

International Law Studies—Volume 18

International Law Documents

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cessation of all relations between Bulgaria and its former Allies in case of necessity.

4. Bulgarian ports will be opened to allied and neutral vessels.

Signed:

General FRANCHET D'ESPEREY,

ANDRÉ LIAPTCHÉW.

GENERAL LOUKOFF.

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4° Ouverture des ports bulgares aux navires alliés et neutres.

Signé:

Général FRANCHET D'ESPEREY.

ANDRÉ LIAPTCHÉW.

Général LOUKOFF.

## CHINA.

*Regulations for sojourn of armed merchant vessels, 1917.*

[Hongkong Daily Press, Mar. 23, 1917.]

A report states that the Chinese Government has drawn up the following regulations, to which armed merchantmen of all the belligerents entering Chinese ports shall be subject:

(1) Any belligerent merchantman which is armed specifically for the purpose of self-defense shall be permitted to enter and depart from any Chinese port to which the said merchantman had previous regular sailings.

(2) On entering the port the captain of such armed merchantman must declare to the customhouse of the port that the armament of the ship is merely for self-defense.

(3) After report to the customhouse, the authorities thereof shall send officers together with the naval officers of the port to visit the vessel and inspect the armament on-board. Whether the vessel is armed only for self-defense or not shall be determined according to the following circumstances provided:

(a) The number of guns on board the ship, their caliber and ammunition and other armament are adequate only for self-defense.

(b) The number of officers and crew of the ship does not show a marked increase over normal times.

(c) The port the ship touches is one to which the ship has been engaged in trading or had regular sailings.

(d) The food supply on board the ship consists only of such quantity as would be just sufficient to cover the voyage to the next port it is destined to touch.

(e) Goods on board the ship are not suitable for warships or for hostile purposes.

(f) Passengers on board the ship are not in organized units nor of such quality as to be organized into military or naval forces under ordinary circumstances.

After the inspection of the customs and naval authorities, a report on the above circumstances should be made to the Government and the latter thereby shall determine whether the vessel is an armed merchantman or a warship according to the circumstances under which it is armed.

(4) Before the departure of any belligerent armed merchantman the consul of the country to which the vessel belongs at that port should dispatch a document to the Chinese authorities to guarantee that the arms carried by the vessel are only for self-defense.

(5) The Government shall have independent power to determine the nature of the arms carried by an armed merchantman whether they are for self-defense or for warlike purpose against their enemy.

(6) The regulations set forth above shall be subject to revision at any time by the Chinese Government.

*Prize Regulations, 1917.*

CHAPTER I.—*General provisions.*

1. Chinese warships during the time of war with the enemy shall have the right to visit, search, and capture merchant vessels at sea in accordance with the provisions of these regulations.

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.

3. Ships regarded as of enemy character in the present regulations shall be those as follows:

(a) Ships flying the enemy flags.

(b) Ships flying neutral flags in accordance with law but the whole or a portion of the owners of the ship have domicile in enemy countries.

(c) Ships employed by the enemy countries.

(d) Enemy ships being transferred to persons having domicile in the Republic or other neutral countries during the war or in anticipation of the war, without the transfer fully completed and having no proof to show the bona fide of the deal.

4. Enemy goods are as follows:

(a) Goods owned by persons having domicile in the enemy countries.

(b) Goods owned by persons having domicile in the Republic or other neutral countries and consigned to enemy countries or subjects during the war or in anticipation of it.

(c) Enemy goods being transferred to persons having domicile in the Republic or other neutral countries during the war or in anticipation of it without the transfer being fully concluded and having no proof to show the bona fide of the deal.

5. "Domicile" means a certain place permanently resided in by a person.

In case the party concerned is a juristic person, the place where its head office is situated shall be considered its domicile.

6. The term "enemy countries" shall be equally applied to territories being occupied by the enemy troops.

7. The papers of a ship shall include the following documents:

(a) Certificates denoting the nationality of the ship.

(b) Passport.

(c) Agreement for the construction of the ship.

- (d) Agreement for chartering the ship.
- (e) Deeds for transfer of the ship in sale.
- (f) The list of the names of the officers and crew on board the ship.
- (g) The voyage journal.
- (h) The log book.
- (i) The daily records.
- (j) Passports for leaving a port.
- (k) Agreements for the employment of the officers and crew of the ship.
- (l) The health papers.
- (m) Certificates for the consignment of goods on board.
- (n) Receipts for the goods consigned.
- (o) The list of goods shipped.

Ships are not necessary to produce all the above-mentioned papers when visited. Only those the ship is required to keep in accordance with the law of the country to which the vessel belongs are necessary.

8. The contraband of war are the articles which are mentioned in the regulations governing the contraband of war.

Regulations governing the contraband of war shall be promulgated separately.

9. Combatants of the enemy countries are those who are in active military service of the enemy countries.

10. "Blockade" means the effective prohibition of communication of an enemy port with the outside world by a fleet or squadron of ships having the adequate force to enforce the same.

"To run blockade" means the attempt of vessels to get through the blockaded zone, for which a notice has already been issued.

