

Major maritime powers are opposed to such an interpretation of "innocent passage" on the grounds that it would entitle coastal states to interfere unilaterally and unduly with maritime navigation and commerce. On the other hand, other coastal states are aware that it is precisely in areas close to their shoreline, and therefore in their territorial waters, that the greatest concentration of navigation will occur as ships enter their ports and, in so doing, increase the risks to their marine environment.

Passage Through Straits used for International Navigation

Given the great importance both major maritime states and the states whose waters enclose an international strait are attaching to the question of passage through these waterways, its solution is bound to be pivotal to the success or failure of the Conference.

Major maritime states are very much concerned over the status of those straits which, following the adoption of a twelve-mile limit for the territorial sea, will lie completely within the territorial waters of one or more coastal nations. Their concern stems from military and commercial considerations as some of the straits involved are among the most important in the world: Gibraltar, Hormuz, Malacca, Bab el Mandeb, etc. To eliminate the possibility of indiscriminate coastal state interference with passage through these straits, these powers are insisting upon the repudiation of the present law of innocent passage through international straits and are proposing in its stead the right of free transit, with the result that coastal states could not interfere irresponsibly with traffic taking place in these international straits. Moreover, they would extend this doctrine to all international straits and would not limit its application to those newly enclosed by the extension of the territorial sea to twelve miles.

The strait states adamantly oppose this new "free transit" concept and insist that "innocent passage" must prevail in international straits whether such straits measure a maximum of six miles (under the traditional three-mile territorial sea) or of twenty-four miles (under a twelve-mile territorial sea), as they consider some measure of control over transit of ships essential to their security and the protection of their environment.