

# Contents

<b>1</b>	<b>The First Steps in the Regulation of Passage Through the Straits: From Grotius to Pardo</b>	<b>1</b>
1.1	The Legal Position of Straits from the Classical Dimension	2
1.1.1	The Most Relevant Traditional Doctrine in This Regard	2
1.1.2	The First Attempts at Private Codification About the Legal Regime of Straits	4
1.1.3	The Incipient ‘Official’ Steps Towards the Regulation of Passage Through the Straits	6
1.2	The Desired Concretion of the Legal Regime on Straits	10
1.2.1	The Cornerstone for Settling the Regime on Straits: The ‘Corfu Channel Case’	10
1.2.2	The Work of the International Law Commission and the United Nations Conferences on the Law of the Sea Held in Geneva	13
<b>2</b>	<b>The Third Conference of the United Nations on the Law of the Sea or the Metamorphosis of Consensus</b>	<b>21</b>
2.1	A Brief Summary of the Work Carried Out by the Commission on the Sea Beds as Regards International Straits	24
2.1.1	The Proposals of the Main Sea Powers and the Freedom of Navigation	25
2.1.2	The Propositions of the Coastal States and the Right of Innocent Passage	26
2.2	The Most Relevant Aspects of the Development of the Question of the International Straits at the III United Nations Conference on the Law of the Sea	29
2.2.1	Formulation of the Principal Tendencies	30
2.2.2	Preparation and Drafting of the Negotiation Texts	32

<b>3</b>	<b>The Definition of the ‘Undefined’ Straits Used for International Navigation</b>	<b>41</b>
3.1	Some Proposals of Definitions Put Forward Within the Framework of the III Conference	42
3.2	The Geographical Factor	45
3.3	The Legal Component	49
3.4	The Functional Component	52
3.5	Finalising a Concept of ‘International Strait’	61
<b>4</b>	<b>The Standardised Catalogue of International Straits Presented in Part III of the 1982 United Nations Convention on the Law of the Sea</b>	<b>65</b>
4.1	Straits Excluded from the Scope of Application of Part III of the UNCLOS	68
4.1.1	Straits Which Include Internal Waters Which Previously Were Neither Territorial Seas Nor High Seas	69
4.1.2	Straits Regulated Wholly or in Part by Long-Standing International Conventions	76
4.1.3	Straits Regulated by Specific Treaties Compatible with the Convention Which Are Not Long-Standing	80
4.1.4	Straits Through Which a High Seas Route Passes or Which Cross an Exclusive Economic Zone	82
4.1.5	Straits Which Include Archipelagic Waters as a Consequence of the Drawing of Archipelagic Perimeters in Archipelagic States	89
4.2	Straits in Which the Regime of Navigation Is the Right of Innocent Passage	93
4.2.1	Straits Formed by an Island of a Coastal State Bordering the Strait and Its Mainland Territory	93
4.2.2	Straits Located Between One Part of the High Seas or an Exclusive Economic Zone and the Territorial Sea of Another State	98
4.3	The “Principal” States or States Subject to the Right of Passage in Transit	101
<b>5</b>	<b>International Straits and the Right of Innocent Passage with No Possibility of Suspension</b>	<b>109</b>
5.1	Conceptual Aspects of Innocent Passage	111
5.1.1	The Notion of Passage	113
5.1.2	The Need for ‘Innocence’	115
5.2	The ‘Particular’ Situation of the Passage of Certain Types of Vessels	117
5.2.1	Exclusion of Submerged Navigation	117
5.2.2	Vessels with Special Characteristics	118
5.2.3	Innocent Passage of Warships	121

5.3 Mutual Rights and Obligations Entailed by Innocent Passage .....	126
5.3.1 The Rights of the Coastal State as Regards Innocent Passage Through Its Territorial Sea, Including the International Straits .....	127
5.3.2 The Obligations Which Fall Upon the Coastal State in Relation to This Right of Passage .....	132
5.4 Regulation of the Safety of Navigation and Sea Traffic: Sea Lanes, Devices for the Separation of Sea Traffic and Other Safety Measures Adopted in Straits Regulated by Innocent Passage .....	136
5.4.1 Pentland Firth .....	139
5.4.2 North Minch .....	140
5.4.3 Entrance to the Gulf of Finland .....	140
5.4.4 Strait of Elba or Piombino .....	142
5.4.5 Strait of Tiran .....	143
5.4.6 Strait of Georgia .....	143
5.4.7 Strait of Juan de Fuca .....	144
5.4.8 Santa Barbara Channel .....	148
<b>6 The New Regime of Transit Passage Through International Straits .....</b>	<b>151</b>
6.1 Conceptual Delimitation .....	152
6.1.1 Beneficiaries of the Right to Transit Passage .....	152
6.1.2 Objective of This Passage Modality .....	154
6.2 Reciprocal Rights and Obligations of the Coastal States and the Users of the Straits Regulated by Transit Passage .....	156
6.2.1 Obligations of Vessels and Aircraft During Transit Passage .....	156
6.2.2 Rights of the Coastal State or States of an International Strait .....	164
6.2.3 Obligations of the Coastal States of Straits Concerning Transit Passage .....	174
6.2.4 Cooperation Between Coastal States of a Strait and the States Using the Strait .....	178
6.3 Regulation of the Safety of Navigation and Sea Traffic: Sea Lanes, Schemes for the Separation Sea Traffic and Other Safety Measures Adopted in the Straits Where Passage in Transit Is in Force .....	179
6.4 The Right of Transit Passage: A Conventional Norm Generally Accepted as Law? .....	192
<b>Conclusions .....</b>	<b>199</b>
<b>Catalogue of Straits .....</b>	<b>203</b>
<b>Bibliography .....</b>	<b>211</b>

International Straits

Concept, Classification and Rules of Passage

López Martín, A.G.

2010, XXIII, 218 p., Hardcover

ISBN: 978-3-642-12905-6