## Contents

1 The First Steps in the Regulation of Passage Through the Straits: From Grotius to Pardo ................................................................. 1  
1.1 The Legal Position of Straits from the Classical Dimension ........ 2  
1.1.1 The Most Relevant Traditional Doctrine in This Regard .......... 2  
1.1.2 The First Attempts at Private Codification About the Legal 
Regime of Straits .......................................................... 4  
1.1.3 The Incipient ‘Official’ Steps Towards the Regulation 
of Passage Through the Straits ........................................... 6  
1.2 The Desired Concretion of the Legal Regime on Straits .......... 10  
1.2.1 The Cornerstone for Settling the Regime on Straits: 
The ‘Corfu Channel Case’ .................................................. 10  
1.2.2 The Work of the International Law Commission 
and the United Nations Conferences on the Law of the Sea 
Held in Geneva .......................................................... 13  

2 The Third Conference of the United Nations on the Law of the Sea 
or the Metamorphosis of Consensus ........................................... 21  
2.1 A Brief Summary of the Work Carried Out by the Commission 
on the Sea Beds as Regards International Straits ...................... 24  
2.1.1 The Proposals of the Main Sea Powers and the Freedom 
of Navigation .............................................................. 25  
2.1.2 The Propositions of the Coastal States and the Right 
of Innocent Passage ...................................................... 26  
2.2 The Most Relevant Aspects of the Development of the Question 
of the International Straits at the III United Nations Conference 
on the Law of the Sea ...................................................... 29  
2.2.1 Formulation of the Principal Tendencies ......................... 30  
2.2.2 Preparation and Drafting of the Negotiation Texts ............. 32
3 The Definition of the ‘Undefined’ Straits Used for International Navigation

3.1 Some Proposals of Definitions Put Forward Within the Framework of the III Conference

3.2 The Geographical Factor

3.3 The Legal Component

3.4 The Functional Component

3.5 Finalising a Concept of ‘International Strait’


4.1 Straits Excluded from the Scope of Application of Part III of the UNCLOS

4.1.1 Straits Which Include Internal Waters Which Previously Were Neither Territorial Seas Nor High Seas

4.1.2 Straits Regulated Wholly or in Part by Long-Standing International Conventions

4.1.3 Straits Regulated by Specific Treaties Compatible with the Convention Which Are Not Long-Standing

4.1.4 Straits Through Which a High Seas Route Passes or Which Cross an Exclusive Economic Zone

4.1.5 Straits Which Include Archipelagic Waters as a Consequence of the Drawing of Archipelagic Perimeters in Archipelagic States

4.2 Straits in Which the Regime of Navigation Is the Right of Innocent Passage

4.2.1 Straits Formed by an Island of a Coastal State Bordering the Strait and Its Mainland Territory

4.2.2 Straits Located Between One Part of the High Seas or an Exclusive Economic Zone and the Territorial Sea of Another State

4.3 The “Principal” States or States Subject to the Right of Passage in Transit

5 International Straits and the Right of Innocent Passage with No Possibility of Suspension

5.1 Conceptual Aspects of Innocent Passage

5.1.1 The Notion of Passage

5.1.2 The Need for ‘Innocence’

5.2 The ‘Particular’ Situation of the Passage of Certain Types of Vessels

5.2.1 Exclusion of Submerged Navigation

5.2.2 Vessels with Special Characteristics

5.2.3 Innocent Passage of Warships
5.3 Mutual Rights and Obligations Entailed by Innocent Passage ...... 126
  5.3.1 The Rights of the Coastal State as Regards Innocent Passage Through Its Territorial Sea, Including the International Straits ......................... 127
  5.3.2 The Obligations Which Fall Upon the Coastal State in Relation to This Right of Passage ........................................ 132
5.4 Regulation of the Safety of Navigation and Sea Traffic: Sea Lanes, Devices for the Separation of Sea Traffic and Other Safety Measures Adopted in Straits Regulated by Innocent Passage ...... 136
  5.4.1 Pentland Firth .................................................. 139
  5.4.2 North Minch ................................................... 140
  5.4.3 Entrance to the Gulf of Finland .................................. 140
  5.4.4 Strait of Elba or Piombino ...................................... 142
  5.4.5 Strait of Tiran .................................................. 143
  5.4.6 Strait of Georgia ............................................... 143
  5.4.7 Strait of Juan de Fuca .......................................... 144
  5.4.8 Santa Barbara Channel .......................................... 148

6 The New Regime of Transit Passage Through International Straits ....................................................... 151
  6.1 Conceptual Delimitation .............................................. 152
    6.1.1 Beneficiaries of the Right to Transit Passage ................. 152
    6.1.2 Objective of This Passage Modality ........................... 154
  6.2 Reciprocal Rights and Obligations of the Coastal States and the Users of the Straits Regulated by Transit Passage ...... 156
    6.2.1 Obligations of Vessels and Aircraft During Transit Passage ................................................ 156
    6.2.2 Rights of the Coastal State or States of an International Strait .................................................. 164
    6.2.3 Obligations of the Coastal States of Straits Concerning Transit Passage ............................................. 174
    6.2.4 Cooperation Between Coastal States of a Strait and the States Using the Strait ..................................... 178
  6.4 The Right of Transit Passage: A Conventional Norm Generally Accepted as Law? ........................................... 192

Conclusions ................................................................ 199

Catalogue of Straits .................................................... 203

Bibliography .................................................................. 211
International Straits
Concept, Classification and Rules of Passage
López Martín, A.G.
2010, XXIII, 218 p., Hardcover
ISBN: 978-3-642-12905-6