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IV. Defense Areas

Defense areas unlike war zones are based upon the right of a state to exercise jurisdiction for specific purposes, such as defense, revenue, etc., over waters adjacent to its coast. These areas are, consequently, established in waters near the home shore instead of near the shores of the enemy. Only two nations, the United States and Japan, have employed defense areas. As yet, the right of establishing such defense areas has not been questioned.

1. "Article 1. In case of war or emergency, the minister of the Navy may, limiting an area, designate a defense sea area under this ordinance. The designation, or revocation, of such defense sea area shall be advertised by the minister of the Navy."

"Article 3. In the defense sea area, the ingress and egress and passage of any vessels other than those belonging to the Army or Navy are prohibited from sunrise to sunrise."

"Article 5. All vessels which enter, leave, pass through, or anchor in a defense sea area shall obey the direction of the commander in chief of the naval station, or the commandant of the secondary naval station, concerned."

"Article 6. The commander in chief of a naval station, or the commandant of a secondary naval station, may, when he thinks necessary, forbid or limit within a defense sea area fishing, taking of seaweeds, or any other act considered to interfere with military operations."

"Article 8. Any vessel which has transgressed this ordinance or orders issued under this ordinance, may be ordered to leave the defense area by a route which shall be designated.

"Regarding vessels which do not obey the order mentioned in the preceding paragraph, armed force may be used when necessary."

Japanese Imperial Ordinance Regarding Defense Sea Areas, (1904). United States Naval War College, *International Law Situations*, 1912, 122-123.

2. "Regulations, Japanese strategical areas, 1904-5.—The regulations governing movement of vessels within 'strategical areas' varied according to the area which was under the regulation. The notification of the establishment of these areas was made in the Official Gazette. Twelve or more of such areas were established; about bays, as at Tokyo; about islands, as the Pescadores; in the neighborhood of naval stations, as Sasebo; or covering straits, as Tangaru Straits."

United States Naval War College, *International Law Situations*, 1912, 123.

3. "In several areas the boundaries (Japanese, 1904) seem to have run outside the 3-mile limit and even 10 miles from land seems to have been included in some instances."

United States Naval War College, *International Law Situations*, 1912, 126.

4. "Certain areas in the neighborhood of fortifications or other points of military importance are sometimes set apart as strategic areas and vessels are notified or warned not to enter. Such action has been generally approved."

United States Naval War College, *International Law Topics and Discussions*, 1914, 117.

5. Whoever shall "willfully, or wantonly violate any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which defensive sea areas are hereby authorized to be established by order of the President from time to time as may be necessary in his discretion for purposes of national defense, shall be punished, on conviction thereof in a district or circuit in which the offense was committed, or into which the offender is first brought, by a fine of not more than \$5,000, or by imprisonment for a term not exceeding five years, or by both, in the discretion of the court."

39 Stat. 1194. United States Naval War College, *International Law Documents*, 162.

6. On April 5, 1917, President Wilson established 29 defensive sea areas. One other established later.

Executive Order Establishing Defensive Sea Areas,
12 A. J. I. L., (1918), Supp., 13-16, 21.

7. "II. A vessel desiring to cross a Defensive Sea Area shall proceed to the vicinity of the entrance to the proper channel, flying her national colors, together with International Code number and pilot signal, and there await communication with the Harbor Entrance Patrol. It is expressly prohibited for any vessel to enter the limits of a Defensive Sea Area otherwise than at a designated entrance and after authorization by the Harbor Entrance Patrol."

"IV. On receiving permission from the Harbor Entrance Patrol to enter a Defensive Sea Area, a vessel must comply with all instructions as to pilotage and other matters that she may receive from proper authority, either before or during her passage across the Area; it is understood that only upon condition of such compliance is the said permission granted."

"V. No permission will be granted to other than a public vessel of the United States to cross a Defensive Sea Area between sunset and sunrise, nor during the prevalence of weather conditions that render navigation difficult or dangerous. A vessel arriving off a Defensive Sea Area after sunset shall anchor or lie-to at a distance of at least a mile outside its limits until the following sunrise; vessels discovered near the limits of the Areas at night may be fired upon."

"IX. Any master of a vessel or other person within the vicinity of a Defensive Sea Area who shall violate these Regulations, or shall fail to obey an order to stop or heave to, or shall perform any act threatening the efficiency of mine or other defenses or the safety of navigation, or shall take any action inimical to the interests of the United States in its prosecution of war, may be detained therein by force of arms and renders himself liable to prosecution as provided for in the Act * * *."

Regulations for Carrying into Effect the Executive Order of the President Establishing Defensive Sea Areas. April 5, 1917. 12 A. J. I. L., (1918), Supp., 16-18.

8. On December 11, 1941, President Roosevelt established 8 defensive sea areas.

Executive Order, Dec. 11, 1941. United States Naval War College, *International Law Documents*, 1941, 83-88.

9. "A vessel not proceeding under United States naval or other United States authorized supervision shall not enter or navigate the waters of any of the defensive sea areas established hereby except during daylight, when good visibility conditions prevail, and then only after specific permission has been obtained. Advance arrangements for entry into or navigation through or within any of the said defensive sea areas must be made, preferably by application at the appropriate United States Naval District Headquarters, in advance of sailing, or by radio or visual communication on approaching the seaward limits of the area."

"A vessel entering or navigating the waters of any of the said defensive sea areas does so at its own risk."

"A vessel may expect supervision of its movements within any of the said defensive sea areas, either through surface craft or aircraft. Such controlling surface craft and aircraft shall be identified by a prominent display of the union jack."

"Any master of a vessel or other person within any of the said defensive sea areas, who shall disregard these regulations, or shall fail to obey an order of United States naval authority to stop or heave to, or shall perform any act threatening the efficiency of mine or other defenses or the safety of navigation, or shall take any action inimical to the interests of the United States, may be detained therein by force of arms and renders himself liable to attack by the armed forces of the United States, and liable to prosecution as provided in Section 44 of the Criminal Code * * *."

Executive Order, Dec. 11, 1941. United States Naval War College, *International Law Documents*, 89-90.

10. By the end of 1943 well over 40 defensive sea areas had been established by President Roosevelt.

The greatest extension beyond the three-mile limit for defensive purposes was in the Southeastern Alaska Maritime Control Area where the area extended about 53 miles beyond the three-mile limit.

United States Naval War College, *Defensive Sea Area Charts*, Feb. 22, 1944, 1.