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Humanitarian Corridors and Safe Passage at Sea

Protection of Civilians in the Maritime Domain Research Series



CFE-DM Issue Brief
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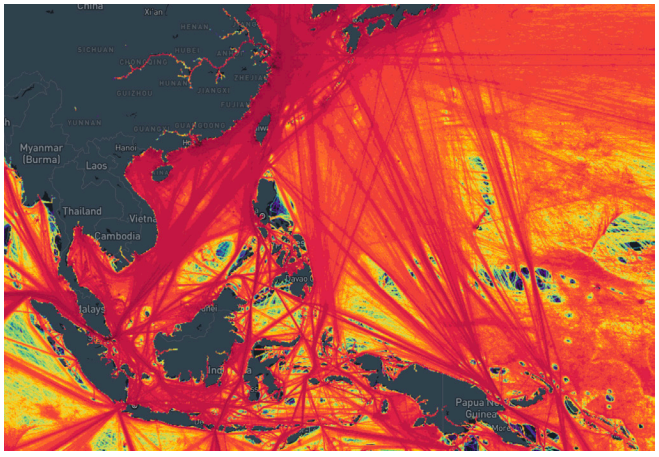
Cover photo: Commercial vessels, including vessels which are part of Black Sea grain deal, wait to pass the Bosphorus strait in Istanbul, Turkey, October, 2022. Credit: REUTERS, Umit Bektas.

Table of Contents

Introduction **1**
Legal and Policy Overview: Humanitarian Corridors- and Safe Passage-at-Sea **2**
Case Studies of Safe Passage Arrangements at Sea **4**
The ICRC Evacuations during the Sri Lankan Civil War 4
The United Nations Verification and Inspection Mechanism (UNVIM) in Yemen 5
The Black Sea Grain Initiative 7
The "Red Cross Box" in the Falklands War 9
The Internationally Recommended Transit Corridor in the Gulf of Aden 10
Preparing for Contingencies **12**

Introduction

In the Asia-Pacific context, most major conflict scenarios will involve significant maritime operations and maritime humanitarian considerations. While naval warfare is sometimes viewed as having fewer implications for civilian harm, the impacts on civilian populations could be severe. Maritime trade in the world's busiest shipping lanes would almost certainly be disrupted. Small island states that rely heavily on imported food, medicine and other basic goods could suffer severe shortages: The average Pacific Islander receives more than half of her daily nutritional intake from imported food items.[1] The COVID 19 pandemic revealed significant food security challenges for these countries when global shipping ground to a halt.[2] A conflict over Taiwan, moreover, could result in the blockade of an island that imports 97% of its energy and more than 70% of its calories.[3] This would have significant impact on medical care, food security, and other life-sustaining measures. Civilians, including hundreds of thousands foreign nationals living in Taiwan, may also seek a safe way to flee the island by ship.



Map of vessel density in the Western Pacific, 2021-2022. Credit: MarineTraffic.com.

Whether resulting from a collapse in trade in basic goods or intentional deprivation, conflict at sea can result in significant harm to civilians that may call for a humanitarian response. For nearly a century, states and humanitarian actors have utilized humanitarian corridors or safe passage arrangements to evacuate civilians or deliver assistance. From the International Committee of the Red Cross's (ICRC's) work to evacuate civilians from towns during the Spanish Civil War in 1936, to the 1948 Berlin Airlift, to calls by the United Nations Security Council to open humanitarian corridors into Gaza at the time of writing.[4] Despite extensive work on safe passage, humanitarian corridors and humanitarian access in land operations, there is far less attention to humanitarian corridors and safe passage at sea. This issue brief seeks to fill this gap.

The details of humanitarian corridors- and safe passage arrangements-at-sea in an Asia-Pacific conflict will vary substantially with the conflict scenario at play, and such scenarios are legion. But history offers lessons for interested practitioners. This issue brief reviews the past practice of humanitarian corridors- and safe passage arrangements-at-sea and highlights critical considerations for actors strengthening preparedness for humanitarian action in a large-scale conflict at sea. It begins with an overview of humanitarian corridors and safe passage in the context of naval strategy and international law. It then reviews current and past practice of humanitarian corridors- and safe passage arrangements-at-sea, considering examples from the conflicts in Sri Lanka, Yemen, Ukraine, the Falklands/Malvinas, and piracy in the Gulf of Aden. These case studies represent the most significant maritime safe passage arrangements since the Second World War. They highlight lessons for future maritime combat scenarios, lessons compiled for government, military and humanitarian actors interested in planning and preparing for the use of humanitarian corridors and safe passage arrangements at sea.

Legal and Policy Overview: Humanitarian Corridors- and Safe Passage-at-Sea

Humanitarian corridors or safe passages are agreements between parties to the armed conflict to allow for safe passage for a limited time in a specific geographic area. They can allow civilians to leave, humanitarian assistance to come in or allow for the evacuation of the wounded, sick or dead.[5] They may be used when parties to an armed conflict do not provide humanitarian assistance or permit it to reach civilian populations. These circumstances often arise in situations of intended or effective siege, when one military actor encircles, blockades, or otherwise cuts off access to a population.



