

Maritime Chokepoints

A Year On

May 2026

In March 2025, we reported on the announcement by the US Federal Maritime Commission (FMC) of the initiation of a non-adjudicatory investigation into transit constraints at international maritime chokepoints: "[Maritime Chokepoints and Freedom of Navigation](#)." A year on, we provide an update on the FMC's investigation and highlight how chokepoints are now a topic of significant concern to the maritime community in light of the current crisis in the Strait of Hormuz.

Update on FMC Investigation

The FMC has a statutory mandate to monitor and evaluate conditions affecting shipping in US foreign trade. [Section 42101\(a\) of Title 46 of the US Code](#) provides that the commission "shall prescribe regulations affecting shipping in foreign trade ... to adjust or meet general or special conditions unfavorable to shipping in foreign trade," when those conditions are the result of a foreign country's laws or regulations or the "competitive methods, pricing practices, or other practices" used by the owners, operators or agents of "vessels of a foreign country."

Although small in size, the FMC possesses far-reaching authority: it can block a country's vessels from entering US ports, restrict cargo flows or impose fines. Moreover, the FMC's regulatory activities should be viewed in the context of the Trump administration's focus on rebuilding the US maritime industrial base and Merchant Marine.

Initially, the FMC identified seven global maritime chokepoints¹ potentially subject to such constraints, but notably, as we observed at the time, the FMC's list omitted certain chokepoints that appeared significantly more critical to global trade flows, including the Black Sea and the Bosphorus, the Bab el-Mandeb Strait and, most importantly, the Strait of Hormuz.

With regard to the Strait of Hormuz, the FMC has already weighed in. On March 23, 2026, the FMC [rejected](#) container vessel operators' requests to raise rates amid the Strait of Hormuz crisis.

More recently, on May 5, 2026, at the TradeWinds Shipowners Forum USA in Houston, Texas, FMC Chairman Laura DiBella specifically mentioned the FMC's ongoing investigation into maritime chokepoints, noted that this particular investigation had acquired a significantly higher profile and importance given ongoing geopolitical events, and that the FMC was vigilantly working on its findings. Chairman Di Bella noted that the report and findings would likely not be issued until next year, but that the commission's staff were working on it.

The FMC's maritime chokepoint investigation is occurring at the same time that the FMC is investigating "flags of convenience" to assess whether some registries are enabling insufficient oversight or facilitating opaque operations, raising questions about safety, compliance and long-term competitiveness.

¹ The FMC identified the following areas as "chokepoints": the Northern Sea Passage, the English Channel, the Malacca Strait, the Singapore Strait, the Strait of Gibraltar, the Panama Canal and the Suez Canal.



Current Closure of the Strait of Hormuz

The Strait of Hormuz, currently at the epicenter of international attention, is one of the world's most significant maritime chokepoints. Bordering Iran and Oman, with proximity to Saudi Arabia and the United Arab Emirates, it has historically served as an important transportation channel for energy and commodities trade.

In the period immediately preceding the February 2026 escalation with Iran, the Strait of Hormuz carried around a quarter of global seaborne oil trade as well as significant volumes of liquefied natural gas (LNG) and fertilizers. This included approximately:²

- 38% of crude oil
- 29% of liquefied petroleum gas (LPG)
- 19% of LNG
- 19% of refined oil products
- 13% of chemicals, including fertilizers

Disruption to maritime transit through the Strait of Hormuz therefore has significant consequences for international trade, with direct impact on energy markets, global supply chains and the shipping sector.

While the situation is volatile, the military conflict in the region makes current transit through the Strait of Hormuz impossible, save for very rare and exceptional cases. This arises from the effective closure of the Strait by Iran, including direct attacks on commercial vessels, as well as from the United States' naval blockade targeting Iran-related shipping. The few vessels that have been allowed to pass through the Strait by Iran so far have been charged tolls, the payment of which may very well violate international economic sanctions (see below), or have been permitted transit as a result of direct diplomatic intervention.³

