

International Law Studies—Volume 17

International Law Documents

Neutrality

Breaking of Diplomatic Relations

War

With Notes

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.

Peru, for its part, while endeavoring to give prevalence to a uniform continental policy, maintained with the utmost firmness the integrity of its rights as a sovereign nation in the face of Germany's disregard of the principles of naval warfare. It was the defense of those rights which led it to sever its diplomatic relations with the Imperial Government as the result of an outrage for which it duly but vainly claimed appropriate reparation: the sinking of the vessel *Lorton* by a German submarine on the coast of Spain while the ship was plying between neutral ports, engaged in lawful trade, without infringing even the German rules respecting closed zones—unknown to international law.

The reluctance of the Imperial Government to meet our just demands according to the general principles of international law; the very arbitrary rules laid down by that Government; and the unsuccessful presentation of a precedent in an analogous claim favorably entertained by it—these are the facts in which Peru reads the complete lack of justice that marks the course of the German Government's policy and the sound foundation there is for the effort to check that policy, so as to establish in the world a juridical standard that will forever cause justice to prevail in international relations.

The contents of this message and the documents which I shall forward to your excellency will enable your Government to acquaint itself with the fundamental grounds upon which our attitude rests, and also with the negotiations with Germany above referred to, which the Government has now brought to an end by recalling the minister of the Republic at Berlin and delivering his passports to the representative of Germany at this capital, with the express approval of the Parliament.

I avail myself of this opportunity to tender to your excellency the assurances of my high and distinguished consideration.

FRANCISCO TUDELA.

## PORTUGAL.

*Law authorizing military intervention, November 24, 1914.*<sup>1</sup>

[Colecção Oficial de Legislação Portuguesa, 1914, 2: 591.]

PRESIDENT OF THE MINISTRY.—LAW No. 283.

In the name of the nation, the congress of the Republic decrees and has promulgated the following law:

SINGLE ARTICLE. The executive power is authorized to intervene by military measures in the present international conflict at the time and in the manner it should judge necessary for our high

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<sup>1</sup> By law No. 275, of Aug. 8, 1914, the Executive had been authorized, in view of the emergency, to take measures for "insuring order and safeguarding the national interests, as well as to meet any extraordinary emergency of an economic and financial character." This authority was

interests and duties as a free nation and ally of England<sup>1</sup> and for the same end to take any extraordinary steps which the circumstances of the moment may demand.

Let the ministers of all departments have it printed, published, and circulated.

Given at the seat of the government of the Republic and published November 24, 1914.

MANUEL DE ARRIAGA.  
 BERNARDINO MACHADO.  
 EDUARDO AUGUSTA DE SOUSA MONTEIRO.  
 ANTONIO DOS SANTOS LUCAS.  
 ANTONIO JULIO DA COSTA PEREIRA DE EÇA.  
 AUGUSTO EDUARDO NEUPARTH.  
 A. FREIRE DE ANDRADE.  
 JOÃO MARIA DE ALMEIDA LIMA.  
 ALFREDO AUGUSTO LISBOA DE LIMA.  
 JOSÉ DE MATOS SOBRAL CID.

(D. do G. No. 220, Suppl. e No. 221.)

*Decree relating to the requisition of cargoes on enemy vessels,  
 April 20, 1916.<sup>2</sup>*

[London Gazette, May 30, 1916, p. 5320.<sup>3</sup>

FOREIGN OFFICE, *May 27, 1916.*

With reference to the notification which was published in the London Gazette of the 25th ultimo, a translation is now appended

continued by law No. 292, Jan. 15, 1915, law No. 317, June 5, 1915, and law No. 373, Sept. 2, 1915.

By decree No. 2229, Feb. 23, 1916, authorized by law No. 480, Feb. 7, 1916 (base 10), provision was made for requisitioning merchant vessels in Portuguese ports. In successive decrees, German vessels were requisitioned as follows:

Feb. 24, 1916, decree No. 2236, 35 vessels at Lisbon.

