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Maritime Chokepoints and the Fragility of Global Economic Security

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ABSTRACT

Maritime chokepoints stand in a paradoxical position in the international legal order. On one hand they constitute indispensable arteries of global trade, and on the other hand their security depends upon a fragmented arrangement of coastal sovereignty along with war-laden navigational freedoms, disconnected collective security mechanisms and patchy private commercial decisions. The United Nations Convention on the Law of the Sea (UNCLOS) protects transit passage through the international straits. However, it does not guarantee the conditions required for uninterrupted commercial navigation. This paper examines the divergence between legal navigability and operational accessibility, using the Strait of Hormuz as its principal case study. It argues that conventional understandings of freedom of navigation do not address the economic consequences of armed conflict, non-state interference, maritime insurance restrictions, and anticipatory commercial withdrawal. The paper introduces the concept of the "Operational Passage Gap" to distinguish legal entitlement from effective access to international waterways. Additionally, it proposes a framework of cooperative navigational resilience rooted in the existing international maritime law. The framework underscores the importance of enhanced institutional coordination and transparent risk governance. The paper concludes by stating that the principal challenge is the inadequacy of legal and institutional arrangements for preserving the exercise of navigational rights during geopolitical instability.

Keywords: *Maritime Chokepoints, Strait of Hormuz, UNCLOS, Freedom of Navigation, Transit Passage, International Straits*

I. INTRODUCTION

A legally protected right does not question the operational viability of an event. For instance, a commercial vessel navigating an international strait may enjoy a legally protected right of passage while simultaneously confronting circumstances that render its voyage commercially impracticable. Despite no formal blockade, a credible threat of attack, increased insurance premiums, longer maritime supply routes, withdrawal of maritime services, or the prospect of prolonged delay may be sufficient to interrupt shipping. International law may continue to recognise the vessel's right to pass even if the practical conditions necessary to exercise that

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right deteriorate. This distinction exposes a fundamental gap in the contemporary law of the sea. The international maritime order is built on freedom of navigation regulated by coastal-state jurisdiction and specific treaty regimes governing different maritime zones. Part III of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) lays down a specialised legal regime governing straits used for international navigation. Article 38 of UNCLOS recognises the right of transit passage through the international straits, and Article 44 requires bordering states not to hamper or suspend these passages and to publicise known navigational dangers. Article 43 further provides for cooperation between user states and bordering states in maintaining navigational safety and related infrastructure.[1] Even with all navigational nuances covered, the Convention was not designed as a comprehensive instrument of global supply-chain security. Its main concern is the allocation and regulation of maritime rights and obligations. It does not encapsulate the commercial consequences and economic loss of every threat to navigation. Furthermore, the international legal framework is not confined to UNCLOS. The International Convention for the Safety of Life at Sea, 1974 (SOLAS), along with the International Ship and Port Facility Security Code,[2] establishes mandatory maritime safety and security requirements for applicable ships and port facilities. Similarly, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, creates obligations concerning specified offences threatening maritime navigation.[3] These instruments provide important protections against particular maritime risks. However, their respective regulatory objectives do not collectively amount to a comprehensive legal guarantee of the continued commercial accessibility of strategically significant international waterways during geopolitical crises.

The economic importance of this distinction is considerable. The U.S. Energy Information Administration reported that approximately 20 million barrels of petroleum liquids per day moved through the Strait of Hormuz in 2024, making it one of the world's most significant energy transit corridors.[4] The concentration of energy shipments within a geographically constrained waterway allows localised disruptions to produce economic consequences far beyond the states immediately surrounding it. The experience of the Red Sea further demonstrates that commercial avoidance may reproduce some effects of physical obstruction.

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[1] United Nations Convention on the Law of the Sea arts. 38, 43–44, Dec. 10, 1982, 1833 U.N.T.S. 397 [hereinafter UNCLOS].

[2] International Convention for the Safety of Life at Sea, Nov. 1, 1974, 1184 U.N.T.S. 2, ch. XI-2; INTERNATIONAL MARITIME ORGANIZATION, *International Ship and Port Facility Security (ISPS) Code* (2003).

