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International Law Documents: Regulation of Maritime Warfare

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NEUTRAL JURISDICTION

INVIOLABILITY

Belligerents to respect.

ART. 1. Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any power, constitute a violation of neutrality.—XIII, H. C. 1907.

ART. 1. Les règles spéciales à la guerre maritime ne sont applicables qu'à la pleine mer et aux eaux territoriales des belligérants à l'exclusion des eaux qui, sous le rapport de la navigation, ne doivent pas être considérées comme maritimes. Institut, 1913.

1. Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from all acts which would constitute, on the part of the powers which knowingly permitted them, a nonfulfillment of their neutrality.—U. S. Ins. 1917.

No hostilities in.

ART. 2. Any act of hostility, including capture and the exercise of the right of search, committed by belligerent warships in the territorial waters of a neutral power, constitutes a violation of neutrality and is strictly forbidden.—XIII, H. C. 1907.

12. All acts of hostility, including capture and the exercise of the right of visit and search, committed by belligerent ships of war in the territorial waters of a neutral power, constitute a violation of neutrality and are strictly forbidden.—U. S. Ins. 1917.

22. Vous vous conformez strictement aux interdictions imposées aux belligérants par la Convention XIII de La Haye, du 18 octobre 1907, concernant les droits et devoirs des Puissances neutres en cas de guerre maritime.—Fr. Ins. 1912; Art. 21, 1916.

ART. 3. The right of capture does not hold—

(a) Within neutral waters; i. e., within a sea area, 3 sea miles wide, measured from the low-water coast line, bordering the coast and the islands and indentations appertaining thereto. As appertaining are: Islands which are not farther than 6 miles distant from one of the mainland coasts of the same State; indentations whose coast is exclusively in the possession of the neutral State and whose opening is 6 sea miles or less wide.

(b) Within those waters which are by convention closed to operations of war or to ships of war. These are:

(a) The Suez Canal, including its entrance harbors and a sea area of 3 sea miles beyond them. (Art. 4, sec. 1, of the treaty of Constantinople of October 29, 1888.)

(β) The Bosphorus and the Dardanelles, so far as Turkey is not herself a belligerent. (Treaty of London concerning narrow seas of July 13, 1841; art. 10 of the Peace of Paris of March 30, 1865, and Appendix I thereto; art. 2 of the treaty of London of March 13, 1871; art. 63 of the treaty of Berlin of July 13, 1878.)

(γ) The waters of Corfu and Paxe, so far as no other power than Greece, Great Britain, France, Russia, Austria-Hungary, and Germany are parties to the war. (Art. 2 of the treaty of London of November 14, 1863, and art. 2 of the treaty of London of March 24, 1864.)

(δ) The mouths of the Danube. (Art. 42 of the treaty of Berlin of July 13, 1878.)

(ε) The mouths of the Congo and Niger and the coastal waters adjacent thereto. (General agreement of the Berlin conference of February 26, 1888, arts. 25 and 33.) The right of capture may also be no further exercised when a merchant vessel during the course of pursuit or while under visit and search reaches the waters referred to in (a) and (b).—Ger. O. 1909.

ART. 3. Prize law may only be exercised on the high seas not within neutral territorial waters; i. e., within waters which, for a distance of 3 nautical miles from low-water mark, fringe the coast, together with the adjacent islands and bays. This includes islands if they are not more than 6 nautical miles distant and bays if their coast line is exclusively in the possession of neutral States and their entrance is not more than 6 nautical miles wide. A war vessel may, of course, pass through neutral territorial waters in order to hold up a ship outside these limits. International channels are also neutral territorial water, where they are less than — nautical miles wide; this must be taken into account in the case of operations in the sound. Should the ship be held up just outside territorial waters, she should first of all and without any delay be declared captured, and her examination should only be proceeded with after it has been satisfactorily shown that her capture took place outside the territorial limit; should this not have been the case the vessel should at once be released. In this way alone can the ship be prevented from escaping into neutral waters before she has been declared captured and thus having to be released.—Ger. P. C. 1916.

16. The stoppage, examination, and detention of hostile or suspicious vessels and cargoes is permitted throughout the extent of the ocean and other waters, with the exception of those under the dominion of a neutral power or those excluded from military operations by special international agreements.—Rus. Reg. 1895.

ART. 3. When a ship has been captured in the territorial waters of a neutral power, this power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew. If the prize is not in the jurisdiction of the neutral power, the captor government, on the demand of that power, must liberate the prize with its officers and crew.—XIII, H. C. 1907.

