

International Law Studies – Volume 16

International Law Topics: Neutrality Proclamations and Regulations with Notes

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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.

23. Belligerents are not allowed to detain the arms or contraband of war carried by Chinese vessels between Chinese ports or for or from another neutral country. The ordinary commercial goods carried by Chinese vessels and belonging to a belligerent, as well as all goods belonging to China and carried in belligerent vessels, shall be allowed to pass to and fro without let or molestation.

All belligerents shall recognize and give effect to the passports and certificates issued by China.

24. The cases not provided for in the present articles will be dealt with by China in accordance with the convention respecting the rights and duties of neutral powers and persons in case of war on land and the convention concerning the rights and duties of neutral powers in naval war, concluded between China and the other powers at The Hague in 1907.

COLOMBIA.

Resolution of the Colombian Government relative to the supplies which may be delivered to vessels of war and merchant vessels of belligerent States in Colombian ports. August 13, 1914.

[Republico de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 169.]

MINISTRY OF FOREIGN RELATIONS.

Bogota, August 13, 1914.

In view of the war at present being waged between various European powers;

In view of the notification and communications relating to the clearance of vessels which some of these powers have made to the Government of the Republic by the intermediary of their legations in this city;

Considering the duties imposed on the Colombian Government by its neutrality in reference to the belligerent States, and

Considering the theory followed on this subject by this ministry, which is a result of the conduct pursued by the Colombian Government in the wars of 1879 between Chile, Peru and Bolivia; of 1891 between the Government of Chile and the insurrection which had arisen against it; and of 1898 between Spain and the United States of America;

It is resolved as follows:

The governors of the Departments of Narino, Canca, El Valle, Bolivar, Atlantico, and Magdalena will take for guidance on the subject of the clearance of merchant vessels or vessels of war of the belligerent nations the following rules which will be transmitted to the authorities of the respective ports, to wit:

1. To prevent, by using due diligence, the shipment of arms, munitions, and other materials of war in the vessels of any of the belligerent squadrons.

2. To prevent the shipment of the same articles on merchant vessels if an authorized agent has declared the cargo to be destined for the forces carrying on military operations.

3. To prevent the loading of coal in vessels of the squadron itself unless it is proved that the vessel is unprovided with coal and that it should receive, in order to fill up its bunkers, only the quantity of coal strictly necessary for reaching the nearest foreign port.

4. To permit vessels of war to provide themselves with provisions and other articles not arms, munitions, coal, and other materials of war.

The standard to which the regular practice in this matter is referred is the exact definition of that which should be signified by contraband of war. The primary notion of contraband includes only articles which by their nature are intended for a war-like use. There is also occasionally included as contraband, articles, the classification of which can not be determined in a resolution like the present. The development of commerce and means of war may give the character of occasional contraband to objects which formerly did not have this character. In this case the respective authorities will consult the Minister of Foreign Relations, in other cases they will act conformably to the admitted rules which impart the idea that articles of contraband are restricted to articles which *by themselves* serve for the conduct of war.

The present resolution has a provisional character. It will be applied until a more profound study of the principles and motives on which it is based shall have introduced modifications.

It should be transmitted by telegraph to the governments of Narino, Canca, El Valle, Bolivar, Atlantico, and Magdalena.

Published in the *Journal Officiel*.

By His Excellence the President of the Republic.

The Minister of Foreign Relations,

MARCO FIDEL SUAREZ.

Addition to the resolution of August 13, 1914, on neutrality in reference to the clearance of vessels, especially in the matter of radiotelegraphy. August 22, 1914.

[Republico de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 171.]

MINISTRY OF FOREIGN RELATIONS.

Bogota, August 22, 1914.

