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.
Situation III

BOYCOTT

States X and Y are using force against each other but have made no declaration of war. States A, B, and C agree severally and jointly to boycott both X and Y until they cease to use force. The boycott has been proclaimed but no detailed instructions have been given to the navies.

(a) A cruiser of state A, the Ajax, meets a merchant vessel of state B, the Banner, apparently bound for a port of X. What should the Ajax do? Would it make any difference if the Banner had sailed before the boycott was proclaimed? Would a cruiser of B, the Brook, act in the same manner?

(b) A cruiser of state C, the Crown, meets a merchant vessel of state X bound for state B. What action may it take?

(c) The Crown later meets a merchant vessel of state D, the Drone, bound for state X. What action may the Crown take?

(d) What action may the cruisers of states A, B, and C take against a vessel of war of state X convoying merchant vessels of X, or convoying merchant vessels of states D, E, and F?

Solution III

(a) The Ajax should determine for what port the Banner is bound and if for a port of X or if uncertain, should send the Banner to the nearest port of A, B, or C.

If the Banner had sailed before the boycott was proclaimed, the Banner should be notified of the boycott and should be prohibited from entering any port of X.
The *Brook* should act in the same manner unless for special reasons the *Banner* should be sent to a port of B.

(b) The *Crown* should take such action as would make certain that the merchant vessel of X goes to a port of B or some port of A or C.

(e) The *Crown*, if assured of the nationality of the *Drone*, may take no action though the *Drone* may be kept from entering ports of X which are effectively closed.

(d) Merchant vessels of X or D, E and F bound out from X under convoy of vessel of war of X are free to proceed but when bound for X the cruisers of states A, B, and C may take action to prevent entrance of the vessels to ports which are effectively closed and may route or take vessels of X bound for X to ports of A, B, and C.

**NOTES**

*Defining war.*—War is an ancient method of settling differences. Accounts of wars are among the earliest records of human relations. Wars of extermination were even approved in some of the early sacred books and the deeds of great warriors became the bases for much of classic literature in most languages. Monuments to warriors appear in many cities and streets, and squares perpetuate their memories. Significant of a marked change in attitude is the tribute of general recognition given since 1918 to the “unknown soldier” in contrast with earlier practice of laudation of leaders whose names for various reasons had become well known.

With the changing attitude toward war, there came attempts to regulate the conduct of war and to fix its limits. The limitation to which the concept of war had come among advanced thinkers toward the end of the sixteenth century is indicated in the definition of Gentilis (1588) in which he said “war is a properly conducted contest of armed public forces.” (De jure belli, Bk. 1, c. 2.) Ayala in 1581 had asserted as a fact that there was not safety “in arms without law and discipline any more
than in law without arms” (Westlake, translation, vol. II, p. V) not endorsing the formula “in time of war laws are silent.” In succeeding centuries treatises upon the laws of war were common and it was recognized as an action “to which, from the nature of the thing and the absence of any common superior tribunal, nations are compelled to have recourse, in order to assert and vindicate their rights.” (3 Phillimore, International Law, p. 49.)

With the growth of states and the increasing burden of war, rules for its conduct became more and more defined, and the demands of states, not concerned that they should so far as possible be free of the consequence of hostilities, further restricted action of belligerents.

The Hague Peace Conference of 1899, called on the initiative of the Czar of Russia, had in its agenda proposals for limitation of armament and for the regulation of the conduct of war. The Second Peace Conference at The Hague in 1907 elaborated the convention of 1899 in regard to war. The third convention of the Conference of 1907 “considering that it is important in order to ensure the maintenance of pacific relations, that hostilities should not commence without previous warning” and that “a state of war should be notified without delay to neutral powers”, specifically recognized that hostilities between the signatories must not commence “Without previous and explicit warning”, and that the existence of a state of war should not take effect as regards neutrals “until after the receipt of notification” unless it is “clearly established that they were in fact aware of the existence of a state of war.”

Definite and explicit notifications were made during the World War, some of these even specified the day, hour, and minute at which the state of war would exist. Provisions were made as to the time when the state of war should be regarded as at an end. Thus it was evident that the previous uncertainty as to the period of
hostilities was no longer a question giving rise to difficulties such as had previously been common. The commencement was to be determined by declaration and not, as had sometimes been the case, and would be the case under the definition of Gentilis, by the actual "contest of the armed public forces", but by the declaration stating the moment when such contest might be regarded as lawful and when a state of war would be considered as existing. The implication was that lawful hostilities between states parties to the convention "should not commence without previous warning" as outlined.

War might, therefore, be defined after 1907 as "the relation which exists between states or between political entities when there may lawfully be what Gentilis in 1588 defined as 'a properly conducted contest of armed public forces.'" (Wilson and Tucker, International Law, 8th ed., p. 235.)

Measures short of war.—That states should have no differences which could not be settled by diplomatic negotiation seems beyond immediate hope of realization. In addition to arbitration and judicial methods, for many years measures of reprisal, embargo, nonintercourse, display or restricted use of force, and pacific blockade have been used and have been regarded as short of war, even though sometimes called nonamicable. Such measures of force or other pressure were often resorted to, particularly from the early days of the nineteenth century.

Measures short of war might be used by a neutral toward one or both belligerents when the neutral considered such measures essential to securing fair treatment.

During the World War by Act of Congress, September 8, 1916, the President of the United States was "authorized and empowered to withhold clearance" from vessels of a belligerent country denying American vessels or citizens "reciprocal liberty of commerce and equal liberty of trade." (39 U.S.Stat., p. 88, § 806.) An Act of 1887 had empowered the President to deny entrance
to the waters of the United States of Canadian vessels in case the rights of American fishermen were denied or abridged in Canadian waters. (24 U.S.Stat., p. 475.)

The Embargo and Non-Intercourse Acts of the early nineteenth century did not produce the anticipated results.

The granting of "days of grace" for loading and departure of merchant vessels at the outbreak of war was common in the World War though owing to different circumstances was not an invariable practice.

The display of force has also been common as emphasizing the position which a state may be urging or as giving weight to a request for prompt action in a matter which one state has brought to the attention of another state. The display of force may even carry an intimation that it may be used to ensure respect for the rights of a state. During the disturbed conditions in Turkey in 1895 the United States felt the need of such support for its minister.

The efforts of the minister have had the moral support of the presence of naval vessels of the United States on the Syrian and Adanan coasts from time to time as occasion required, and at the present time the San Francisco and Marblehead are about to be joined by the Minneapolis, which has lately been ordered to the eastern waters of the Mediterranean. (1895, Foreign Relations, U.S., p. 1257.)

Convention on Contract Debts, 1907.—The use of force in Venezuela to hasten the payment of claims of foreign nationals in 1902 emphasized the growing objection of some American states to this procedure. This objection had been embodied in the so-called "Drago Doctrine." The matter came before the Second Hague Peace Conference, 1907, and resulted in the Convention Respecting the Limitation of the Employment of Force for the Recovery of Contract Debts, which provided:

Article I. The Contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals.
This undertaking is, however, not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any "Compromis" from being agreed on, or, after the arbitration, fails to submit to the award. (1908, Naval War College, International Law Situations, p. 166.)

The distinction between the use of force and war was clearly recognized in the Conference and this agreement was made with the purpose of specifically restricting the use of force.

Requests for a display of force in China were made when the diplomatic representatives feared an outbreak in 1900 and force was used without resort to war after the Boxer movement endangered the safety of foreigners. The display of force in 1902 by European powers to hasten Venezuelan action upon debts due their nationals was followed by the use of force which the European powers contended was not war but which resolved into war. In the payment of debts by Venezuela as a result of this action, preferential treatment was given to the powers which had used force. (Venezuelan Arbitration, Penfield's Report, 1903, p. 110.) The use of force as well as the war measures in this case was for the single purpose of securing payment of the debts and not for a general war object.

Consequences of pacific blockade.—Some act resembling pacific blockade has been generally regarded as one of the methods for bringing an offending state to terms without resort to war. Pacific blockade has the support of long practice and of a large majority of authorities, particularly since the support given to this form of action in the resolutions of the Institut de Droit International in 1887. In general, the establishing of a pacific blockade is usually approved on the ground that it may make resort to war less probable, and thus limit the range of possible use of force.

In its effects as between the state or states establishing the pacific blockade and the state or states under the blockade, the blockade may close the blockaded areas to
communication so far as it is effectively maintained and measures lawful for maintenance of a war blockade may be taken to this end. As the effects of the pacific blockade should, so far as possible, be confined to the parties concerned, third parties as well as their vessels and goods should be interfered with only as necessary for the physical maintenance of the pacific blockade. This is also evident from the fact that there are no prize courts to pass upon rights. It may be necessary that the blockading forces approach, within the specific area of effective maintenance of the blockade, vessels of third states for the purpose of verification of their right to fly the flag. The blockading force may take such measures as are necessary for closing the port before which it is maintaining an effective blockade. Though it may not take vessels of third states as prize, it may prevent their entrance; and for such detention the blockading state assumes no liability, though notice must be given the vessel of the third state at the line of blockade or in an unquestionable manner. Vessels of third states must also be granted reasonable time to load and depart from a port under pacific blockade.