U.S. Navy and Republic of Korea Navy ships steam in formation during exercises east of the Korean Peninsula, September 2022. Credit: DVIDS.

There is no legal definition of a humanitarian corridor or safe passage under international humanitarian law, but this basic concept of providing humanitarian access can play a key role in realizing the Geneva Conventions' obligations for allowing relief supplies into contested areas.[6] As the ICRC notes, "Humanitarian corridors or safe passages are essentially agreements between parties to the armed conflict to allow for safe passage for a limited time in a specific geographic area. They can allow civilians to leave, humanitarian assistance to come in or allow for the evacuation of the wounded, sick or dead."[7] In common usage, "humanitarian corridor" generally refers to a mechanism or agreement—agreements that are often broken, resulting in harm to civilians or humanitarians—while "safe passage" indicates the condition of being unharmed or protected. In this regard, "safe passage" emphasizes the actual protection of civilians and humanitarians and is preferred by some humanitarian actors. Scholars note that early humanitarian corridors were often carried out by states, such as the Berlin Airlift,[8] though more recent usage focuses on humanitarian actors playing a central role in their employment.

> ***There is no legal definition of a humanitarian corridor or safe passage under international humanitarian law, but this basic concept can play a key role in realizing the Geneva Conventions' obligations for allowing relief supplies. "Safe passage" also has a distinct meaning for practitioners of the law of naval warfare.***

"Safe passage" and "safe conduct" also have a distinct meaning for practitioners of the law of naval warfare. "Safe passage" in this context is "a grant of protection against harm or the use of force by the forces of a belligerent and given to persons or property of another belligerent to ensure unmolested travel through a military zone or occupied area."[9] "Safe passage," in this sense, focuses on the decision of the belligerent and does not require or even imply humanitarian involvement, with historical examples primarily protecting commercial shipping and diplomatic envoys.

This brief focuses on the arrangements and mechanisms that permit a range of activities with humanitarian objectives, broadly defined, including facilitating commercial trade in basic necessities (food, fuel, medicines) and the safe evacuation of civilians or wounded military personnel. In this regard, it recognizes the centrality of the civilian population and actors who seek to protect and support them, while also recognizing the necessity of gaining agreement from belligerents. To capture this range of practices and actors, this issue brief will generally use the term "safe passage arrangement."

> ***Safe passage arrangements are an important concept when dealing with naval power. The law of naval warfare is premised on an element of economic warfare and most methods of naval warfare seek to secure, directly or indirectly, control over sea lanes.***

Safe passage arrangements are an important concept when dealing with naval power. The law of naval warfare is premised on an element of economic warfare and most methods of naval warfare seek to secure, directly or indirectly, control over sea lanes.[10] This control can lead to cutting off supplies to civilian populations. International humanitarian law requires conflict parties to permit the free passage of relief supplies as long as they are satisfied that "no definite advantage will accrue to the military efforts or economy of the enemy," for which technical arrangements can provide assurances.[11] The negotiations, mechanisms and approaches that result in safe passage, detailed in the below case studies, provide examples where such assurances enabled relief to or safe movement for civilians.

In all cases, the creation of a nominal safe passage arrangement does not alter a conflict party's international legal obligations; at best these corridors are one step among many to fulfill such obligations. Humanitarian corridors and safe passage arrangements should also not suggest that permitting humanitarian assistance is an optional or exceptional circumstance, nor that designating a special "humanitarian corridor" implies that the rest of the battlespace is not "humanitarian," or not subject to humanitarian law.[12] Permitting the evacuation of civilians from an area does not, for instance, eliminate the responsibility of a conflict party to continue to distinguish between civilians and combatants remaining behind. Finally, if a conflict party creates a humanitarian corridor or safe passage arrangement with no real or intended humanitarian effect, it should earn them opprobrium rather than positive media attention.[13]

Case Studies of Safe Passage Arrangements at Sea

There is no single formula or algorithm for establishing a humanitarian corridor or safe passage arrangement. Every situation will face actors on all sides—belligerents, humanitarians, a besieged population—with difficult decisions. Lessons can be drawn, however, through the examination of past case studies. It is useful to distinguish between different types of safe passage arrangements:

- those facilitating the evacuation, relocation or movement of civilians;
- those supplying a population with humanitarian assistance, delivered by humanitarian actors;
- those that seek to permit the passage of commercial vessels on humanitarian grounds;
- and those that seek to create a protected area at sea.

This section will draw on examples for each of these types of arrangements, drawing on, respectively, the ICRC's evacuation of civilians during the Sri Lankan Civil War, which served as both an evacuation and humanitarian relief corridor; the United Nations Verification and Inspection Mechanism (UNVIM) in Yemen, the Black Sea Grain Initiative, and the Internationally Recommended Transit Corridor (IRTC) in the Gulf of Aden, all three of which serve as different forms of trade corridors for safe passage; and the "Red Cross Box" during the Falkland Islands War, a protected area at sea.

