

CONVENTION RELATIVE TO CERTAIN RESTRICTIONS WITH REGARD TO THE EXERCISE OF THE RIGHT OF CAPTURE IN NAVAL WAR

(Hague XI); October 18, 1907

Recognizing the necessity of more effectively ensuring than hitherto the equitable application of law to the international relations of maritime Powers in time of war;

Considering that, for this purpose, it is expedient, in giving up or, if necessary, in harmonizing for the common interest certain conflicting practices of long standing, to commence codifying in regulations of general application the guarantees due to peaceful commerce and legitimate business, as well as the conduct of hostilities by sea; that it is expedient to lay down in written mutual engagements the principles which have hitherto remained in the uncertain domain of controversy or have been left to the discretion of Governments;

That, from henceforth, a certain number of rules may be made, without affecting the common law now in force with regard to the matters which that law has left unsettled;

Have appointed the following as their Plenipotentiaries:

(List of Plenipotentiaries)

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

CHAPTER I

Postal Correspondence

Article 1.

The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

Art. 2.

The inviolability of postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II

The Exemption from Capture of Certain Vessels

Art. 3.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo. They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

Art. 4.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

CHAPTER III

Regulations Regarding the Crews of Enemy Merchant Ships Captured by a Belligerent

Art. 5.

When an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

Art. 6.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

Art. 7.

The names of the persons retaining their liberty under the conditions laid down in **Article 5**, paragraph 2, and in **Article 6**, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Art. 8.

The provisions of the three preceding articles do not apply to ships taking part in the hostilities.

CHAPTER IV

Final Provisions

Art. 9.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

Art. 10.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a procès-verbal signed by the representatives of the Powers taking part therein and by the Netherlands Minister for Foreign Affairs.

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

A duly certified copy of the procès-verbal relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherlands Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

Art. 11.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherlands Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

Art. 12.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the procès-verbal of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification has been received by the Netherlands Government.

Art. 13.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall at once communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherlands Government.

Art. 14.

A register kept by the Netherlands Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of **Article 10**, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (**Article 11**, paragraph 2) or of denunciation (**Article 13**, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, 18 October 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers invited to the Second Peace Conference.

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