Blockade of Buenos Ayres, 1838.—The declarations by which some of the blockades of the nineteenth century were established were not uniform. On March 28, 1838, a circular containing the following paragraph referring to the blockade of the port of Buenos Ayres and the Argentine coast was transmitted to the foreign diplomatic and consular representatives by the French Government:

Je vous prie donc, Monsieur, d'informer votre Government de cette mesure, et de faire connaître en même temps qu'il sera pris contre les bâtiments qui chercherainet à entrer dans les Ports bloqués, après avoir reçu la signification du blocus par l'un des bâtiments de guerre Francais, les mesures de rigueur autorisées par les Lois des Nations. (26 [1837-38] British and Foreign State Papers, p. 973.)

Days of grace for entrance and departure till May 10 were granted.
Le Comte de Thomar, 1848.—The Brazilian vessel Le Comte de Thomar had been before a prize commission established at Montevideo at the time of the so-called blockade of the la Plata. The vessel had been released, but war material in its cargo had been condemned by this prize commission, August 6, 1846. The case was subsequently brought before the French Conseil d’Etat, which reviewed the case and declared:

Considérant que, par la décision ci-dessus visée, la commission des prises, en ordonnant la restitution du navire le Comte de Thomar et des marchandises trouvées à bord, a néanmoins déclaré valide la prise de 686 barils de poudre et de 50 quintaux de plomb en barre;

Considérant que, si les règles et la pratique constante du droit maritime autorisent la saisie sur un navire neutre des objets de cette nature, qualifiés de contrebande de guerre, c’est dans le cas seulement ou le bâtiment capteur appartient à une puissance belligérante;

Considérant que, qu’il résulte de la lettre du ministre des affaires étrangères que, nonobstant le blocus des côtes de la république argentine, le gouvernement français n’était pas en état de guerre avec ladite république.

Art. 1er. Est déclarée non valide la prise des barils de poudre et des plombs en barre trouvés à bord du navire brésilien le Comte de Thomar. (I Pistoyé & Duverdy, p. 390.)

This decision is followed by this brief comment:

Observations.—Nous comprenons qu’un État qui bloque un port, sans faire la grande guerre, permette le transport des armes et munitions pour le port bloqué. L’arrêt ci-dessus nous paraît un acte de munificence et de libéralité, bien plus qu’un acte juridique. (Ibid.)

Cartagena, 1885.—At the time of domestic disturbance in Colombia in 1885 when other states were at peace, Mr. Bayard, Secretary of State, wrote to Mr. Whitney, Secretary of the Navy, of protection of nationals and their property. He said:

At Cartagena, as at any other point in Colombia, not on the direct line of isthmian transit, the only question presented for our consideration is the general one of the protection of the lives and property of citizens of the United States established
there. Our right in this respect is of course neither more nor less than that of any other government whose citizens or subjects may be found at such points under similar circumstances. Interests of other nationalities than our own are understood to exist at Cartagena. Consequently no measure could be taken by forces of the United States for the protection of their citizens there, which we would not admit the perfect right of another government—that of England, France, or Germany, for instance—to employ for the like protection of its subjects. * * * But where the place of their sojourn is a port open to the world's commerce, to which foreign vessels have a right to resort, the presence of war vessels of their nation is proper to protect the national shipping in port and the lives and property of neutral citizens on shore, from any injurious treatment contrary to the received international rules of warfare. Such war vessels may properly afford asylum to our own noncombatant citizens and normal protection to their interests within the limits of legitimate warfare, and extreme cases may be conceived where the supreme law of self-preservation may require more effective measures if the bounds of legitimate warfare be overpassed. In no event, however, should such measures amount to an intervention in the domestic disturbances of that country by aiding one belligerent against the other. (6 Moore, International Law Digest, p. 29.)

Greece, 1897.—The so-called pacific blockade of Greece in 1897 is one in regard to which the United States took a positive position.

On February 10 the British Government sent to its representatives in Austria-Hungary, France, Germany, Greece, Italy, Russia, and Turkey, the following telegraphic dispatch:

The French Ambassador has suggested to me, and I have agreed, that instructions should be sent to our Naval Commanders in Cretan waters to concert, in case of need, with the Naval Commanders of the other Great Powers for preventing the Greek ships of war from taking any aggressive action, and for taking such measures as seem to be required by the circumstances which may arise. (90 British and Foreign States Papers, 1897-1898, p. 1299.)

On the next day the British Admiralty telegraphed to its naval commander in Greek waters that

It has been suggested by the French Government that the British and French Naval Commanders in Cretan waters should
concert together, and with those of other Powers in case of necessity, to prevent any aggressive action of the Greek ships of war sent to Crete, and, generally speaking, for the adoption of any measures which circumstances may render expedient. The concurrence of Her Majesty's Government has been given. Instruct the Senior Naval Officer at Crete accordingly. (Ibid., p. 1300.)

The German authorities favoring action by the Powers, mentioned that

Not only should aggressive action on the part of the Greek ships be prevented, but any action which might encourage the revolution, and the very fact of their presence in Cretan waters was calculated to encourage it. In His Excellency's opinion, therefore, it would be necessary to give considerable latitude to the Naval Commanders as to the manner in which they should deal with the Greek ships of war, and to authorize them, if they should deem it necessary, to drive them away from Cretan waters. (Ibid., p. 1313.)

On February 16, 1897, the British Government sent to its admiral in Cretan waters instructions to the following effect:

You have authority to take any steps in conjunction with the other Naval Commanders, which may be agreed upon by the Admirals in Council, for the purpose of preventing aggressive action on the part of the Greeks. (Ibid., p. 1316.)

In accord with these instructions certain acts had been approved as was stated in a Foreign Office communication of February 18, 1897:

The Russian Ambassador stated to-day that, at the request of the Ottoman Government, Admiral Andréeff, the Russian Naval Commander in Cretan waters, had been authorized to prevent Greek ships of war from interfering with the transport of Turkish troops between various points of the Cretan coast, and also to occupy by common accord certain other places on the coast, especially Candia, Rethymo, Sitia, Kissamo, and Sellino.

The instructions given to the British Admiral will enable him to take part in any measures of this nature which the Naval Commanders of the other Powers may agree. (91 British and Foreign State Papers, 1898–1899, p. 132.)

About this time a joint blockade of Greek ports was proposed, but the Great Powers were faced with the prob-
lem of determining the status of Crete to which they had sent forces and some of the powers were in favor of the continuance of the status quo.

The British Embassy in Berlin reported that the German Emperor frowned upon the annexation of Crete by Greece. As "the Great Powers had prevented the Sultan from sending troops to Crete", they were under "moral obligation of preventing the Greeks from annexing the island. * * * If the Great Powers allowed themselves to be defied by Greece, not only would they make themselves ridiculous but they would make themselves responsible for the consequences, which would probably be a general war. For his part, His Majesty could not agree to sanction such lamentable weakness on the part of the Powers, and he would withdraw his flag from the Mediterranean. I ventured to observe that this would bring the European concert to an end, to which His Majesty replied that it did not deserve to exist if it allowed its decisions to be overruled by Greece." (Ibid, p. 137). Many notes were exchanged among the Great Powers and the plan was advanced to make Crete a privileged province with special relations to Greece although it might remain a part of the Turkish Empire.

The British Government informed the cooperating powers on February 24, 1897, of the policy which they considered as according to their view:

1. That the establishment of administrative autonomy in Crete is, in their judgment, a necessary condition to the termination of the international occupation.
2. That, subject to the above provision, Crete ought, in their judgment, to remain a portion of the Turkish Empire.
3. That Turkey and Greece ought to be informed by the Powers of this resolution.
4. That if either Turkey or Greece persistently refuse when required to withdraw their naval and military forces from the island, the Powers should impose their decision by force upon the State so refusing. (Ibid., p. 147.)

Objection was raised to point 4 on the ground that Greece and Turkey should not be subject to identical treat-
ment as Turkish forces were lawfully in Crete while
Greek forces were not. On March 20, 1897, the following
proclamation signed by the ambassadors of the six
powers was issued to the United States.

The Undersigned, under instructions from their respective
Governments, have the honor to notify the Government of the
United States that the admirals in command of the forces of
Austria-Hungary, France, Germany, Great Britain, Italy and
Russia in Cretan waters have decided to put the Island of Crete
in a state of blockade, commencing the 21st instant at 8 a.m.
The blockade will be general for all ships under the Greek flag.
Ships of the six powers or neutral powers may enter into the
ports occupied by the powers and land their merchandise, but
only if it is not for the Greek troops or the interior of the island.
The ships may be visited by the ships of the international fleets.
The limits of the blockade are comprised between 23°24' and
26°30' longitude east of Greenwich, and 35°48' and 34°45' north
latitude. (1897, Foreign Relations U.S., p. 254.)

