

# Imposing a Maritime Quarantine to Enforce the Houthi Arms Embargo

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This post suggests that the United States and its allies should implement a naval quarantine to restrict the flow of Iranian weapons into Houthi-controlled areas of Yemen. A quarantine, unlike a blockade, is a peacetime measure that imposes reasonable restrictions on freedom of navigation and the free flow of commerce to address a crisis situation that significantly threatens international peace and security.

The post first explores the recent UN Security Council resolution applicable to Yemen, which imposes an arms embargo on the Houthis but does not authorize the international community to use all necessary means to enforce the embargo. The post then reviews the rules applicable to the boarding of foreign flagged vessels at sea and the use of force under the UN Charter to address the ongoing indiscriminate attacks by the Houthis against international shipping in the Red Sea and the Gulf of Aden. Finally, the post discusses the historical application of quarantine and concludes that the unique framework of quarantine makes it a potential peacetime measure that could help to deescalate the situation off the Arabian Peninsula while restraining Houthi material capabilities to disrupt international shipping.

## Houthi Arms Embargo

Concern over increased military activities throughout Yemen by Houthi rebels prompted the UN Security Council to adopt [Resolution 2216](#) (UNSCR 2216). Acting under Chapter VII of the UN Charter, the resolution demanded that the Houthis “refrain from further unilateral actions that could undermine the political transition in Yemen,” and that the rebels, *inter alia*, “end the use of violence [and] refrain from . . . acquiring surface-to-surface missiles . . . .” UNSCR 2216 further imposed an arms embargo, directing member States to “take the necessary measures to prevent the direct or indirect supply, sale or transfer . . .” of arms and related military materials to the Houthis. To enforce the embargo, the Security Council directed member States,

to inspect, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargo to Yemen, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains . . . . [items prohibited by the resolution].

At the request of the Government of Yemen, the UN in Djibouti established the United Nations Verification and Inspection Mechanism for Yemen ([UNVIM](#)) to ensure compliance with the arms embargo imposed by UNSCR 2216 for vessels sailing to ports in Yemen not under government control. Managed and operated by the UN Office for Project Services (UNOPS), UNVIM enables the unimpeded flow of commercial cargo “through verification and inspection, as well as clearance request reviews, of commercial vessels sailing to Yemen [Red Sea] ports.” If there is any suspicion regarding the vessel’s movements, crew, documents, or that the vessel is carrying prohibited cargo, UN officials may conduct an inspection of the vessel [in territorial or international waters](#).

## Call for Increased Inspections

Between November 19, 2023, and February 27, 2024, Houthi rebels have “conducted at least [48 attacks](#) against commercial shipping and naval vessels in and around the Red Sea . . .” using antiship ballistic and cruise missiles, unmanned aerial and maritime systems (drones), and one helicopter-borne seizure. Despite U.S. and British [attacks](#) on [land-based targets](#) in Yemen and ongoing defensive measures taken by coalition forces participating in [Operation Prosperity Guardian](#), Houthi leaders [pledged](#) to continue attacking international shipping operating in the Arabian Sea, Red Sea, Gulf of Aden, and Indian Ocean until Israel ceases military operations in Gaza.

Houthi missile and drone attacks, which threaten freedom of navigation and global commerce in one of the world’s most critical waterways, are being [facilitated](#) by advanced weapons and training provided by Iran. Given the continuing threat to international shipping posed by these attacks, the United States and Great Britain have [called](#) on the UN to

empower UNVIM to take additional measures to prevent illicit Iranian weapons from reaching rebel-controlled ports on the Red Sea. The request for enhanced enforcement action, however, is unlikely to receive UN approval. Both Russia and China have been highly critical of U.S.-British strikes against Houthi missile and drone sites in Yemen, arguing that the Security Council has not authorized military action against the rebels. Moreover, the Houthis have reportedly granted Russian and Chinese ships safe passage through the Red Sea in recognition of Russian and Chinese support for Iran. Nonetheless, despite these assurances, on March 23, 2024, a Houthi missile hit the Chinese-owned, Panamanian-flagged oil tanker *Huang Pu* as it transited through the Red Sea.

## **Boardings and Inspections of Ships**

Generally, ships operating outside the territorial sea of another State are subject to the exclusive jurisdiction of the flag State (UN Convention on the Law of the Sea (UNLCOS), art. 92). Boardings without flag State consent may only occur if there are reasonable grounds to suspect that the ship is engaged in piracy, the slave trade, or unauthorized broadcasting, or it is Stateless (UNCLOS, arts. 92, 110).