The ICRC Evacuations during the Sri Lankan Civil War

ICRC's maritime evacuation of 14,000 civilians in Sri Lanka, in the midst of scorched-earth conflict, stands as an impressive example of providing safe passage at sea. It highlights the potential for humanitarian negotiations, even in a conflict where both sides show little regard for civilians and did not hesitate to adopt brutal tactics.



ICRC conducts evacuations of wounded civilians from Sri Lanka in 2009. Credit: ICRC.

The Sri Lankan Civil War, pitting the Sri Lankan Armed Forces against the Liberation Tigers of Tamil Eelam (LTTE) rebel group, lasted more than twenty-five years (1983-2009) and came to a vicious end when the government forces cornered the LTTE and ethnic Tamil civilians in the north of the country. Between November 2008 and January 2009, government forces cut off the LTTE from former support bases, trapping the last of the LTTE force and tens of thousands of civilians on a strip of land between jungles and the sea. The government unilaterally established "safe zones" at the land borders of the LTTE's holdout, through which civilians could flee. The LTTE prevented civilians from leaving, however, sometimes on pain of death.[14] Even civilians who made it to the "safe zones" were not safe, however, because they were regularly bombarded by government forces.[15] Tens of thousands of civilians lost their lives between January and May 2009, when the LTTE surrendered.[16]

In the final phase of the war, the government had also cut off access to the LTTE areas for humanitarian actors. Humanitarian organizations had operated in LTTE areas for many years.[17] With the 2008-2009 assault on LTTE areas, however, the government withdrew permissions from nearly all humanitarian entities to operate.[18] One exception to this was the ICRC, who remained in the area.[19] The ICRC had operated in Sri Lanka since 1989 and had worked extensively with both the government and LTTE to deliver assistance, to transfer the bodies of fighters between the two sides, and to serve as a neutral intermediary between the two parties.[20]

> ***With the agreement of the LTTE and the Sri Lankan government, the ICRC evacuated more than 14,000 people between February and May 2009 via chartered ferry, taking them south along the coastline approximately 90 kilometers to the nearest medical facilities, and delivered more than 2,350 metric tons of food.***

As the violence against civilians intensified, the ICRC began to negotiate with the parties to evacuate sick and wounded civilians. The LTTE prevented many civilians from fleeing, likely to retain a pool of recruits (forced recruitment of children continued until the LTTE surrendered) and to use the civilian population to shield themselves from a full government assault.[21] ICRC negotiated with both the Sri Lankan government and the LTTE to conduct medical evacuations for civilians injured during the fighting. Because artillery bombardment was a major means of warfare, numerous civilians suffered serious wounds from explosions and shrapnel.[22] With passable land borders to the LTTE areas receiving regular artillery fire despite promises of security, the ICRC negotiated evacuation by sea. With the agreement of the LTTE and the Sri Lankan government, the ICRC evacuated more than 14,000 people between February and May 2009 via chartered ferry, taking them south along the coastline approximately 90 kilometers to the nearest medical facilities, and delivered more than 2,350 metric tons of food.[23]

The agreement negotiated by ICRC fluctuated with conditions on the ground. Both the government of Sri Lanka and the LTTE could withdraw their agreement for anytime, for any reason. Unlike other mechanisms reviewed in this brief, which involved routine and often bureaucratized processes, the ICRC evacuations took place at the frontlines and in a fluid environment. This experience, while short-lived, highlights the potential impact of humanitarian efforts to negotiate agreements in conflict. The trust established between the ICRC and both sides as well as the practical, flexible approach to negotiating safe passage allowed significant humanitarian benefits in an otherwise terrible situation.

The United Nations Verification and Inspection Mechanism (UNVIM) in Yemen

The UNVIM in Yemen stands as an example of a safe passage arrangement used to permit the reception or import of basic goods and serves to highlight how war can distort markets in ways that create scarcity.

The current conflict in Yemen began when Houthi rebels in northern Yemen undertook an insurgent campaign in mid-2014 against a fractured federal government. The Houthis made rapid progress, taking over the capital by September 2014 and controlling most of the country's western region by mid-2015. The UN Security Council imposed an arms embargo on Houthi-controlled areas—which quickly encompassed the vast majority of Yemen's population—in April 2015.[24] Fearing a hostile

regime on its southern border, Saudi Arabia led a multi-national coalition to support the ousted (but still internationally recognized) Yemen government and fight the Houthis. The Houthi area of control included coastline home to some of Yemen's key ports. As a country that imports more than 80% of food, fuel, and other necessities—and with land borders to the north, south and east effectively cut off by hostile forces—these ports became crucial chokepoints.