[3] Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation art. 3, Mar. 10, 1988, 1678 U.N.T.S. 221.

[4] U.S. ENERGY INFO. ADMIN., *Amid Regional Conflict, the Strait of Hormuz Remains Critical Oil Chokepoint* (June 16, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65504.

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UNCTAD's *Review of Maritime Transport 2025* documents the rerouting of vessels which leads to longer voyages and higher operating costs; this puts pressure on global supply chains associated with maritime insecurity.[5] These consequences arise even where passage is not comprehensively or permanently prohibited. The existing debates view maritime chokepoints through rights of navigation and coastal-state security. Although legally indispensable, this framework provides a partial explanation of contemporary maritime vulnerability. It does not adequately capture the relationship between legal entitlement and operational risk. The behaviour of private actors whose decisions determine whether shipping continues is also not taken into account. This paper therefore inquires whether, when strategically significant waterways remain legally open but become operationally unreliable, international maritime law adequately protects global economic security. It advances three arguments. Firstly, the international legal framework differentiates between legal interference and broader disruption while giving substantial protection to navigation. Secondly, the Strait of Hormuz demonstrates that uncertainty concerning treaty obligations and customary international law can coexist with severe economic exposure and repercussions. Thirdly, effective maritime governance requires a supplementary architecture of risk communication along with cooperative safety measures, and institutional preparedness.

II. Maritime Chokepoints as Structural Vulnerabilities of the Global Economy

Maritime chokepoints are narrow passages through which substantial quantities of international trade move, as viable alternatives are limited both geographically and commercially. Their significance arises from the volume of goods passing through them and the concentration of economic dependence within relatively small maritime spaces. Major examples, namely the Strait of Hormuz, the Strait of Malacca, Bab el-Mandeb, the Suez Canal and the Panama Canal, illustrate different forms of the concentration of traffic. Their legal arrangements and physical characteristics are not interchangeable. For instance, the Suez and Panama canals are artificial waterways governed by distinctive legal and institutional arrangements, whereas Hormuz and Malacca are natural straits whose legal treatment is closely connected to the international law of the sea. Nevertheless, these passages share an important economic characteristic: disruption at a geographically confined point may affect dispersed production and consumption networks.

[5] U.N. Trade & Dev., *Review of Maritime Transport 2025: Staying the Course in Turbulent Waters* 1, 37, 69, 72 (2025), https://unctad.org/publication/review-maritime-transport-2025.

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A. The cascading effects of disruption

The basic understanding of maritime disruption focuses upon ships that cannot complete a planned voyage. However, its economic consequences are considerably broader. Firstly, rerouting increases voyage distances and travel time. This means that longer routes absorb vessel capacity that would otherwise be available for additional commercial journeys. Secondly, uncertainty changes commercial pricing, which implies that there is speculation with regard to freight rates, charter costs and war-risk insurance. Additionally, contractual risk allocation may respond to the probability of disruption before any physical obstruction actually materialises. Thirdly, delays affect inventories and production networks. For instance, the firms dependent upon time-sensitive imports may incur additional storage and financing costs or encounter temporary shortages. Fourthly, increased transport costs are distributed unevenly, as some states with limited domestic energy production and inadequate reserves or dependence upon imported food and industrial inputs may experience greater vulnerability than states with diversified supply arrangements. These effects demonstrate why maritime chokepoints should be understood as sources of systemic economic exposure rather than merely geographical features on the world map. According to UNCTAD's *Review of Maritime Transport 2025*, global seaborne trade growth was projected to decline from 2.2 per cent in 2024 to just 0.5 per cent in 2025. Furthermore, as of early May 2025, tonnage transiting the Suez Canal remained approximately 70 per cent below its 2023 average, reflecting the prolonged disruption of shipping routes amid geopolitical instability. These developments illustrate how insecurity at strategic maritime chokepoints can disrupt established trade routes and increase transportation costs. Even in the absence of a formal closure of the waterway, they can undermine the predictability of global supply chains.[6]