Considering that at the Second Conference of The Hague in 1907, the contracting nations have indicated among the obligations of neutral states that of preventing in their waters the use of radio stations installed on vessels of belligerent nations

and of preventing the clearance of merchant vessels which have been armed for war on the high seas;

Considering that the representatives of Colombia have subscribed to these provisions; and

Considering that, although the provisions of the conference cited, to which the Republic adhered, have not yet been approved by the Colombian Congress, these provisions form, nevertheless, a true theory as respectable by its origin as by its clear foundation;

It is resolved as follows:

The following additions are made to the resolution of August 13, 1914, of this ministry on neutrality in reference to the clearance of vessels;

The authorities of the maritime ports of the Republic will notify vessels of the nations at war that they are not permitted, so long as in Colombian waters, to use their radio installations, which should be dismantled during the time; and that in the same circumstances no preparation can be made for converting merchant vessels into vessels of war on the high seas.

Let this resolution be communicated to the governors of Narino, Canca, El Valle, Bolivar, Atlantico, and Magdalena.

Published in the *Journal Officiel*.

By His Excellency the President of the Republic.

The Minister,

MARCO FIDEL SUAREZ.

Resolution, additional to those of August 13 and 22, 1914, on the neutrality of the Republic of Colombia in the present war between various powers, especially in reference to radiotelegraphy. September 1, 1914.

[Republico de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 172.]

MINISTRY OF FOREIGN RELATIONS,

Bogota, September 1, 1914.

Considering:

1. That according to article 7 of the contract made July 19, 1911, between the ministry of the Government and the United Fruit Co. (Compagnie Frutera Unidos) the radio service of the company to Santa Marta should be absolutely neutral in case of war;

2. That conformably to article 45 of the contract made between the ministry of the Government and the radio company the radio service of the company to Cartagena is submitted in case of foreign or internal war to the supervision and the preventive censorship of the local authorities;

3. That, even in cases where there does not exist similar formal and special provisions by the fact alone that the installations of radio telegraphs in Santa Marta and Cartagena are in Colom-

bian territory and furthermore on territory which is the property of the Government, the respective companies which are usufructs or possessors of these installations are bound to respect and not to compromise the neutrality of the Republic;

It is decreed:

The radio station of Santa Marta and the radio station of Cartagena, so long as the present war between various nations lasts, and by this fact itself, the rights and duties of Colombia as a neutral state will be in force, can not be put in use without a strict observance of the provisions of article 7 of the contract of July 19, 1911, and of article 45 of the contract of May 11, 1912. Consequently the use of these stations will be submitted to the supervision and the censorship of the authorities of Santa Marta and Cartagena in such a manner that no communications capable of being considered as having a military character or as favoring operations of war may be sent or transmitted.

Let this decree be communicated by telegram to the governors of Magdalena and Bolivar with mention of urgency, recommending that they acknowledge receipt by telegram and immediately publish measures such that the decree may receive a prompt and complete effect.

Published in the *Journal Oficial*.

By His Excellency the President of the Republic.

The Minister,

MARCO FIDEL SUAREZ.

Resolution additional to those of August 13 and 22 and September 1, 1914, on the neutrality of the Republic of Colombia in the present war between various powers, especially in reference to radiotelegraphy. September 11, 1914.

[Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 173; Rev. Gén., Doc. 23:28.]

MINISTRY OF FOREIGN RELATIONS,

Bogota, September 11, 1914.

Considering:

1. That, conformably to article 45 of the contract made May 11, 1912, between the ministry of the Government and the radio company of Cartagena, the company in case of foreign war is under the obligation to submit its service to the supervision of the local authorities and the transmission and delivery of its dispatches to the preventive censorship of the same authorities;

2. That, as is known, the condition of a foreign war is at present being realized and that consequently the obligations of supervision and preventive censorship exercisable by the local authorities are in effect for the company;

3. That, according to the indications of the government of Cartagena, this supervision and preventive censorship, to be effective, requires the cooperation of experts with the necessary quali-

fications of ability and of neutrality demanded by the existing circumstances;

4. That at this time there are not at hand experts who combine such qualifications, which renders it impossible to accomplish the functions which the contract has imposed upon the local authorities;

5. That, for this reason, the Government has received some complaints and reclamations against the transmission of dispatches at the radio station of Cartagena, complaints and reclamations founded on the fact that the radio company has disregarded the neutrality of the Republic in the war carried on by various States;

It is resolved:

The service of the radio station of Cartagena is temporarily suspended until, by virtue of the cooperation of suitable experts, the supervision and preventive censorship of the local authorities may be realized in the service of the station and in the transmission and delivery of its dispatches. As soon as suitable experts can be employed, who will render possible the preventive censorship and in this manner the neutrality of the Republic will in a measure be clearly guaranteed, the station can resume its service by submitting to the obligatory censorship and supervision.

