INTRODUCTION

Minelaying has long been an integral part of both strategic and operative naval planning. Naval mines are comparatively cheap and can be laid from all platforms, including submarines and aircraft. Besides their employment against the enemy’s surface and subsurface forces they are particularly effective for cutting off sea lanes, coastal defence and the enforcement of a naval blockade.\(^1\) Minefields on the high seas reshape nature, thus enabling belligerents to channelize and control shipping. A further effect is the tying down of enemy forces in time-consuming countermeasures.\(^2\) For example, North Korea succeeded in delaying the operations of US/UN amphibious forces for more than one week by mining the coastal waters of Wosang.\(^3\) In the Iraqi-Kuwaiti conflict of 1990-91, Iraq’s naval forces had been neutralized very early on.\(^4\) Still, the mines laid by Iraq formed a severe threat to the coalition’s forces. On 18 February 1991, two US warships, the *USS Tripoli* and the *USS Princeton*, were damaged by Iraqi mines.\(^5\)

Notwithstanding the military advantages, naval mines constitute a severe danger to third State shipping and the lives of innocent seamen. During and

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\(^3\) See M.W. Cagle & F.A. Manson, *The Sea War in Korea* 121 ff. (1957); L.E. Prina, “Deep Threat: The Navy is Flunking Higher on Mine Warfare”, 26 *Sea Power* 41-48, 41 (1983). It may be added that this effect can also be achieved by merely feigning the laying of mines.


after the Russo-Japanese War of 1904-1905 – the first war in which naval mines were offensively employed\(^6\) – numerous neutral merchant vessels were hit by mines that had broken loose from their moorings.\(^7\) The history of the two World Wars provides countless examples of neutral merchant vessels sunk by mines.\(^8\) Neutral merchant shipping has also been interfered with since 1945.\(^9\) Although the Indo-Pakistani war (1971) lasted only two weeks, at least five neutral merchant vessels were sunk by mines.\(^10\) In 1984, approximately nineteen ships struck mines in the Suez Canal and the Red Sea.\(^11\) Eight merchant vessels not registered in Nicaragua were damaged by mines laid off the coast and ports of that State.\(^12\) During the Iranian-Iraqi war (1980-1988), most of the damage inflicted by the belligerents on international merchant shipping was by aircraft attacks.\(^13\) However, between 1984 and 1987 more than eleven tankers and other ships were also damaged by Iraqi and Iranian mines.\(^14\) Still, until today the only international instrument governing mine warfare at sea is the 1907 Hague Convention VIII relative to the Laying of Automatic Submarine Contact Mines (hereinafter: Hague Convention VIII).\(^15\) In view of the

\(^6\) See Hoffmann, \(\text{supra}\) note 1, at 145.


\(^9\) The mining of \textit{Haiphong} resulted in a most effective blockade. However, neutral merchant shipping did not suffer damages. See Levi, \(\text{supra}\) note 8, at 141 ff., 144 ff.; Prina, \(\text{supra}\) note 3, at 42.


\(^12\) See I.M. Martin, “Sea Mines in Nicaragua”, \textit{116 U.S. Naval Institute Proceedings} 111-16, 114 (1990); Levi, \(\text{supra}\) note 8, at 163.

\(^13\) See report by D.L. Peace, “Major Maritime Events in the Persian Gulf War”, \textit{82 ASIL Proceedings} 146-54, 147 (1988): “Since 1984, more than 400 commercial ships have been attacked by the two belligerents, killing more than 200 seamen. Eighty-three percent of those ships were registered in neutral countries. Last year alone, 177 ships were hit by Iran and Iraq…. Between 1984 and 1987, Iran attacked 163 ships of more than 32 nationalities…. During the same period Iraq attacked 234 ships, almost all belonging to or chartered by Iran.” See also statement by Vice Admiral J.R. Hogg before the Seapower and Strategic and Critical Materials Committee of the Committee on Armed Services, H.A.S.C. No. 100-150 at 13 ff. (17 September 1987); E. Magnusson, “Caught in the Act”, \textit{Time Magazine} 10-13 (5 October 1987); R. Watson, “The Mines of August”, \textit{Newsweek} 8-11 (24 August 1987).


\(^15\) For the English text, see \textit{The Hague Conventions and Declarations of 1899 and 1907}, at 151-54 (J.B. Scott ed., 1915). In 1990, Sweden proposed to amend Protocol II of the 1980