Joint blockade, 1913.—The officers in command of the
British, Austro-Hungarian, French, German, and Italian
naval forces notified a blockade as in force from 8 a.m.
April 10, 1913, of the Adriatic coast from Antivari to
the mouth of the River Dvin. This blockade was ex-
tended to Durazzo from 6 a.m., April 23 and was raised
from 2 p.m., May 14, 1913.

In reply to a question in the House of Commons, April
7, 1913, Sir Edward Grey had said that certain British
vessels were proceeding to the coast of Montenegro to
take part in a naval demonstration "with the above
named states." He offered the following explanation:

We are party to it because we are a party with the other
Great Powers to an agreement which the naval demonstration is
intended to uphold. This agreement is that there should be
an autonomous Albania. We willingly became a party to this, for
the Albanians are separate in race, in language, and to a great
extent in religion. The war which is proceeding against them has
long ceased to have any bearing on the war between Turkey and
the Allies, or to be a war of liberation. The operations of Monte-
negro against Scutari are part of a war of conquest, and there
is no reason why the same sympathy that was felt for Montenegro
or other countries contending for liberty and national existence
should not be extended to the Albanian population of Scutari and its district, who are mainly Catholics and Moslem, and who are contending for their lands, their religion, their language, and their lives. (LI Parliamentary Debates, Commons, 1913, p. 816.)

Sir Edward Grey further maintained that the agreement was essential to the peace of Europe and should be upheld by international action.

Blockade of Greece, 1916.—The blockade of Greece by the Allies in 1916, declared to be in effect from December 8, 8 a.m., allowed a period of 48 hours for the departure of “vessels of third powers” from Greek harbors. Protest against this blockade was made by Greek officials as contrary to international law on the ground that peaceful relations existed between Greece and the Allies.

Italian blockade of Fiume, 1920.—The French “Journal officiel de la République Francaise” of December 4, 1920, contained the following notification:

A la date du 1er décembre 1920, le Gouvernement italien a informé le Gouvernement de la République de sa décision de tenir en état de blocus effectif par ses forces navales, à partir du 1er décembre à 10 heures, la zone côtière de l’État indépendant de Fiume, des îles de Veglia et Arbe et des parages avoisinants.

Un délai opportun sera laissé pour la sortie des navires de commerce amis.

This notification does not refer to neutrals but to “amis.”

The blockade of Bulgaria, October 16, 1915, referred to “friendly or neutral vessels” as being granted days of grace.

Reprisals.—Early ideas on the doctrine of reprisals, of which boycott may be regarded as a phase, appear among writers. Theologians of medieval times found little difficulty in supporting reprisals by Biblical injunctions. A clear distinction between reprisals in war and reprisals in peace was not always made.

The treatise of Bartolus (1313–59) was quite full upon this.

Victoria (1480–1546) and others of this period write upon the subject. Grotius refers to the reprisals more in relation to war. The words “retorsion”, “reprisal”,

"embargo", "nonintercourse" and the like, were not always used in senses that could be clearly distinguished. Retorsion was usually applied to retaliation in kind, while reprisals aimed to secure redress for action by which a state regarded itself to be injured and the means might not be analogous to the injury, but such as the offended state might regard as most effective. Two commercial states might set up by retorsion reciprocal trade barriers, while by reprisal one state might bring another to recognize privileges through holding its king who might chance to be within its borders. In ancient times the limits of reprisals were difficult to determine, though there was a growing sense that they should be proportioned to the injury for which remedy was sought.

Opinions of writers.—Writers upon the topic of pacific blockade have shown wide difference of opinion as to whether it was a lawful measure short of war in spite of the title "pacific." Some have considered it merely a limited hostility but lawful; others have regarded it as unlawful; some have regarded it as lawful only as regards the blockading and blockaded parties; while still others have regarded it as lawful as regards all states and short of war. Practice seems to support the opinion that pacific blockade is a lawful measure of constraint short of war, but operating directly only upon the blockaded and blockading states. In several recent pacific blockades, however, third states have not protested against the application of its provisions determining the number of days of grace allowed to their merchant vessels to withdraw from the blockaded area.

The measures undertaken under the name "pacific blockade" seem to be recognized generally as lawful when confined to the states concerned. These measures seem to be adequately effective only when extended also to third states which would at least create a state of quasi war and quasi neutrality. There arises, therefore, the old question of effectivity of blockade but transferred to
pacific blockade. Under modern conditions of commerce to be really effective a blockade must be against ships under all flags and this degree of constraint is not generally recognized as an attribute of pacific blockade.

Article 16 of the League of Nations Covenant implies measures of collective coercion that go beyond pacific blockade in their inclusive nature but, in the application of force by individual states for effective use of collective force "to protect the covenants of the League", may be more restricted.

Institut de Droit International, 1887.—A report was made to the Institut de Droit International at the meeting in Heidelberg in 1887 upon the right of blockade in time of peace. Dr. Perels, who was the adviser of the German admiralty, made the report. This report admits that the pacific blockade is comparatively modern but that this does not deny its legality, as development of new relations among states implies new methods.

Discussion, 1902.—This Naval War College considered certain aspects of pacific blockade in 1902 showing that while early practice before the middle of the nineteenth century had extended the operation of the blockade to third powers, later practice had tended to limit the effects of pacific blockade to the parties directly concerned. In the résumé of the discussion in 1902, it was said:

It would seem from the weight of authorities and from the majority of later cases, that pacific blockades should not bear upon third states except as they are affected by the constraint directly applied to the state blockaded, i.e., the vessels of a third state should be entirely free to go and come while such measures of constraint as may be decided upon may be applied to the blockaded state.

If the need for interruption of relations between the blockaded state and third states is sufficiently serious to require the seizure of neutral vessels, it would seem to warrant the institution of a regular blockade involving a state of war.

If only the mild constraint which is short of war, the blockade affecting merely the blockaded state's commerce, is necessary.
then pacific blockade, though it works inconvenience, may be legitimate. (1902, Naval War College, International Law Situations, p. 87.)

It was further said in the conclusions that it was now (1902) the general opinion:

(1) That pacific blockade should be exclusively confined to those who are parties to it and should not be extended to third states.
(2) That pacific blockade as a measure short of war does not involve any neutrality on the part of those not parties to it.
(3) That pacific blockade should be limited as far as possible that it may not be confused with belligerent blockade, which is definitely outlined. (Ibid., p. 97.)

American Institute of International Law, 1925.—In 1925 the American Institute of International Law presented a plan for measures of repression enumerating "measures of self-redress short of war." In the list are included nonintercourse and pacific blockade. While pacific blockade is regarded in this project as a use of force, it is not regarded as giving rise to a state of war though when applied to vessels of third states it is considered "in effect an act of war."

**Article 10.**

**PACIFIC BLOCKADE.**

Pacific blockade consists in the obstructing or closing of the ports or coasts of one country by another. Its purpose is to prevent access to or egress from a foreign port or coast—compelling the territorial sovereign to yield to the demands which have been made upon the blockaded state. If confined solely to the country against which the measure is taken, the act is said to be pacific, and it does not necessarily create a state of war. If the blockade affects the vessels of other nations, it is in effect an act of war. (20 American Journal, International Law, Sup., 1925, project no. 29, p. 383.)

**Pacific blockade and Article 16.**—In a report of May 17, 1927, of the Secretary General of the League of Nations upon the legal position which would arise in enforcing article 16 of the Covenant of the League of Nations in time of peace, it was said:
The question how far the sanctions can lawfully be carried without resort to war is considered below with reference to each of the above classes of State. It may be noted here that, from the legal point of view, the existence of a state of war between two States depends upon their intention and not upon the nature of their acts. Accordingly, measures of coercion, however drastic, which are not intended to create and are not regarded by the State to which they are applied as creating a state of war, do not legally establish a relation of war between the states concerned. This would seem to be the case even if, as is suggested to be possible under point (c) below, third States find it necessary to guide their own conduct by the view that a state of war exists. There is no general rule of international law under which application of the economic sanctions would automatically produce a state of war. (Reports and Resolutions, League of Nations Documents, A. 14. 1927. V., p. 83.)

Later it is said:

It is therefore prudent to conclude that, in applying the economic sanctions of Article 16 without resort to war, the Members of the League must fully respect the rights of third States. (Ibid., p. 86.)

The hope was expressed, however, that third states would adopt a "benevolent attitude" toward the League policy.

It was also said in this report that:

It would not in fact be prudent to attempt to lay down positively in advance the measures which the Members of the League could consider themselves as legally entitled to adopt toward third States under the form of a pacific blockade. Not merely is the existing law uncertain but it is uncertain how far third States would or would not be disposed to take a narrow view of the application of the existing law to the special and unprecedented case of a pacific blockade applied under Article 16 of the Covenant. The tendency before the war of 1914-18 was to recognize that a pacific blockade imposed in the interests of international order by a number of Powers had a much higher claim to be regarded as an institution of international law than a blockade enforcing the particular interests of certain Powers, and a blockade under Article 16 is in the fullest sense one falling within the first category.