The governor of Cartagena in notifying this decision, will also warn the radio company, conformably to article 18 of the contract of May 11, 1912, that the nonaccomplishment of article 15 or of any of the stipulations of the contract will give the Government the right to declare the contract void by administrative action.

Communicated by emergency telegram to the government of Cartagena.

Published in the *Journal Oficial*.

By His Excellency the President of the Republic.

The Minister,

MARCO FIDEL SUAREZ.

Circular of the Minister of Foreign Relations of Colombia to the editors of periodical publications in Colombia on the subject of the neutrality which the press should observe in the present war. November 27, 1914.

[Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 119; Rev. Gén., Doc. 23: 31.]

MINISTRY OF FOREIGN RELATIONS,

Bogota, November 27, 1914.

MR. EDITOR: The gigantic war which has for four months desolated various nations and afflicted the world affects not only the belligerents but creates very delicate and grave duties for neutrals. From first to last civilized peoples all meet in neutrality occasions for fear and annoyance because of the importance of their duties as well as because of the dangers which nonobserv-

ance of these duties may bring in the shape of possible future reclamations.

When our Government spoke for the first time of Colombian neutrality in the present war, certain writings, termed the official resolutions, "ridiculous acts," attributing to the idea of nation an importance which it does not have. These publicists have without doubt forgotten the first rudiments of these questions, since it is known that all international persons, feeble or powerful, have duties and rights in time of peace or in time of war.

Neutrality imposes obligations primarily upon governments, their agents, and their forces, but the civil society, that is to say the people, individuals, and associations, and the organs of public opinion are no longer in this respect exempt from certain duties. Although the progress of law to-day tends to limit war to governments and to armies relieving the population from hostilities, neutrality on the contrary by virtue of analogous humanitarian ideas tends to be applied to the population itself as well as to the authorities. To-day, the public opinion of the United States conceives of a social neutrality inspired not by strict law but by common prudence and fraternity and disposed to consider the susceptibilities of peoples.

The most fertile field of application for this new conception of neutrality is the periodical press. The press can inflame the opinion of a neutral society and occasion there veritable damages by its tone and its criticisms. There may result from this deplorable consequences as the injury of aliens domiciled in the territory, traditional friends of the nation in which they reside, bound to it by the bonds of family and useful to its progress and to its culture; as offenses to powerful governments in the person of their rulers or their sovereigns, who will bring it about that later their governments will not regard the country with favor, although it may have need of them for the development of its credit and its commerce; as finally an attain upon a good public reputation, of which a cultivated press is the principal element.

A course, discreet, correct, and moderate on the part of the periodical publications whenever they treat of facts relative to the belligerents should be regarded as a kind of duty for neutral societies, although it is a question here of an imperfect duty, for there is a want of sanction. Thus one can not disapprove, Mr. Editor, of the complaint which, under date of the 25th instant, his excellency the minister of the German Empire at Bogota addressed to this ministry against certain articles published by the press of this capital, any more than of the reply of the minister to his excellency indicating publicly the ideas and sentiments expressed in the present circular.

Not because the public authorities are the only personalities upon whom is incumbent the duty of showing neither favor nor hostility to belligerents, nor because impartiality can coexist with

sympathies or antipathies more or less definite, nor finally because the liberty of the press authorizes in practice all kinds of publications, ought one to admit as proper the possibility for the press to take no account of truth, courtesy, and good will.

Absolute liberty of the press does not nullify the duty here in question. If to-day it has begun to be recognized that culture, truth, and good will are imposed on periodicals from the point of view of neutrality, that is to say, that such practices are becoming a duty between nations, and if international law constitutes a part of the law of a country, it clearly results that these rules of propriety should impose an obligation upon the most free press.