For example, on January 11, 2024, U.S. naval forces seized a Stateless dhow in the Arabian Sea that was illegally transporting Iranian-made ballistic and cruise missile components from Iran to Houthi forces in Yemen in violation of UNSCR 2216. Two weeks later, on January 28, U.S. Coast Guard Cutter *Clarence Sutphin Jr* (WPC 1147) seized a stateless dhow in the Arabian Sea that was illegally transporting ballistic missile and unmanned maritime vessel components, explosives, military-grade communication and network equipment, anti-tank guided missile launcher assemblies, and other military components from Iran to Houthi rebels in Yemen in violation of UNSCR 2216.

Nonconsensual boardings of foreign-flag vessels beyond the territorial sea are also permitted if authorized by the Security Council (UN Charter, art. 42), but historically that has been the exception, not the rule. UN maritime enforcement action without flag State consent has only been authorized by the Security Council on five occasions: Southern Rhodesia in 1965-1966 (UNSCR 217, 221, 232); Iraq in 1990 (UNSCR 661, 665); Federal Republic of Yugoslavia in 1991–1993 (UNSCR 713, 787, 820); Haiti in 1993-1994 (UNSCR 841, 873, 875, 917); and Libya in 2011 (UNSCR 1970, 1973).

The embargo imposed by UNSCR 2216 does not authorize all necessary means to enforce it. Thus, nonconsensual boardings of foreign-flagged vessels in the exclusive economic zone (EEZ) or on the high seas are not permitted. Rather, the enforcement mechanism is based on port State control of internal waters and coastal State authority in the territorial sea and contiguous zone. The resolution is clear; States may only inspect foreign flag vessels in their ports or their territorial sea and contiguous zone consistent with international law. Beyond those areas, flag State consent is required consistent with UNCLOS, Articles 92 and 110.

In the territorial sea, coastal States may adopt laws and regulations relating to innocent passage to prevent infringement of their customs laws and regulations (UNCLOS, art. 21(1)(h)). Transporting weapons through the territorial sea of another State without consent would, in most cases, violate the customs laws and regulations of the coastal State and would be inconsistent with the regime of innocent passage. In such cases, coastal States may take the necessary steps in their territorial sea to prevent passage that is not innocent (UNCLOS, art. 25(1)). Most States also restrict entry into their ports of vessels transporting undeclared weapons. Thus, coastal States have the right to take the necessary steps to prevent any breach of conditions of port entry imposed on foreign-flagged vessels (UNCLOS, art. 25(2)). Coastal States additionally have the authority in the contiguous zone to exercise the control necessary to prevent infringement of its customs laws and regulations within its territory or territorial sea and punish infringement thereof (UNCLOS, art. 33).

Beyond the territorial sea and contiguous zone, flag State consent is required to board, inspect, and seize a foreign commercial vessel even if there are reasonable grounds to suspect that the vessel is transporting prohibited cargo to Yemen. Nothing in UNVIM's mandate or UNOPS's authorities suggests otherwise. Although UNVIM allows for inspections of vessels suspected of carrying prohibited cargo in international waters, UNOPS lacks the capacity to conduct nonconsensual or opposed boardings of noncompliant vessels. Moreover, the Security Council has not granted UNVIM the authority to conduct nonconsensual boardings in international waters.

### **Enhanced Enforcement Measures**

Given that nearly 90 percent of all food products coming into Yemen arrive through commercial ports, Britain's Deputy Permanent Representative to the UN emphasized that “the inspection of vessels is fundamental to interrupting illicit arms entering Houthi-controlled areas while preserving the flow of goods into Yemen.” However, Iranian vessels carrying prohibited cargo can easily circumvent the inspection regime by simply failing to report to UNVIM for clearance. In an era of great power competition where Security Council paralysis is the new normal, what can the international community do to prevent Iran from facilitating continued Houthi interference with international shipping and freedom of navigation off the Arabian coast?

Article 51 of the UN Charter recognizes that States may exercise individual or collective self-defense if an armed attack occurs against a member State “until the Security Council has taken measures necessary to maintain international peace and security.” This inherent right of individual or collective self-defense is reflected in numerous bilateral and multilateral defense treaties. The North Atlantic Treaty (NATO), for example, allows for the use of armed force in individual or collective self-defense if an armed attack occurs against one or more NATO States until the “Security Council has taken the measures necessary to restore and maintain international peace and security” (art. 5). A similar provision appears in Article 3 of the Inter-American Treaty on Reciprocal Assistance. Every bilateral mutual defense treaty to

which the United States is a party contains comparable provisions: U.S.-Philippines Mutual Defense Treaty ([art. IV](#)); U.S.-Japan Treaty of Mutual Cooperation and Security ([art. V](#)); U.S.-Australia Security Treaty ([art. IV](#)); and U.S.-Thailand Rusk–Thanat communiqué extending defense obligations under the Manila Pact ([art. IV](#)).