11. "Prize" means the articles seized, adjudicated by the prize court and confiscated.

#### CHAPTER II.—*Visit.*

12. The right of visit shall be exercised by the warships toward vessels of the following classes:

(a) Ships flying the flag of the Republic of China or neutral flags but being suspected of enemy character.

(b) Vessels of the Republic of China being suspected of holding commercial intercourse with the enemy countries without the permission of the Government.

(c) Ships of the Republic of China or of other neutral countries being suspected of having contraband of war or enemy combatants on board.

(d) Ships of the Republic or other neutral countries being suspected of having run the blockade.

13. The captain of a warship can order such ships of suspicious character to stop and demand the right of visit.

Flag signals and whistle shall be used to order the ship to heave to in daytime. In night, white lanterns shall be used instead.

In foul weather, or if the ship fails to obey the order after the flag and whistle signals, two blank cartridges shall be fired by the warship.

In failure of complying with the order of the warship after the latter has discharged blank cartridges, cartridges with shots shall be fired, first at its sail, and then at the body of the ship, if it continues to pay no heed to the warning.

14. When a vessel is brought to a standstill in obedience to the order of the warship, the captain of the latter should send a witness, an officer, and two sailors to proceed to the vessel to conduct the visit.

15. On boarding the vessel the visiting party should request the captain of the vessel with due ceremony for examining the papers. Force may be used when the captain of the vessel refuses to comply with the request.

16. After examining the papers of the vessel, if the officer in charge of the visit finds that the vessel is not of suspicious character under any of the circumstances provided under article 12, he should set the vessel free at the command of the captain of the vessel.

17. On leaving the vessel the boarding officer should enter in the log book of the vessel the place and date of the visit and the name of the captain of the warship and his own name.

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 suspicious character under any of the circumstances as provided under article 12.

19. Inspection shall be made along the original course of the ship concerned.

### CHAPTER III.—*The search.*

20. When an officer on board a vessel in a visit finds the vessel is of suspicious character after examining its papers, he shall have the right to search the vessel.

21. The search shall be conducted together with the captain of the vessel or one acting as his representative.

Places or articles which are either sealed or locked shall be opened by the captain of the vessel or the one acting as his representative. In case the captain or his representative refuses to comply with the order of the searching party to open such articles or places, the latter can take necessary measures in regard to the opening of such places or articles.

22. If the officer conducting the search of a vessel finds that the vessel is not liable to capture after the search has been made, he should set the vessel free at the command of the captain of the warship.

23. The measures provided under articles 16, 17, and 18 shall be applicable to the conducting of a search of a vessel.

24. After the search is conducted, if the boarding officer finds that the ship is liable to capture, he should report the case to the captain of the warship and the measures provided under the articles in Chapter IV regarding the capture of a vessel shall be adopted.

CHAPTER IV.—*The capture.*

25. Vessels of the following classes shall be liable to capture:

I. Enemy ships. But the following ships which do not participate in hostile campaigns shall be exempt from capture in spite of their enemy character:

(a) Boats engaged in coast fisheries and local trade as well as their appliances and cargo.

(b) Ships engaged exclusively on a voyage of scientific discovery, philanthropy, and religious mission.

(c) Hospital ships provided in the Hague Naval Convention.

(d) Cartel-ships.

II. Ships of the Republic of China engaged in commercial intercourse with the enemy without the permission of the Republican Government.

III. The following ships are liable to capture, whether they are under a neutral flag or under the flag of the Republic of China:

(a) Ships carrying contraband of war or hostile persons.

(b) Ships in violation of blockade.

(c) Ships engaged in giving information to the enemy or participating in any hostile acts in the interest of the enemy.

(d) Ships under the convoy of the enemy flag.

(e) Ships having no necessary papers or giving fraudulent papers or having destroyed, concealed, defaced their papers.

26. After having decided to capture the ship, the captain of the warship shall communicate to the captain of the vessel under capture the reason or reasons for which his vessel is liable to capture and at the same time dispatch a detachment of sailors under the command of an officer to proceed to the captured ship and take possession of the same.

27. After having taken possession of the captured vessel, the captain of the warship shall carry out the following measures:

(a) The papers of the ship shall be taken off the ship and kept in safety.

(b) To examine the cargo and other valuable articles on board the captured vessel and make an invoice of the same.

(c) The hatchway of the captured vessel leading to its cargo store shall be locked and sealed.

28. With the exception of officers and crew of the captured ship participating in any hostile acts, the passengers and the crew shall be subject to the following treatment:

(a) The captain, officers, and crew of enemy nationality shall be considered as prisoners of war, but they shall be released, provided that they give a written statement that they shall not be engaged in any

service directly or indirectly in connection with the war in the interests of the enemy countries as long as the war lasts.

(b) If the captain or officers of the vessel are of neutral nationality they shall not be considered as prisoners of war, provided that they give a written statement that they shall not be engaged in service on board of enemy ships during the war.

(c) The crew or other hands of neutral nationality on board the captured vessel shall not be considered as prisoners of war.

29. With the exception of the prisoners of war and those necessary for witnesses, all the passengers on board the captured ship shall be permitted to land at the nearest port.

