

Russia's Blockade in the Sea of Azov: A Call for Relief Shipments for Mariupol

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Source: Base map is a fragment of a map created by Marineregions.org, Flanders Marine Institute (VLIZ), available <https://www.marineregions.org/eezdetails.php?mrgid=5695>, accessed 10 March 2022. The base map is modified by the author to include the names of the coastal States and straits of the Black Sea and the location of Mariupol and Berdyansk.

Introduction

On 24 February 2022, the Russian Federation launched an invasion of Ukraine. Hundreds of thousands Ukrainian civilians have no possibility to evacuate from [besieged cities of eastern Ukraine](#) as the humanitarian corridors are not functioning (see [here](#)). According to media reports, the worst humanitarian situation right now is found in the port city of Mariupol that has a strategic location on the coast of the Sea of Azov separating the Russian-annexed Crimean Peninsula from the Russian-controlled breakaway regions of Donetsk and Luhansk.

Mariupol's population of over 400 000 is subjected to constant shelling that has caused a [humanitarian crisis](#). [According to the International Committee of the Red Cross \(ICRC\) spokesperson](#), the situation in Mariupol is 'apocalyptic'. In this context, this blog post debates Russia's blockade in the Sea of Azov and the obligation to allow free passage of foodstuffs and other essential supplies to the Port of Mariupol.

Has Russia Established a Blockade in the Sea of Azov?

While the closure of the Turkish Straits to belligerent warships has received much attention (see, e.g., [here](#) and [here](#)), the suspension of shipping in the Sea of Azov has not so far attracted much scholarly debate. It is a matter of debate whether it can amount to a blockade. Blockade is a legal concept which, according to [Wolff Heintschel von Heinegg](#) (at p. 213), has been unjustly deemed by some scholars to be obsolete. During the negotiations of the San Remo Manual, there reportedly was an “extensive discussion on the issue of whether the practice of blockade was, on the one hand, entirely archaic or, on the other, remained a viable method of naval warfare” ([Doswald-Beck](#), at p. 177).

The current situation in the Black Sea shows that the laws of blockade are still relevant today. In the wake of its invasion of Ukraine, at 4am of 24 February 2022, Russia [suspended](#) commercial navigation in the Sea of Azov until further notice. Under Article 2(3) of the 2003 [Kerch Treaty](#), the access of neutral States’ warships and other State vessels operated for non-commercial purposes to the Sea of Azov is closed during the on-going war as it is dependent on Russia’s and Ukraine’s mutual prior permission. Russia also controls the airspace above the Sea of Azov.

In effect, it appears that since 24 February 2022 Russia has implemented a blockade against the Ukrainian cities Berdyansk (now controlled by Russia) and Mariupol that are located on the coast of the Sea of Azov (see the map above). Blockade is left undefined in positive law (see, e.g., Art 42 of the [UN Charter](#), Art 3(c) of the [Definition of Aggression](#)). [The Commander’s Handbook on the Law of Naval Operations](#) defines blockade as “a belligerent operation to prevent vessels and/or aircraft of all States, enemy as well as neutral, from entering or exiting specified ports, airfields, or coastal areas belonging to, occupied by, or under the control of an enemy State.” (at 7-10) A blockade does not have to cover the whole coastline of a belligerent State and may cover just some part of it ([Frostad](#), at p. 203).

A valid blockade must be declared and notified to all belligerents ([Rule 93 of the San Remo Manual](#)). [Frostad](#) comments that: “Traditionally, notification often took the form of diplomatic notes, but the issuing of Notices to Airmen or Notices to Mariners will suffice today.” (p. 202). The suspension of commercial navigation in the Sea of Azov was ordered by the Russian Ministry of Defence and announced by the Federal Agency for Maritime and River Transport (see [here](#)).

It is unclear to what extent Russia’s announcement of the suspension of commercial shipping in the Sea of Azov can be seen as a declaration of a blockade. Russia did not *expressis verbis* announce a blockade in the Sea of Azov. This formality is not decisive for the legal classification of Russia’s announcement. During the negotiations of the San Remo Manual, it was held that the rules of naval blockade “were applicable to blockading actions taken by States regardless of the name given to such actions.” ([Doswald-Beck](#), at p. 177)

Pursuant to [Rule 95 of the San Remo Manual](#) a blockade must be effective and this is a question of fact. Russia’s blockade in the Sea of Azov is effective as Russia exerts complete control over the Kerch Strait. According to data received from ships’ AIS ([Marine Traffic](#)), the access of commercial ships to the Sea of Azov has been blocked in the Kerch Strait and a significant number of merchant ships remain anchored either in the Kerch Strait or at its approaches.