The fact that neutrality can coexist with sympathy no longer justifies the doctrine which we combat.

Sympathy is a thing, just and indeed necessary, for a state of absolute indifference is impossible for the spirit or for the soul. But sympathies and antipathies can be expressed in the reasonable form of truth, in the respectful form of courtesy, and in the Christian form of good will.

It is no longer true to say that once the Government has officially observed impartiality, associations, individuals, and the press can express themselves as they please, for we have seen that such an attitude may wound aliens domiciled in the country, occasion the hostility with all its injurious consequences of powerful governments, tarnish the good reputation of the country itself.

A proof of the truth of the preceding reflections is found in some passages of the famous speech delivered on September 9 by Senator Stone, chairman of the Committee on Foreign Relations of the Senate of the United States :

Another thing to which I desire to call especial attention and emphasize is the partisan attitude being assumed by many of the great publications of this country. Knowing how potent these publications can be in creating public opinion and in fomenting factional strife, it is natural that those upon whom the responsibilities of government are cast should look upon this particular phase of partisanship with deep solicitude and apprehension. The managers of these great publications, even far more than individual citizens in more private walks, should be very mindful of the patriotic duty they owe their own country in this great emergency. It is a source of profound regret that so many influential journals and periodicals are beginning to take sides in this mighty contest, and are beginning not only to express their sympathies for the one side or the other, but to indulge in harsh criticism and sometimes in denunciations of the Governments and the armies of those with whom they are not in accord. This is not only hurtful at home in exciting animosities among our own people, but it creates bad impressions and arouses hot resentments abroad; and moreover it should be manifest to every man that this sort of thing works estrangements and makes free and cordial intercourse between this Government and the Governments of the nations at war more difficult and embarrassing. How can any patriotic and right-thinking American forget that ours is the only one of the great world powers holding the enviable but delicate position of absolute neutrality? To that policy, founded upon the love of peace and springing from an honest desire to be of service to mankind, we are pledged by the most solemn assurance, and to a strict observance of that pledge we are bound by every consideration of national interest and honor. It is

amazing that great editors and publishers should so forget the supreme duty they owe to their own Government as to become callous about and thoughtless of the Nation's plighted faith, and to indulge in vituperative attacks upon the rulers or the Governments of any of the belligerent powers, or seek to arouse against any of them a hostile public sentiment in this country.¹

Nothing is more natural than to give information on the progress of a conflict which interests us much, as it interests all people; but this information, far from augmenting the feelings to which the existence of any struggle naturally gives birth, should tend to develop the views which we formulate in order that concord may replace hate and in order that there may be an end to a warlike devastation, the greatest in which man has yet taken part. Thus commands justice, interest, and the spirit of religion; thus persuades the conditions of the States in conflict. How much is it to be desired that a state of peace and progress be reestablished for all of them? Belgium, the fine nation of industry and social well being merits more than any other people that such a wish be realized. France merits it also, for she is the organ *par excellence* of the civilization of the world. England, the same, by reason of the services which she has rendered for centuries to the liberty of peoples. The German Empire equally merits it, for her powerful culture in which is combined science, commerce, industry, public instruction, and domestic morality; Austria for the prestige of the Holy Empire which the diverse elements of her nationality entails; Russia, because some day to the grandeur of her territory will be added the grandeur of social and political reforms. The same wish corresponds to our ardent desire that there be an end to a war which already overwhelms us by the fatality of its consequences and which each day renders more injurious to us.

If you wish, Mr. Editor, to interpret faithfully the feelings of this circular, elaborated according to the instructions of the Republic, you must see in it not the need of acting as a schoolmaster, but the intention of preventing for the Government the difficulties of complaints and the desire to render peace so effective in our territory that its wings will cover even the manifestations relating to the modest neutrality of our fatherland.

I have the honor to be your respectful servant and compatriot,

MARCO FIDEL SUAREZ.

Resolution by which the radio station of Cartagena is closed during the European war. December 5, 1914.

[Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 116.]

MINISTRY OF FOREIGN RELATIONS,

Bogota, December 5, 1914.

