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46. Ne sont pas non plus considérés comme contrebande de guerre :

1. Les objets et matériaux servant exclusivement à soigner les malades et les blessés. Toutefois, en cas de nécessité militaire importante, vous pourrez les réquisitionner, moyennant une indemnité s'ils sont destinés au territoire de l'ennemi ou à un territoire occupé par lui ou à ses forces armées ;

2. Les objets et matériaux destinés à l'usage du navire où ils sont trouvés, ainsi qu'à l'usage de l'équipage et des passagers de ce navire pendant la traversée.—Fr. Ins. 1912.

45. Will not be considered as contraband of war all articles and materials serving exclusively for the care of the sick and wounded ; however, the following products do not benefit by the preceding measure except for amounts up to 25 kilograms (55 pounds) each :

Glycerophosphate of lime, iodoform, iodure vasogene (vasogenous iodide), bromide of camphor, and boro-glycerine.

In case of important military necessity, you can requisition the above mentioned articles and materials, against an indemnity, if they are destined for the territory of the enemy or for a territory occupied by him or his armed forces.—Fr. Ins. 1916.

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## UNNEUTRAL SERVICE

### Definition.

35. Unneutral service is service rendered by a neutral to a belligerent contrary to international law. It is in its nature indirect or direct.—U. S. Ins. 1917.

PAR. 2. Merchant vessels of neutral nationality may according to circumstances be not only detained but also confiscated, in the case of the following forbidden actions :

Transportation of enemy armed forces, enemy news and correspondence ; when on a voyage especially intended for transportation of individuals who form part of the enemy armed forces, or to carry news in the interests of the enemy power ; cruising under command or control of an agent who has been placed on board by the enemy government, and also if the latter has wholly chartered the neutral vessel.—Rus. Reg. Dec. 11, 1916.

*Appendix.*—The following acts are considered on a par with military contraband and involve the same consequences for a neutral vessel and cargo : (1) conveyance of hostile troops, military detachments, and individual military persons, and (2) conveyance of enemy's dispatches—that is, business correspondence between hostile commanders and their agents stationed on a vessel or on territory belonging to or occupied by the enemy.—Rus. Ins. 1900.

7. A ship shall be captured as guilty of giving assistance to the enemy if she—

- (a) Has taken direct part in hostilities;
- (b) Has been entirely chartered by an enemy government, or has on board an agent of such government in control of the ship;
- (c) Is employed exclusively for the transport of troops, or for the transmission of news in the enemy's interest;
- (d) Is engaged in transporting enemy military detachments or persons who during the voyage may render or have lent direct assistance to the enemy's operations with the knowledge of the owner, charterer, or master;
- (e) Is navigating with the specific object of transporting individuals on their way to join the enemy's armed forces.—Italy, P. R. 1915.

Direct.

ART. 46. A neutral vessel is liable to be condemned and, in a general way, is liable to the same treatment which she would undergo if she were a merchant vessel of the enemy—

- (1) If she takes a direct part in the hostilities.
- (2) If she is under the orders or under the control of an agent placed on board by the enemy government.
- (3) If she is chartered entire by the enemy government.
- (4) If she is at the time and exclusively either devoted to the transport of enemy troops or to the transmission of information in the interest of the enemy.

In the cases specified in the present article the goods belonging to the owner of the vessel are likewise liable to condemnation.—D. of L. 1909.

39. A neutral vessel is guilty of direct unneutral service and may not only be captured but may be treated as an enemy merchant vessel—

- (a) If she takes a direct part in the hostilities.
- (b) If she is under the orders or under the control of an agent placed on board by the enemy government.
- (c) If she is wholly chartered by or in the exclusive employment of the enemy government.
- (d) If she is at the time exclusively engaged in, or wholly devoted to, either the transport of enemy troops or in the transmission of information in the interest of the enemy by radio or otherwise.—U. S. Ins. 1917.

61. Vous capturerez également tout navire neutre;

- 1. Lorsqu'il prend une part directe aux hostilités;
- 2. Lorsqu'il se trouve sous les ordres ou sous le contrôle d'un agent placé à bord par le Gouvernement ennemi;

3. Lorsqu'il est affrété en totalité ou en partie par le Gouvernement ennemi ;

4. Lorsqu'il est actuellement et exclusivement affecté soit au transport de troupes ennemies, soit à la transmission de nouvelles dans l'intérêt de l'ennemi.—Fr. Ins. 1912.

