

Declaration concerning the Laws of Naval War. London, 26 February 1909.

(List of Contracting Parties)

Having regard to the terms in which the British Government invited various Powers to meet in conference in order to arrive at an agreement as to what are the generally recognized rules of international law within the meaning of Article 7 of the Convention of 18 October 1907, relative to the establishment of an International Prize Court;

Recognizing all the advantages which an agreement as to the said rules would, in the unfortunate event of a naval war, present, both as regards peaceful commerce, and as regards the belligerents and their diplomatic relations with neutral Governments;

Having regard to the divergence often found in the methods by which it is sought to apply in practice the general principles of international law;

Animated by the desire to ensure henceforward a greater measure of uniformity in this respect;

Hoping that a work so important to the common welfare will meet with general approval;

Have appointed as their Plenipotentiaries, that is to say:

(Here follow the names of Plenipotentiaries)

Who, after having communicated their full powers, found to be in good and due form, have agreed to make the present Declaration:

PRELIMINARY PROVISION

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

CHAPTER I

BLOCKADE IN TIME OF WAR

Article 1. A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

Art. 2. In accordance with the Declaration of Paris of 1856, a blockade, in order to be

binding, must be effective -- that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.

Art. 3. The question whether a blockade is effective is a question of fact.

Art. 4. A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather.

Art. 5. A blockade must be applied impartially to the ships of all nations.

Art. 6. The commander of a blockading force may give permission to a warship to enter, and subsequently to leave, a blockaded port.

Art. 7. In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.

Art. 8. A blockade, in order to be binding, must be declared in accordance with Article 9, and notified in accordance with Articles 11 and 16.

Art. 9. A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

It specifies --

- (1) The date when the blockade begins;
- (2) the geographical limits of the coastline under blockade;
- (3) the period within which neutral vessels may come out.

Art 10. If the operations of the blockading Power, or of the naval authorities acting in its name, do not tally with the particulars, which, in accordance with Article 9(1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.

Art. 11. A declaration of blockade is notified

- (1) To neutral Powers, by the blockading Power, by means of a communication addressed to the Governments direct, or to their representatives accredited to it;
- (2) To the local authorities, by the officer commanding the blockading force. The local authorities will, in turn, inform the foreign consular officers at the port or on the

coastline under blockade as soon as possible.

Art. 12. The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is re-established after having been raised.

Art. 13. The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article 11.

Art. 14. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.

Art. 15. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.

Art. 16. If a vessel approaching a blockaded port has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's logbook, and must state the day and hour, and the geographical position of the vessel at the time.

If through the negligence of the officer commanding the blockading force no declaration of blockade has been notified to the local authorities, or, if in the declaration, as notified, no period has been mentioned within which neutral vessels may come out, a neutral vessel coming out of the blockaded port must be allowed to pass free.

Art. 17. Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.

Art. 18. The blockading forces must not bar access to neutral ports or coasts.

Art. 19. Whatever may be the ulterior destination of a vessel or of her cargo, she cannot be captured for breach of blockade, if, at the moment, she is on her way to a non-blockaded port.

Art. 20. A vessel which has broken blockade outwards, or which has attempted to break blockade inwards, is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.

Art. 21. A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the shipper neither knew nor could have known of the intention to break the blockade.

CHAPTER II

CONTRABAND OF WAR

Art. 22. The following articles may, without notice (1), be treated as contraband of war, under the name of absolute contraband:

- (1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
- (2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
- (3) Powder and explosives specially prepared for use in war.
- (4) Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.
- (5) Clothing and equipment of a distinctively military character.
- (6) All kinds of harness of a distinctively military character.
- (7) Saddle, draught, and pack animals suitable for use in war.
- (8) Articles of camp equipment, and their distinctive component parts.
- (9) Armour plates.
- (10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
- (11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

(1) In view of the difficulty of finding an exact equivalent in English for the expression "de plein droit", it has been decided to translate it by the words "without notice," which represent the meaning attached to it by the draftsman as appears from the General Report see p. 44 ' (note in the original) '.

Art. 23. Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified. Such notification must be addressed to the Governments of other Powers, or to their

representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

Art. 24. The following articles, susceptible of use in war as well as for purposes of peace, may, without notice (1), be treated as contraband of war, under the name of conditional contraband:

- (1) Foodstuffs.
- (2) Forage and grain, suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their component parts.
- (6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.
- (7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.
- (8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.
- (9) Fuel; lubricants.
- (10) Powder and explosives not specially prepared for use in war.
- (11) Barbed wire and implements for fixing and cutting the same.
- (12) Horseshoes and shoeing materials.
- (13) Harness and saddlery.
- (14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

(1) See note relative to Article 22.

Art. 25. Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

Art. 26. If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

Art. 27. Articles which are not susceptible of use in war may not be declared contraband of war.

Art. 28. The following may not be declared contraband of war:

- (1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
- (2) Oil seeds and nuts; copra.
- (3) Rubber, resins, gums, and lacs; hops.
- (4) Raw hides and horns, bones, and ivory.
- (5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
- (6) Metallic ores.
- (7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
- (8) Chinaware and glass.
- (9) Paper and paper-making materials.
- (10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
- (11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
- (12) Agricultural, mining, textile, and printing machinery.
- (13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
- (14) Clocks and watches, other than chronometers.
- (15) Fashion and fancy goods.
- (16) Feathers of all kinds, hairs, and bristles.
- (17) Articles of household furniture and decoration; office furniture and requisites.