Considering that in article 15 of the contract made May 23, 1912, between the ministry of the Government and the radio com-

¹ Congressional Record, 51 : 14853.

pany at Cartagena (Gesellschaft für Drathlose Telegraphie. M. B. H.) it is stipulated that in case of foreign war the radio station can function under the inspection and the censorship of the Government, the object obviously being to assure the neutrality of the Republic in relation to the belligerents;

Considering that, in the first days of the European war, care was taken to establish the inspection and the censorship stipulated in the contract, but that later it became clear that these measures would not be satisfactory because of the lack of competent experts effectively representing the Government in order to give assurance that the station will neither receive nor transmit messages capable of violating the territorial neutrality of Colombia;

Considering that by reason of this circumstance the radio station of Cartagena has been provisionally closed until a competent technician has been found to exercise the supervision and censorship of the radiotelegraph;

Considering that, subsequently, the technician desired was found and that a contract was made with him requiring a monthly remuneration of 1,200 pesos in gold, charged to the Government, and that his presence at Cartagena and his supervision of the station has been constant, in such a manner that no messages have been received or transmitted without the interpretation of the censor, and for this reason it was ordered that only messages in the Spanish, English, or French languages would be allowed and that the use of any cipher whatsoever would be prohibited;

Considering that the supervision and the censorship to which the Government has a right by virtue of the contracts cited and to which it was obligated by reason of its duties of international neutrality having been established in this manner, the legation of Great Britain has asked that the German employees be excluded from the radio station;

Considering that, in spite of the fact that the censorship exercised by means of the technician named for this work has been constant and has prevented, in the opinion of the Government, all messages contrary to neutrality, the Government, at the departure of the inspector of the station which was closed, wished finally to follow in the circumstances the practice which the Government of the United States would adopt, and with this object obtained the necessary information;

Considering that consequently it has been ordered to exclude absolutely from all employment or from all business in the radio station every employee, German or belonging to any other nationality engaged in the present European conflict, the measure being notified in sufficient time to those interested by the governor of Cartagena;

Considering that, by reason of the closing of the station at this time on account of an injury to the apparatus and of the

absence of the censor inspector who has been replacing the commission relative to neutrality on the coasts of Darien, it has not been necessary to name the controller, who, in the pay of this Government, should audit the accounts of radiotelegraphy in order to pay them periodically to the company;

Considering that the resolution of the Government having been notified to the representative of the Telefunken Co. at Bogota, the legation of the German Empire in this city declared by a note of this day that the company saw no objection to closing the station, to count from this day until the end of the war which has given rise to the present situation of neutrality, and that it would demand of the Government no indemnity for the time during which the inactivity of the radio station might last, all this being considered as an act of spontaneous solicitude on its part;

It is resolved as follows:

The ministry accepts in the name of the Government the declaration made by his excellency, Dr. Kracker von Schwartzfeldt, envoy extraordinary and minister plenipotentiary of the German Empire, in a note of this day, and in the name of the radio company of Cartagena, by which the said company is said to desire the closure of the station, renouncing all claims for the *lucrum cessans*. The Government is pleased to recognize the spirit of friendship and justice which this declaration indicated.

The necessary instructions will be transmitted to the governor of Cartagena, so that, agreeably to the representatives of the company at the above-mentioned stations, this will be closed and the apparatus put in a place of security in such a manner that it will not suffer deterioration or damage by reason of non-usage during the time of closure, and that all the other acts, which in view of the local and special circumstances are necessary for the efficiency of the closure and for preventing all damages to those interested, may be executed.

Published in the *Journal Officiel*.

By His Excellency the President of the Republic.

The Minister,

MARCO FIDEL SUAREZ.

Resolution additional to those relating to radio stations in Colombian territory. July 14, 1915.

[Republica de Colombia, Informe del Ministerio de Relaciones Exteriores al Congreso de 1915, p. 188.]

MINISTRY OF FOREIGN RELATIONS.

