

International Law Studies – Volume 25

International Law Documents: Regulation of Maritime Warfare

U.S. Naval War College (Editor)

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.

ART. 8. Le belligérant qui transforme un navire en bâtiment de guerre doit, le plus tôt possible, mentionner cette transformation sur la liste des bâtiments de sa flotte militaire.—Institut, 1913.

#### Place.

ART. 9. La transformation d'un navire en bâtiment de guerre ne peut être faite par un belligérant que dans ses propres eaux, dans celles d'un Etat allié également belligérant, dans celles de l'adversaire, ou enfin dans celles d'un territoire occupé par les troupes de l'un de ces Etats.—Institut, 1913.

#### Status.

ART. 112. The conversion into a man-of-war is connected with the requirements of Convention VII, second Hague Conference.—Ger. O. 1909.

ART. 15. With regard to conversion of merchant ships into men-of-war, the provisions of the treaty No. 7 of 1912, a treaty relating to conversion of merchant ships into men-of-war shall be followed.—Jap. Reg. 1914.

NOTE.—The treaty referred to is Convention VII, Hague, 1907.

#### Conversion of war vessel.

ART. 10. *Transformation des bâtiments de guerre en navires publics ou privés.*—Un bâtiment de guerre ne peut, tant que durent les hostilités, être transformé en navire public ou en navire privé.—Institut, 1913.

---

## CONVOY

#### Suspected vessel.

ART. 98. If the commanding officer of the Japanese man-of-war has reason to suspect that the confidence of the commander of the convoy has been abused, the Japanese commanding officer shall communicate his suspicions to the commander of the convoy. In this case it is for the commander of the convoy alone to conduct an investigation. However, if the commander of the convoy requests the assistance of the commanding officer of the Japanese man-of-war, the latter may dispatch an officer under him as a witness. The result of such investigation will be stated in a report by the convoying ship, of which a copy is to be furnished to the officer of the Japanese man-of-war.—Jap. Reg. 1914.

#### Suspected vessel, capture.

ART. 99. If in the opinion of the commander of the convoy there are facts which justify the capture of one or more vessels, and if the protection of the convoy has been withdrawn from such, the commanding officer of the Japanese man-of-war shall capture it or them.—Jap. Reg. 1914.

**Objection of commanding officer.**

ART. 100. If the commanding officer of the Japanese man-of-war does not agree with the opinion of the commander of the convoy with regard to vessels under convoy of neutral ships of war, the Japanese commanding officer shall send an objection to the commander of the convoy and shall immediately report the same to the Minister of the Navy.—Jap. Reg. 1914.

**Exemption from visit and search.**

ART. 97. Neutral vessels under convoy of their national flag are exempt from search if the commander of the convoy, by request of the commanding officer of a Japanese man-of-war who wants to visit the vessels, gives in writing all information as to the character of the vessels and their cargoes, which could be obtained by visit and search.—Jap. Reg. 1914.

**Neutral.**

ART. 61. Neutral vessels under convoy of their national flag are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent ship of war, all information as to the character of the vessels and their cargoes, which could be obtained by visit and search.—D. of L. 1909.

ART. 62. If the commander of the belligerent ship of war has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to conduct an investigation. He must state the result of such investigation in a report, of which a copy is furnished to the officer of the ship of war. If, in the opinion of the commander of the convoy, the facts thus stated justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.—D. of L. 1909.

51. Neutral vessels under convoy of vessels of war of their own nationality are exempt from search. The commander of the convoy gives orally or in writing, at the request of the commander of a belligerent ship of war, all information regarding the vessels and their cargoes which could be obtained by visit and search.—U. S. Ins. 1915.

87. Les navires neutres sous convoi de leur pavillon sont, en principe, exempts de visite. Toutefois vous agirez à leur égard comme il est dit à l'article suivant.—Fr. Ins. 1912.

18. No visit shall be made on board of vessels under the convoy of the warships of neutral countries. But upon the request of the captain of the warship, the captain of the neutral warship acting as convoy shall give a detailed statement regarding the nature of the vessel under his convoy, the cargoes on board and its destination and also produce a conclusive proof that the vessel is not of sus-

picious character under any of the circumstances as provided under article 11.—China, Reg. 1917.

**Neutral, suspected vessel.**

52. If the commander of the United States vessel has reason to suspect that the commander of the convoy has been deceived regarding the innocent character of any of the vessels (and their cargoes or voyages) under his convoy, the former officer shall impart his suspicions to the latter. In such a case it is to be expected that the commander of the convoy will undertake an examination to establish the facts. The commander of the convoy alone can conduct this investigation; the officers of the United States visiting vessel can take no part therein.—U. S. Ins. 1917.

53. The commander of the convoy may be expected to report the result of his investigation to the commander of the United States vessel. Should that result confirm the latter's suspicions, the former may further be expected to withdraw his protection from the suspected vessel; whereupon she shall be made a prize by the commander of the United States vessel.—U. S. Ins. 1917.

104. Si vous avez lieu de soupçonner que la religion du commandant du convoi a été surprise, vous lui communiquerez vos soupçons. C'est au commandant du convoi seul qu'il appartient, en ce cas, de procéder à une vérification. Vous pourrez cependant accepter l'offre qu'il vous ferait d'assister à cette vérification. Il devra constater le résultat de cette visite par un procès-verbal dont une copie sera remise à l'un de vos officiers. Si des faits ainsi constatés justifiaient, dans l'opinion du commandant du convoi, la saisie d'un ou de plusieurs navires, la protection du convoi devrait leur être retirée, et vous procéderiez à cette saisie.—Fr. Ins. 1912.