In assessing the legality of Iran's closure of the strait and charging of tolls (which could form part of any resolution to the conflict), the starting point is the United Nations Convention on the Law of the Sea (UNCLOS). Part III of UNCLOS introduced the enhanced right of "transit passage" for waters considered to be "straits used for international navigation." Provided passage is continuous and expeditious (and certain other duties are complied with by passing ships, such as refraining from the use of force: Article 39), Article 44 provides that bordering states shall not hamper or suspend transit passage. This extends the concept of innocent passage in territorial waters that may be suspended temporarily for security purposes. While bordering states may adopt laws and regulations relating to transit passage, these may not discriminate against foreign ships or have the practical effect of "denying, hampering or impairing" the right of transit passage (Article 42). In practice, this means that tolls cannot be charged. Bordering states can charge fees for specific services, such as pilotage, towage, port services and navigational assistance (if used voluntarily), but these must be applied in a nondiscriminatory manner.

Iran has signed but never ratified UNCLOS (and the US is not a party to it). Notably, upon signature of UNCLOS, Iran made an interpretative declaration on the subject of straits, rejecting the concept of transit passage. Notwithstanding this, the principle of unhampered transit passage through international straits is now widely regarded as forming part of customary international law and, as such, is arguably binding on states such as Iran, irrespective of UNCLOS ratification.

Should Iran's policy of charging tolls continue, further questions would then arise as to whether it is lawful for shipowners to make payment.

² ["Strait of Hormuz disruptions: Implications for global trade and development,"](#) UN Trade & Development.

³ ["Tehran's 'toll booth' system is now controlling Hormuz traffic,"](#) *Lloyd's List*, March 25, 2026.

This would involve consideration of at least the following factors:

- **Sanctions considerations** – Would the payment of tolls to Iran, whether directly or indirectly, risk breaching applicable sanctions regimes? Different overlapping sanctions regimes may apply depending on the nationalities of the entities, individuals and vessels involved in the voyage, the vessel's ownership and operation, and the making or facilitating of toll payments.

Under US sanctions, US persons are strictly prohibited from making or facilitating toll payments to or for the benefit of the government of Iran. It is also clear that US dollar toll payments made by non-US persons violate US sanctions because US banks must process such payments. Significantly, for non-US persons, the sanctions risk was addressed in [a recent Office of Foreign Assets Control \(OFAC\) alert](#), stating that non-US persons risk being the target of secondary sanctions (i.e., designation on the Specially Designated Nationals and Blocked Persons List (SDN List)) if they make toll payments or solicit guarantees from the Iranian regime. OFAC's authority to impose secondary sanctions is discretionary, and it remains to be seen whether OFAC's warning to non-US persons is primarily intended to deter toll payments, or whether it will actively exercise its authority to sanction non-US persons.

- **Bribery / anti-corruption legislation** – Payments of tolls to foreign government officials to ensure safe passage may also contravene national and international antibribery and anticorruption legislation.
- **Insurance implications** – Could the payment of arguably unlawful tolls, or transit through the Strait of Hormuz under such conditions, change the character of the onward voyage in a manner that would affect insurance cover?
- **Contractual compliance** – Might payment of tolls, or the decision to transit the strait, give rise to breaches of contractual obligations (subject always to the specific wording of the applicable contracts)? Clauses for consideration may include lawful trade provisions, war risks clauses, off-hire provisions, sanctions clauses, deviation clauses, indemnities, and force majeure provisions, and questions of frustration may arise. Under English law, a contract may become unenforceable if one or both parties has acted unlawfully in its performance.

- **Exposure under national legislation** – Could payment of tolls violate other applicable national laws in one or more jurisdictions? As with sanctions exposure, it should be borne in mind that multiple states may assert jurisdiction. By way of example, the FMC has issued a [press release](#) stating its readiness to investigate potential violations of the Shipping Act regarding Strait of Hormuz surcharges issued by common carriers (vessel-operating common carriers (VOCCs) and non-vessel-operating common carriers (NVOCCs)), including on its own motion.
- **Reputational risk** – Would compliance with tolling requirements carry a material risk of reputational harm and result in adverse scrutiny from the wider public?