Considering:

1. That in Colombian territory there are at present established a radio station situated at Cartagena belonging to a German company, a station at San Andres de Providencia, the

object of a contract between the Government and a German company and which has been admitted by the respective authorities; finally, a station at Santa Marta which is the property of a company of the United States;

2. That the station at Cartagena has been closed voluntarily by its proprietors and possessors since the first days of December, 1914, following an official note of the honorable legation of the German Empire in this city of the 5th of the said month;

3. That the station at San Andres, although the property of the Colombian Government, has not remained continuously in operation and that it has been closed by order of the Ministry of the Government in view of the impossibility of finding a neutral expert who can look after its service in a permanent manner;

4. That the station at Santa Marta is to-day in activity and offering its service to commerce and to the public in accord with its rights and rules;

5. That in Colombian ports of the Atlantic there have been and at present are merchant vessels of belligerent nationality whose radio apparatus has been rendered incapable of service on the order of the authorities of the Republic;

6. That the station of Cartagena, since it has been closed, has remained materially incapable of operation because of the means taken for preventing its use, and has also remained morally incapable of being employed as a consequence of the declaration made voluntarily by his excellency the German minister at Bogota;

7. That, in spite of these measures ordered from the beginning and others adopted later, for example, those relating to the antennæ of apparatus which have been brought down and surrounded by water, the Government has promised the legations most interested in this subject to increase the precautions for the protection of its neutrality to the end of assuring so far as possible the rights of belligerents as well as its own duties and rights;

8. That to this end, apart from the constant vigilance exercised by the authorities of Cartagena and by the official expert who represents the Government, conformably to the contract of September 17, 1914, the above-mentioned station has been studied and its condition has been investigated by two neutral foreign technicians, one a radio expert of the vessel *Carillo* and the other a similar expert of the vessel *Santa Marta*, both of Anglo-American nationality, who have declared that the use of the station at Cartagena has been completely prevented and is absolutely impossible;

9. That, in addition to the declaration of its own technical commissaire and of the declarations of the foreign neutral experts indicated, the Government has attempted to obtain from the United States, with the exclusive object of proceeding to a new investigation of the situation, an expert in the pay of the

Republic, it being impossible to have an expert of Austrian nationality, evidently disqualified for such a mission ;

It is resolved:

1. The radio station of Cartagena will continue, subject to the measures previously adopted for preventing its use, under the inspection and supervision of the official Colombian expert and the local political authorities. If these authorities, in accord with the expert, consider new orders or new measures necessary for the better assurance of the neutrality of the Republic, they will decree them on their own authority in urgent cases and in ordinary cases will consult this ministry. The home of the German employees who previously worked in the station will not be troubled, although this home be near the place of the radio apparatus, the use of this apparatus continuing to be absolutely impossible.

2. The station of San Andres will remain closed for a time and in the manner which will be indicated by the competent ministry.

3. The station of Santa Marta can continue to exercise its rights, but subject always to the departmental and national authorities; but it can not have in its service individuals of the nationality of any of the belligerents.

4. The vessels belonging to belligerent states and lying in Colombian waters will continue to be subject to the supervision and to the inspection of the authorities of the Republic, and their apparatus will remain incapable of operation and paralyzed in a manner believed to be effective; and, if necessary, they will be transported to land, in whole or in part, as will be prescribed.

Let this resolution be communicated to the honorable legations of the United States, Great Britain, the German Empire, and the French Republic in this city and transmitted by courier to the governors of Bolivar, Atlantico, and Magdalena.

Published in the *Journal Officiel*.

Done at Bogota, July 14, 1915.

By His Excellency the President of the Republic.

The Minister,

MARCO FIDEL SUAREZ.

CUBA.

*Proclamation of neutrality, August 5, 1914.*¹

[Boletin Oficial de la Secretaria de Estado, 1914, p. 361.]

To the citizens of Cuba:

According to the official information received at the Office of the Secretary of State, there actually exists a state of war be-

¹ Similar proclamations were issued in reference to the wars between Russia and Austria-Hungary, Aug. 13, 1914; France and Turkey, Nov. 9, 1914; Austria-Hungary and Italy, May 25, 1915; Italy and Germany, Sept. 9, 1916.