

Study on International Law Issues Related to the Use of Mines in Maritime Blockade Operations

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Abstract: Mines are an important weapon in modern naval warfare, playing a crucial role in the execution of maritime blockade tasks by armed forces. Facing potential future maritime armed conflicts, how to implement a maritime blockade using mines and how to counter enemy mines will be essential challenges in naval battles. A thorough understanding and mastery of the legal issues involved in mine warfare is a necessary prerequisite for the scientific use of mines in blockades. Additionally, conducting operations strictly in accordance with the law helps belligerents gain more international public opinion support during maritime blockade operations. This paper mainly focuses on the international legal rules related to the use of mines in maritime blockades, exploring legal issues that may arise during blockade missions and proposing targeted countermeasures and suggestions.

Keywords: Mines; Maritime Blockade; International Law.

1. Introduction

"Mines" refer to explosive devices placed in water bodies, on the seabed, or in the subsoil, intended to damage or sink ships, or to prevent shipping from entering a specific area. As underwater explosive weapons, mines can be widely used for defense in maritime exclusion zones, coastal areas, ports, for striking surface ships, anti-submarine warfare, and blockade operations, playing a significant role in naval warfare. Despite the increasing controllability of mines with the advancement of science and technology, their general characteristics of being easy to lay but difficult to clear, having strong destructive power, and a prolonged duration of damage remain unchanged. Therefore, the use of mines for maritime blockades will continue to be a necessary tactic in potential future naval battles. Fully understanding and mastering the current international laws regarding mines is essential to ensure that all actions during maritime blockade operations are legally conducted, which helps in achieving a legal and rational victory in the realm of public perception.[1-2]

2. General International Law Rules for the Use of Mines in Modern Naval Warfare

Under the current international law framework, it is stipulated that the laying and use of various types of mines, whether before or during armed conflict, must be subject to effective monitoring, control of danger, and warning. This principle first appeared in the Hague Convention (Convention VIII) on the Laying of Automatic Submarine Contact Mines, concluded at the Second Hague Peace Conference in 1907 [3].

2.1. Basic Provisions of the Hague Convention (Convention VIII) on the Use of Mines

The convention sets forth principal rules regarding the types of mines used, the areas where they can be deployed, and their use during different periods of armed conflict. First, regarding types of mines, the convention prohibits the laying of unanchored automatic contact mines unless they become

harmless within at most one hour after the planter loses control over them. Second, regarding areas of mine use, the convention allows the laying of protective mines in internal waters and friendly areas, defensive mines in international waters to protect shipping lanes, ports, and their entrances, and offensive mines in enemy territorial waters and controlled waters. Third, during different stages of armed conflict, the convention permits the laying of protective mines during a crisis, subject to the right of innocent passage of foreign ships through its territorial waters; during armed conflict, the laying of protective mines is not restricted by pre-conflict rules, and in principle, defensive mines can only be laid after the start of armed conflict, and offensive mines can only be used when anticipating an armed attack and exercising the right of individual or collective self-defense; after the end of armed conflict, for the safety of ships, both parties must make maximum efforts to clear the mines they have laid.

2.2. Limitations of the Hague Convention (Convention VIII) in Regulating Modern Naval Warfare

The Hague Convention (Convention VIII) has been in effect for over a century and has obvious limitations in regulating modern maritime military tasks. First, the convention does not completely prohibit the use of mines in naval battles and other diversified maritime military tasks. For example, in the 1984 Red Sea mines incident, 18 merchant ships were mined in the Red Sea, and to this day, it is still unclear which country was responsible. In the 1983-1984 "Nicaragua case," the U.S. government laid mines in Nicaraguan internal waters and territorial sea without proper notification procedures, causing damage to ships from the Netherlands, Japan, the Soviet Union, and Panama. Given that mines are easy to lay but difficult to clear, have strong destructive power, and long-lasting effects, strict restrictions on their use are very necessary.

Second, the development and changes in mines have led to a lag in international law regulation. With continuous advancements in science and technology, world naval powers pay great attention to the development and operational use of

mines. Mine technology has evolved to a highly complex degree, including not only traditional anchored mines as stipulated by the convention but also "bottom" mines, remote-controlled mines, and even nuclear mines, which the Hague Convention (Convention VIII) did not anticipate. Currently, there are no specific treaties or regulations regarding the use of such mine weapons. Therefore, while the general provisions of the Hague Convention (Convention VIII) continue to serve as the guiding principles for the legal laying and use of mines, the application of new types of mines in naval warfare urgently requires new specialized treaties for regulation.