30. All mails on board the captured ships shall be forwarded to their destination, except the mails sent from or destined to a blockaded port.

31. After the capture the captain of the captor shall make detailed report on the circumstances under which the capture was carried out to the Minister of Navy.

32. After the capture, if the captain of the captor discovers circumstances which do not justify his action, he should set the vessel free at once.

33. The captain of the captor after the capture shall order the officer in possession of the captured ship to bring the latter to a port where the prize court of the Republic is situated together with all the papers of the vessel, for adjudication.

34. When the captain of the captor finds goods of perishable nature among the cargoes on board the captured vessel, which are not adequate to stand a long journey, he should order one of his officers to make a report, together with the captain of the captured vessel to the prize court.

In regard to the treatment of such goods, the captain of the captor can dispose of them at a public sale at the nearest port of the Republic or any neutral port, where he can obtain the permission of the local authorities for the sale of such goods. The kind of the goods thus disposed of and the proceeds of the sale shall be entered in the log book of the vessel and forward the same to the prize court.

35. Under any of the following circumstances, the captain of the captor may destroy the captured vessel, but before the destruction of the vessel, all the persons on board the vessel and its papers must be placed in safety:

(a) That the captured vessel is no longer seaworthy.

(b) That the existence of the captured vessel shall greatly impede the movement of the captor from the military point of view.

36. In case such an event happens the captain of the captor shall file a statement to the prize court setting forth the circumstances under which he was compelled to destroy the vessel and at the same time he shall hold himself fully responsible for any consequence of the destruction.

37. When the captain of a warship recaptures a vessel of the Republic or of neutral nationality which had been captured by the enemy but which has not been employed in the service of the enemy or brought to an enemy port he shall set the vessel free.

CHAPTER V.—*Adjudication.*

38. No ship or cargo shall be condemned without the adjudication of the prize court.

39. Enemy ships are liable to condemnation. Enemy goods on board an enemy ship are liable to condemnation.

40. Enemy goods under neutral flag are not liable to condemnation.

41. Vessels of the Republic engaged in commercial intercourse with the enemy without the special permission of the Government are liable to condemnation.

Goods on board such vessels are not liable to condemnation unless they are of enemy ownership or belonging to the owner of the vessel.

42. All contraband of war are liable to condemnation. All goods belonging to the owner of the contraband of war are liable to condemnation.

43. Under any of the following circumstances, the vessel carrying contraband of war is liable to condemnation:

(a) When the vessel and the contraband belong to the same person.

(b) When the weight and dimensions of the contraband of war constitute two-thirds of all the cargo on board the vessel.

(c) When the vessel smuggles contraband of war by fraud.

Under any of the above circumstances all the goods belonging to the owner of the vessel are also liable to condemnation.

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.

45. Vessels in violation of blockade and the cargo on board the same are liable to condemnation unless the owner of such cargo can prove that he had no previous knowledge of the vessel's attempt to run the blockade.

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.

47. The vessel and cargo under the convoy of enemy flag are liable to condemnation.

48. Vessels resisting the visit or search are liable to condemnation.

Enemy goods and goods belonging to the owner of such a vessel on board of the same, are liable to condemnation.



CHAPTER VI.—*Final provisions.*

49. Other particulars which are not provided in the present regulations shall be carried out according to the order of the Government, treaty provisions and customary practice of international law.

50. The present regulations shall be enforced on the date of their promulgation.

**ECUADOR.**

*Regulations relating to sojourn of war vessels in port, January 18, 1917.*

[Registro Oficial, Jan. 26, 1917.]

The following regulation is for the visits of foreign warships to Ecuadorian waters:

IN TIME OF PEACE.

ARTICLE 1. The name of "warship" shall not only apply to armed ships belonging to a nation, but also to all classes of auxiliary ships.

ART. 2. In time of peace, warships belonging to foreign powers may freely enter Ecuadorian open ports and anchor in territorial waters; nevertheless the Government shall be notified through diplomatic channels of the proposed visit. The number of warships under the same flag shall not exceed three in the same port.

ART. 3. No warship may remain more than 15 days in territorial waters or Ecuadorian ports unless special authority is given by the Government. They shall go to sea within six hours if the territorial authorities so demand, even though the terms of 15 days have not expired.

If special circumstances should so demand it, the Government reserves the right to modify the restrictions contained in this and the previous articles.

ART. 4. The dispositions of articles 2 and 3 do not apply:

First. In respect to warships whose admission was authorized through diplomatic channels under exceptional conditions.

Second. To warships that are obliged to enter a port because of danger, storms, or other unforeseen conditions, while they continue.

Third. To ships on board of which are chief magistrates or rulers of nations, members of reigning families, or diplomatic officials on a mission to the Ecuadorian Government.

ART. 5. The designation of the anchorage for foreign warships shall be left to the captain of the port, as well as the right to make them change it.

ART. 6. Foreign warships entering a port or territorial waters are obliged to respect the police, sanitation, and finance laws and regulations.

They are also obliged to comply with the same requirements of the ports as are the national warships.