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EDITORIAL ANALYSIS

Transit Passage: On the Hormuz Accord and the Law of the Sea

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Transit Passage: On the Hormuz Accord and the Law of the Sea

 **The Hindu** 19 June 2026 **GS2**

Source: ujjyari.com — researched, fact-checked & UPSC-mapped



INTERVIEW ANGLE

"If the United States never ratified UNCLOS and Iran signed but did not ratify it, on what legal basis does freedom of transit through Hormuz actually rest? Is customary law enough?"

Source: [Original editorial](#)  [The Hindu](#)

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WHY THIS MATTERS NOW

A new **US-Iran memorandum of understanding** on the **Strait of Hormuz** (<https://ujjyari.com/terms/strait-of-hormuz/>) invites a fresh legal reading rather than another rehearsal of **ceasefire** (<https://ujjyari.com/vocab/ceasefire/>) mechanics. For an aspirant, this is a **GS2** case on the **law of the sea**: what does **UNCLOS** actually guarantee for straits, and why is that guarantee complicated when key states have not ratified the treaty?

THE CRUX IN 60 WORDS

UNCLOS gives straits used for international navigation, like **Hormuz**, a right of **transit passage** that cannot be suspended or **tolled**. But the **US never ratified UNCLOS** and **Iran signed without ratifying**, so the right rests on contested **customary law**. The accord's significance is diplomatic: it recognises **Iran as a Hormuz stakeholder** and leaves management to negotiation, not **coercion** (<https://ujjyari.com/vocab/coercion/>).

THE ISSUE, DECODED

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ELEMENT	WHAT IT IS	WHY IT MATTERS
Transit passage	Non-suspendable right through navigation straits	Stronger than innocent passage (https://ujijari.com/terms/innocent-passage/); bars tolls
Innocent passage	Passage through the territorial sea	Can be suspended; weaker guarantee
Ratification gap	US and Iran have not fully ratified UNCLOS	Weakens treaty enforceability of the right
Stakeholder recognition	Treating Iran as a Hormuz manager	Shifts the chokepoint (https://ujijari.com/vocab/chokepoint/) from threats to talks

THE ANALYSIS: WHY THE LAW ALONE IS NOT ENOUGH

- ❶ **Transit passage is the strong rule.** It cannot be suspended, and coastal states may not levy tolls or impede continuous transit.
- ❷ **But the rule is unevenly anchored.** The US relies on custom; Iran signed without ratifying, partly over these very provisions.
- ❸ **So custom does the heavy lifting.** A right asserted as customary is only tested when a coastal state challenges it.
- ❹ **The accord's value is diplomatic.** Recognising Iran as a stakeholder converts coercion into negotiated management.

DATA AND INSTITUTIONS VAULT

the United Nations Convention on the Law of the Sea (UNCLOS), 1982, in force 1994; India is a party. Key distinction: transit passage (Part III, straits used for international navigation, non-suspendable, no tolls) versus innocent passage (territorial sea, suspendable). The strait: Hormuz, between Iran and Oman, a chokepoint for a large share of seaborne crude and LNG. Ratification status: the United States never signed or ratified UNCLOS (relies on its rules as customary law); Iran signed without ratifying. Concepts: freedom of navigation (<https://ujijari.com/terms/freedom-of-navigation/>); customary international law; chokepoint security; India's energy hedging (Chabahar, strategic petroleum reserves, diversified imports).

THE DEBATE

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Argument that law settles it: Transit passage is now firm customary international law binding on all states, so the legal right to pass Hormuz does not depend on the accord or on ratification.

Argument that diplomacy matters more: A right unratiified by key parties and resting on contested custom is fragile in a crisis; cooperative management with Iran as a recognised stakeholder is what actually keeps the strait open.

The balanced verdict: Both are partly right. The customary rule gives a strong baseline, but durable access depends on **converting legal principle into negotiated arrangement**, which is exactly what the accord does.

HOW TO THINK ABOUT THIS (TRANSFERABLE SKILL)

A weak answer states “UNCLOS guarantees passage” and stops. The strong answer asks who is bound, and how is it enforced when challenged? Here a strong rule (transit passage) sits on a weak base (non-ratification by key states), so politics fills the gap. The same lens, “rule versus enforceability,” sharpens answers on the WTO, climate treaties and human-rights conventions.

DIAGRAM-IN-WORDS

UNCLOS -> transit passage through Hormuz (non-suspendable, no tolls). The complication: US not ratified + Iran not ratified -> right rests on contested custom. The accord: engage Iran as stakeholder -> manage strait by negotiation, not coercion -> reduced risk for import-dependent states like India.