Lastly, the convention does not explicitly define the limitations on the areas where mines can be used. The convention came into effect on January 26, 1910, while the United Nations Convention on the Law of the Sea, which involves international maritime rights, was formally signed and came into effect more than half a century later. This situation has led to a lack of clear explanation in the Hague Convention (Convention VIII) regarding the relevant waters for mine laying in modern naval warfare and other diversified maritime military tasks. Given this, the use of mines in modern warfare and the waters in which they are used should take into account the corresponding maritime rights of belligerents and neutral states in conjunction with the relevant content of the United Nations Convention on the Law of the Sea, to be implemented effectively and scientifically.

3. International Legal Rules Related to the Use of Mines in Maritime Blockade Operations

Modern maritime blockades should be conducted by naval and air forces jointly formed by United Nations member states, following Security Council resolutions, to prohibit aggressors from using their ports, naval bases, and commercial and military coastlines or other maritime or air connections. The use of mines for maritime blockades, due to their low cost, effective implementation, and minimal troop deployment, is often employed for blockading critical military installations and ports of the warring parties. The use of mines in maritime blockades must comply with general international law provisions on maritime blockades, as well as specific provisions regarding the use of mines[4].

3.1. General Provisions for Implementing Maritime Blockades

3.1.1. Procedures for Maritime Blockades

According to the 1909 London Declaration concerning the Laws of Naval War, implementing a maritime blockade mainly includes four basic elements:

- i. For a blockade to be binding, it must be declared and notified.
- ii. The naval authority of the blockading nation or acting in its name should make the blockade declaration, specifying (1) the date the blockade begins; (2) the geographical scope of the blockaded coastline; (3) the deadline for neutral ships to leave.
- iii. Notifications about the blockade should be issued immediately. There must be two notifications: (1) from the government of the blockading fleet to all neutral governments; (2) from the officer commanding the blockading forces to the local authorities, who are obliged to notify the foreign consulates in the blockaded ports or coasts.

- iv. Rules concerning the declaration and notification of blockades should apply to situations where the scope of the blockade is expanded or when a blockade is lifted and then re-established.

Given this, effective maritime blockades should be established on the basis of scientific and effective declarations and notifications. With the development of communication technology, maritime blockades are typically declared, gradually discarding the cumbersome process of notification, a change also adopted by modern international law. This public nature of the declaration significantly reduces the secrecy and suddenness of the campaign's initiation. Therefore, belligerents should make thorough pre-war preparations before declaring a blockade, considering their blockade forces' readiness, mine effectiveness period, international community response and acceptance, and make a cautious, timely blockade declaration to quickly seize and effectively maintain maritime control, thereby winning the war.

3.1.2. Legality of Maritime Blockades

In traditional naval warfare law, the legality of maritime blockades mainly depends on the effectiveness of the blockade and its implementation procedures. This theory essentially overlooks the righteousness of maritime blockades, simplistically equating "effective blockade" with "legal blockade." However, according to Articles 42 and 51 of the United Nations Charter, the use of force is limited to collective self-defense and resisting or stopping aggression. States or groups of states have an inalienable right to collective self-defense, and naturally, the right to blockade aggressors. On this basis, a state that first uses force to undermine another state's sovereignty, territorial integrity, and political independence, or uses means inconsistent with the United Nations Charter, is considered an act of aggression. Therefore, in future maritime blockade operations, it is required that belligerent nations be not only legally compliant in their blockade procedures but also engage in warfare that is lawful in nature and in accordance with international law norms.

3.2. International Legal Provisions for Implementing Blockades Using Mines

The international legal provisions for implementing blockades using mines primarily involve aspects such as the demarcation of blockade zones.

Regarding enemy states, according to the 1909 London Declaration concerning the Laws of Naval War: "Blockades must not extend beyond the ports or coasts belonging to or occupied by the enemy." This explicitly states that only the ports or coasts owned or occupied by the enemy can be blockaded using mines. As per the United Nations Convention on the Law of the Sea, blockading an enemy's territorial waters and internal waters is legal, but there is no explicit provision regarding the establishment of blockade zones in the exclusive economic zones and on the high seas. However, in practice, many countries have extended mine deployment beyond these limits. For example, during the Gulf War, Iraq laid over 1,000 mines throughout the Gulf area, including non-territorial waters.

Regarding neutral countries, the London Declaration states that neutral countries' territorial waters should not be blockaded, but it remains undecided whether blockade zones can be established in the contiguous zone, exclusive economic zone, or continental shelf of neutral countries. The

San Remo Manual on International Law Applicable to Armed Conflicts at Sea suggests that belligerents may conduct hostile operations in the exclusive economic zones and on the continental shelves of neutral states, but must duly consider the rights of the coastal neutral states, particularly in terms of exploration and exploitation of economic resources and protection and preservation of the marine environment.