B. The limitations of geographical substitution

Rerouting does not eliminate chokepoint vulnerability, as the alternative routes may be considerably longer, commercially expensive and incapable of accommodating equivalent traffic. For example, pipeline alternatives may partly mitigate interruptions in oil transportation, as happened recently in Saudi Arabia.[7] However, they cannot provide comprehensive substitutes for liquefied natural gas, containerised goods and other maritime cargo. Additionally, the alternative routes may themselves face security issues or have infrastructure gaps. They may even be susceptible to climatic risks. Economic resilience therefore cannot be equated with the

[6] U.N. TRADE & DEV., *supra* note 5, at 4–5, 37.
[7] U.S. ENERGY INFO. ADMIN., *supra* note 4; U.S. ENERGY INFO. ADMIN., *Short-Term Energy Outlook* 5 (Oct. 2026), https://www.eia.gov/outlooks/steo/archives/oct26.pdf.

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theoretical existence of another route. It depends upon whether replacement infrastructure possesses adequate capacity, reliability and commercial accessibility. This difference becomes significant at Hormuz, where alternative export arrangements are limited relative to the scale of petroleum movements through the strait.

III. THE INTERNATIONAL LEGAL ARCHITECTURE OF PASSAGE

A. From coastal sovereignty to international navigation

International law focuses on two interests that can conflict in geographically confined waterways. The first is the sovereign rights of coastal states and the other the navigational interests of the international community. Under UNCLOS, coastal-state sovereignty extends to the territorial sea, subject to the limitations in the Convention and other rules of international law. The treaty generally permits a territorial sea extending up to twelve nautical miles from applicable baselines. Where a strait is geographically narrow, the territorial seas of opposing coastal states may encompass the navigable passage. Without specific guiding rules, the exercise of coastal sovereignty could substantially affect free maritime movement.[8] International law therefore developed legal protections for passage through straits serving as international navigation routes. The International Court of Justice addressed this relationship in the *Corfu Channel* case.[9] The Court recognised a customary right of innocent passage through international straits connecting two parts of the high seas in time of peace. It also affirmed Albania's obligations concerning known dangers to navigation. The judgment established that territorial sovereignty does not confer unrestricted authority to prohibit international navigation. It also stated that coastal states may bear obligations in relation to maritime dangers within their waters. Nevertheless, the Court also rejected the United Kingdom's subsequent unilateral minesweeping operation in Albanian territorial waters. Protection of navigation did not create a general licence for intervention that violates territorial sovereignty.

B. Transit passage under UNCLOS

Part III of UNCLOS establishes a specialised regime for straits used for international navigation. Article 37 identifies the geographical scope of the transit-passage provisions, subject to other relevant qualifications within Part III. Article 38 recognises transit passage through qualifying straits, encompassing continuous and expeditious navigation and overflight between relevant maritime areas. This regime provides broader navigational protection than ordinary innocent passage, particularly in relation to overflight and the manner in which

[8] UNCLOS, *supra* note 1, arts. 2–3.
[9] *Corfu Channel (U.K. v. Alb.)*, Judgment, 1949 I.C.J. 4, 22, 28, 35 (Apr. 9).

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qualifying vessels and aircraft may conduct transit. Article 39 imposes corresponding obligations upon ships and aircraft, including proceeding without delay, refraining from threats or uses of force contrary to international law, and complying with applicable safety requirements. The regime therefore does not establish an unrestricted liberty detached from coastal-state interests. It creates a legally structured balance between maritime mobility and legitimate regulation. Article 42 permits bordering states to adopt laws relating to specified matters, including navigational safety and pollution prevention, but prohibits measures that discriminate or have the practical effect of denying, hampering or impairing transit passage. Article 44 supplies a particularly significant guarantee that the states bordering qualifying straits must not hamper transit passage and must give appropriate publicity to known dangers; lastly, they must not suspend the transit passage. These provisions collectively establish a substantial legal foundation for maritime mobility. However, the protection remains primarily directed towards conduct regulated by international law. It does not automatically ensure that commercial operators will accept the financial and security risks associated with a particular voyage.[10]