To pressure the Houthis, the Saudi-led coalition deployed air and naval assets to limit imports to Yemen in March 2015. After the Security Council imposed an arms embargo two weeks later, the Saudi-led coalition argued that it was merely trying to execute the Council's directive.[25] Yet the Council had only authorized inspections of vessels and aircraft where there were "reasonable grounds" to believe that arms were being transported, with all inspection reports forwarded to the UN Yemen Sanctions Committee; only one such report was submitted in June 2015 despite a widespread disruption in traffic.[26] This was, in the diplomatic language of one analyst, an "overzealous" application of an otherwise legitimate enforcement action.[27] While the Saudi-led coalition never declared a formal blockade and officially was only concerned with arms shipments, the operation became close to a blockade in practice: the coalition permitted only a handful of ships to pass while the majority—including oil tankers and other commercial ships—were turned back.[28]

The Saudi-led coalition's effective "blockade" had a huge humanitarian impact.[29] Not only were far fewer ships arriving in a country that relied heavily on imports, but those ships able to dock faced significant unpredictability that led to increased insurance costs and ultimately an increase in the cost of basic goods. By June 2015, only 15% of pre-blockade goods were entering Yemen.[30] War interrupted people's ability to farm and trade, and the blockade increased fuel and food prices dramatically. Goods delivered by humanitarian actors, such as food delivered by the World Food Program (WFP), were not significantly impacted by the Saudi-led naval operations. Yet the absence of a market in basic goods (including commercial food imports) created by the effective blockade left 20 million Yemenis facing hunger. This was a gap too big to fill by humanitarian assistance alone, even if Yemen was the world's largest food delivery program in the world at the time.[31] By 2017, the United Nations regularly highlighted the risk of famine in the country.[32]

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Both the Houthis and Saudis tried to capitalize on the international outcry over the blockade and resulting humanitarian catastrophe. The Houthis called for the United Nations (presumably including its more powerful member states) to pressure Saudi Arabia to end the blockade while the Saudis pointed to Houthi intransigence and poor governance as the causes of suffering. United Nations mediators ultimately brokered a deal in August 2015, establishing a UN Verification and Inspection Mechanism (UNVIM) based in Djibouti. This was not a formal agreement between the Houthis and Yemeni or Saudi governments (such an agreement would take another three years to sign), but rather was simply a request from the Yemen government to the UN.[33]

Under the UNVIM, any commercial ships seeking to dock in Houthi territory were required to seek clearance. They may be required to stop in Djibouti for inspection of their vessel and cargo by a joint team of UN and Yemeni inspectors. Notably, UNVIM refers all ships operated by humanitarian organizations to the deconfliction mechanism run the UN Office for the Coordination of Humanitarian Affairs in Riyadh, Saudi Arabia.[34] UNVIM effectively created a system of certificates of noncontraband carriage (navicerts), which were issued during World War II to clear merchant vessels at the port of embarkation, rather than through stops and searches at sea.[35] The UNVIM has allowed greater predictability, greater volume, and lower costs for shipping into Houthi-controlled Yemen while allowing the Saudi-led coalition to retain its control over the coastline. As this report goes to publication, Houthi forces have attacked commercial shipping and U.S. Navy ships as a response to the conflict in Gaza. At the time of writing, it is unclear how these developments will impact UNVIM.

The Black Sea Grain Initiative

The Initiative on the Safe Transport of Grains and Foodstuffs from Ukrainian Ports, better known as the Black Sea Grain Initiative, provides a recent example of maritime safe passage in large-scale, international armed conflict. It underlines how successful negotiated safe passage arrangements can be while also highlighting the reality that they are only durable when the belligerents' interests align.

The Black Sea Grain Initiative, like the UNVIM in Yemen, arose out of the need to balance one actor's military objectives with humanitarian need and its accompanying international pressures. In this case, Russia announced a suspension of maritime traffic in the northwestern Black Sea (north of 45° 21' N), attacking civilian ships and initiating what effectively amounted to a blockade on Ukrainian ports.[36] Seventeen civilian ships were attacked or damaged by mines between February and June 2022, the majority by Russian attacks carried out against ships near or docked in Ukrainian ports.[37] The Russian operation may be more appropriately termed an "exclusion zone" rather than a "blockade," since key legal elements such as notification, even-handed application, and rationale are either missing or unclear.[38] Regardless of whether a legal blockade was in effect, some countries, including the United States, permit the targeting of "war-sustaining" objects; this arguably includes a major commercial export that could fund the war effort, such as grain in the Ukraine context.[39]



Map of the routes for the Black Sea Grain Initiative. Credit: United Nations.

