



June 8, 2026

From: Lawrence Herman
To: Trade Observers
Re: STANDING UP TO CHINA IN THE TAIWAN STRAIT

Two weeks ago, *HMCS Charlottetown* transited the Taiwan Strait, one of numerous such forays by the United States, Japan, the United Kingdom, and Australia over the last number of months, and Canada's thirteenth in the past eight years.

These transits have long been considered a diplomatic outrage by China, which unilaterally claims sovereign rights and exclusive jurisdiction over the strait, whereas Canada and its allies consider the strait international waters under the United Nations Convention of the Law of the Sea (UNCLOS) and from its free use for centuries.

The *Charlottetown's* passage came after an April 30 warning by China's ambassador to Canada that any such transits would damage bilateral relations, being inconsistent with Beijing's "One China principle" and would undermine his country's sovereignty. Defence Minister David McGuinty rejected that in a statement on May 15, and a week after that, *Charlottetown* transited the strait.

This diplomatic exchange and the *Charlottetown's* subsequent transit did not have any negative spillover on Canada's relations with China, judging from reports on the Ottawa visit by Chinese Foreign Minister Wang Yi the following week.

Because even if Taiwan were to become part of China, the strait would remain a fully open international waterway, and not, by any stretch, Chinese internal waters.

The strait is roughly 126-180 km (68-97 nautical miles) wide, far beyond the Chinese 12-mile territorial sea, and thus outside China's sovereignty.

(Canada's claim to sovereignty and jurisdiction over the Northwest Passage is rooted in part by drawing a series of baselines in the Arctic archipelago.)

For over 1,000 years, the Taiwan Strait has been an international shipping route. Western countries began using the strait during the Age of Sail in the seventeenth and eighteenth centuries, when the Dutch East India Company and the Spanish Empire had major commercial operations in the Far East. By the early 1800s, the strait was a major international sea lane. Its status as a transit waterway was reinforced by continuously growing commercial shipping ever since.

In other words, international transit through these waters was an established fact, an indelible part of maritime trade, well before the communist revolution in the 1940s and China's recently asserted sovereignty claims.

Intertwined with the geographical and historical facts are legal elements. Beyond the fact its main shipping lanes are well outside China's 12-mile limit, under the Law of the Sea Convention, the 12-mile territorial sea and the adjacent 12-mile contiguous zone (Article 33) are measured from a coastal state's baselines, meaning either the low-water line or "straight baselines" along the coast. In 1996, China published straight baselines along the entire Chinese mainland, including the coastline in the Taiwan Strait. Because it is these baselines that define the outer limits of a state's territory, they contradict the notion that the strait is somehow within China's internal sovereignty. Moreover, the combined seaward area of 24 miles (12 miles of territorial sea and 12 miles of contiguous zone) of Chinese jurisdiction is well short of any assumption of maritime jurisdiction by China over the 68 to 97-nautical-mile-wide strait.

Under customary international law, including the convention, all vessels have a right of transit passage through international straits "which shall not be impeded," a right that is virtually absolute as long as it is "continuous and expeditious" (Article 38). This right is available to warships or commercial vessels.

And even if an international strait is actually within a state's territorial sea, a separate right of non-interruptible innocent passage applies, more limited but nonetheless a right available to foreign warships transiting from one area of the high seas to another. This, of course, is the basis for legal arguments against Iran's declarations of control over the Strait of Hormuz.

There exists no shortage of analyses regarding the foregoing legal and geopolitical issues associated with this question. But all converge on the fact that China's claim is totally contrary to international law.

The Canadian government should be unequivocal and forthright in rejecting the Chinese claim.

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