Lack of Security Council approval did not stop NATO allies from intervening in Kosovo in 1999. The intervention was justified on several competing grounds: (1) humanitarian intervention to stop the ethnic cleansing of the people of Kosovo; (2) the threat to the security of neighboring States posed by large-scale movement of refugees and armed incursions into their territories; (3) widespread, serious violations of international humanitarian law and human rights obligations by Yugoslav (FRY) forces; and (4) Security Council resolutions under Chapter VII that determined FRY actions constituted a threat to peace and security in the region and demanding a halt to such actions. Under these circumstances, NATO felt compelled to act immediately without Security Council authorization. Lack of Security Council action in the case of the Houthis should, likewise, not be an impediment to reasonable and necessary measures to enforce the arms embargo imposed by UNSCR 2216.

### **Repercussions of Continued Houthi Attacks**

Operation Prosperity Guardian was established to jointly ensure freedom of navigation for all countries, bolster regional security and prosperity, and address security challenges in the southern Red Sea and the Gulf of Aden. Given the unrelenting and indiscriminate attacks by the Houthis on international shipping, States participating in this multinational security initiative have a moral and legal imperative to inspect all ships bound for Yemeni ports in the Red Sea with or without flag State consent to ensure they are not carrying prohibited cargo in violation of UNSCR 2216. Nonconsensual boardings by coalition partners could be justified on the following grounds until the Security Council takes the measures necessary to maintain or restore international peace and security.

As in the case of Kosovo, the Security Council has condemned “in the strongest terms” Houthi attacks on merchant and commercial vessels ([UNSCR 2722](#)). The Council also demanded “that the Houthis immediately cease all such attacks” because they impede global commerce, undermine navigational rights and freedoms, and destabilize regional peace and security. The resolution further “condemns the provision of arms and related materiel of all types to the Houthis, in violation of its resolution 2216 (2015), and calls for additional practical cooperation to prevent the Houthis from acquiring the materiel necessary to carry out further attacks.”

UNSCR 2722 additionally recognizes that freedom of navigation is a foundational principle of the international law of the sea by affirming that the “exercise of navigational rights and freedoms by merchant and commercial vessels, in accordance with international law, must be respected.” All ships (commercial and government) enjoy high seas freedoms of navigation and other internationally lawful uses of the sea in foreign EEZs ([UNCLOS, art. 58](#))

and the unimpeded right of transit passage through international straits like Mab el Mandeb (UNCLOS, arts. 38, 42). Houthi attacks interfere with these inalienable rights under the law of the sea. To protect these rights, UNSCR 2722 affirms the “right of Member States, in accordance with international law, to defend their vessels from attacks” that “undermine navigational rights and freedoms.”

Indiscriminate attacks on merchant ships lawfully transiting the Red Sea also threaten the free flow of commerce through one of the world’s most critical commercial waterways that facilitates global trade. Approximately 19,000 vessels (40 percent of Asia-Europe trade) transit through the Red Sea and the Suez Canal from the Indian Ocean to the Mediterranean Sea each year, including one million barrels of crude oil per day, 30 percent of global container ships, and \$1 trillion in consumer goods and oil and gas supplies. This includes about 15 percent of all global trade, “including 8 percent of global grain trade, 12 percent of seaborne-traded oil, and 8 percent of the world’s liquefied natural gas trade.” In January 2024, the Secretary-General of the International Maritime Organization (IMO) reported that 18 shipping companies were re-routing their vessels (including 90 percent of all container ships) around South Africa to by-pass the threat of attack by Houthi rebels in the Red Sea. The re-routing adds ten days to a normal transit from Asia to Europe, causing supply chain shortages and an increase in freight rates. Since November 2023, there has been a 1.3 percent decline in world trade and the current cost to ship a container from China to Europe increased from \$1,500 to \$4,000, a cost that is passed on to consumers.

The disruption of international shipping in the Red Sea also has a humanitarian dimension. The diversion of ships around Africa delays the delivery of goods and has significantly increased the cost of critical food, medicine, fuel, and other humanitarian assistance worldwide. These increased costs fuel the global food crisis and threaten to exacerbate food insecurity in countries like Sudan, Ethiopia, and Yemen, where nearly 40 million people are food-insecure. In Yemen alone, 17 million people are facing severe hunger. Many of the ships attacked by the Houthis were transporting food and medicine to these countries. Food insecurity leads to political and social unrest and increases the potential for armed conflict. Except for an UN-brokered cease fire that expired in 2022, Yemen has been immersed in a civil war since 2014. More than 377,000 civilians and combatants have died during the war, 60 percent from lack of food, water, or medical care. If Houthi attacks continue unabated and coalition forces continue to respond with strikes against land-based targets, Yemen could be thrust back into war. Moreover, the Houthis have threatened to renew their attacks on Saudi Arabia if the Kingdom supports U.S. and British operations to protect shipping in the Red Sea.