C. The limits of treaty universality

The application of these provisions requires attention to treaty participation and customary international law. A state's failure to ratify UNCLOS does not free it from all navigational obligations. Customary international law may bind non-parties independently of whether they have ratified a treaty or not. Conversely, the existence of a treaty rule does not establish that every element of that rule has customary status. The status of transit passage is especially important in this respect. Iran signed UNCLOS in 1982 but has not ratified it. Its interpretative declaration distinguished certain negotiated treaty rights from existing customary international law, expressly identifying transit passage among the provisions whose customary status it questioned.[11] Other states, including the United States, have treated transit passage as reflecting customary international law.[12] Therefore, it would be legally imprecise to assert that Iran is directly bound by UNCLOS Article 44 as a treaty obligation. Equally, it would be incorrect to assume that the absence of ratification leaves Iran with unrestricted authority to close an

[10] UNCLOS, *supra* note 1, arts. 37–44.

[11] Islamic Republic of Iran, Interpretative Declaration upon Signature of the United Nations Convention on the Law of the Sea (Dec. 10, 1982), *in* U.N. SECRETARY-GENERAL, *Multilateral Treaties Deposited with the Secretary-General*, ch. XXI, no. 6, https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en.

[12] Douglas Guilfoyle, *Iran and the Strait of Hormuz: Some Initial Thoughts*, EJIL: TALK! (Feb. 2, 2012), https://www.ejiltalk.org/iran-and-the-strait-of-hormuz-some-initial-thoughts/; Alexander Lott, *The Legality of Iran's Closure of the Strait of Hormuz*, EJIL: TALK! (Mar. 10, 2026), https://www.ejiltalk.org/the-legality-of-irans-closure-of-the-strait-of-hormuz/.

international strait. At minimum, the customary principles recognised in *Corfu Channel* remain central to determining the baseline protection of innocent passage in qualifying international straits during peacetime. The precise relationship between that customary baseline and the broader UNCLOS transit-passage regime remains a legally consequential question.

D. Cooperation and responsibility

Under Article 43, states bordering straits and user states should cooperate by agreement in establishing navigational and safety aids and in preventing pollution.[13] Its language is significant, as the provision encourages cooperation. It, however, does not itself create a compulsory financing mechanism or an international authority empowered to maintain commercial shipping. It does not even mention an automatic collective response to military threats. State responsibility may arise where conduct attributable to a state breaches an applicable international obligation or rule. Yet the identification of the breached obligation, jurisdiction and available remedies may all become points of contest. International legal responsibility must also be distinguished from immediate commercial relief. A later determination of wrongdoing cannot necessarily restore cancelled voyages or prevent an energy-price shock.

IV. The Strait of Hormuz: A Test of Legal and Economic Resilience

The Strait of Hormuz connects the Persian Gulf with the Gulf of Oman and the wider Indian Ocean. It is bordered by Iran and Oman and is of exceptional importance to international energy trade. According to the International Energy Agency, an average of approximately 20 million barrels of crude oil and petroleum products per day passed through the strait in 2025.[14] The strategic significance of this concentration is intensified by geographical constraints and the limited capacity of alternative export corridors. Yet its importance lies in the interaction between geopolitical tension, the legal status of passage and the economic behaviour of maritime operators, along with the quantity of energy transported.

A. Legal uncertainty and strategic signalling

Hormuz illustrates how states may disagree about the legal scope of maritime passage without necessarily disagreeing that the waterway has international significance. Iran's position concerning the customary status of transit passage creates a legal dispute over the rights

[13] UNCLOS, *supra* note 1, art. 43.
[14] Int'l Energy Agency, *Strait of Hormuz* (Feb. 2026), https://www.iea.org/about/oil-security-and-emergency-response/strait-of-hormuz.

