

International Law Studies—Volume 39

International Law Situations

The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. Government,
the U.S. Department of the Navy or the Naval War College.

APPENDIXES

I. Neutrality Law of May 1, 1937.

(Adopted by Congress, April 29, 1937, Public Resolution No. 27, 75th Congress, Chapter 146, 1st Session, S. J. Res. 51. Act printed entire except for Section 5 on the National Munitions Control Board and Sections 12, 13, 14, and 15.)

EXPORT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

SECTION 1. (a) Whenever the President shall find that there exists a state of war between, or among, two or more foreign States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent State named in such proclamation, or to any neutral State for transshipment to, or for the use of, any such belligerent State.

(b) The President shall, from time to time, by proclamation extend such embargo upon the export of arms, ammunition, or implements of war to other States as and when they may become involved in such war.

(c) Whenever the President shall find that a state of civil strife exists in a foreign State and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign State would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign State, or to any neutral State for transshipment to, or for the use of, such foreign State.

(d) The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and imple-

ments of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva, June 17, 1925.

(e) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than \$10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 ed., title 22, secs. 238-245).

(f) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

(g) Whenever, in the judgment of the President, the conditions which have caused him to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the State or States named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation.

EXPORT OF OTHER ARTICLES AND MATERIALS

SEC. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act and he shall thereafter find that the placing of restrictions on the shipment of certain articles or materials in addition to arms, ammunition, and implements of war from the United States, to belligerent States, or to a State wherein civil

strife exists, is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, he shall so proclaim, and it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe as to lakes, rivers, and inland waters bordering on the United States, and as to transportation on or over lands bordering on the United States, for any American vessel to carry such articles or materials to any belligerent State, or to any State wherein civil strife exists, named in such proclamation issued under the authority of section 1 of this Act, or to any neutral State for transshipment to, or for the use of, any such belligerent State or any such State wherein civil strife exists. The President shall by proclamation from time to time definitely enumerate the articles and materials which it shall be unlawful for American vessels to so transport.

(b) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act and he shall thereafter find that the placing of restrictions on the export of articles or materials from the United States to belligerent States, or to a State wherein civil strife exists, is necessary to promote the security or preserve the peace of the United States or to protect the lives or commerce of citizens of the United States, he shall so proclaim, and it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe as to lakes, rivers, and inland waters bordering on the United States, and as to transportation on or over land bordering on the United States, to export or transport, or attempt to export or transport or cause to be exported or transported, from the United States to any belligerent State, or to any State wherein civil strife exists, named in such proclamation issued under the authority of section 1 of this Act, or to any neutral State for transshipment to, or for the use of, any such belligerent State or any such State wherein civil strife exists, any articles or materials whatever until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. The shipper of such articles or materials shall be required to file with the collector of the port from

which they are to be exported a declaration under oath that there exists in citizens of the United States no right, title, or interest in such articles or materials, or to comply with such rules and regulations as shall be promulgated from time to time by the President. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States of right, title, or interest in such articles or materials. Insurance written by underwriters on any articles or materials the export of which is prohibited by this Act, or on articles or materials carried by an American vessel in violation of subsection (a) of this section, shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials and no loss incurred thereunder or by the owner of the vessel carrying the same shall be made a basis of any claim put forward by the Government of the United States.

(c) The President shall from time to time by proclamation extend such restrictions as are imposed under the authority of this section to other States as and when they may be declared to become belligerent States under proclamations issued under the authority of section 1 of this Act.

(d) The President may from time to time change, modify, or revoke in whole or in part any proclamations issued by him under the authority of this section.

(e) Except with respect to offenses committed, or forfeitures incurred, prior to May 1, 1939, this section and all proclamations issued thereunder shall not be effective after May 1, 1939.

FINANCIAL TRANSACTIONS

SEC. 3. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any belligerent State or of any State wherein civil strife exists, named in such proclamation, or of any political subdivision of any such State, or of any person acting for or on behalf of the government of any such State, or of any faction or asserted government within any such State wherein civil strife exists,

or of any person acting for or on behalf of any faction or asserted government within any such State wherein civil strife exists, issued after the date of such proclamation, or to make any loan or extend any credit to any such government, political subdivision, faction, asserted government, or person, or to solicit or receive any contribution for any such government, political subdivision, faction, asserted government, or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its citizens, he may, in his discretion, and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in normal peacetime commercial transactions. Nothing in this subsection shall be construed to prohibit the solicitation or collection of funds to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, political subdivision, faction, or asserted government, but all such solicitations and collections of funds shall be subject to the approval of the President and shall be made under such rules and regulations as he shall prescribe.

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of the President's proclamation.

(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or agent thereof participating in the violation may be liable to the penalty herein prescribed.

(d) Whenever the President shall have revoked any such proclamation issued under the authority of section 1 of this Act, the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to

apply with respect to the State or States named in such proclamation, except with respect to offenses committed prior to such revocation.

EXCEPTIONS—AMERICAN REPUBLICS

SEC. 4. This Act shall not apply to an American republic or republics engaged in war against a non-American State or States, provided the American republic is not cooperating with a non-American State or States in such war.

AMERICAN VESSELS PROHIBITED FROM CARRYING ARMS TO BELLIGERENT STATES

SEC. 6. (a) Whenever the President shall have issued a proclamation under the authority of section I of this Act, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel to carry any arms, ammunition, or implements of war to any belligerent State, or to any State wherein civil strife exists, named in such proclamation, or to any neutral State for transshipment to, or for the use of, any such belligerent State or any such State wherein civil strife exists.

(b) Whoever, in violation of the provisions of this section, shall take, or attempt to take, or shall authorize, hire, or solicit another to take, any American vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than \$10,000, or imprisoned not more than five years, or both; and in addition, such vessel, and her tackle, apparel, furniture, and equipment, and the arms, ammunition, and implements of war on board, shall be forfeited to the United States.

USE OF AMERICAN PORTS AS BASE OF SUPPLY

SEC. 7. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent State, but the evidence is not deemed sufficient to justify forbidding the

departure of the vessel as provided for by section I, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 ed., title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign States, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any part of the cargo, to any warship, tender, or supply ship of a belligerent State.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously cleared from a port of the United States during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent State, he may prohibit the departure of such vessel during the duration of the war.

SUBMARINES AND ARMED MERCHANT VESSELS

SEC. 8. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign State, will serve to maintain peace between the United States and foreign States, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply.

TRAVEL ON VESSELS OF BELLIGERENT STATES

SEC. 9. Whenever the President shall have issued a proclamation under the authority of section 1 of this Act it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of the State or States named in such proclamation, except in accordance with such rules and regulations as the President shall prescribe: *Provided, however,* That the provisions of this section shall not apply to a citizen of the United States traveling on a vessel whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That they shall not apply under ninety days after the date of the President's proclamation to a citizen of the United States returning from a foreign State to the United States. Whenever, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply with respect to the State or States named in such proclamation, except with respect to offenses committed prior to such revocation.

ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

SEC. 10. Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel engaged in commerce with any belligerent State, or any State wherein civil strife exists, named in such proclamation, to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition therefor which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.

REGULATIONS

SEC. 11. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power

or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

II. Neutrality Act of November 4, 1939.

(Public Resolution No. 54, 76th Cong., 2d sess.)

Whereas the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution; and

Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

Whereas the United States hereby expressly reserves the right to repeal, change, or modify this joint resolution or any other domestic legislation in the interests of the peace, security, or welfare of the United States and its people: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

SECTION 1. (a) That whenever the President, or the Congress by concurrent resolution shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state.