It appears to be a legitimate conclusion from the practice and doctrine of international law before the war of 1914-18 that a pacific blockade imposed in application of Article 16 of the Cove-
nant and observing certain conditions and limits would be a measure the legal validity of which should be recognized by third States. To secure such recognition from third States, it would seem that the blockade ought to comply with the conditions as to notification and effectiveness which apply to a blockade in time of war. The blockade would give the right not to confiscate but to sequester ships of the blockaded State attempting to break through it and their cargoes, the ships and cargoes being ultimately returned without compensation to their owners. It would seem, further, that third States would not legally be entitled to object to the enforcement of the blockade, with the suggested consequences, against ships of Members of the League, whether applying the sanctions or not, and their cargoes.

On the other hand, it is very doubtful whether the third State would be legally bound to acquiesce in the enforcement of the blockade against its own ships and their cargoes. (Ibid., p. 88.)

Object of measures short of war and boycott.—The object of measures short of war is usually to settle some difference in which the parties are directly concerned. This is the case in retorsion, reprisals, and retaliation in various forms. Nonintercourse and embargo decrees usually contain some statement of injuries for which remedy is sought by the state establishing the regulation. Pacific blockade as a measure short of war has at times been used as a means of remedy for a condition in which the parties proclaiming the blockade are only indirectly concerned.

International boycott has been advocated as a means of putting pressure upon a state which may be considered to have failed to fulfill some international obligation which may only remotely concern the states engaging in the boycott. The boycott is especially aimed to put an end to commercial relations with the boycotted state. When such boycott is solely an act of individuals who without any participation or action of the state refrain from commercial relations with the nationals of another state, the boycott as such has no bearing upon international law. A modern state would scarcely expect, without laying itself open to reprisals, to determine with
whom or in what its nationals should trade other than by general tariff laws and treaties.

If members of the League of Nations under article 16 prevent "all financial, commercial, or personal intercourse between the nationals of the covenant-breaking state and the nationals of any other state, whether a member of the League or not", then such an act by whatever name it is called, ceases to be a private and becomes a public act with international consequences. If the so-called "covenant-breaking state" is a land-locked state, the action of the other states would partake of the nature of a boycott which the participating states would be under obligations to enforce by appropriate measures. If the covenant-breaking state has a seacoast, the enforcement of the prevention called for would partake of the nature of what in earlier days has been called a pacific blockade, a measure which has often been used by states to bring another state to fulfill its obligations or to take certain action.

While boycott was in its early development an individual and unofficial action, as in China in the early part of the nineteenth century, it gradually took on a political nature and when it became collective and more or less official, protests were made. The dangers of unauthorized, individual, or collective action by groups of individuals in retaliation against action of a foreign state was recognized. Such action might be based upon incorrect or partial understanding of the circumstances and might involve the state whose nationals engaged in the boycott in serious consequences, making the settlement of a question more difficult. At the same time, boycott was recognized as a measure which might be very potent if properly used but unless the state acted directly or indirectly, the state could not be held responsible for determining whether its nationals discriminated against the goods or commerce of a specific state. An unofficial boycott by nationals has extended in some instances not
merely to goods and commerce but also to persons, language, journals, music, etc., of the state against which pressure was aimed. Article 16 of the Covenant of the League of Nations endorsed the prevention of all intercourse between the nationals of a covenant-breaking state and the nationals of other states, and provided for mutual support, even presuming the use of force, and affording passage through their territory to forces cooperating to protect the covenants of the League. For maritime states somewhat similar measures had been undertaken for a century in what had come to be known as pacific blockade which aimed at a partial isolation of a state while article 16 aimed at complete isolation.

Some have maintained that article 16 contemplates a resort to war on the part of the covenant-breaking state against which the other members of the League undertake only such measures as will isolate the offender. Others have maintained that an act of war having taken place, a state of war exists, and the consequences are limited only by the laws of war and neutrality. Paragraph 2, of article 16, seems to give the council authority to recommend such use of armed forces as may be needed to protect the covenants of the League without necessarily creating a state of war in the technical sense but authorizing the use of force to protect the covenant. The provisions of article 16 would not be necessarily applicable to a state of war but to a condition of isolation consequent upon a disregard of its covenants. Of course this article 16 was drawn with the expectation that all the more powerful states would be members of the League under which conditions its application would be more simple.

Chinese boycott, 1905.—The termination of the treaty of 1894 between the United States and China after its 10-year period in 1904, made it desirable to negotiate a new treaty. Rumors spread in China that its terms were to be detrimental to China and it was urged that the
people should show their opposition by boycotting after August 1, 1904, “all American schools, business, goods, products, and ships unless the exclusion treaty guaranteed equitable treatment to travelers, students, and merchants entering the United States.” Minister Rockhill, long familiar with oriental diplomacy, found much to confirm his opinion that the boycott was “with official approval if not actually at official suggestion.” The governmental encouragement seems evident from notices and proclamations.

The Chinese Government was notified in early August, 1905, that under early treaties the United States would hold China “responsible for any loss sustained by the American trade on account of any failure on the part of China to stop the present organized movement against the United States.” (1905 Foreign Relations, U.S., p. 212.) Later the Chinese Government informed Minister Rockhill that the Government assumed no responsibility as the movement was started by the traders.

**Boycott of Danzig.**—Owing to differences of various kinds with the Polish Government accusations were made that Danzig had suffered by measures taken in Poland against the Free City. A report by the Government of the Free City of Danzig, August 14, 1931, says:

A particularly serious difficulty in the relations between Danzig and Poland is due to the economic injury suffered by the Free City as the result of measures taken by the Polish Government. Unfortunately no alleviation or improvement has been perceptible in this respect since the session of the Council in May. An impression has, on the contrary, been created in the Danzig population that the Polish Government, by its economic measures against Danzig, has been deliberately aiming at injuring the trade and industry of Danzig and at the same time at weakening, in this way, the resistance of the Danzig population to Polish political aims. It is incomprehensible, otherwise, that the Polish Government, which, in view of the Customs and economic union, has it in its power to grant Danzig all kinds of economic facilities, should bluntly reject all suggestions of the Danzig Government to this effect, and should on the contrary keep contriving
new measures which are bound seriously to injure Danzig's trade and industry. The repeated attempts of Danzig—more particularly through the commercial senator—to bring about an exchange of views on all questions still pending have proved abortive. Poland has made no use of this opportunity, but has, without any real grounds, postponed negotiations indefinitely, especially on the subject of the exceptional importation of specific goods, of so-called quotas, which are indispensable for the economic life of Danzig. The Danzig Chamber of Commerce has exerted itself in the same direction as the Danzig Government. As evidence may be mentioned the fact that it not long ago issued a warning in a public proclamation not to reply to the extensive boycotting of Danzig goods in Polish circles by a counter boycott of Polish goods in Danzig. Economic co-operation, as provided for in the treaties, is a preliminary condition for regular political relations between Danzig and Poland. The unjust exclusion of Danzig trade from the Polish hinterland, the confiscation of Danzig goods in Poland—contrary to the spirit of the treaties—the steady increase in the boycotting movement, are bound to create in the particular circles affected in Danzig a state of discontent which may have most serious consequences. If normal relations are to be established between the two States, dependent upon one another as the result of the treaties, it is essential first and foremost to eliminate the economic pressure still brought to bear by Poland on Danzig. (Access to, or anchorage in, the port of Danzig of Polish war vessels. Permanent Court of International Justice, Series C, No. 55, p. 36.)

Committee on Boycotts and Peace, 1932.—In 1931 the Trustees of the Twentieth Century Fund entrusted to a committee the drawing up of a report on Economic Sanctions for the Pact of Paris. In the report of this committee, March 2, 1932, the following was mentioned as the crucial question to which the committee was giving attention.

What shall be the attitude and the policy of the other powers signatory to the Pact of Paris, if one or more of their number, failing to conform to the pledge given in the Pact, do begin or threaten hostilities?

The Committee on Economic Sanctions is of opinion that the time has now fully come for the powers signatory to the Pact of Paris to declare, in answer to this question, what, under such circumstances, will be their policy.
In the present state of world opinion, it is highly probable that no people whose government is signatory to the Pact of Paris will desire the use of their government’s military and naval forces in the settlement of international quarrels arising elsewhere in the world. Nevertheless, a clear and definite violation of the pledges given in the Pact of Paris may easily lead to another world-wide armed conflict, this time finally and fatally disastrous in its effects.

The Committee accordingly suggest that the signatories of the Pact of Paris should enter into an appropriate protocol or agreement supplemental to that Pact whereby they will engage themselves, in the event of hostilities, actual or threatened, promptly to consult together with a view to determine upon measures of nonintercourse which would be appropriate to prevent the threatened breach of the Pact, or if it could not be prevented, to end hostilities and to restore the status existing prior to the breach.

Among the measures of nonintercourse which could be applied would be:

(1) A cessation of any shipment of arms or munitions or other absolute contraband;

(2) Such further economic sanctions and concerted measures, short of the use of force, as may be determined to be appropriate and practical under the circumstances of any given case. (Boycotts and Peace, E. Clark, editor, p. 7.)