Art. 29. Likewise the following may not be treated as contraband of war:

- (1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.
- (2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

Art. 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

Art. 31. Proof of the destination specified in Article 30 is complete in the following cases:

- (1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.
- (2) When the vessel is to call at enemy ports only, or when she is to touch at a enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

Art. 32. Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

Art. 33. Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

Art. 34. The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband. In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.

Art. 35. Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

Art. 36. Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

Art. 37. A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

Art. 38. A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

Art. 39. Contraband goods are liable to condemnation.

Art. 40. A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

Art. 41. If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

Art. 42. Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

Art. 43. If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

Art. 44. A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

CHAPTER III

UNNEUTRAL SERVICE

Art. 45. A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral

vessel liable to condemnation for carriage of contraband:

(1) If she is on a voyage especially undertaken with a view to the transport of individual passengers who are embodied in the armed forces of the enemy, or with a view to the transmission of intelligence in the interest of the enemy.

(2) If, to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers.

The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.

Art. 46. A neutral vessel will be condemned and, in a general way, receive the same treatment as would be

applicable to her if she were an enemy merchant vessel:

(1) if she takes a direct part in the hostilities;

(2) if she is under the orders or control of an agent placed on board by the enemy Government;

(3) if she is in the exclusive employment of the enemy Government;

(4) if she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.

Art. 47. Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel

CHAPTER IV

DESTRUCTION OF NEUTRAL PRIZES

Art. 48. A neutral vessel which has been captured may not be destroyed by the captor; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.

Art. 49. As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.

Art. 50. Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.

Art. 51. A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article 49. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.

Art. 52. If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction has been held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.

Art. 53. If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

Art. 54. The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under Article 49, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the logbook of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage. The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

CHAPTER V

TRANSFER TO A NEUTRAL FLAG

Art. 55. The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

Art. 56. The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void --

- (1) If the transfer has been made during a voyage or in a blockaded port.
- (2) If a right to repurchase or recover the vessel is reserved to the vendor.
- (3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled,

CHAPTER VI

ENEMY CHARACTER

Art. 57. Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly. The case where a neutral vessel is engaged in a trade which is closed in time of peace, remains outside the scope of, and is in no wise affected by, this rule.

Art. 58. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

Art. 59. In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.

Art. 60. Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

CHAPTER VII

CONVOY

Art. 61. Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.

Art. 62. If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

CHAPTER VIII

RESISTANCE TO SEARCH

Art. 63. Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.

CHAPTER IX

COMPENSATION

Art. 64. If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgement being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or

goods.

FINAL PROVISIONS

Art. 65. The provisions of the present Declaration must be treated as a whole, and cannot be separated.

Art. 66. The Signatory Powers undertake to insure the mutual observance of the rules contained in the present Declaration in any war in which all the belligerents are parties thereto. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take such measures as may be required in order to insure that it will be applied by their courts, and more particularly by their prize courts.

Art. 67. The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited in London.

The first deposit of ratifications shall be recorded in a Protocol signed by the representatives of the Powers taking part therein, and by His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the British Government, and accompanied by the instrument of ratification.

A duly certified copy of the Protocol relating to the first deposit of ratifications and of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification which accompany them, shall be immediately sent by the British Government, through the diplomatic channel, to the Signatory Powers. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.

Art. 68. The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.

Art. 69. In the event of one of the Signatory Powers wishing to denounce the present Declaration, such denunciation can only be made to take effect at the end of a period of twelve years, beginning sixty days after the first deposit of ratifications, and, after that time, at the end of successive periods of six years, of which the first will begin at the end of the period of twelve years.

Such denunciation must be notified in writing, at least one year in advance, to the

British Government, which shall inform all the other Powers.
It will only operate in respect of the denouncing Power.

Art. 70. The Powers represented at the London Naval Conference attach particular importance to the general recognition of the rules which they have adopted, and therefore express the hope that the Powers which were not represented there will accede to the present Declaration. They request the British Government to invite them to do so.

A Power which desires to accede shall notify its intention in writing to the British Government, and transmit simultaneously the act of accession, which will be deposited in the archives of the said Government.

The said Government shall forthwith transmit to all the other Powers a duly certified copy of the notification, together with the act of accession, and communicate the date on which such notification was received. The accession takes effect sixty days after such date.

In respect of all matters concerning this Declaration, Acceding Powers shall be on the same footing as the Signatory Powers.

Art. 71. The present Declaration, which bears the date of 26 February 1909, may be signed in London up till 30 June 1909, by the Plenipotentiaries of the Powers represented at the Naval Conference.

In faith whereof the Plenipotentiaries have signed the present Declaration, and have thereto affixed their seals.

Done at London, the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall remain deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.

(Here follow signatures)

I N T E R N A T I O N A L H U M A N I T A R I A N L A W

International Committee of the Red Cross