Concerns about Copy Cat Attempts to Control Access to International Chokepoints

There are significant concerns in the maritime industry that the long-term effect of the Strait of Hormuz crisis may be the encouragement of other countries bordering chokepoints to seek to control access to them, either through suspensions of passage or charging tolls.⁴

On April 19, 2026, Yemen's Iran-backed Houthi movement threatened to close the strategic Bab el-Mandeb Strait, connecting the Red Sea to the Gulf of Aden. Such a closure would have further profound implications for the global economy by blocking vessels leaving Saudi Arabia's west coast (with its east coast already blocked by the Strait of Hormuz closure).

Indonesia's finance minister then made (speculative) remarks on April 22, 2026, about levying tolls on ships using the Strait of Malacca, before later backtracking.⁵ This prompted a strong response from other states, including Australia and Singapore. Singapore's foreign affairs minister outlined to Parliament why his country strongly supports the global status quo that nations bordering straits should not hamper transit passage, even through territorial waters, and should not charge transit fees.⁶

It should be noted that UNCLOS does not cover man-made canals that are governed by specific treaties (for example the Suez and Panama canals where Egypt and Panama are allowed to collect significant tolls) or certain other straits that were already governed by other treaties (such as the Bosphorus and Dardanelle where Turkey collects fees for transit). However, the FMC included the Suez and Panama canals in its list of initial chokepoints, raising concerns about their capacity limitations and the risk of congestion, collision and delays (as evidenced by the six-day blockage of the Suez Canal in 2021 by the grounding of the Ever Given).

⁴ "Maritime CEOs Weigh Long-Term Implications of Middle East Conflict," *Trade Strategy Today*, April 24, 2026 (subscription required).

⁵ "Indonesia's finance minister suggests Strait of Malacca toll before immediately backtracking," ABC News, April 23, 2026.

⁶ "Singapore's Straight Talking on Strait Blockade," *The Maritime Executive*, April 13, 2026.

New Classifications of Chokepoints

Against the background of the issues discussed above, the authors of a new book, *Port Economics, Management and Policy*,⁷ have proposed a helpful new [classification of chokepoints into primary and secondary](#) as shown by the map below. Their categorization is on the following basis:⁸



- **Primary chokepoints** – These are waterways where there are limited cost-effective alternatives to their use, meaning that global trade would be seriously impaired if access to them was disrupted. They can be further divided into two subtypes:
 - Connectors along major oceans and seas (the Panama Canal, the Suez Canal, the Strait of Malacca, the Strait of Bab el-Mandeb, the Strait of Gibraltar and the Cape of Good Hope)
 - Those connecting to maritime dead ends, with substantial resource and commercial potential, such as the Strait of Hormuz, the Strait of Bosphorus (which provides access to the Black Sea) and the Strait of Oresund (which is the only access to the Baltic and Russia’s main ports).
- **Secondary chokepoints** – These are support maritime routes that have alternatives but would still involve a notable detour, including the Magellan Passage, the Strait of Dover (in the English Channel), the Strait of Sunda and the Strait of Taiwan.

Conclusion

A year after the initiation of its investigation into global maritime chokepoints and freedom of navigation, the FMC’s investigation into possible transit constraints and the impact on international maritime transport is more relevant than ever. We look forward to monitoring the FMC’s progress on the investigation and findings/proposed actions, not to mention the ongoing geopolitical developments that are affecting maritime transportation.

⁷ Theo Notteboom, Athanasios Pallis and Jean-Paul Rodrigue, *Port Economics, Management and Policy*, 2nd Edition, 2026, New York: Routledge.

⁸ [Main Maritime Shipping Routes and Chokepoints](#), *Port Economics, Management and Policy*.

Contacts



D. Michael Kaye
Partner, Washington DC
T +1 202 457 6545
michael.kaye@squirepb.com



Katie Pritchard
Partner, London
T +44 20 7655 1582
katie.pritchard@squirepb.com



Jeffrey Orenstein
Partner, Washington DC
T +1 202 457 5247
jeffrey.orenstein@squirepb.com



Michael Wray
Of Counsel, Houston
T +1 713 546 3330
michael.wray@squirepb.com



Joel Cockerell
Partner, Singapore
T +65 6922 7874
joel.cockerell@squirepb.com



Elena Evoyan
Senior Associate, London
T +44 20 7655 1292
elena.evoyan@squirepb.com