The nonintercourse measures proposed are those short of the use of force. There are many grounds for believing that the states of the world do not yet regard such measures as sufficing for their security.

Measures of constraint.—Even before the World War there was a growing interest in the settlement of differences between states without resort to war. In early times there was resort to measures of restraint upon commercial intercourse between states in order to bring one state to accept the terms proposed by another or in order to check certain actions.

It was maintained that a state might control its own territories and determine at will what passed its frontiers. It was sometime stated that tariff acts were an evidence of the right of a state to control commerce. The reply to this was that tariff acts were of general application while these other measures were aimed at a single state.
Whenever nationals of one state of their own volition assume an attitude which limits or puts an end to their relations with the nationals of another state, this attitude was regarded before 1914 as beyond state control and as an act for which a state could disclaim all responsibility even though injury to the commerce or other injury might be suffered. If a state encouraged or officially participated in this attitude, then there might be ground for international complaint on the part of a friendly state.

Peace conferences as at Berne, 1892; Budapest, 1896; Paris, 1900; Milan, 1906; and Geneva, 1912, had proposed measures for making effective the awards of international tribunals. Among the measures suggested which received particular support was the prohibition of economic relations with a recalcitrant state. Some peace conferences arrived at the conclusion that mere agitation for the spread of good will would not attain the hoped-for peace among states, and that states should be made to realize that peace was essential to national progress and preferable to war. To this end these conferences proposed measures which would result in economic isolation of states not fulfilling their international obligations.

The Tampico incident, 1914.—In 1914 while there was a disturbed condition of affairs in Mexico, an event at Tampico gave rise to various complications. The event is thus set forth by the American Admiral Mayo in a communication to the Mexican commanding officer of the Huertista forces resisting the constitutionalists ashore:

This morning an officer and squad of men of the Mexican military forces arrested and marched through the street of Tampico a commissioned officer of the United States Navy, the paymaster of the U.S.S. Dolphin, together with seven men composing the crew of the whaleboat of the Dolphin.

At the time of this arrest the officer and men concerned were unarmed and engaged in loading cases of gasoline which had been purchased on shore. Part of these men were on the shore, but
all, including the man or men in the boat, were forced to accompany the armed Mexican force.

I do not need to tell you that taking men from a boat flying the American flag is a hostile act not to be excused.

I have already received your verbal message of regret that this event had happened, and your statement that it was committed by an ignorant officer.

The responsibility for hostile acts cannot be avoided by the plea of ignorance.

In view of the publicity of this occurrence, I must require that you send me, by suitable members of your staff, formal disavowal of and apology for the act, together with your assurance that the officer responsible for it will receive severe punishment. Also that you publicly hoist the American flag in a prominent position on shore and salute it with twenty-one guns, which salute will be duly returned by this ship.

Your answer to this communication, should reach me and the called-for salute be fired within twenty-four hours from 6 p.m. of this date.

(1914, Foreign Relations, U.S., p. 448.)

An apology was offered but the salute to the flag was not rendered and at length President Wilson on April 20, addressed Congress. Setting forth the grave situation in Mexico, he said:

I, therefore, come to ask your approval that I should use the armed forces of the United States in such ways and to such an extent as may be necessary to obtain from General Huerta and his adherents the fullest recognition of the rights and dignity of the United States, even amidst the distressing conditions now unhappily obtaining in Mexico.

There can in what we do be no thought of aggression or of selfish aggrandizement. We seek to maintain the dignity and authority of the United States only because we wish always to keep our great influence unimpaired for the uses of liberty, both in the United States and wherever else it may be employed for the benefit of mankind. (Ibid., p. 476.)

The address resulted in the following action:

In view of the facts presented by the President of the United States in his address delivered to the Congress in joint session on the twentieth day of April, nineteen hundred and fourteen, with regard to certain affronts and indignities committed against the United States in Mexico: Be it
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is justified in the employment of the armed forces of the United States to enforce his demand for unequivocal amends for certain affronts and indignities committed against the United States.

Be it further resolved, That the United States disclaims any hostility to the Mexican people or any purpose to make war upon Mexico.

Approved, April 22, 1914. (38 U.S. Statutes, p. 770.)

In communicating this action to American diplomatic representatives abroad on April 23, 1914, Secretary Bryan said:

Please note that the word "justified" is used instead of "authorized." This was done to emphasize the fact that the resolution is not a declaration of war but contemplates only the specific redress of a specific indignity.

Admiral Fletcher has taken possession of custom-house at Vera Cruz. No resistance at time, but later battery and scattered forces fired on Americans, which was returned. Four Americans killed, twenty wounded. Loss on Mexican side not known; estimated 150. (1914, Foreign Relations, U.S., p. 483.)

Argentine, Brazil, and Chile offered good offices, which were accepted, and the mediators were to assemble at Niagara Falls, May 18. So far as possible it was hoped that the status quo would not be changed. After much negotiation, on November 20, 1914, the Acting Secretary of War telegraphed to General Funston, of the occupying forces at Vera Cruz:

You will evacuate Vera Cruz on Monday, November 23d. You will bring with you to the United States all funds in your possession from whatever source derived, both United States funds and Mexican customs receipts and taxes. You will also bring with you all the records, accounts, and money papers necessary to establish the integrity and accuracy of your financial and other administration. You will make an inventory of all goods in the customs house keeping the original thereof and leaving a copy with Consul Canada. You may also leave with Consul Canada such copies of accounts or other data as may be required by whomsoever may continue the government of the city. Do not make any arrangements with local Mexicans or with Mexican
representatives from outside the city that could make it seem
that you are recognizing the right of Carranza to jurisdiction over
the city. It is merely desired that you get out in the best prac-
tical fashion, leaving things in as good shape as possible and
making no declaration that could be interpreted as committing
this Government to the recognition of the authority of any indi-
vidual or faction. (Ibid., p. 625.)

*Dominican Republic, 1916.*—On January 19, 1916, the
American Minister to the Dominican Republic tele-
graphed to the Secretary of State saying: "I think the
Department should be prepared for probable difficulty in
the country soon." On account of this and other infor-
mation, the Secretary of State informed the Minister
that if requested the American Government would "fur-
nish the forces necessary to suppress insurrection and
220.) The difficulty implied in the Minister's telegram,
though a little delayed, arose, and war vessels were dis-
patched to Santo Domingo and other ports. In May
1916 forces under Admiral W. B. Caperton took control
of the city of Santo Domingo and else-where in order to
take such action "as is necessary to protect United States
forces ashore, preserve peace, lives, protection and prop-
erty of American citizens and other foreigners and to
constituted authority." (Ibid., p. 230.)

Capt. H. S. Knapp, U.S.N., commander of the cruiser
force, United States Atlantic Fleet, under authority of
his Government, on November 29, 1916, declared the
Dominican Republic to be in the state of military occupa-
tion by forces of the United States. This proclamation
declared the occupation to be undertaken to restore in-
ternal order and to enable the Republic to fulfill its
international obligations.

The United States Government also took over military
control in certain parts of Haiti in 1915 and 1916 in order
"to safeguard as far as possible the interests of all con-
cerned ", as insurrectionary movements had prevailed for-
some months.
**Russia, 1917.**—A somewhat exceptional situation arose in consequence of the revolution in Russia in 1917. This led some of the Allied Powers to put what amounted to an embargo upon shipments to Russia, though in some cases the embargo extended to munitions only. The United States took the position that it was “important that the impression should not be created in the minds of the Russian people that they have been abandoned by the Allies or the United States Government, and for that reason this Government has told the Russian representatives that all shipments of supplies being manufactured in this country other than munitions will be permitted to go forward. The question came up as to whether railway supplies were munitions and Department told Russian Ambassador that licenses would be granted for shipment of engines and rails.” (1918, For. Rel. U.S., 3 Russia, p. 107.)

**Dispute between Italy and Greece, 1923.**—In discussing whether articles 12 and 15 of the Covenant could be applied to the occupation of Corfu, M. Salandra, the Italian representative, read a note from his Government on this question:

What is the Greek contention? It is that the occupation of Corfu was a hostile act which may lead to a rupture dangerous for the peace of the world. Italy, however, has solemnly declared that this occupation had no hostile character—that it was merely designed to assure obligations arising out of responsibility for a terrible crime. There is no danger of war. There is not even a suspension of diplomatic relations. * * *

The creation of the League of Nations does not constitute a renunciation of States of all right to act for the defence and safety of their rights and their dignity. If this were so, no State would desire to belong to the League. (League of Nations, Official Journal, July–December, 1923, p. 1288.)

After the settlement of the dispute, M. Salandra asked permission to present certain observations. In speaking of “peaceful occupation”, he said:

It must not be thought that the Covenant of the League of Nations forbids these peaceful means of repression. They are
not forbidden by any of its articles. I may add that in its Pre-
amble the principles of international law are expressly recog-
nised. Among these principles is the right of peaceful reprisals
and of occupation as a measure of guarantee. These reprisals
are therefore legitimate. (Ibid., p. 1314.)