Hence, Russia's practice in the Sea of Azov following its declaration of 24 February 2022 appears to meet the main requirements of naval blockade (declaration, notification, impartiality and effectiveness).

Questions of the Legality of Russia's Blockade and Relief Shipments for Mariupol

Rule 100 of the [San Remo Manual](#) stipulates that a blockade must be applied impartially to the vessels of all States. At the same time, Russia as the blockading party is obliged to provide for free passage of foodstuffs and other essential supplies to the Mariupol Port, including 'medical supplies for the civilian population or for the wounded and sick members of armed forces' if sufficient help cannot be provided via land (see [San Remo Manual](#), Rules 103-104). This obligation has particular significance at a time when the fighting in Mariupol has stopped humanitarian convoys to reach the city (see [here](#)). The humanitarian corridors leading to other areas of Russian-controlled parts of Ukraine [are ineffective](#) as they are targeted, even on the agreed day-long ceasefire on 9 March, by the Russian artillery and full of land mines (see [here](#)).

It is also possible that the blockade in the whole maritime area of the Sea of Azov is in general unlawful. Ukraine maintains in the [Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait](#) that the regime of transit passage applies to the Kerch Strait (see [here](#) at paras. 200, 215). If correct (this claim is, of course, disputed by Russia), then according to [Rule 27 of the San Remo Manual](#) the regime of transit passage continues to apply in the ongoing war and Russia would be required to ensure safe passage through the Kerch Strait to neutral ships and aircraft not heading to the blockaded area ([von Heinegg](#), at pp. 265-266; [Frostad](#), at p. 203). This follows from the [ICJ's judgment](#) in the *Corfu Channel case* (at p. 29) as well as from the San Remo Manual ([Rules 27-28](#)). In this case, Russia's suspension of all commercial navigation in the Kerch Strait and the Sea of Azov from 24 February 2022 is not lawful. Notably, the Annex VII Arbitral Tribunal is yet to decide whether it respects Ukraine's above-referred request to establish that the Sea of Azov and the Kerch Strait include Ukraine's normal maritime zones, which would imply that the regime of transit passage applies to the Kerch Strait (Arts 37ff of [UNCLOS](#)).

Irrespective of the future outcome of Ukraine's request to the Arbitral Tribunal, Russia needs to respect the right of the civilians and armed forces in Mariupol to receive humanitarian relief shipments, e.g., from the ICRC and neutral States. Such a mission can be launched also from the Mediterranean as ships carrying humanitarian aid to Mariupol are allowed to pass through the Turkish Straits which are closed under Article 19 of the Montreux Convention only to belligerent warships (see [here](#)).

Dangers to Relief Shipments for Mariupol

While the humanitarian corridors around the besieged coastal city on land have proven ineffective, establishing one on the sea would potentially enable to provide humanitarian relief to its civilian population and members of the Ukrainian armed forces. Yet this bears direct risks to ships carrying humanitarian aid. In February and March, numerous attacks targeted neutral merchant ships in the Black Sea, including a Panama-flagged cargo ship *Helt* that was owned by an Estonian company and [reportedly](#) seized by the Russian Navy and used as a sort of human

shield to cover the movement of its warships off Odesa until it sunk on 3 March 2022 (see [here](#) and [here](#)). Other attacks were aimed at the Turkish-owned bulk carrier *Yasa Jupiter* sailing under the flag of the Marshall Islands (see [here](#)), a Moldova-flagged, but Ukrainian-owned chemical tanker *Millenial Spirit* (see [here](#)), and a Bangladeshi-flagged bulker ship *Banglar Samriddhi* (see [here](#)).

According to the above-referred media reports, Ukraine claims that Russia is responsible for these attacks. None of those flag States invoked their (potential) right of self-defence under Article 51 of the [UN Charter](#) in response to the unlawful use of force. Should Russia, hypothetically, launch attacks against merchant ships carrying humanitarian relief for Mariupol, there would likely be an increased public pressure for neutral States to intervene militarily in the conflict. It is important to receive assurances from Russia that it grants protection to ships carrying humanitarian relief shipments for Mariupol.

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