ART. 22. A neutral power must similarly release a prize brought into one of its ports under circumstances other than those referred to in Article XXI.—XIII. H. C. 1907.

ART. 3. A ship seized in violation of the foregoing provisions is to be released immediately, especially at the request of the neutral government.—Ger. O. 1909.

3. Seas subject to the sovereign jurisdiction of neutral powers are absolutely inviolable; right of visit may not, therefore, be resorted to within them, even if it be alleged that it was attempted to exercise such right in the open sea, and that, on chase being given, and without losing sight of the vessel pursued, the latter penetrated into neutral waters. Neither may the violation of the rights attaching to such waters be justified under the pretext that the coast washed thereby was undefended or uninhabited.—Spain, Ins. 1898.

31. To the original owner of property detained on waters situated within the dominions of a neutral power or excluded from military operations by special international agreements this property is returned, and damages caused by its detention or injury are only made good on the demand of the proper neutral power or the power which participated in the agreement mentioned, and provided that such demand be made within the course of a year from the day the property was retained. If, however, such demand is not made within the course of the period mentioned the detained property is confiscated for the benefit of the government, without any reward being given to the person who detained it.—Rus. Reg. 1895.

ART. II. No visit, search, or capture shall be made in neutral waters nor in waters clearly placed by treaty stipulations outside the zone of hostile operations.—Jap. Reg. 1904.

ART. 2. Capture at sea shall not be made and other hostile actions shall not be taken in the territorial waters of a neutral country.—Jap. Reg. 1914.

ART. 4. A prize court can not be set up by a belligerent on neutral territory or on a vessel in neutral waters.—XIII, H. C. 1907.

2. No visit, search, or capture of a merchant vessel shall be made in the territorial waters of a neutral country or the waters of a territory which by international treaty stipulation is neutralized.—China, Reg. 1917.

Duty of neutral to protect.

ART. 25. A neutral power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above articles occurring in its ports or roadsteads or in its waters.—XIII, H. C. 1907.

Right of neutral to act.

ART. 26. The exercise by a neutral power of the rights laid down in the present convention can under no circumstances be considered as

an unfriendly act by one or other belligerent who has accepted the article relating thereto.—XIII, H. C. 1907.

INNOCENT PASSAGE

ART. 10. The neutrality of a power is not affected by the mere passage through its territorial waters of warships or prizes belonging to belligerents.—XIII, H. C. 1907.

2. The neutrality of a power is not affected by the mere passage through its territorial waters of ships of war or prizes belonging to belligerents.—U. S. Ins. 1917.

SOJOURN

Regulations impartial.

ART. 9. A neutral power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent warships or of their prizes. Nevertheless, a neutral power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.—XIII, H. C. 1907.

24-hour interval.

ART. 16. When warships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than 24 hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other. The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible. A belligerent warship may not leave a neutral port or roadstead until 24 hours after the departure of a merchant ship flying the flag of its adversary.—XIII, H. C. 1907.

8. When ships of war of opposing belligerents are present simultaneously in the same neutral port or roadstead, a period of not less than 24 hours must elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the adversary.—U. S. Ins. 1917.

ART. 12. In the absence of special provisions to the contrary in the legislation of a neutral power, belligerent warships are not permitted to remain in the ports, roadsteads, or territorial waters of the said power for more than 24 hours, except in the cases covered by the present convention.—XIII, H. C. 1907.

ART. 13. If a power which has been informed of the outbreak of hostilities learns that a belligerent warship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within 24 hours or within the time prescribed by local regulations.—XIII, H. C. 1907.

5. In the absence of special provisions to the contrary in the legislation ordinances, or treaties of the neutral power, belligerent ships of war are forbidden to remain in the ports, roadsteads, or territorial waters of the said power for more than 24 hours, except in the cases covered by paragraphs 6, 7, 8, 9, 10, and 17.—U. S. Ins. 1917.

Extension of stay.

ART. 14. A belligerent warship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end. The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to warships devoted exclusively to religious, scientific, or philanthropic purposes.—XIII, H. C. 1907.

6. A belligerent ship of war must not prolong its stay in a neutral port beyond the period legally allowed except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.—U. S. Ins. 1917.

Number of vessels.

ART. 15. In the absence of special provisions to the contrary in the legislation of a neutral power, the maximum number of warships belonging to a belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.—XIII, H. C. 1907.

4. In the absence of special provisions to the contrary in the legislation, ordinances, or treaties of the neutral power, the maximum number of ships of war belonging to one belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.—U. S. Ins. 1917.