THE WAY FORWARD

- ① **Anchor navigation freedom in customary law** while pressing for wider UNCLOS ratification.
- ② **Manage chokepoints cooperatively**, recognising coastal states as legitimate stakeholders.
- ③ **Hedge through diversification:** India should spread import routes and build strategic reserves (<https://ujjiyari.com/terms/strategic-reserves/>).
- ④ **Prefer negotiated arrangements** over coercive freedom-of-navigation posturing.

THE TAKEAWAY BOX

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Examine the concept of transit passage under UNCLOS through straits used for international navigation, and assess its significance for India's energy security (<https://ujjiyari.com/terms/energy-security/>) via the Strait of Hormuz. (250 words)

“A rule unratified by key parties is only as durable as the diplomacy around it; the accord's worth is that it chooses negotiation over coercion.”

UNCLOS (1982) · transit passage vs innocent passage · Strait of Hormuz (Iran-Oman) · US non-ratification · customary international law · Chabahar.

On what legal basis does freedom of transit really rest when the most relevant states have not ratified the treaty, and is asserted custom enough?

Connects to GS2 PYQs on the law of the sea, maritime security and India's energy diplomacy; a probable question is the transit-passage framing above.

static GS2 on UNCLOS and maritime zones; the energy-security and West Asia editorials in this edition.

Sources: The Hindu (<https://www.thehindu.com/opinion/editorial/>), UN Division for Ocean Affairs and the Law of the Sea (<https://www.un.org/depts/los/>)

Source: Transit Passage: On the Hormuz Accord and the Law of the Sea — Ujjiyari.com | Free UPSC & State PCS Editorial Analysis

KEY ARGUMENTS AT A GLANCE

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Under UNCLOS, straits used for international navigation such as Hormuz enjoy a right of transit passage that cannot be suspended or subjected to tolls, but the legal picture is muddled because the United States never ratified the convention and Iran signed without ratifying it, so the new US-Iran understanding matters chiefly for recognising Iran as a Hormuz stakeholder and leaving day-to-day management to negotiation.

 **SUPPORTING**

- Transit passage is a stronger guarantee than innocent passage: it cannot be suspended, and coastal states may not levy tolls or impede continuous and expeditious transit.
- The legal foundation is complicated by ratification gaps, the US relies on customary law and Iran has signed but not ratified, which weakens treaty enforceability and leaves room for political bargaining.
- The accord's real value is diplomatic: it treats Iran as a legitimate stakeholder in Hormuz and shifts management of the chokepoint from threats to negotiated arrangement.

 **COUNTER**

Some argue that, ratification aside, transit passage is now settled customary law binding on all states, so the accord adds little to an already firm legal right.

 **WAY FORWARD**

Anchor freedom of navigation in customary international law, push for wider UNCLOS ratification, manage chokepoints through cooperative arrangements, and let India hedge with diversified supply routes and strategic reserves.


MAINS ANSWER FRAMEWORK

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QUESTION

Examine the concept of transit passage under UNCLOS through straits used for international navigation, and assess its significance for India's energy security via the Strait of Hormuz. (250 words)

INTRODUCTION

A chokepoint is also a legal puzzle. The Strait of Hormuz carries a large share of the world's oil, and the law governing passage through it rests on a convention that the two states most relevant to the recent accord have never fully ratified.

BODY

The United Nations Convention on the Law of the Sea (UNCLOS, 1982) distinguishes ordinary innocent passage through the territorial sea from transit passage through straits used for international navigation. Transit passage is the stronger right: it applies to all ships and aircraft, it cannot be suspended by the coastal state, and the state bordering the strait may neither levy tolls nor impede continuous and expeditious transit.

Hormuz, bordered by Iran and Oman, is the classic example. The complication is legal standing: the United States never signed or ratified UNCLOS and relies on the convention's navigation rules as customary law, while Iran signed without ratifying, partly over the transit-passage provisions themselves.

This ratification gap means the cleanest enforcement, treaty obligation, is not available, and the right rests instead on contested custom. That is precisely why a US-Iran understanding on Hormuz matters less as a statement of law than as diplomacy.

By engaging Iran on management of the strait, it treats Tehran as a legitimate stakeholder rather than only a threat, and converts a chokepoint that has been governed by intimidation into one governed by negotiation. The strong counter is that transit passage is now firm customary law binding on all, ratification notwithstanding, and that view has real weight.

But custom is asserted, not adjudicated, when a coastal state chooses to test it, which is why cooperative arrangements still matter. For India, an import-dependent power, the lesson is to back navigation freedom in principle while hedging in practice through diversified routes and reserves.

CONCLUSION

The law gives Hormuz a strong rule of transit passage, but a rule unratified by key parties is only as durable as the diplomacy around it. The accord's worth is that it chooses negotiation over coercion.


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