In a later discussion on the interpretation of certain
articles of the Covenant, Lord Robert Cecil commented
on M. Salandra's point of view, and said:

In the last speech that he made on the Italo-Greek question,
he (M. Salandra) undoubtedly took up the question of the legiti-
macy of reprisals in general, not only with respect to the occupa-
tion of territory but as to a great number of other reprisals;
he argued with great force—and I am not at all prepared to say
that I disagree with him—that, until the adoption of the Cove-
nant at any rate, there was a right of reprisal or coercion—call
it what you will—which one country might undertake in order
to enforce demands on another.

In my young days, when I was more familiar with the text-
books of international law than I am now, I think such actions
used to be called measures short of war.

Mr. Salandra also argued that the Covenant had made no
difference to those rights. That is an interesting argument, and,
though it would be hypocrisy to say that the question had not
become acute owing to recent events, yet it is a question of very
great interest and importance for the public law of Europe at
this moment. A great number of instances have actually oc-
curred, and others have been threatened, of measures of coercion
being applied by one State against another. I think it is of great
importance for the Council of the League to be informed exactly
how far these are legal nowadays under the Covenant, because
evidently the Council may have to deal with such situations at
any moment. (Ibid., p. 1321.)

Lord Robert Cecil suggested that this be put in the
form of a proposal and submitted to the Permanent
Court of International Justice. He proposed:

The existence and nature of the right of one State to enforce
demands made upon another State by measures of coercion and
reprisal, and how far, if at all, the Covenant has modified any
such rights as between Members of the League.

It was finally decided to put certain questions before a
Committee of Jurists.
Questions before League of Nations, 1923.—Certain questions in regard to the use of force arose in 1923 early in the existence of the League of Nations. These questions were referred to a Committee of Jurists consisting of M. Adatci (Japan), Lord Buckmaster (Great Britain), Dr. Enrique Buero (Uruguay), M. F. de Castello Branco Clark (Brazil), M. Fromageot (France), Dr. van Hamel (director of the legal section of the Secretariat), M. Vittorio Rolandi Ricci (Italy), M. Oesten Unden (Sweden), Marquis de Villa Urrutia (Spain), and M. de Visscher (Belgium). One of these questions was:

**Question 4.**

Are measures of coercion which are not meant to constitute acts of war consistent with the terms of Article 12 to 15 of the Covenant when they are taken by one Member of the League of Nations against another Member of the League without prior recourse to the procedure laid down in those articles? (League of Nations, A. 8. 1924, p. 9. Report to Fifth Assembly.)

To this question the reply was not conclusive but was supported in the vote approving the replies as a whole.

The following was the reply to the fourth question:

Coercive measures which are not intended to constitute acts of war may or may not be consistent with the provisions of Articles 12 to 15 of the Covenant, and it is for the Council, when the dispute has been submitted to it, to decide immediately, having due regard to all the circumstances of the case and to the nature of the measures adopted, whether it should recommend the maintenance or the withdrawal of such measures. (Ibid., p. 10.)

**Treaty of Versailles, 1919.**—Some late treaties have contemplated the possibilities of reprisals and other measures. Even the Treaty of Versailles, which contains the Covenant of the League of Nations, contains some such clauses. In the part of that treaty relating to reparations, it is said:

17. In case of default by Germany in the performance of any obligation under this Part of the present Treaty, the Commission will forthwith give notice of such default to each of the inter-
posed Powers and may make such recommendations as to the action to be taken in consequence of such default as it may think necessary.

18. The measures which the Allied and Associated Powers shall have the right to take, in case of voluntary default by Germany, and which Germany agrees not to regard as acts of war, may include economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances. (Part VIII, annex II, 17, 18.)

Force has been used in the occupation of certain areas of Germany.

League of Nations Covenant, 1920.—The Covenant of the League of Nations became operative by the ratification of the Treaty of Versailles, January 10, 1920. The preamble of the Covenant states that:

**THE HIGH CONTRACTING PARTIES.**

In order to promote international co-operation and to achieve international peace and security

by the acceptance of obligations not to resort to war,

by the prescription of open, just and honorable relations between nations,

by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and

by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, Agree to this Covenant of the League of Nations. (1919, Naval War College, Int. Law Documents, p. 8.)

League of Nations and war.—The Covenant of the League of Nations in article 16 states:

1. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League of not.
2. It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

3. The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

4. Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

By this article 16 a state of war is contemplated in which the forces of members of the League are to be used, and by article 17 a nonmember may take advantage of League procedure, or in case the nonmember refuses article 16 may become operative, or, if both parties refuse, the Council of the League "may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute."

In article 11 it had been declared that "any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

League of Nations and measures short of war.—Article 10 and articles 12, 13, and 15 contemplate measures short of war but which may lead to war if League procedure is disregarded. Article 10 contains a positive obligation:

The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case
of any such aggression or in case of any threat of danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled.

Articles 12, 13, and 15 provide for procedure in case of "any dispute likely to lead to rupture" prior to "re­sort to war." The preservation of members of the League against aggression as contemplated in article 10 might involve such measures short of war as the Council may advise.

Relations of third states.—Specific measures involving the use of force without declaring war have been varied and have often been resorted to in order to avoid war. The use of force by one state against another may inconvenience third states without involving any of the relations arising from the status of neutrality.

Undoubtedly the Covenant of the League of Nations binds the members of the League to take such action as the League may deem wise "to safeguard the peace of nations." It may be difficult in a certain case to determine the extent and exact nature of this obligation. It may be and has been contended that self-protection justifies such acts as may be essential to the preservation of a state's existence and until the League is in position to exercise "the enforcement by common action of international obligations", a state must take necessary measures for its immediate security without waiting the slow processes of the League. States in becoming members of the League of Nations did not agree to give up their legitimate rights of self-defense but conceived that they would be more secure. The Covenant of the League of Nations recognizes the possibility of resort to war after a delay of 3 months when an award has been rendered by the arbitrators or a report by the Council. There remain many questions in regard to the relations of third states when the acts of two states seem to be leading to measures which are not strictly pacific.

United States Navy Regulations.—The right of self-preservation is generally recognized both in time of peace
and in time of war. In time of war acts which would not be regarded as lawful in time of peace are tolerated. Interference with neutral trade in certain articles as in case of contraband, with movement of ships to specified ports as in case of blockade, and other restrictions upon neutral action are generally admitted to be lawful. These are derived from the right of the belligerent to protect itself and to weaken its opponent.

Even in time of peace it may be essential to use force. The Navy Regulations of the United States state:

1646. On occasions where injury to the United States or to citizens thereof is committed or threatened, in violation of the principles of international law or treaty rights, the commander in chief shall consult with the diplomatic representative or consul of the United States, and take such steps as the gravity of the case demands, reporting immediately to the Secretary of the Navy all the facts. The responsibility for any action taken by a naval force, however, rests wholly upon the commanding officer thereof.

1647. The use of force against a foreign and friendly state, or against anyone within the territories thereof, is illegal. The right of self-preservation, however, is a right which belongs to States as well as to individuals, and in the case of States it includes the protection of the State, its honor, and its possessions, and the lives and property of its citizens against arbitrary violence, actual or impending, whereby the State or its citizens may suffer irreparable injury. The conditions calling for the application of the right of self-preservation can not be defined beforehand, but must be left to the sound judgment of responsible officers, who are to perform their duties in this respect with all possible care and forbearance. In no case shall force be exercised in time of peace otherwise than as an application of the right of self-preservation as above defined. It must be used only as a last resort, and then only to the extent which is absolutely necessary to accomplish the end required. It can never be exercised with a view to inflicting punishment for acts already committed.

1648. Whenever, in the application of the above-mentioned principles, it shall become necessary to land an armed force in foreign territory on occasions of political disturbance where the local authorities are unable to give adequate protection to life and property, the assent of such authorities, or of some one of them, shall first be obtained, if it can be done without prejudice to the interest involved.
Locarno treaties, 1925.—The treaties relating to peace in Europe of October 16, 1925, commonly called the treaties of Locarno, aimed to give "supplementary guarantees within the framework of the Covenant of the League of Nations, and the treaties in force between them."

In the treaty of mutual guaranty between Germany, Belgium, France, Great Britain, and Italy, these states by article 1:

collectively and severally guarantee, in the manner provided in the following Articles, the maintenance of the territorial status quo resulting from the frontiers between Germany and Belgium and between Germany and France, and the inviolability of the said frontiers as fixed by or in pursuance of the Treaty of Peace signed at Versailles on June 28, 1919, and also the observance of the stipulations of Articles 42 and 43 of the said Treaty concerning the demilitarised zone. (54 League of Nations, Treaty Series, p. 280.)

In article 2:

Germany and Belgium, and also Germany and France, mutually undertake that they will in no case attack or invade each other or resort to war against each other.

This stipulation shall not, however, apply in case of:

(1) The exercise of the right of legitimate defence, that is to say, resistance to a violation of the undertaking contained in the previous paragraph or to a flagrant breach of Articles 42 and 43 of the said Treaty of Versailles, if such breach constitutes an unprovoked act of aggression and by reason of the assembly of armed forces in the demilitarised zone, immediate action is necessary;

(2) Action in pursuance of article 16 of the Covenant of the League of Nations;

(3) Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of article 15, paragraph 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a State which was the first to attack. (Ibid., p. 293.)