The Russian exclusion zones stopped all grain exports from deep-water ports under Ukrainian control. (Russia also blamed Ukrainian sea mines for disrupting maritime traffic). Before the war, Ukraine was the world's fifth largest grain exporter, a major supplier to developing countries, and the source of 50% of the UN World Food Program's annual wheat provisions to poor countries.[40] Global food prices rose 20% at the start of the blockade, raising fears that this would push more countries still struggling to recover from Covid-induced recessions into food insecurity while simultaneously hampering humanitarian efforts to feed the hungriest.[41]

To stave off a crisis that extended well beyond Ukraine's borders, the UN Secretary-General personally intervened with the leaders from Russia and Ukraine, receiving substantial diplomatic support from the Turkish government.[42] With Russia and Ukraine refusing to engage directly, each belligerent signed a "mirror" agreement with Türkiye and the UN, agreeing to permit the safe navigation of ships carrying foodstuffs and fertilizer from three Ukrainian ports.[43] The UN signed a separate Memorandum of Understanding with the Russian Federation, undertaking to engage authorities and the private sector to reduce restrictions on Russian food and fertilizer exports caused by sanctions.[44]

The parties established a Joint Coordination Center (JCC) in Türkiye to implement the agreement, with the UN acting as Secretariat. Inspectors from Türkiye, Ukraine, Russia and the UN jointly inspected all maritime traffic inbound to and outbound from Ukraine, ensuring that only agreed-upon cargo (grain, related foodstuffs and fertilizers) would be exported.[45] The initiative resulted in controlling food costs, including for developing countries in food security crises.[46] But the Black Sea Grain Initiative was only ever as strong as the commitment of its parties. At a number of points in its one-year lifespan, Russia threatened to end participation and took steps to limit inspections, according to the U.S. and Ukrainian governments.[47] In July 2023, Russia fully withdrew, ending the mechanism. Russia subsequently attacked Ukrainian ports and grain storage facilities, laid sea mines, and declared that all ships headed for Ukrainian ports would be considered potential carriers of military cargo.[48] Ukraine has been able to continue maritime exports to varying degrees, however at the time of writing this situation is fluid and subject to change.

> ***The Black Sea Grain Initiative permitted food exports to support critical markets through moving control over maritime trade out of the domain of naval operations and into a space of jointly monitored maritime security.***

Despite the lack of continued political will to support the agreement, the Black Sea Grain Initiative provides lessons for potential future operations. First, similar to the UNVIM in Yemen, the system effected a system of safe passage similar to the issuance of navicerts during World War II.[49] Reinforcing the use of joint inspections over unilateral searches (which would have placed commercial vessels at greater risk), the agreement also created a 10 nautical mile-radius "buffer zone" around each ship, within which no military ships, aircraft or unmanned vehicles were permitted.[50] The use of a negotiated agreement also provided the parties space to jockey for position without resorting to naval conflict that would have stopped all grain exports. While Russia took steps to limit inspections at times, a slowed process was still a preferable measure compared to resumed attacks on shipping. The Black Sea Grain Initiative thus permitted food exports to support critical markets through moving control over maritime trade out of the domain of naval operations and into a space of jointly monitored maritime security.

The "Red Cross Box" in the Falklands War



UK hospital ship SS Uganda, used in the Red Cross Box during the Falklands War.
Credit: www.irizar.org.

The "Red Cross Box" was a neutral zone established by the parties to Falklands War (also known as the Malvinas Islands War or the South Atlantic War), Argentina and the United Kingdom. Upon the outbreak of hostilities, the two countries verbally agreed to establish a 20 km-diameter neutral zone for hospital ships approximately 50 km north of the disputed islands, an area that became known as the "Red Cross Box."[51] One British and two Argentine hospital ships treated wounded, with three British vessels acting as "ambulances" to transport both sides' casualties, and the site was regularly inspected by ICRC staff to ensure compliance with the laws of war.[52] During the four-month conflict, more than 700 fighters from both sides were treated.

Argentina "immediately accepted" the British-proposed neutral zone because it solved a problem for both countries.[53] The British were conducting a naval operation more than 12,000 km from their shores and nearly 2,000 km from the closest friendly medical facilities in Montevideo, Uruguay. The Argentines operated much closer to home, but they faced threats from advanced British submarines (much of the Argentine surface fleet remained at port due to this threat), creating problems for evacuating their casualties. Perhaps more importantly, both countries maintained respect for the laws of war.

The Red Cross Box or a corollary neutralized zone is not required by the Geneva Conventions, though it is a possible method to give effect to relevant IHL obligations.[54] The First and Fourth Geneva Conventions provide, respectively, for the establishment of hospital zones outside the conflict area for the treatment of war wounded and neutralized zones within the conflict area for the protection of civilians.[55] The Red Cross Box drew on these concepts to establish hospital zones at sea, even though such zones were never specifically envisioned in the Second Geneva Convention addressed to armed conflict at sea. The Red Cross Box represents the application of international humanitarian law principles in a recent, inter-state conflict involving relatively modern navies. Conflict over a small set of islands close to the coast of one conflict party and thousands of miles from the other is also a notable similarity with potential Asia-Pacific scenarios.[56]