62. Dans les quatre cas ci-dessus spécifiés, le navire sera passible de confiscation et, d'une manière générale, passible du traitement qu'il subirait s'il était navire de commerce ennemi.—Fr. Ins. 1912.

55. A neutral ship further renders unneutral service to the enemy—

(a) When it directly takes part in the hostilities. Against such a ship, force of arms is to be used, until its unneutral procedure ceases.

(b) When it is under the order or control of an agent of the enemy government installed on board the ship.

(c) When it has been chartered by the enemy government.

(d) When it is actually and expressly designated for the transport of enemy troops or transmission of information in the enemy's interest.

This applies, in contrast to 48, not to one particular voyage, but on the contrary to a continued employment of the ship for the particular purpose. So long as such employment exclusively continues, unneutral service is rendered, even while the ship lying idle, neither carries troops, nor transmits information.—Ger. O. 1909.

56. So long as circumstances named in 55 continue, the ship is to be treated as hostile. The merchandise in the cargo belonging to the owner of the ship is also confiscable.—Ger. O. 1909.

ART. 80. A neutral vessel is liable to capture in one of the following cases :

(1) If she takes a direct part in the hostilities.

(2) If she is under the orders or under the control of an agent placed on board by the enemy government.

(3) If she is chartered entire by the enemy government.

(4) If she is at the time and exclusively either devoted to the transport of enemy troops or to the transmission of information in the interest of the enemy.

A vessel coming under the preceding paragraph is, in a general way, liable to the same treatment which she would undergo if she were a merchant vessel of the enemy.—Jap. Reg. 1914.

ART. 81. In the cases specified in the preceding article, the vessel and the goods belonging to the owner of the vessel are liable to condemnation.—Jap. Reg. 1914.

ART. 10. Vessel liable to capture (9) if the neutral vessel takes part in this employment, or assists in any way in such operations.—Spain, Ins. 1898.

ART. XLVI. Vessels that are recognized to have been fitted out for the enemy for military purposes, and the goods belonging to the owners of such vessels, shall be confiscated.—Jap. Reg. 1904.

ART. XLVII. Vessels ascertained to have scouted or carried information to give benefit to the enemy or to have done any other acts to assist him, and all goods belonging to the owners of such vessels, shall be confiscated.—Jap. Reg. 1904.

#### Indirect.

ART. 45. A neutral vessel is liable to be condemned and in a general way, is liable to the same treatment which a neutral vessel would undergo when liable to condemnation on account of contraband of war.

(1) If she is making a voyage especially with a view to the transport of individual passengers who are embodied in the armed force of the enemy, or with a view to the transmission of information in the interest of the enemy.

(2) If, with the knowledge of the owner, of the one who chartered the vessel entire, or of the master, she is transporting a military detachment of the enemy, or one or more persons who, during the voyage, lend direct assistance to the operations of the enemy.

In the cases specified in the preceding paragraphs (1) and (2), goods belonging to the owner of the vessel are likewise liable to condemnation. The provisions of the present article do not apply if when the vessel is encountered at sea she is unaware of the opening of hostilities, or if the master, after becoming aware of the opening of hostilities, has not been able to disembark the passengers. The vessel is deemed to know of the state of war if she left an enemy port after the opening of hostilities, or a neutral port after there had been made in sufficient time a notification of the opening of hostilities to the power to which such port belongs.—D. of L. 1909.

36. A neutral vessel is guilty of indirect unneutral service and may be sent in for adjudication as a neutral vessel liable to condemnation—

(a) If she specially undertakes to transport individual passengers who are embodied in the armed forces of the enemy and who are en route for military service of the enemy or to a hostile destination, or transmits intelligence in the interest of the enemy whether by radio or otherwise.

(b) If, to the knowledge of the owner, or the charterer, or of the agents thereof, or of the master, she is transporting a military detachment of the enemy, or one or more persons who are embodied in the military or naval service of the enemy and who are en route for military service of the enemy or to a hostile destination, or one or more persons who, during the voyage, lend direct assistance to the

enemy, or is transmitting information in the interest of the enemy by radio or otherwise.—U. S. Ins. 1917.

37. The above provisions do not apply if, when the vessel is met at sea, she is unaware of the existence of a state of war, or if the master, after becoming aware of the opening of hostilities, has not yet been able to disembark the passengers.—U. S. Ins. 1917.

38. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port after the opening of hostilities, or left a neutral port after the publication there of the notification to the neutral power to which the port belongs of the opening of hostilities.—U. S. Ins. 1917.

55. Vous capturerez tout navire neutre :

1. S'il voyage spécialement en vue du transport de passagers individuels incorporés dans la force armée de l'ennemi ou en vue de la transmission de nouvelles dans l'intérêt de l'ennemi ;

2. S'il vous apparaît que c'est à la connaissance soit du propriétaire, soit de celui qui a affrété le navire en totalité, soit du capitaine, qu'il transporte un détachement militaire de l'ennemi ou une ou plusieurs personnes qui, pendant le voyage, prêtent une assistance directe aux opérations de l'ennemi.—Fr. Ins. 1912.

56. Dans les deux cas spécifiées ci-dessus, le navire sera passible de confiscation et, d'une manière générale, passible du traitement que subirait le navire neutre sujet à confiscation pour contrebande de guerre.—Fr. Ins. 1912.

57. Toutefois les dispositions du paragraphe 54, alinéa 2, ne s'appliquent pas si, lorsque le navire est rencontré en mer, il ignore les hostilités ou si le capitaine, après avoir appris l'ouverture des hostilités, n'a pu encore débarquer les personnes transportées.—Fr. Ins. 1912.

48. A neutral ship renders the enemy unneutral service when she (a) carries out the voyage, departing from her usual employment expressly for the purpose of conveying persons enrolled in the hostile forces or for carrying information in the interest of the enemy ; (b) with knowledge of the owner, charterer, or master, has on board a complete subdivision of enemy troops, or one or more persons who will assist the enemy's operations during the voyage. The captain is among other things empowered to assume this when a ship equipped with radio-telegraphic apparatus is clearly found to be engaged in the transmission of war information within the area of operations and does not comply with an express prohibition.—Ger. O. 1909.

51. So long as the circumstances named in 48 exist, the ship is liable to capture and confiscation. Of the cargo, only the merchandise belonging to the owner of the ship is confiscable.—Ger. O. 1909.

ART. 76. A neutral vessel is liable to capture in one of the following cases :

(1) If she is making a voyage especially with a view to the transmission of information in the interest of the enemy.

(2) If, with the knowledge of the owner, of the one who chartered the vessel entire, or of the master, she is transporting a military detachment of the enemy, or one or more persons who, during the voyage, lend direct assistance to the operations of the enemy.

A vessel coming under the preceding paragraph is liable to the same treatment which a neutral vessel in general would undergo when liable to condemnation on account of contraband of war.—Jap. Reg. 1914.

ART. 77. In the cases specified in the preceding article, the vessel and the goods belonging to the owner of the vessel and liable to be condemned.—Jap. Reg. 1914.

ART. 86. The provisions of this chapter are applicable to Japanese vessels and also to those of allied powers.—Jap. Reg. 1914.

58. Le navire est réputé connaître létat de guerre, lorsqu'il a quitté un port ennemi après l'ouverture des hostilités ou un port neutre postérieurement à la notification en temps utile de l'ouverture des hostilités à la puissance dont relève ce port.—Fr. Ins. 1912.

ART. 78. The provisions of article 76 do not apply if when the vessel is encountered at sea by a Japanese man-of-war she is unaware of the opening of hostilities, or if the master, after becoming aware of the opening of hostilities, has not been able to disembark the passengers. The vessel is deemed to know of the state of war if she left a Japanese port, a port of an ally, or an enemy port after the opening of hostilities, or a neutral port after there had been made in sufficient time a notification of the opening of hostilities to the power to which such port belongs.—Jap. Reg. 1914.

ART. 79. With regard to a vessel which does not know of the opening of hostilities, the commanding officer of a man-of-war shall order the boarding officer to enter in the ship's papers the notification according to Form No. 5, and, if necessary, may take measures he thinks fit, such as change of route, etc.—Jap. Reg. 1914.

ART. 10. Vessel liable to capture: (6) If she carries on behalf of the enemy officers, troops, or seamen.—Spain, Ins. 1898.

49. Reservists, recruits, and war volunteers proceeding to their places of mustering in, are not to be regarded as "persons embodied in the hostile forces."—Ger. D. O. 1909.

ART. XLII. Contraband persons shall be made prisoners and contraband papers shall be forfeited. Any vessel carrying contraband persons or papers and the goods on board which belong to the owner of such vessel, shall be forfeited, unless the captain proves that not by his own fault he is unacquainted with the fact.—Jap. Reg. 1904.