Religious, scientific, philanthropic vessels.

7. The regulations as to the limitation of the length of time which belligerent ships of war may remain in neutral ports, roadsteads, or waters do not apply to ships of war devoted exclusively to religious, scientific, or philanthropic purposes.—U. S. Ins. 1917.

Order of departure.

9. The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of the period of stay legally allowed is admissible.—U. S. Ins. 1917.

10. A belligerent ship of war must not leave a neutral port or roadstead until 24 hours after the departure of a merchant ship flying the flag of its adversary.—U. S. Ins. 1917.

Victualing and coaling.

ART. 19. Belligerent warships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard. Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied. If, in accordance with the law of the neutral power, the ships are not supplied with coal within 24 hours of their arrival, the permissible duration of their stay is extended by 24 hours.—XIII, H. C. 1907.

15. Belligerent ships of war may not revictual in neutral ports or roadsteads except to complete their normal peace supply subject to the approval of the neutral authorities.—U. S. Ins. 1917.

16. Similarly these vessels can take only such fuel and ship supplies as are, in the opinion of the neutral authorities, sufficient to enable the vessels to reach the nearest port of their own country. They may, on the other hand, fill up their bunkers properly so called when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.—U. S. Ins. 1917.

17. If, in accordance with the law of the neutral power, the ships are not furnished with fuel, and victuals and ship supplies and necessary repairs within 24 hours after their arrival, the lawful duration of their stay may be extended a reasonable period by the neutral authorities.—U. S. Ins. 1917.

ART. 20. Belligerent warships which have shipped fuel in a port belonging to a neutral power may not within the succeeding three months replenish their supply in a port of the same power.—XIII, H. C. 1907.

18. Belligerent ships of war which have taken fuel, victuals, and ship's supplies in a port of a neutral power can not within the succeeding three months replenish their supply in a port of the same power.—U. S. Ins. 1917.

Repairs.

ART. 17. In neutral ports and roadsteads belligerent warships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral power shall decide what repairs are necessary, and these must be carried out with the least possible delay.—XIII, H. C. 1907.

19. In neutral ports and roadsteads belligerent ships of war can carry out such repairs only as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The authorities of the neutral power shall decide what repairs are to be made and these must be carried out with the least possible delay.—U. S. Ins. 1917.

Submarines.

1. All submarine vessels of any kind whatsoever, of belligerent powers, are hereby forbidden to navigate in Spanish jurisdictional waters, or to enter the ports of this nation.—Spain, Dec. 1917.

3. Neutral submarines entering Spanish waters shall do so navigating on the surface and displaying conspicuously their national flag.—Spain, Dec. 1917.

BASE**In neutral territory, forbidden.**

ART. 5. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.—XIII, H. C. 1907.

13. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect radio stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.—U. S. Ins. 1917.

ART. 8. A neutral government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations against a power with which that government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.—XIII, H. C. 1907.

ART. 18. Belligerent warships may not make use of neutral ports, roadsteads, on territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.—XIII, H. C. 1907.

14. Belligerent ships of war must not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.—U. S. Ins. 1917.

Employment of pilots.

ART. 11. A neutral power may allow belligerent warships to employ its licensed pilots.—XIII, H. C. 1907.

3. A neutral power may allow belligerent ships of war to employ its licensed pilots.—U. S. Ins. 1917.

INTERNMENT**General.**

ART. 24. If, notwithstanding the notification of the neutral power a belligerent ship of war does not leave port where it is not entitled to

remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures. When a belligerent ship is detained by a neutral power, the officers and crew are likewise detained. The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board. The officers may be left at liberty on giving their word not to quit the neutral territory without permission.—XIII, H. C. 1907.

11. If, notwithstanding the notification of the neutral authorities, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.—U. S. Ins. 1917.

Submarines.

2. All submarine vessels referred to in the preceding article entering Spanish jurisdictional waters for any cause whatsoever, shall be interned until the end of the war.—Spain, Dec. 1917.

SUBMARINES IN NEUTRAL WATERS

Submarines belonging to foreign powers and equipped for use in warfare may not navigate or lie in Swedish territorial waters within 3 nautical minutes (5,556 meters) from land or from extreme outlying skerries, which are not continually washed over by the sea, under peril of being attacked by armed force without previous warning; exception is, however, made for the passage through Oresund between parallels of latitude drawn in the north through Viking Light (latitude, north $56^{\circ} 8' 7''$ and in the south through Klagshamm Light (latitude, north $55^{\circ} 31' 2''$).—Sweden, Dec. 1916.

