

America's Hormuz case depends on a treaty that Republicans blocked

We must ratify the Law of the Sea Convention

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The United States is telling Iran that it has no right to charge vessels for passing through the Strait of Hormuz, through which roughly a fifth of global petroleum consumption and about a fifth of global LNG trade flow. This position is urgent, necessary and correct, and Iran's insistence to the contrary is a declaration of economic war on the world. It plainly comes from hubris that could backfire. NATO should immediately reverse course and make clear that it stands with the Trump administration in refusing to tolerate any Iranian attempt to turn the Strait of Hormuz into a tollbooth.

Still, a problem remains. The strongest legal foundation for denying Iran the right to charge for passage is the United Nations Convention on the Law of the Sea, a treaty

the United States helped shape and relies on daily but has refused to ratify — thanks to Republican shortsightedness — for more than four decades.

The current conflict boils down to this: Despite being thrashed militarily by the U.S. (and Israel), Iran is not only conceding little on its nuclear program and proxy militias but also doubling down on plans to impose payments on ships passing through the strait.

Iran says these “service fees” would cover safe passage, supervision and environmental costs.

Most of the numerous arguments against this derive from long-standing state practice and the simple global interest in keeping vital waterways open. The attempt to describe compulsory payments as fees for maritime services rather than tolls also deserves skepticism, especially if the charges function as a condition for passage.

The clearest legal answer to Tehran lies in the Law of the Sea Convention and its doctrine of transit passage through international straits.

The doctrine exists precisely because of places such as Hormuz. At its narrowest point, the strait is only about 21 nautical miles wide, meaning the territorial seas claimed by Iran and Oman overlap and leave no high seas corridor.

The treaty, therefore, guarantees ships and aircraft a right of continuous transit passage through the strait, allowing coastal states to regulate safety but not to impede passage.

The vast majority of U.N. member states — 170, including China and Russia, as well as the European Union, which is a non-state party — are now bound by the treaty. The U.S. and Iran are not, yet this is the principle Washington now invokes against Tehran.

The U.S. uses the Law of the Sea when it challenges China's claims in the South China Sea, Russia's claims in the Arctic and Iran's threats in the Persian Gulf — yet it remains outside the treaty that gives those principles their fullest legal form.

Washington argues that transit passage has become customary international law and therefore binds non-parties as well. That may be legally plausible, but it is an awkward position for a country that has spent more than four decades refusing to ratify the treaty itself.

Virtually every serious institution in the American national security establishment — from the Navy and military leadership to the shipping, energy and telecommunications industries — has long supported ratification because it strengthens American freedom of navigation and legal certainty. Republican and Democratic administrations alike have supported ratification since reforms addressed President Reagan's original concerns. This has never been a partisan project; it is a basic instrument of American power. Republican opposition gradually transformed the treaty into a symbol of resistance to international institutions, despite revisions that addressed Reagan's concerns over seabed mining. The debate shifted less from the treaty itself to resistance to multilateral cooperation. Those concerns, of course, align with Trump administration instincts. Yes, the treaty includes dispute mechanisms. It regulates seabed mining in areas beyond national jurisdiction. In the 1980s, Reagan objected to parts of the original seabed mining regime, and some of those objections were serious. The treaty was later revised to address those concerns. This is precisely why later Republican administrations supported ratification. The old argument persisted even after the text changed because the issue shifted from the treaty itself to a reflexive hostility to multilateral cooperation. For a wide swath of the modern Republican Party, international law became suspect simply because it was international.

Iran's attempt to monetize Hormuz demonstrates the cost of America's self-inflicted weakness. Ratifying the Law of the Sea Convention would strengthen Washington's position against Tehran and against China in the South China Sea and against Russia in the Arctic.

The Senate should finally correct this unnecessary mistake.

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