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available to foreign vessels, mainly military vessels.[15] This disagreement is different from the question whether deliberate obstruction of commercial shipping can be justified. The distinction matters because arguments concerning coastal security, foreign naval activity and commercial passage are sometimes treated as interchangeable despite the different legal considerations they raise. For example, a coastal state may possess legitimate interests in maritime safety and territorial security, but such interests do not automatically legitimise discriminatory restrictions or coercive interference with navigation protected by applicable international law such as UNCLOS. Similarly, disputes over the presence of foreign warships do not by themselves establish the lawful treatment of ordinary merchant vessels. The appropriate legal analysis must therefore separate the category of vessel, the applicable passage regime, the conduct at issue, and the legal basis asserted for interference.

B. The economics of anticipated disruption

The vulnerability of Hormuz does not depend exclusively upon an actual physical closure. Commercial shipping operates through an interconnected web of decisions made by shipowners, charterers, insurers, lenders, cargo interests and port operators. Where credible threats emerge, these actors may respond independently. Shipowners may postpone voyages, insurers may revise coverage,[16] lenders may reassess risk and charterers may seek alternative contractual arrangements. As a consequence, commercial accessibility may deteriorate before there has been an internationally wrongful obstruction directed at a state. This constitutes an important legal-economic asymmetry. The law may be designed to prevent unlawful interference by public authorities, but the immediate reduction in trade may result from legally permissible decisions by private commercial participants. Their behaviour cannot ordinarily be characterised as unlawful merely because it contributes to the economic effects of geopolitical instability. Indeed, compelling private operators to undertake voyages in spite of serious safety concerns could create additional conflicts. The problem is the limited capacity of existing maritime governance to preserve confidence when perceived risk substantially exceeds what commercial actors consider acceptable.

[15] Islamic Republic of Iran, *supra* note 11, para. 2; Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea, 1993, arts. 5, 9, https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN_1993_Act.pdf.

[16] U.N. TRADE & DEV., *supra* note 5, at 38, 80; Jonathan Saul, *London Marine Insurers Widen High-Risk Zone in Mideast Gulf as Conflict Escalates*, INS. J. (Mar. 3, 2026), https://www.insurancejournal.com/news/international/2026/03/03/860272.htm.

C. Hormuz and the wider consequences of maritime instability

The importance of Hormuz extends beyond oil-exporting states. Major Asian economies depend significantly upon energy supplies originating in the Persian Gulf. The U.S. Energy Information Administration estimated that approximately 84 per cent of crude oil and condensate passing through Hormuz in 2024 was destined for Asian markets.[17] This concentration creates tension for importing economies, including India, whose domestic economic stability may be influenced by international energy prices, shipping expenses and exchange-rate pressures. The relevant economic effects should not be overstated. A disruption does not produce identical outcomes across every importing country. Its consequences depend upon energy inventories, alternative suppliers, fiscal arrangements, market conditions and the duration of insecurity. Nevertheless, Hormuz demonstrates how a dispute concentrated within a narrow geographical area can transmit risk across the international economy. It also demonstrates the limits of maritime security through bilateral coastal disputes. The economic interests affected by the strait's accessibility are substantially wider than the immediate territorial interests of bordering states.

V. The Operational Passage Gap: an analytical framework

The Operational Passage Gap refers to the difference between a legal entitlement to navigate through a waterway and the practical ability and availability of the waterway for commercial use. The concept is an analytical framework for identifying forms of maritime vulnerability that are not fully covered by conventional legal categories. Three distinct conditions should be examined.

A. Legal obstruction

Legal obstruction occurs where a state or another responsible actor interferes with navigation in contravention of an international obligation, such as prohibited suspension of passage, discriminatory restrictions or interference that unlawfully infringes transit rights. Here, the primary questions concern the applicable legal rule, attribution, breach and remedies. Conventional international legal analysis is relatively well equipped to address these issues, although enforcement may remain difficult.

B. Physical insecurity

A second category arises where passage becomes dangerous because of military operations, mines, attacks by armed groups or other threats. The legal questions are more complicated.

[17] U.S. Energy Info. Admin., *supra* note 4.