Submarines, armed for war and belonging to belligerent powers, may not travel in or remain in Norwegian sea territory. If they violate this prohibition they subject themselves to the possibility of seizure by armed force without warning.—Norway, Dec. 1916.

The royal ordinance dated October 13, 1916, respecting the movements or stay in Norwegian territorial waters, etc., of submarine craft equipped for use in war and belonging to a belligerent power has been so amended that on and after February 6, 1917, it shall read as follows: Submarines, equipped for use in war, and belonging to a belligerent power, may not be navigated or remain in Norwegian territorial waters. Breach of this prohibition will render such

vessels liable to attack by armed force without previous warning.—Norway, Dec. 1917.

In the event of a submarine being compelled through bad weather or shipwreck to enter the forbidden area, the above regulation is not applicable, always provided that the vessel while within the mentioned area, shall remain above the surface and fly its national flag as well as the international signal indicating the cause of its presence. The vessel shall leave the area as soon as possible after the reason for its presence there has ceased to exist.—Sweden, Dec. 1916.

This prohibition does not prevent submarines by reason of adverse weather or damage from seeking Norwegian domain to save life. In such case the vessel shall, within the domain, remain above the surface and shall fly the national flag and the international signal, indicating the reason of its approach. The vessel shall leave the domain as soon as the reason which brought about its arrival has ceased.—Norway, Dec. 1916.

This prohibition shall not prevent submarines from seeking Norwegian territorial waters on account of stress of weather, or damage, or in order to save human life; when within territorial waters in such cases the vessel shall be kept at the surface and shall fly her national flag and also the international signal indicating the reason of her presence. As soon as the reasons justifying the arrival of the vessel are no longer present, she shall depart from territorial waters.—Norway, Dec. 1917.

Other submarines may not travel or remain in Norwegian sea territory, except in broad daylight in clear weather and above the surface with national flag flying.—Norway, Dec. 1916.

Submarines that are equipped for use in war and belong to a nonbelligerent foreign power, are also prohibited from navigating or remaining in Norwegian territorial waters, unless by daylight in clear weather, and in surface condition with their national flag displayed.—Norway, Dec. 1917.

Foreign submarines, while traveling in Norwegian waters, must, because of the difficulties connected with distinguishing the different kinds of submarines, bear all risks of any damage, or even destruction, as the result of confusion of the ship's character.—Norway, Dec. 1916.

SPECIAL REGULATIONS

ART. 27. The contracting powers shall communicate to each other in due course all laws, proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately

by that Government to the other contracting powers.—XIII, H. C. 1907.

22. United States naval officers must observe the regulations of neutrality announced by neutral nations.—U. S. Ins. 1917.

DAYS OF GRACE

Vessels in port or entering port ignorant of war.

ART. 1. When a merchant ship belonging to one of the belligerent powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated. The same rule should apply in the case of a ship which has left its last port of departure before the commencement of war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.—VI, H. C. 1907.

ART. 36. *Attenuations au principe de la capture.*—Lorsqu'un navire public ou privé relevant d'une des puissances belligérantes se trouve, au début des hostilités, dans un port ennemi, il lui est permis de sortir librement, immédiatement ou après un délai suffisant, et de gagner directement après avoir été muni d'un laissez-passer, son port de destination ou tel autre port qui lui sera désigné. Il en est de même du navire ayant quitté son dernier port de départ avant le commencement de la guerre et entrant dans un port ennemi sans connaître les hostilités.—Institut, 1913.

5. Vous laisserez librement passer les navires de commerce ennemis qui auront pris des cargaisons à destination de France ou pour compte français antérieurement à la déclaration de guerre. Vous délivrerez un sauf-conduit à ces navires qui pourront librement se rendre dans le port français que vous leur désignerez et y débarquer leur chargement. Mais, si le lieu où vous avez rencontré lesdits navires et la route suivie par eux vous permettent de conclure qu'ils ont manifestement dévié de la route qu'ils devaient suivre d'après leurs papiers de bord, sans qu'ils y soient contraints par les circonstances de leur navigation, vous les capturerez.—Fr. Ins. 1912

ART. 6. Exempt from seizure, are: (e) Enemy merchant vessels which at the beginning of hostilities are making passage from a German or allied port to their destination or to some other port designated for them and are provided with a pass; unless they have departed from their prescribed route without sufficient justification.—Ger. O. 1909.