Indiscriminate targeting of civilian merchant ships and endangering innocent civilian mariners is also a gross violation of international humanitarian law. Even if we assume that the Houthis are engaged in an international armed conflict, which they are not, neutral merchant vessels may not be attacked as a matter of course. Such vessels may only be targeted if they engage in an activity that brings them within the definition of a military objective, such as

by engaging in belligerent acts, actively resisting visit, search, or capture, refusing an order to stop, or making an effective contribution to the enemy's military action or war-fighting (or, for some States, war-sustaining) effort (*Newport Manual on the Law of Naval Warfare*, § 8.6.5). Moreover, even if a merchant vessel is targetable, it may not be attacked without first placing the "passengers, crew, and ship's papers in a place of safety," unless doing so would preclude mission accomplishment (*NWP 1-14M*, § 8.7.1). On March 6, 2024, an indiscriminate Houthi missile attack on the M/V *True Confidence* killed three crew members (two Filipinos and one Vietnamese) and injured four others.

## **Maritime Quarantine**

To preclude further surreptitious delivery of prohibited arms to Yemen in violation of UNSCR 2216, the coalition partners engaged in Operation Prosperity Guardian should impose a maritime quarantine of all of Yemen's ports under Houthi control. Although similar to a maritime blockade, quarantine is a peacetime military operation applied to address a crisis-level confrontation that presents a significant threat to international peace and security while preserving freedom of navigation to the greatest extent possible. As discussed in the Commander's Handbook on the Law of Naval Operations (*NWP 1-14*, § 4.4.8), a naval quarantine is distinguishable from a wartime blockade. First, quarantine is not an act of war but rather "a measured response to a threat to national security or an international crisis." Second, while a blockade is designed to deny and degrade the enemy's capabilities to defeat the enemy, a quarantine is established to de-escalate and return the situation "to the status quo ante or other stabilizing arrangement." Finally, while a blockade must be impartially applied to deny access to all ships (with some exceptions), a quarantine is a "proportional response to the perceived threat" that allows for selective application.

In 1962, the United States imposed a naval quarantine to prevent the introduction of Sino-Soviet offensive ballistic missiles and associated material into Cuba that endangered the security of the Western Hemisphere (Presidential Proclamation Regarding Interdiction of Offensive Weapons Delivery to Cuba). Similar action should be taken to prevent the introduction of weapons and other materials in Yemen prohibited by UNSCR 2216 until such time as the Security Council takes the necessary action to maintain or restore international peace and security.

The quarantine could be promulgated by a notice to mariners that identifies the material prohibited from delivery to Yemen (UNSCR 2216, para. 14) and informs the shipping community that:

(1) all commercial vessels proceeding to Red Sea ports under Houthi control may be intercepted to verify their flag, cargo, ports of call, and possession of an UNVIM clearance certificate (if required);

(2) vessels in possession of a valid UNVIM clearance certificate will be allowed to proceed to port;

(3) humanitarian vessels in possession of a clearance from the United Nations Office for the Coordination of Humanitarian Affairs' (OCHA) Deconfliction Cell in Saudi Arabia will be allowed to proceed to port;

(4) vessels that do not have a valid UNVIM or OCHA clearance certificate will be diverted and escorted to a port in Yemen under government control for further inspection;

(5) flag State consent is not required to ensure compliance with the quarantine;

(6) reasonable, necessary, and proportionate force will be used to enforce compliance; and

(7) any vessel that refuses to comply with an order of the intercepting force may be taken into custody and taken to a port in Yemen under government control for appropriate disposition.

Vessels not proceeding to ports under Houthi control in the Red Sea will not be subject to the quarantine regulations.

## **Conclusion**

UNSCR 2216 requires all States to take the necessary measures to prevent the direct or indirect supply, sale or transfer of “arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned” to the Houthis. This includes preventing the use of their flag vessels for such purposes. Transporting prohibited cargo and intentionally bypassing the UNVIM inspection regime to avoid detection is a clear violation of Article 25 of the Charter, which requires member States to accept and carry out the decisions of the Security Council.

Similarly, States also have an obligation to exercise the rights, jurisdiction, and freedoms recognized in UNCLOS in a manner that does not constitute an abuse of right (UNCLOS, art. 300). Hiding behind the principle of exclusive flag State jurisdiction to intentionally skirt the UNVIM inspection regime is an abuse of right.

Given the unrelenting and indiscriminate attacks by the Houthis on international shipping, States participating in Operation Prosperity Guardian have a moral and legal imperative to impose a quarantine and conduct nonconsensual boardings in international waters to ensure merchant ships calling on Yemeni ports in the Red Sea are not carrying prohibited cargo in violation of UNSCR 2216. Until the Security Council acts, the international community should not have to stand by and allow a rogue organized armed group, like the Houthis, to interfere with freedom of navigation and the free flow of commerce in international waters.

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