to UNCLOS without concession their jurisdictional control. This marmalades significant domestic and political stories of sovereign modification while concurrently guaranteeing user states of unrestricted navigation through excellent of the ecosphere's full of movement sea lanes. In replication, transit passage is supported, but the symbolic language of sovereignty alleviates fears of distant defilement.

As a limitation, the same uncertainty creates active indecision. Because Articles 37–45 of UNCLOS afford solitary universal guidance, there is no conclusive preparation for issues such as piracy destruction, container broadcasting supplies, contamination deterrence, or freedom of triangulation processes. Shoreline states may comprehend their directing

<sup>88</sup> VanderZwaag, D. (2002). The precautionary principle and marine environmental protection: slippery shores, rough seas, and rising normative tides. *Ocean Development & International Law*, 33(2), 165-188.

<sup>89</sup> Bateman, S. (2007). UNCLOS and its limitations as the foundation for a regional maritime security regime. *The Korean Journal of Defense Analysis*, 19(3), 27-56.

<sup>90</sup> MALSINDO (Malacca Straits Coordinated Patrol) is a trilateral maritime security cooperation launched in 2004 by Malaysia, Singapore,

skills lavishly, while user states prioritise unceasing passageway, often following legal requirements. This

14. *Environment and Society*, 11(1), 5-26.

tightness is increased by the strait's compression of juggernaut and container motion, its understanding of extremely occupied seaboard, and its past as a piracy hotspot. Accordingly, legal straightforwardness alone cannot ensure functioning governance. As an alternative, everyday arrangements, such as the MALSINDO<sup>90</sup> harmonised patrols (2004), the Eyes in the Sky investigation program (2005), and the International Maritime Organisation (IMO)-endorsed traffic separation arrangements, have developed as the principal mechanisms for make sure manoeuvring protection and maritime sanctuary<sup>113</sup>. These imaginations highpoint the native and understanding attraction of governance, gullible in confidencebuilding and considerable dissemination rather than straightforward arrangement portrayal. The Malacca Strait consequently presentations that chokepoint power at the session of deliberate, financial, and organic welfares be depending less on legal meticulousness than on political negotiation, provincial capacity building, and communal stewardship. However, UNCLOS transports the normal rules, but its considerate elasticity entails recurrent supplementation through two-sided preparations, applied values, and polygonal collaboration<sup>91</sup>.

## 12. CONCLUSION

The Strait of Malacca ultimately illustrates the subtle and disproportionate balance between sovereign control and international navigational freedom in contemporary maritime domination. While the UNCLOS officially recognises the government of transit passage, it concurrently preserves important regulatory authority for the littoral conditions. This dual construction has produced a hybrid governance model, lawfully situated within the regional seas of Malaysia, Indonesia, and Singapore, thus far functionally sustained as a global maritime strip vital to international trade and energy safety.

and Indonesia to conduct coordinated naval patrols within their territorial waters in the Strait of Malacca to deter piracy and armed robbery against ships. It involves each state patrolling its own waters in coordination with the others, without cross-border hot pursuit, and laid the groundwork for <sup>91</sup> Forbes, V. L. (2013). Geopolitics, Energy Security and 'Soft-Shoe Diplomacy' in the South China Sea. *The Journal of Diplomacy and Foreign Relations*, 14(1), 39-64.

The linking amongst a U.S.–Iran conflict and the Strait of Malacca deceptions in international energy amount routes. Since the oil from the Middle East goes through the Strait of Hormuz into the Indian Ocean and then forward complete the Strait of Malacca to influence Asian economies.

Consequently, any disturbance near Iran disturbs not only the source of oil supply nonetheless its movement to Asia, creation the Strait of Malacca a critical transportation opinion. China and Japan,

which be contingent seriously on Middle Eastern oil elated through this route. This dispute rises energy uncertainty and highpoints their vulnerability, often termed in China's case as the '*Malacca Dilemma*'. In the context of India, the Strait of Malacca is significant for trade and energy movements, and any variability produced by the conflict may push India to enhance its naval attendance to ensure the sanctuary of sea lanes. Consequently, a battle in the Middle East straight influences the strategic position of the Strait of Malacca, representative how provincial wars can encouragement Indo-Pacific nautical security and international trade complexes. On the other hand, increasing experiments, including organised piracy, maritime terrorism, environmental vulnerability, oil-spill liability concerns, and renewed major-power naval competition in the Indo-Pacific. This have vulnerable the documented and descriptive limits of the existing outline. The productivity of domination in the strait has be contingent less on the spontaneous operation of treaty supplies and more on continuous regional cooperation, coordinated patrol instruments, International Maritime Organisation vulgarization, and voluntary compliance by industry shareholders. In practice, dependability has been administratively assembled and managerially sustained rather than purely legally confident.

As maritime trade compression increases and geopolitical rivalry make stronger, mostly with the deliberate reorientation of most essential powers toward the Indo-Pacific. The Malacca information increases a significant normative query. Whether a legal administration negotiated in the 1970s and early 1980s leftovers fully acceptable to address twentyfirst-century security, ecological, and technical realisms. The strait would subsequently be tacit not as a motionless legal arrangement but as a dynamic governance space. UNCLOS doctrines, state preparation, official innovation, and practical cooperation must successively modification in phase. The toughness of maritime order in the Strait of

Malacca, and by adjournment across global chokepoints. Hence, this will be contingent on the capacity of international law to become accustomed without opposition its foundational stability between authority and freedom of navigation. Alteration, not auxiliary, leftovers the central encounter.

later joint efforts like Malacca Straits Patrols and aerial surveillance.<sup>113</sup> Ho, J. (2009). Combating piracy and armed robbery in Asia: The ReCAAP information sharing centre. *Marine Policy*, 33(2), 432–438.