**Neutral, statement of commander.**

103. *Convoi*.—En ce qui concerne les navires sous convoi, le commandant du convoi vous donnera par écrit, à votre demande, sur le caractère des navires convoyés et sur leur chargement, toutes informations que la visite servirait à obtenir.—Fr. Ins. 1912.

6. Neutral ships under convoy of their man-of-war flag are exempt from visit and search. The commander of the convoy has to give the captain in writing at his request, concerning the character of the ship or her cargo, any information which could be ascertained by searching. If the captain has reason to believe that the commander of the convoy has been deceived, he will inform him of his reasons for his suspicion. In such case it is the duty of the commander of the convoy alone to have an investigation. He must state the results of the investigation in a protocol of which a copy is to be given to the officer of the belligerent ship. Should the ascertained facts in the opinion of the commander of the convoy justify

the seizure of one or more ships, the protection of the convoy must be withdrawn from them. Should on the other hand the commander of the convoy believe that he may still answer for the innocence of the convoyed ships, the captain may only enter a protest against this decision; he will then report the case to the admiralty staff, for settlement through diplomatic channels. It rests with the commander of the convoy whether or not to permit a representative of the captain to take part in the investigation.—Ger. O. 1909.

**Neutral, protest.**

105. Si des divergences s'élèvent entre vous et le commandant du convoi, notamment à propos de la contrebande, vous pourrez seulement lui adresser une protestation écrite. Vous m'en rendrez compte immédiatement, et la difficulté sera réglée par voie diplomatique.—Fr. Ins. 1912.

**Neutral, declaration.**

10. Neutral vessels convoyed by a ship of war shall be exempt from visit provided that the commander of the convoy declares in writing the character and cargo of the convoyed vessel in such a manner as will enable all information to be available which could be obtained by exercising the right of visit. If the naval officers in command have reason to think that the good faith of the commanding officer of the escort has been imposed upon, they will communicate to him their suspicion, so that he may on his own account make the necessary verifications and issue a written report.—Italy, Dec. 1915.

11. Merchant vessels sailing under convoy, under charge of one or more ships of the navy of their nation, are absolutely exempt from the visit of the belligerents, being protected by the immunity enjoyed by the war ships. As the formation of a convoy is a measure emanating from the government of the State to which belong the vessels protecting the convoy, as well as the vessels under convoy, it must be taken as certain that the government in question not only will not allow fraud of any kind, but has employed the strictest measures to avoid fraud being committed by any of the vessels under the convoy. It is therefore useless for the belligerent to inquire of the chief officer of the convoy whether he guarantees the neutrality of the ships sailing under his charge, or of the cargo they carry.—Spain, Ins. 1898.

6. In time of war at sea merchant vessels (acknowledged to be which are all vessels not belonging to the "war" navy) may be subjected to stoppage and examination for the purpose of ascertaining their nationality and whether they are observing neutrality. Merchant vessels sailing under military convoy of an allied or neutral power are not subjected to examination, provided the com-

mander of the convoy furnishes a certificate as to the number of vessels being convoyed, their nationality, and the destination of the cargoes, and also as to the fact that there is no contraband of war on the vessels. The stoppage and examination of these vessels is permitted only in the following cases:

(1) When the commander of the convoy refuses to give the certificate mentioned; (2) when he declares that one or another vessel does not belong to the number of those sailing under his convoy, and (3) when it becomes evident that a vessel being convoyed is preparing to commit an act constituting a breach of neutrality.

—Rus. Reg. 1895.

ART. XXXIII. A neutral vessel under convoy of a war vessel of her country shall not be visited nor searched if the commanding officer of the convoying war vessel presents a declaration signed by himself stating that there is on board the vessel no person, document, or goods that are contraband of war, and that all the ship's papers are perfect, and stating also the last port which the vessels left and her destination. In case of grave suspicion, however, this rule does not apply.—Jap. Reg. 1904.

#### Enemy.

54. Any vessel under convoy of a vessel of war of an enemy is liable to capture.—U. S. Ins. 1917.

106. Le fait, pour un neutre, de se faire convoier par un bâtiment de guerre ennemi, c'est-à-dire se placer sous sa protection, le rend suspect et forclos du droit de se plaindre s'il est atteint d'avaries ou même détruit dans le combat.—Fr. Ins. 1912.

107. Le fait, par un navire de commerce ennemi, de se faire convoier par un bâtiment de guerre ennemi l'expose à toutes vos attaques, directes et indirectes.—Fr. Ins. 1912.

ART. XLIX. Vessels voyaging under convoy of the enemy's men-of-war, and all goods belonging to the owners of such vessels, shall be forfeited.—Jap. Reg. 1904.

47. The vessel and cargo under the convoy of enemy flag are liable to condemnation.—China, Reg. 1917.

ART. 101. Vessels under convoy of the enemy flag are liable to capture. Vessels coming under the preceding paragraph may be attacked and destroyed according to necessity.—Jap. Reg. 1914.

#### Enemy, liability of property.

ART. 102. Vessels voyaging under convoy of the enemy flag and their cargoes are liable to condemnation.—Jap. Reg. 1914.