Feb. 25, 1916, decree No. 2240, 1 vessel on the Douro River at Oporto.

Mar. 1, 1916, decree No. 2243, 3 vessels at Ponto Delgada, St. Miguel, and 3 vessels at Horta, Fayal, Azores.

Mar. 3, 1916, decree No. 2251, 1 vessel at Setúbal.

Mar. 6, 1916, decree No. 2258, 3 vessels at Loando, Angola.

Mar. 6, 1916, decree No. 2259, 8 vessels at St. Vincent, Cape Verde.

Mar. 6, 1916, decree No. 2260, 4 vessels at Funchal, Madeira.

Mar. 6, 1916, decree No. 2257, 5 vessels at Mormugão, India.

Apr. 14, 1916, decree No. 2332, 7 vessels at Mozambique.

Austrian vessels were requisitioned as follows:

July 10, 1916, decree No. 2251, 1 vessel at Mormugão.

Apr. 29, 1916, decree No. 2358, 1 vessel.

These vessels were given Portuguese names by Portaria Nos. 616, 670, 677, of Mar. 15, May 18, and May 26, 1916.

<sup>1</sup> For treaties of alliance between Portugal and Great Britain, 1373-1812, see British and Foreign State Papers, 1: 462 et seq.

<sup>2</sup> For Italian decrees relating to treatment of goods found on seized German vessels May 11, 1916, see London Gazette, May 12, 1916, p. 4692, and June 30, 1916, p. 6493.

<sup>3</sup> A preliminary notification of this decree appeared in the London Gazette, Apr. 25, 1916, p. 4192.



of the articles of the Portuguese decree of April 20, 1916, relating to the release of allied and neutral cargoes on German vessels seized by the Portuguese Government.

His Majesty's minister at Lisbon reports that cargoes on Austrian vessels will be released in the same manner as those on German vessels, and that delivery orders formerly issued by the enemy shipowners to cargo owners, with a view to the latter taking possession of their goods, will be accepted by the Portuguese authorities as evidence of title.

(Translation.)

*Regulations with regard to enemy vessels and their cargoes.*<sup>1</sup>

ART. 32. Merchandise belonging to allies or to neutrals found on board these ships or discharged from them shall be delivered with or without guarantee, by the procurator of the Republic of the respective judicial districts, provided always that the Government have the right to requisition it on payment of an indemnity. Delivery shall be requested from that officer within a period of 30 days without prejudice of postponement authorized by the Minister of Finance in special cases.

(1) The guarantee shall always be demanded when the owner is unable to present shipping documents in proper form, there being applicable to such a case the provisions of the second paragraph of article 478 of the decree of the 31st January, 1889.

(2) The decision of the procurator of the Republic shall be communicated to the Ministry of Finance and the order for delivery, should there be one, will be given to the interested party and for all purposes shall take the place of the ordinary bill of lading as regards the customshouse or other authorities.

ART. 33. Should the neutral or friendly character of goods on board an enemy vessel or discharged therefrom not be clearly established or should the owner not be known, the goods shall be presumed to be enemy property.

ART. 34. The prize court shall decide in accordance with established procedure all difficulties which may arise regarding the nationality or regarding the storage, care, or delivery of merchandise referred to in the previous articles.

ART. 35. The tribunals of commerce shall be competent to try and judge prize cases in accordance with article 179 of the Commercial Code.

(1) The judgment shall always be delivered by the Tribunal of Commerce of Lisbon even though the case may have been tried in the colonial tribunals of commerce.

(2) The proceedings shall be in summary form in accordance with the terms of decree No. 3 of the 29th May, 1907, and the

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<sup>1</sup> Decree No. 2350, chap. 4.

judge, should he not be in Lisbon, should conclude the case within the 24 hours stipulated in article 10 of the same decree.

(3) There shall be neither costs nor stamps in these proceedings.