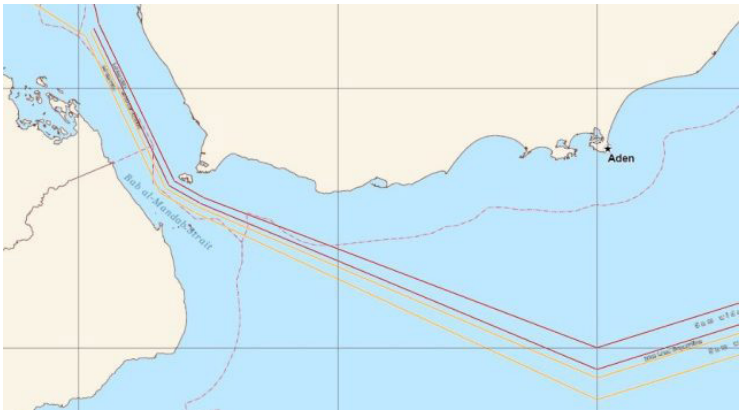
> ***The Red Cross Box represents the application of international humanitarian law principles in a recent, inter-state conflict involving relatively modern navies.***

The Falklands conflict was also one of the most significant uses of hospital ships in naval warfare in the modern era. International law protected hospital ships as early as 1907, but World Wars I and II highlighted the challenges of distinguishing them at sea. Large red crosses or flags are difficult to see at night and advances in long-range munitions, aerial bombing and submarine warfare make such visual marking almost irrelevant in the maritime battlespace.[57] The 1977 First Additional Protocol to the Geneva Conventions advanced optional methods to identify hospital ships, including through secondary

surveillance radar (effectively the modern automatic identification system (AIS) transponder system),* blue lighting, and underwater acoustic signatures.[58] The ICRC held a series of conferences in 1989-1990 that developed the technical details for the implementation of these measures.[59]
Few of these ideas have been actively tested, however. Currently, the hospital ship USS Comfort is equipped with blue lighting and SSR, but there is no widespread agreement or state practice on the use of a specific underwater acoustic signature for the protection of hospital ships or other humanitarian vessels.[60] While the Falklands Red Cross Box solved this lack of agreement with designation of a geographic zone outside the area of major hostilities, it highlights the importance of humanitarian vessels and the outstanding lack of clear agreement on methods to identify them in the context of engagements beyond-visual-range, self-guided hypersonic missiles, and other technological developments in naval warfare.

The Internationally Recommended Transit Corridor in the Gulf of Aden

The IRTC in the Gulf of Aden is an example of unliteral safe passage established through force of arms. While geopolitics may prevent anything like the IRTC from being created in a conflict between major powers, it still provides a useful model for protecting commercial shipping from agreed threats.



Map showing the route of the Internationally Recommended Transit Corridor. Source: safety4sea.com.

The IRTC, like the Black Sea Grain Initiative, began out of humanitarian concerns around food security. Conflict in Somalia rose in 2006, with a consequent breakdown in what fragile order existed, resulting in increased piracy. Attacks on commercial shipping became commonplace, with almost daily pirate attacks on shipping in March 2008 and more than 1,000 seafarers taken hostage and held for ransom in 2010.[61] Economists estimated that the overall costs to the global economy due to Somali piracy were $1.5 billion in 2010 alone, through increased shipping insurance, re-routing of ships, private security measures, and loss of productive activity in Somalia.[62] In 2007, the World Food Program warned that Somali pirates' disruption of commercial shipping threatened the delivery of humanitarian food supplies to that impoverished country.[63]

The UN Security Council acted in 2008, authorizing states to use "all necessary means" to deter and prevent piracy in cooperation with the Somali transitional government.[64] This international legal authorization laid the foundation for the Combined Maritime Forces (CMF), a multinational naval operation involving 38 nations. Through the CMF, multinational naval forces patrol the Gulf of Aden, Red Sea, and Arabian Gulf to deter pirates and combat the smuggling of arms and drugs. The CMF Taskforce 151 (CTF-151) patrols an Internationally Recommended Transit Corridor (IRTC), supported

* Secondary surveillance radar, designed for use by air traffic control, is a radio transponder carried onboard the craft that sends coded radio signals identifying the craft. This is essentially the same concept as AIS in the maritime domain, though there are technical differences between the two. AIS transpoders were only developed in the 1990s, well after the 1977 Additional Protocol.

by the European Union's Operation Atalanta. The IRTC is a 90 nautical mile (nm)-long and 490 nm-wide corridor area, monitored 24/7 by the Maritime Security Centre for the Horn of Africa (MSCHA), co-located with Operation Atalanta headquarters.[65] The IRTC is part of a larger Maritime Security Transit Corridor that includes the strait of Bab al-Mandab, along the coastal areas of Yemen controlled by the Houthis.[66] Through the efforts of CTF-151 and its partners, piracy in the Gulf of Aden has dropped considerably, although low-levels continue.[67] At the time of writing, the United States has initiated a new maritime operation to protect commercial shipping from Houthi attacks in Yemen. This operation builds on experience with the CMF but, thus far, remains distinct from it.