46. Ships engaged in transmitting information in the interest of the enemy or vessels engaged in enemy service and the cargo belonging to the owner of such vessels are liable to condemnation.—China, Reg. 1917.

ART. XI. Contraband persons are the enemy's military men and others who are being transported to be employed for hostile purposes.—Jap. Reg. 1904.

44. Hostile persons are liable to capture as prisoners of war. Vessels carrying hostile persons and the cargo belonging to the owner of the vessel are liable to condemnation, unless proofs are given to show that the ship had no knowledge of the passengers of enemy character.—China, Reg. 1917.

63. Vous remarquerez que le transport des dépêches officielles ne peut être incriminé que s'il est fait à titre spécial; dans le cas contraire, vous vous conformerez aux dispositions de l'Article XVI ci-après.—Fr. Ins. 1912.

50. By "transmission of information" is meant any communicating of information, whether written or oral, or by signal or radio-telegraphy.—Ger. O. 1909.

ART. 10. Vessel liable to capture: (7) If she carries letters and communications of the enemy, unless she belong to a marine mail service, and these letters or communications are in bags, boxes, or parcels with the public correspondence, so that the captain may be ignorant of the contents.—Spain, Ins. 1898.

ART. XII. Contraband papers are all official correspondence of the officers of the enemy's government. Official correspondence between the enemy's government and its ministers and consuls residing in neutral States, and official correspondence between the enemy's government and the government of neutral States are not, however, contraband.—Jap. Reg. 1904.

ART. 10. Vessel liable to capture: (8) If the vessel is employed in watching the operations of the war, either freighted by the other belligerent or paid to perform this service.—Spain, Ins. 1898.

#### Delivery of persons at sea.

ART. 47. Any individual embodied in the armed force of the enemy, and who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.—D. of L. 1909.

59. Alors même qu'il n'y aurait pas lieu de capturer le navire, vous pourrez faire prisonnier de guerre tout individu incorporé dans la force armée de l'ennemi et qui sera trouvé à bord d'un navire de commerce neutre. Vous demanderez tout d'abord au capitaine du navire de vous remettre ces individus. En cas de refus de



sa part, vous passerez outre et vous les ferez prisonniers de guerre. En cas de résistance de la part du personnel du navire, vous capturerez le navire.—Fr. Ins. 1912.

60. Le personnel religieux, médical et hospitalier ennemi trouvé à bord d'un navire de commerce neutre ne peut être fait prisonnier de guerre; mais, avant de laisser libre ce personnel, vous vous assurez avec soin de la réalité de son caractère. En cas de doute, vous pourrez le retenir dans la forme ci-dessus indiquée jusqu'à ce que la preuve de ce caractère soit établie.—Fr. Ins. 1912.

53. Every person enrolled in the forces of the enemy who is found on board a merchant ship may be made a prisoner of war, even when the ship herself is not liable to capture.—Ger. O. 1909.

54. Persons who, without being embodied in the armed forces of the enemy, render direct assistance to the operations of the enemy during the voyage may be taken as prisoners only if the vessel is captured at the same time.—Ger. O. 1909.

8. Persons belonging to or intending to join the enemy's armed forces found on board a neutral vessel may be made prisoners of war, even though the ship be not subject to capture.—Italy, P. R. 1915.

PAR. 3. Anyone, forming part of the armed forces of the enemy and found on a neutral vessel (merchant) may be taken war prisoner, even if there is no reason for seizing the vessel.—Rus. Reg. Dec. 8, 1916.

ART. 82. Any individual embodied in the armed force of the enemy, and who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.—Jap. Reg. 1914.

ART. 83. In the case of the preceding article, the boarding officer, by order of the commanding officer of the man-of-war, may request the master of the vessel to deliver such individuals. If the master refuses to deliver them, the boarding officer shall seize such individuals and, if the crew of the vessel resist, shall capture the vessel.—Jap. Reg. 1914.

ART. 84. In the case of the preceding article, the boarding officer shall prepare a document in duplicate regarding the delivery according to Form No. 7 and shall give one copy to the master of the vessel.—Jap. Reg. 1914.

ART. 85. In case the master of the vessel objects to the delivery of individuals specified in article 82, the commanding officer of the man-of-war shall immediately report to the Minister of the Navy the gist of the objection and the measures he has taken.—Jap. Reg. 1914.