For the laying of mines in straits, different treatments should be applied based on their geographical locations. According to the United Nations Convention on the Law of the Sea, straits have different legal statuses based on their geographical characteristics. It is permissible to lay mines in straits that separate parts of the same country's territory without connecting the high seas or exclusive economic zones; for straits that separate parts of the same country's territory while also connecting the high seas or exclusive economic zones, there is controversy over mine laying. The prevailing view is that for such straits, it is permissible to blockade by laying mines if they are not essential international navigational routes.

In summary, the demarcation of the area for mine deployment is key to implementing a mine blockade. Conducting mine blockades in enemy internal waters and territorial seas has a sufficient legal basis; in accordance with the principle of freedom of the high seas, it should be reasonable to use mines to establish blockade zones on the high seas, but blockades should not be established in straits used for international navigation. The author believes that, in principle, the smaller the demarcated blockade zone to achieve the blockade objective, the better, as this is less likely to negatively impact the maritime strategic situation and helps gain more international public opinion support.

3.3. Implementing Maritime Blockades with Mines in a Civil War

A civil war, also known as a "non-international armed conflict," refers to a conflict of a certain scale between different armed forces within a country and is considered an internal affair of that country. The legality of implementing maritime blockades with mines during a civil war is a topic of much debate in international law, with most views suggesting that during a civil war, both parties to the conflict can establish and implement maritime blockades in accordance with international law, similar to how countries use force in international wars to resolve conflicts. However, some believe that in a civil war, neither party has the right to extend military actions, including maritime blockades, beyond the territorial waters of the country to the high seas, nor do foreign countries have the right to interfere in the military actions of the parties to the civil war.

The author believes that, based on the "non-international" nature of civil wars, using mines for maritime blockades should primarily be regulated by the domestic law of the country. For situations that may affect the maritime interests and legal order of other countries, international law treaties and customary practices should also be considered to properly manage the relationship between maritime blockades during civil wars and the maritime navigation of foreign ships. If external forces strongly intervene in a civil war, the conflict's nature may shift from a "non-international armed conflict" to an "international armed conflict," in which case the use of mines for maritime blockades should primarily follow the relevant international legal provisions.

4. Basic Patterns of Enemy Blockades Using Mines and Our Military's Legal Regulatory Measures

4.1. Basic Patterns of Enemy Maritime Operations Using Mines

In future naval operations, navies worldwide will use mines as a significant means to implement blockades and counter-blockades, attempting to delay the opposing forces' landing operations. Some countries and combat entities even plan to dispatch a portion of their fleets to predetermined areas upon identifying certain operational signs. By laying mines in these areas, they aim to conduct counter-blockade operations. The strategy involves creating several minefields and scattered drifting mine interception lines near major ports and coastal shipping lanes in the enemy's nearshore areas, to close off important ports and channels, block maritime traffic lines, and strike and delay the actions of maritime assault formations. In modern naval warfare, there are various methods of laying mines, and navies and combat entities worldwide can adopt multidimensional mine-laying techniques, including air, surface, subsurface, and pre-war civilian ship disguise. This illustrates that the mine-laying methods of naval combat entities are diverse, and their intent to use mines to delay the operations of the opposing forces should not be underestimated.

4.2. Targeted Legal Countermeasures in Light of Mine Blockade Operations

Based on the basic patterns and principles of naval warfare mentioned above, using mines for blockades and counter-blockades has become an inevitable option. However, the focus is primarily on the implementation aspect of mine blockade and counter-blockade operations, with little research on the corresponding international legal regulations. Therefore, in the process of operations, we cannot expect all enemy actions to comply with international law. Against enemy mine-laying methods and operational tactics that do not comply with international law, our side should fully utilize domestic and international legal provisions to prepare targeted contingency plans, maximizing our ability to counter Western hostile forces in the realm of public perception.

4.3. Lawful Use of Mines for Maritime Blockades as a Sign of Justice in Future Naval Warfare

In the process of using mines to implement maritime blockades, strict adherence to domestic laws and international laws is required. However, realistically speaking, due to the overly detailed specific rules set out in naval warfare law, the author believes that terms such as blockade and blockade zones should be avoided during mine blockade operations, replaced with terms like military area and military exclusion zone. This is because international law does not make special provisions for laying mines in military exclusion zones and military areas, thereby allowing the maximum achievement of the blockading country's military objectives within the confines of international law.

References

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