ART. 36. The State shall be represented before the prize courts by the Public Ministry and the interested party, should he be an enemy or an assignee of one, by the agent appointed to take charge of the cargo, when the case relates to merchandise, or by a lawyer appointed by the judge when the case relates to a ship.

*Decree relating to contraband, August 14, 1916.<sup>1</sup>*

[London Gazette, Sept. 8, 1916, p. 8805.]

FOREIGN OFFICE, *September 7, 1916.*

The Secretary of State for Foreign Affairs has received from His Majesty's Minister at Lisbon the following translation of a decree dated August 14, 1916, and published in the Portuguese Official Gazette of the same date, declaring certain goods to be contraband under certain conditions.

ARTICLE 1. The goods enumerated in the list annexed to this decree are declared to be contraband of war when they come under the conditions provided for in the following articles:

ART. 2. The goods mentioned in the preceding article are considered contraband of war when they are destined either directly or indirectly to enemy territory or their allies' territory.

ART. 3. Besides goods the enemy destination of which is clearly shown by documents, those which are carried by vessels bound to or calling at enemy ports or ports of their allies shall be considered as directly destined to enemy territory.

ART. 4. Goods are considered as directly destined to enemy territory:

(a) When they are destined to neutral ports, but consigned to the enemy or their allies, to their agents or recognized intermediaries, or to persons acting under their orders or directions or who may be under their influence.

(b) When they are destined to neutral ports, not comprised in the preceding subclause, but whose final destination to enemy territory may be deduced from the evident deviation from their normal course of the conveying vessel or when it is proved by any other means.

The conveyance of goods to a country adjacent to enemy territory or from which it is notorious that the latter obtains supplies of merchandise which the importing country in question has already imported in quantities exceeding its highest imports for the last three years, shall be considered as a well-founded assurance of the above enemy destination.

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<sup>1</sup> Supplementary to decree No. 2, Sept. 27, 1894.



ART. 5. Besides any other goods which shall be considered as such, the following shall always be considered as legitimate prizes :

(a) Ships carrying contraband of war the value, weight, size, or freight of which amounts to more than half the value, weight, size, or freight of her cargo ;

(b) Ships on their return voyage after having carried contraband in the manner described in the preceding subclause ;

(c) Ships not included in subclauses (a) and (b), habitually employed in contraband traffic or other traffic which may be qualified as that of rendering assistance to the enemy ;

(d) Ships of enemy ownership which by their build, armament, or internal disposition and fittings may be converted into ships of war.

ART. 6. Goods not considered contraband of war, but being actually the property of the enemy or their allies, may be seized whilst on board neutral ships, whatever port they may be bound to, and shall be deposited and dealt with in accordance with the terms of the decree No. 2350 of the 20th of April, 1916, and other enactments in force.

ART. 7. In other cases which have not been provided for in this decree or other national legislation in force, the provisions bearing on the subject contained in the legislation of the allied nations, as well as the general principles of public international law shall be applicable.

ART. 8. The present decree shall come into force immediately and all legislation contrary thereto is hereby revoked.

SEAT OF THE GOVERNMENT OF THE REPUBLIC,

*14th August, 1916.*

(There follows a list containing 73 classes of articles regarded as contraband of war.)

## ROUMANIA.

*Declaration of war against Austria, 9 p. m., August 27, 1916.*<sup>1</sup>

[The Times (London) History of the War, 9:430; Rev. Gén., Doc., 23:197.]

**Note Handed to the Austro-Hungarian Minister at Bucharest, August 27, 1916.**

The Alliance concluded between Germany, Austria-Hungary, and Italy had, according to the precise statements of the govern-

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<sup>1</sup> "AMSTERDAM, August 28, 1916.

"A Vienna telegram states that last night the Roumanian Minister in Vienna visited the Austro-Hungarian Ministry of Foreign Affairs in order to present a note according to which Roumania, as from August 27, at 9 o'clock in the evening, considered herself in a state of war with Austria-Hungary." (London Times, Aug. 29, 1916, p. 7, c. See also Journ. Off., Sept. 5, 1916, p. 7959.)