The IRTC represents a unique safe passage arrangement. While the benefits of the IRTC now extend well beyond addressing humanitarian needs in Somalia, increased piracy in the Gulf of Aden would doubtlessly impact humanitarian assistance in the region, just as it did in 2008. It is all the more unique because Somali piracy does not constitute an "armed conflict" for the nations of the CMF (whether "international" or "non-international"), and hence international humanitarian law does not apply.[68] Rather, the situation is governed by the peacetime anti-piracy or law enforcement action at sea, as codified in the UN Convention of the Law of the Sea.[69] Piracy also holds a special place within the Law of the Sea Convention, serving as an universal crime within customary international law for which unilateral action on the high seas by any state is authorized in peacetime.[70]

The IRTC mechanism underscores that safe passage arrangements are not limited to front lines or even to areas under the remit of humanitarian law, because strategic maritime routes may be well outside of conflict zones yet have a critical impact on humanitarian logistics. Such a safe passage arrangement, moreover, could be relevant for near-peer conflict scenarios in the Asia-Pacific. An adversary's "hybrid" or "gray zone" tactics may seek to paralyze a critical waterway that is best protected through "peacetime" legal frameworks, rather than the Law of War and the Law of Naval Warfare. While a UN Security Council resolution is difficult to imagine in such a situation, the operation could be carried out under UNCLOS and customary international law.

The IRTC is also potentially an example in naval warfare of "area security" provided to humanitarian actors on land. "Area security" operations take place when military patrols are coordinated so that humanitarian actors benefit from the "security umbrella" created by their presence without the perception of close association created by travelling in convoy with the military.[71] The IRTC provides a similar deterrent-at-a-distance for merchant vessels in the Gulf of Aden (even if they don't share with humanitarians concerns for appearing neutral and impartial). The concept of area security in the maritime domain of a future conflict is important because taking part in a military convoy can make non-military vessels vulnerable to attack. Merchant vessels that take part in a military convoy may acquire enemy status in the law of naval warfare.[72]

Preparing for Contingencies

The maritime safe passage arrangements detailed in this issue brief provide lessons for conflict scenarios in the Asia-Pacific region. Most scenarios of large-scale, international armed conflict in this region involve naval warfare and the intended or unintended disruption of life-saving supplies to populations, particularly on islands. In any such conflict, the primary responsibility for the provision of relief to civilians and the protection of civilians is the state and/or the parties to conflict in whose control the civilians are found. If this party is unable or unwilling to meet the basic needs of the population, other states or impartial humanitarian organizations may offer their services. The controlling party may not arbitrarily withhold consent to such relief but may require procedures and assurances. The reality of past conflicts is, of course, much messier than these simple legal rules would make it appear. There are many cases in which ensuring that humanitarian action is unimpeded—whether the delivery of supplies, the evacuation of civilians, or the protection of hospital ships—faces numerous challenges.

This section outlines critical considerations in planning and preparing for safe passage at sea. One preliminary challenge in developing such considerations is the wide variety of shapes and forms that a safe passage arrangement may take. Every safe passage arrangement will be unique, requiring persistence, patience, and no shortage of luck. There are, however, lessons from the case studies reviewed that can strengthen planning and preparation for a wide array of potential scenarios. These are distilled into the following critical planning considerations, relevant to government, military and humanitarians involved in planning and preparing for future contingencies.

- *Consider the baseline commercial supply of life-sustaining goods.* Maritime conflict in the Asia-Pacific region will almost certainly have significant impacts on commercial trade, whether intentionally through a blockade or unintentionally through disruption of commercial sea lanes. Humanitarian assistance, such as through the World Food Program or the ICRC, can help fill gaps in such supply in areas cut off by conflict. But if trade is disrupted across an entire community, such as an island reliant on maritime imports, traditional humanitarian assistance may well not be sufficient. The Black Sea Grain Initiative and the UNVIM in Yemen show how safe passage arrangements can facilitate the movement of trade in critical goods.

- *Where humanitarian assistance is required, engage in dialogue and coordination.* It is essential to speak with, listen to, and coordinate with the actual funders, deliverers and coordinators of humanitarian assistance. This may be the regional military and civilian government representatives, the United Nations, organizations such as the ICRC, or other humanitarian groups. The expertise to evaluate and effectively deliver humanitarian assistance is a civilian skillset that military actors may support but cannot replace.

