Note on Neutrality

In this study the term "neutral" has been used to identify and define six nations and their economic and diplomatic policies during World War II. The use of the term and application of the concept to the conduct of six nations which had transactions with the two belligerent sides in the War allows a reasonable and useful organization of historical knowledge of those transactions. At the same time it unavoidably pushes to one side the complicated circumstances and self-justifications that guided the policies of each "neutral" nation. An understanding of neutrality in the midst of the momentous and terrible events of the 20th century has been pursued by jurists and historians—with conflicting and as yet unsettled results. This study reflects the changing circumstances in which nations, especially smaller ones, sought to regulate their conduct on the very edge of a war of nearly unbelievable destruction and depravity.

In international law, neutrality had traditionally been understood to involve two or more nations that were at war and another "neutral" nation that avoided an evaluation of the merits of the belligerents and maintained clearly defined rights and duties toward belligerents. Neutral nations, under these traditional international rules, assumed obligations of conduct that prohibited such things as providing armaments, allowing reinforcements, and using their territory as a base of operations. Neutrality did not prohibit the sale of ships and contraband, blockade running, loans, or government or private contributions. Rules of asylum defined what sorts of concessions were permissible to belligerent troops or ships and when internment was invoked. Neutrality also extended rights of trade and inviolability of territory.

The evolving complexity of international relationships, political and economic, during this century, along with the unthinkable scale of human brutalities to which nations and governments have resorted, outstripped the traditional concepts of war and neutrality and the modernized view of international obligations and prohibitions codified in the 1907 Hague Convention Respecting the Laws and Customs of War on Land. Legal experts agree that international events beginning with World War I have had a profound impact upon the institution of neutrality, the evaluation of which is by no means complete or agreed.

The inability or unwillingness of neutral nations before and during World War II to maintain fully their rights toward belligerents and the violation of traditional obligations of neutrals during war gave rise during the War to the concept of "non-belligerency"—a status somewhere between belligerency and neutrality and more a political concept than a legal one. The essence of non-belligerency, as it was pursued in World War II, is the favoring of one of the belligerent states or coalitions in a war to the extent of rendering economic and other support while at the same time continuing to enjoy the rights of neutrality. International legal experts agree that non-belligerency is not an accepted status under international law. Declarations of non-belligerency by Italy and Spain in September 1939 and by Turkey in 1940 appear to be the first occasions the concept was used. Britain's position on non-belligerency was expressed by the Under Secretary of State for Foreign Affairs to the House of Commons in November 1940:

> "'Non-belligerency' is a term which so far as I am aware has been used for the first time during the present war and does not as yet possess any definite meaning in international law. A declaration of non-belligerency has presumably to be regarded, amongst other things, as an indication of the political attitude which the State concerned desires to adopt towards the war. The question whether it also implies a legal status distinct from that of neutrality and involving certain legal consequences is not at present clear and may have to be decided in the light of the circumstances of a particular case."[1]

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[1] Marjorie M. Whiteman, ed., *Digest of International Law*, vol. 11 (Washington, 1968), p. 165, citing 367 H.Deb. (5th ser.), cols. 229-230 (November 27, 1940).

> Neither the United States executive branch of government nor the courts recognized during World War II any intermediate legal status between neutrality and belligerency.

This report has sought to identify and acknowledge how the various nations characterized their international legal status during the War, but has felt bound to refer to them collectively and individually as neutral.

Two of the "neutral" countries discussed in this report, Turkey and Argentina, actually became belligerents when they joined the Allies very late in the War—respectively in February and March 1945. Spain, which asserted its "non-belligerency" to the extent of allowing the volunteers of the "Blue Division" to fight beside Germans in Russia, redefined itself as neutral in October 1943. Portugal, Sweden, and Switzerland maintained their neutrality until the end of the War, generally complying with the rules of neutrality as then understood but departing from those rules on occasion in trade, transit, and base rights matters in favor of one side or the other and more than once suffering violations of their neutral rights by the belligerents. Argentina's decision to enter the War was of no military consequence; diplomatically it allowed Argentina to meet the criterion for attendance at the San Francisco Conference creating the United Nations and to fall in line with the other American Republics from which it had stood apart. This study also established that Turkey's wartime conduct conformed broadly with accepted principles of neutrality, including its substantial commercial links with both sets of belligerents.

President Dwight Eisenhower, who served as wartime Commander in Chief of Allied Forces in Europe, exemplified the attitude of the U.S. leadership in World War II. A 1956 White House statement reviewed President Eisenhower's understanding of the concept of neutrality; it concluded as follows:

> "The President does believe that there are special conditions which justify political neutrality but that no nation has the right to be indifferent to the fate of another or, as he put it, to be 'neutral as between right and wrong or decency and indecency.'"[2]

[2] Whiteman, p. 161.