Pact of Paris, 1928.—The Pact of Paris, August 27, 1928 (Kellogg-Briand Pact), has been generally ratified
by the states of the world, and its essential articles are as follows:

Art. 1. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Art. 2. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

Article I enunciates a condemnation and renunciation of international war.

Article II, which is in form of an agreement, provides that settlement or solution of disputes among the parties "shall never be sought except by pacific means."

No procedure for putting this article into operation was provided. No provision was made for its termination or revision. Some states have therefore regarded the pact as another step toward assuring the continuation of the status quo except as it may be modified by friendly negotiation.

There remains, however, a great difference of opinion as to what are "pacific means." There are those who argue that the pact is much weaker than article 10 and the following articles of the Covenant of the League of Nations.

The Senate of the United States in ratifying the Pact of Paris recorded in the report of the Senate Committee on Foreign Relations its understanding of the effect of the treaty.

The committee reports the above treaty with the understanding that the right of self-defense is in no way curtailed or impaired by the terms or conditions of the treaty. Each nation is free at all times and regardless of the treaty provisions to defend itself, and is the sole judge of what constitutes the right of self-defense and the necessity and extent of the same.

The United States regards the Monroe doctrine as a part of its national security and defense. (70 Con. Rec., Jan. 15, 1929, p. 1730.)
Collective action.—The proposals for collective action for the maintenance of peace or for the carrying out of an agreed policy has been common among states. The doctrine of balance of power and the concert of powers in Europe modified the course of action of European powers and the distribution of the spoils of war. Alliances usually ostensibly for the maintenance of peace often sought the establishment of the status quo. Alliances and ententes frequently equalized opposing groups to a degree which made the risk of disturbing the peace greater than any party cared to assume.

Some of the resultant combinations have put forth doctrines of broad scope, while others have proposed regional policies. The division on the basis of “Great Powers” and “Minor Powers” has been fundamental in some of the acts of European states. The contentions which led to a more general recognition of the idea of equality of states made some new basis of collective action essential. This was realized at the close of the World War in 1918 and the Covenant of the League of Nations in part embodied the then existing aspirations for collective action by the states of the world.

Early United States action.—The Articles of Confederation of the United States, 1778, provided for common action as in article III:

The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Article XIII provided further for observance of the articles.

Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be
agreed to in a congress of the United States, and be afterwards confirmed by the legislatures of every state.

Realizing that the lack of specified means for carrying out the provisions of article XIII might give rise to difficulties, the matter was considered and a form of action somewhat similar to that proposed in the League of Nations' Covenant was set forth for application in case of a state that had failed to observe article XIII:

the said United States in Congress assembled are fully authorized to employ the force of the United States as well by sea as by land to compel such State or States to fulfill their federal engagements, and particularly to make distraint on any of the effects vessels and merchandizes of such State or States or of any of the Citizens thereof wherever found and to prohibit and prevent their trade and intercourse as well with any other of the United States and the Citizens thereof, as with any foreign State, and as well by land as by sea until full compensation or compliance be obtained with respect to all requisitions made by the United States in Congress assembled in pursuance of the Articles of Confederation. (20 Jour. Cont. Cong., Hunt ed., p. 470.)

Constitutional provisions of the United States.—Article 1 of the Constitution of the United States, section 8, states that Congress shall have power to provide for the common defense and general welfare of the United States and “to regulate commerce with foreign nations.”


British-Swedish concert, 1813-14.—By the treaty of March 3, 1813, Great Britain agreed to cooperate with Sweden “for the maintenance of the independence of the North” and in article II, it was stated:

that His Britannie Majesty will not only not oppose any obstacle to the annexation and union in perpetuity of the Kingdom of Norway as an integral part to the Kingdom of Sweden, but also will assist the views of His Majesty the King of Sweden to that effect, either by his good offices, or by employing, if it should be necessary, his naval co-operation in concert with the Swedish or Russian forces. (1 British and Foreign State Papers, p. 298.)
The Swedish-Russian treaties of April 5 and June 15, also promised Russia both diplomatic and military aid. Prussia also agrees to aid Sweden by a separate and secret article, April 22, 1813.

The British blockade of the ports of Norway was notified on April 29, 1814. The Foreign Office announcement was as follows:

Earl Bathurst, one of His Majesty's Principal Secretaries of State, has this day notified, by command of His Royal Highness the Prince Regent, to the Ministers of Friendly Powers resident at this court, in the name and on the behalf of His Majesty, that the necessary measures have been taken by command of His Royal Highness, for the Blockade of the Ports of Norway, and that from this time all the measures authorized by the Law of Nations will be adopted and executed with respect to all Vessels which may attempt to violate the said Blockade. (Ibid., p. 1277.)

This blockade was raised under the following notice issued September 3, 1814:

Earl Bathurst, one of His Majesty's Principal Secretaries of State, has this day notified, by command of His Royal Highness the Prince Regent, to the Ministers of Friendly Powers resident at this Court that the necessary orders will forthwith be issued to the Officer commanding His Majesty's Ships and Vessels employed in the Blockade of the Coast of Norway, to discontinue the said Blockade. (Ibid., p. 1277.)

United action.—While the United States has generally refrained from agreeing in advance to act together with the military forces of other powers, yet it has at times expressed willingness to cooperate. Prince Bismarck in 1870 raised question as to "whether it would not be for the common interest of the powers engaged in the China trade to inaugurate a plan of combined action, to be settled by previous arrangement between the various governments, or between the commanders of the several squadrons." (1870, Foreign Relations, U.S., p. 330.) The British Government gave orders for cooperation of its naval forces in combined measures and later Secretary Fish replied to the Minister of the North German Union as follows:
DEPARTMENT OF STATE,
Washington, March 31, 1870.

SIR: Referring to your notes of the 19th and 25th of February last, and of the 28th of March current, concerning a proposed combined action of the naval forces of the United States and of North Germany for the suppression of piracy in the Chinese waters, I have now the honor to inform you that the President has taken great pleasure in complying with the request of Count Bismarck, by directing instructions to be issued from the Navy Department to Admiral Rogers, to cooperate for that purpose with the naval forces of the North Germany and such other powers as shall receive similar instructions.

The cooperation of Admiral Rogers and of the forces under his command will, however, be limited to cases of recognized piracy. He will be instructed to proceed in such a way as not to wound the sensibilities of the Chinese government, or to interfere with the lawful commerce of the Chinese subjects, or to conflict with the peaceful policy toward China in which the government of North Germany and the United States so happily agree.

I avail myself of this opportunity to renew the assurances of my distinguished consideration.

HAMILTON FISH.

(Ibid., p. 331.)

Cooperation on slave trade.—The United States has from time to time agreed to cooperate with other states in the use of force. The suppression of the slave trade was a ground for such action as provided in the treaty of 1842 with Great Britain:

ARTICLE VIII. The parties mutually stipulate that each shall prepare, equip, and maintain in service on the coast of Africa a sufficient and adequate squadron or naval force of vessels of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the slave-trade, the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces as shall enable them most effectively to act in concert and cooperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article, copies of all such orders to be communicated by each Government to the other, respectively. (8 U.S. Stat., p. 572.)
Detailed provisions for rendering this cooperation more effective were embodied in the treaty of 1862. A restricted right of search and detention in specified areas was reciprocally allowed and mixed courts for adjudication were established. The convention of 1870 provided for the discontinuance of the courts.

The general act signed at Brussels, July 2, 1890, by 17 states unified to a considerable extent the previous conventions relating to the slave trade and at the same time increased the number of states authorized to act as regards one another for the suppression of the traffic. A sort of clearing house was to be set up as an international office at Zanzibar. By this convention the scope of right of common action of the signatory states was much enlarged.

Colombia, 1885.—In 1884–85 there was an “unsettled state of affairs” in Colombia and owing to the “disordered condition of society” and the anticipated “disregard of the rights of foreigners on the coast and Isthmus,” the American minister requested the presence of an “American man-of-war.” Early in 1885 communication with the American minister was cut off by the disturbed conditions and the naval officer at Panama was obliged to act without communication with the diplomatic representative at Bogota. During the period of “disordered conditions,” the forces of the United States took positive measures to protect the rights of American citizens.

Boxer uprising in China, 1900.—During the Boxer uprising in China in 1900 the United States maintained so far as possible a policy of independent action, though cooperating with the other Powers when it seemed essential. Regarding the sending by Mr. Conger, United States Minister to China, of an identical note to the Chinese Foreign Office, Mr. Hay, Secretary of State, wrote on March 22:

In connection with the identical note agreed upon with your colleagues of France, Germany, and Great Britain, and sent by you
to the yamen on January 21 (inclosure 3, dispatch No. 316), while the Department finds no objection to the general terms of this paper [demanding publication of strong imperial decree without delay], it would have preferred if you had made separate representation on the question instead of the mode adopted, as the position of the United States in relation to China makes it expedient, that, while circumstances may sometimes require that it act on lines similar to those other treaty powers follow, it should do so singly and without the cooperation of other powers. (1900, Foreign Relations, U.S., p. 111.)