- *Support negotiated agreements where possible.* Agreements with all conflict parties—particularly the party seeking to block or restrict maritime access—will result in better respected, more durable arrangements for humanitarian corridors or safe passage than mechanisms that lack such agreement. The protective mechanisms defined by international law require the agreement of conflict parties. Key considerations for negotiated agreements include:

- *Negotiated agreements rely on aligned interests, which may take time to develop*. Conflict parties reach agreement when it serves some interest, whether that is a legal or moral obligation, economic benefit, or tactical or strategic position. In some Asia-Pacific conflict scenarios, parties may have little incentive to permit humanitarian supplies into a blockaded area. Yet such scenarios, when taken beyond the initial moves, may enter the kind of situation faced by the Saudi-led coalition's effective blockade of Yemen or the Russian effective blockade of Ukrainian ports. While humanitarian needs are often critical and time-sensitive, this alignment of interests can take time to coalesce. Such delays can be mitigated where trust is established in advance, such as through ICRC's decades of cross-party work in Sri Lanka.
- Neutral third parties can often facilitate agreement on safe passage. The ICRC in Sri Lanka, the UNVIM in Yemen, and the Black Sea Grain Initiative all highlight agreements amid conflict to allow safe passage for humanitarian purposes. The role of impartial third parties played an important role in each of these situations, and such parties could play a similar role in facilitating safe passage in the Asia-Pacific. The Black Sea Grain Initiative shows that UN mediation and advocacy is possible even where a veto-wielding member of the Security Council is involved. Yemen also highlights that the UN can support a verification mechanism even where a non-state actor (the Houthis) is involved: unsettled international status is not necessarily an obstacle to humanitarian diplomacy by the UN or similar third parties.
- *Formal agreements are ideal but informal agreements may be sufficient where a degree of trust exists between the parties.* Written agreements are ideal and referenced in international law, but practice shows that unwritten agreements supported by high-level engagement can also be effective. The UNVIM in Yemen was not part of a written agreement until 2018, after more than two years of operation. Similarly, the agreement to establish the Red Cross Box during the Falklands conflict was never written down and remained only a verbal pact between the UK and Argentina.
- *Maritime protected zones are also an option*. The Red Cross Box stands as an important example of demarcating and respecting a neutral, humanitarian zone at sea. While potential conflicts in the Asia-Pacific will almost certainly lack the basic trust that Britain and Argentina shared, the impact on civilians from such a conflict also warrants a humanitarian zone if an agreement can be reached. Hospital ship zones for military personnel, as in the Falklands, are one important option, but humanitarian zones could also serve as hubs for merchant seafarers or maritime migrants in distress-at-sea.

- *Consider countries and regions in the area of safe passage*. Humanitarian corridors and safe passage may cross different territorial or archipelagic waters, requiring coordination with local coast guards or navies. These countries may also play important roles in monitoring or supporting the humanitarian corridor, whether it is negotiated or enforced. Türkiye, for example, was an important partner in the Black Sea Grain Initiative because had cordial relations with both Ukraine and Russia and because it controlled the strategic Bosporus Strait.

- *Ensure that safe passage arrangements do not diminish the protection of humanitarian or neutral vessels*. Entering contested waters is inherently dangerous and any safe passage through such waters should guard against risks of blurring the distinction between humanitarian or other neutral vessels and military vessels. These include:
    - *Agreed methods to identify humanitarian vessels:* International law requires the identification of hospital ships and other humanitarian vessels, but traditional methods, such as painting the red cross emblem on ships, are outdated. Modern warfare—with surface, subsurface, and aerial combatants, and long-range or guided munitions—creates both opportunities and challenges for identification. Currently, there are an array of proposed identification methods but a lack of established state practice and clear commitment to specific standards. Any agreed humanitarian corridor or safe passage arrangement should make such standards clear.
    - *Agreement on encrypted communications and other actions that could suggest intelligence-gathering or military activities:* Greater agreement is also needed on actions that belligerents understand as evidence of intelligence-gathering or military activity. Historically, hospital ships were not allowed to carry equipment for encrypted communications, but it is unclear how relevant this is to modern information technology. How and to whom safe-passaging vessels will communicate should be clear.
- *Consider enforced safe passage as an option where agreement cannot be reached, the adversary can be deterred, and humanitarian status can be maintained.* The IRTC in the Gulf of Aden highlights that safe passage can be enforced unilaterally, as well as established through agreements. A key consideration in such an arrangement is whether military enforcement will be sufficient to deter potential attackers. In the Gulf of Aden, the asymmetric nature of the conflict meant that the area security provided by warships could effectively address threats of piracy. Such a situation bears little resemblance to a near-peer conflict in the Asia-Pacific, where the use of long-range and precision munitions may make traditional maritime convoys less effective. But if "grey zone" operations give rise to maritime insecurity, or if multi-national maritime coalitions are used to patrol humanitarian sea lanes at the geographic margins of an armed conflict, such enforced safe passage may become important.

This issue brief is part of a research workstream at the Center for Excellence in Disaster Management and Humanitarian Assistance (CFE-DM) on the Protection of Civilians in the Maritime Domain. It is based on an extensive desk review of forecasted conflict risks in the Asia-Pacific region and past naval operations and their implications for protection of civilians. The brief is informed by key informant interviews with over 27 subject matter experts, including retired and active naval personnel, humanitarians, and academics, as well as roundtable discussions with U.S. military personnel. Nothing in this issue brief, however, should be read as a position or expectation of the Department of Defense.

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