



# POTEN TANKER OPINION



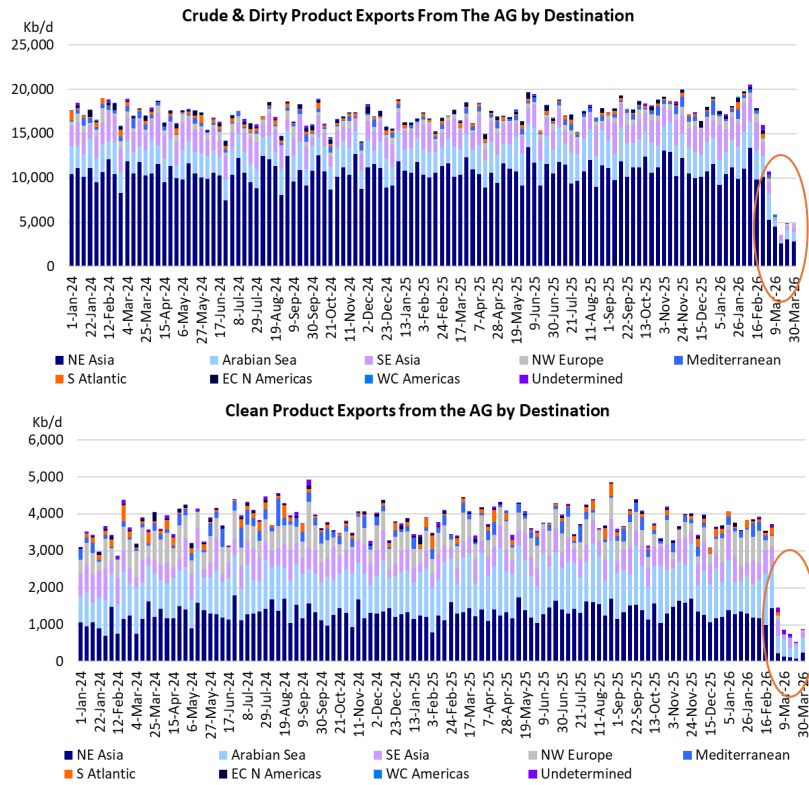
## Not "Strait-forward"

### The Strait of Hormuz will never be the same

Prior to the conflict between the US, Israel and Iran, not many people outside the oil & gas and shipping industries were familiar with the Strait of Hormuz, its location and its importance to the global economy. That has all changed. The effective closure of this narrow passageway that connects the Arabian Gulf with the Pacific Ocean has caused the largest energy supply disruption in history. The ceasefire that was announced on Tuesday has, so far, brought little change in the situation. Iran is limiting traffic to a trickle and appears to be charging vessels significant tolls before they can pass the waterway (dubbed the "Tehran Toll"). This begs the question: Even after all hostilities end, will the Strait of Hormuz go back to the way it was before, or will there be permanent changes that our industry will have to deal with? We will discuss some of the options in this week's Tanker Opinion.

Unlike the Suez Canal or the Panama Canal, which are man-made "chokepoints", the Strait of Hormuz is natural waterway, just like the Malacca Straits around Singapore and the Danish Straits separating the North Sea and the Baltic. The Strait of Hormuz, named after a small island in the northern part of the Strait has always been a strategic gateway between the Arabian Gulf and the open ocean. During antiquity, the strait, then known as the "Gate of Peace" (Bab as-Salam) facilitated the exchange of pearls, silk, and spices between Mesopotamia, the Indus Valley, and Egypt. The Portuguese, who built a fortress on the island of Hormuz, dominated the Strait from 1507 until they were expelled by the Persian Empire, assisted by the English East India Company, in 1622. Following the Portuguese exit, the British maintained a strong maritime presence in the region until 1971. The discovery of oil in southwestern Persia in 1908 started the transformation of the Strait of Hormuz into the global energy lifeline that it is today.

In 1959, Iran expanded its territorial sea to 12 nautical miles. In 1972, Oman did the same. This effectively placed the entire Strait of Hormuz within their combined territorial waters. While the world generally sees the Strait of Hormuz as an international waterway, its legal status is a complex debate between two international standards: Transit Passage and Innocent Passage. Most of the international community, including the United Nations and the International Maritime Organization (IMO), classifies Hormuz as an "international strait" governed by the UN Convention on the Law of the Sea (UNCLOS). Under UNLCOS, ships and aircraft have the right of "transit passage" that is continuous and expeditious. Coastal states cannot suspend transit passage, even during wartime, and cannot impose tolls or taxes for simple passage. Iran is a signatory to UNCLOS but has not ratified it. Instead, Tehran (but not Oman)



Source: Vortexa

argues that the more restrictive regime of "innocent passage" applies to its territorial waters in the Strait. Unlike transit passage, innocent passage can be suspended for security reasons. Even before the most recent conflict, Iran frequently demanded that foreign warships request permission before entering its portion of the strait, a claim that the U.S. and others reject based on customary international law. Now, Iran has gone even further. It has reportedly institutionalized its effective control over the Strait by charging up to \$2 million per tanker (or \$1 per barrel) for transit, which it claims is necessary for "reconstruction". Legal experts maintain that these tolls are illegal under international law, as coastal states can only charge for specific services like piloting, not for the right of passage itself. That is the situation in other maritime choke points such as the Danish Straits and the Bosphorus/Turkish Straits, for example. There is another problem: Iran's policy of allowing only "friendly" nations (such as China, Russia, and India) to pass while blocking U.S. or Israeli-linked vessels is seen as a violation of the non-discrimination clauses in UNCLOS. It will be interesting to see if/how these competing views will be resolved during the upcoming negotiations.

The crisis has revealed a fundamental weakness in maritime law: While the rules are clear, there is no reliable mechanism to enforce them when a coastal state is willing to use military force to block a waterway. In the meantime, despite the ceasefire, the Strait of Hormuz remains virtually closed and many countries in Asia, which are highly dependent on Middle Eastern oil and products are suffering. No matter what is ultimately decided, Iran knows that it has leverage over a strategic gateway and – just like the Houthi's before them – they will not hesitate to use it again.