On June 7, however, Mr. Conger communicated with Mr. Hay with regard to whether he should join the diplomatic corps if this body found it “necessary to demand special audience with Emperor”, Mr. Hay replied:

Act independently in protection of American interests where practicable, and concurrently with representatives of other powers if necessity arise. (Ibid., p. 142-43.)

Mr. Conger on June 8 again suggested that he join the diplomatic corps in demanding “an audience with Emperor, the demand to be insisted upon, and to state to the Throne that unless Boxer war is immediately suppressed and order restored foreign powers will be compelled themselves to take measures to that end.” To this suggestion Mr. Hay’s reply was “Yes”, but in a supplementary message the following day he added,

We have no policy in China except to protect with energy American interests, and especially American citizens and the legation. There must be nothing done which would commit us to future action inconsistent with your standing instructions. There must be no alliances. (Ibid.)

On July 3, in order to place before the world the position of the United States in regard to the restoration of order in China, Mr. Hay sent the following circular telegram to United States representatives in the legations of the principal powers with the instructions that the purport of this statement be communicated to the minister for foreign affairs. This telegram read:

In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present
circumstances permit this to be done. We adhere to the policy initiated by us in 1857, of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial rights and by the law of nations. * * * The purpose of the President is, as it has been heretofore, to act concurrently with the other powers, first, in opening up communication with Pekin and rescuing American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. * * * (Ibid., p. 299.)

On the same day, Mr. Hay communicated to the French Chargé d’Affaires in Washington that “instructions have been telegraphed to the commander of the United States naval forces in Chinese waters to confer with his colleagues and report as to the force necessary to accomplish the ends now purposed and the proportionate force to be appropriately employed by the United States for their attainment in the general interest of the powers concerned.” This was in response to the request of the French Government that there be a “concert of the powers, with a view to sending identical instructions to the commanding officers of their respective forces in the Pechili. * * *” (Ibid., pp. 318–319.)

Later in the same month the French Government, through the Chargé in Washington, suggested in a memorandum to the United States that “the Government of the Republic is disposed to confer with the powers in the precautions to be taken to prevent the shipment of arms which should be destined for China.” A memorandum of the same date, July 20, 1900, issued by the Department of State indicates that the Secretary of State had given orders to the officers in the various departments concerned “to exercise the utmost vigilance to prevent the dispatch or the landing in China of any arms destined for improper use in that country, and had given direct orders to the consuls of the United States
in China to do all in their power in the same direction.” (Ibid., p. 319.)

In August conditions in China being in no way improved, it was suggested to the United States through its Embassy, that the German Government would like to know the views of the United States Government in regard to placing the American forces under the chief command of Field Marshal Count Waldersee in Chihli, and it was stated that Japan and Russia had already agreed to such an arrangement. The memorandum of the Department of State on this matter was transmitted to the German Foreign Office on August 10. It read:

The Government of the United States will be much gratified to secure the command of so distinguished and experienced an officer as Count Waldersee for any combined military operations in which the American troops take part after the arrival of that officer in China to attain the purposes declared by this Government in the circular note delivered to the powers under date of July 3.

The general commanding the American forces in China has already been authorized to agree with other commanders as to a common official direction of the various forces in their combined operations, preserving the integrity of his American division as a separate organization. A copy of this communication will be transmitted to him.

As a considerable time must elapse before Count Waldersee can reach China and conditions are rapidly changing, it would seem desirable to leave questions of method to be determined in view of the conditions which may then exist. The suggestion of His Majesty the German Emperor that one or more military officers of each nationality should be attached to the headquarters of Count Waldersee to maintain communications with the national contingent meets the approval of this Government. (Ibid., p. 331.)

**Swedish proposition, 1916.**—In 1916 the Swedish Minister in London made known in a memorandum to Colonel House the Swedish desire for—

An effective collaboration with other neutral powers in view of conventional and idealistic interests. The Government, who are sincerely pacific, have been compelled to recognize that the difficulties must increase with the extension of the fight, and
that the possibilities for neutral interests to assert themselves evidently decrease in the same proportion as the circle of neutrals becomes narrowed down through the entry in the struggle of new powers.

The Government are convinced that it would prove a great and irreparable damage if the voice of neutrals could not make itself heard with sufficient weight. With regard to this, the Government do not only think of the difficulties and losses inflicted upon one or the other of neutral countries through undue interference from the belligerents, inconveniences which might have been avoided through a unanimous action of the interested neutral states.

The Swedish Government consider it as the precious duty and the inalienable right of all sincerely neutral countries to intervene with impartiality and firmness against every attempt, whencesoever they come, to render non-valid and void international rules, which are the fruit of centuries of experience and work. By preserving the inheritance of the law of nations, a service is indeed also rendered to the belligerents themselves, who under altered circumstances may one day have bitterly to regret—also from practical point of view—the actions in which they now allow themselves to indulge in order to gain a casual and often doubtful advantage. (1916, Foreign Relations, U. S. Supplement part II, p. 689.)

Sweden had in 1914 joined with Denmark and Norway in an identic note (1914 Id., supplement, p. 360), with which the Netherlands agreed, addressed to the German, French, British, and Russian ministers and protesting against the infringement of the rights of neutrals, and upholding the inviolability of the fundamental rules of international law.

A later communication in a circular telegram to the American diplomatic officers in Europe stated that it was considered inadvisable by the American Government to participate in a conference of neutrals. The geographical remoteness, the failure to include other American republics in the invitation, and the policy of independent action, were given as reasons for the decision.

Defence and restraint.—In some form physical restraint upon the action of man against man has been common from earliest times. The delegation to special
persons of the exercise of this restraint upon the action of one man or a group of men against another man or group of men has gradually grown up as men have united in larger and more unified groups. While at certain stages of civilization, the group itself might mobilize for defense as in early American settlements, at other stages as in modern European states special classes are trained to defend the group with highly technical means. It seemed but a natural development from national to international defense or restraint. International guaranties of security were proposed and sometimes embodied in agreements or treaties. The experience of the nineteenth and early twentieth century has not confirmed the one time belief in the efficacy of such methods.

As states assumed the protection of those subject to their authority, various measures were resorted to to assure the respect for this protection and for the rights claimed for their subjects. Reprisals in some form were approved among early states and quite fully developed in Roman practice and during the Middle Ages. Letters of marque and reprisal and privateering gave evidence of the survival of early methods. Sequestration of public or private property of an offending state or of its nationals, breaking off of official or other relations, expulsion or arrest of nationals, occupation of ports or territory of the offending state, or other measures might be taken in time of strained relations between states. Embargo and nonintercourse acts did put a degree of restraint upon offenders but not always to the anticipated degree. Pacific blockade, retorsion, and other measures short of war were from time to time tried with varying degree of success. The belief became more and more general in the twentieth century, particularly after the Hague Conference of 1899, that concerted action and international agreements would assure an orderly world.

Severally and jointly.—When a group has agreed severally and jointly not merely is the group under obliga-
tion to act to secure the end for which the agreement is made, but each member is under an independent obligation to act. There is not the same obligation to act, however, when a state simply declares its intention to act in a certain manner or to follow a named policy, for its policy may from time to time change as probably was the case when it made the declaration. A declaration, being unilateral, rests upon the state making the declaration, and the use of its forces will depend upon the conditions under which the declaration is made. An agreement, however, has a binding force which implies that other powers as well as the parties to the agreement may expect the terms of the agreement to be fulfilled, though, of course, the agreement does not make unlawful action lawful. Even if many states make identical declarations, this fact does not prevent one of the states from renouncing the position taken in the declaration.

As states A, B, and C have severally and jointly agreed to the boycott of X and Y, the action of one in the boycott is the action of all. The action of each should therefore be that which would most effectively realize the ends for which the boycott was undertaken. The ports of each should be open, so far as the conduct of the boycott is concerned, on the same terms to vessels of all and the conduct of port authorities and other officials should as regards the boycott be similar.

Solution III

(a) The Ajax should determine for what port the Banner is bound, and if for a port of X or if uncertain, should send the Banner to the nearest port of A, B, or C.

If the Banner had sailed before the boycott was proclaimed, the Banner should be notified of the boycott and should be prohibited from entering any port of X.

The Brook should act in the same manner unless for special reasons the Banner should be sent to a port of B.
(b) The *Crown* should take such action as would make certain that the merchant vessel of X goes to a port of B or some port of A or C.

(c) The *Crown*, if assured of the nationality of the *Drone*, may take no action though the *Drone* may be kept from entering ports of X which are effectively closed.

(d) Merchant vessels of X or D, E, and F bound out from X under convoy of vessel of war of X are free to proceed but when bound for X the cruisers of states A, B and C may take action to prevent entrance of the vessels to ports which are effectively closed and may route or take vessels of X bound for X to ports of A, B, and C.