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Responsibility may depend upon the identity of the actors, territorial jurisdiction, the law governing armed conflict and applicable obligations to warn of known dangers. The mere existence of physical danger cannot automatically establish a breach by the bordering state. The distinction is necessary because coastal-state sovereignty does not entail strict liability for every hostile act occurring within or near its waters.

C. Commercial withdrawal

The third category arises where commercial actors avoid a route because the expected risks or costs become unacceptable. There may be no formal prohibition, and the relevant decisions may be lawful. Yet international trade may still contract or reroute. This is where the Operational Passage Gap becomes most visible. A legal guarantee that passage shall not be suspended does not necessarily prevent the effective suspension of commerce through cumulative market decisions. These categories may overlap. A hostile attack can produce physical insecurity, trigger insurance restrictions and lead to commercial withdrawal. But the legal responses appropriate to each stage are not identical.

D. Why the distinction matters

The principal benefit of the Operational Passage Gap framework is analytical precision. Treating every disruption as a violation of freedom of navigation risks overstating the obligations of coastal states and obscuring the responsibilities of other actors. Similarly, treating commercial withdrawal as an exclusively private matter overlooks the broader public interest in stable maritime accessibility. The proposed framework recognises that international maritime security involves public legal obligations and private risk assessment along with collective economic consequences. It identifies the need for institutional responses where ordinary rules of state responsibility are insufficient to maintain operational reliability.

VI. TOWARDS COOPERATIVE NAVIGATIONAL RESILIENCE

The Operational Passage Gap can be addressed by distinguishing between necessary legal reform and required institutional cooperation. Firstly, provision for voluntary agreements related to navigational infrastructure and safety coordination already exists in Article 43 of UNCLOS. The cooperation under this provision can be expanded, as the article does not impose comprehensive commercial-security obligations. Secondly, coastal states, user states, relevant international organisations and shipping stakeholders could develop standardised verifiable mechanisms for communicating legitimate navigational threats. This will ensure better information which would reduce uncertainty arising from inconsistent or politicised assessments or acts. These mechanisms would further ensure that maritime threat information

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communicated through recognised channels is more reliable and verifiable. Thirdly, voluntary arrangements could improve contingency planning, including navigational assistance and emergency communications, along with maritime incident reporting and coordination with existing international safety standards. Fourthly, international maritime governance should distinguish between protecting navigation and compelling commercial activity. A resilience framework must respect legitimate safety decisions by shipowners and crews. It must not assume that continued commercial movement should be secured at any cost. Finally, institutional arrangements should remain compatible with the United Nations Charter. The protection of economic interests does not create an independent authorisation for the unilateral use of force. Any coercive response must possess a separate legal basis under the applicable rules governing force, self-defence or collective security. These proposals do not require the creation of an unrestricted international authority over strategic waterways. They seek to strengthen the practical operation of established rights through cooperation that respects coastal sovereignty and existing international obligations.

VII. Conclusion

UNCLOS establishes a comprehensive legal regime for the allocation of navigational rights and coastal-state responsibilities. Maritime chokepoints highlight a distinction between freedom of navigation and the practical continuity of maritime commerce that is often hard to overlook. The *Corfu Channel* judgment provides an important customary law foundation for protecting innocent passage in international straits. However, these rules do not guarantee that ships will continue to navigate through economically significant waterways amid military insecurity and insurance restrictions or commercial uncertainty. The Strait of Hormuz demonstrates the consequences of this limitation. Its importance to international energy markets creates ripples of economic exposure extending far beyond the states surrounding it, while disagreements concerning treaty obligations and customary law complicate the legal framework governing passage. The Operational Passage Gap offers a means of understanding this divergence without exaggerating existing legal duties or treating every interruption as internationally wrongful conduct. Therefore, a more resilient maritime order should supplement legal protections for passage with credible information-sharing along with cooperative navigational arrangements and coordinated emergency preparedness. The future challenge for international maritime law is to develop institutions capable of sustaining the practical conditions under which the right to passage can be meaningfully exercised.

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