

B. BERICHTE, VERTRÄGE, DIPLOMATISCHE NOTEN.

1. Übersicht über die Embargo-Politik der Vereinigten Staaten von Amerika bei inneren Unruhen in anderen Staaten.

Wilhelm Friede.

Ein Verbot der Waffen- und Munitionsausfuhr nach Ländern, in denen innere Unruhen herrschen, haben die Vereinigten Staaten von Amerika häufig erlassen.

Ursprünglich diente als Rechtsgrundlage die »Joint Resolution To prohibit the export of coal or other material used in war from any seaport of the United States« vom 22. April 1898¹⁾:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized, in his discretion, and with such limitations and exceptions as shall seem to him expedient, to prohibit the export of coal or other material used in war from any seaport of the United States until otherwise ordered by the President or by Congress. Diese Resolution, die nicht auf innere Unruhen in einem Lande abstellt, wurde auf diesen Fall, den sie auch deckt, 1905 gegenüber Santo Domingo angewandt²⁾.

An ihre Stelle trat die »Joint Resolution To amend the joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States« vom 14. März 1912³⁾:

¹⁾ 30 Stat. 739.

²⁾ Proklamation des Präsidenten vom 14. Oktober 1905 (Foreign Relations of the United States 1905, 399).

³⁾ 37 Stat. 630. Über ihre Rückwirkung auf die Proklamation vom 14. 10. 1905 hat sich der Attorney-General Wickersham am 11. 4. 1912 wie folgt ausgesprochen: »So far as the subject matter of the proclamation of Oct. 14, 1905 is concerned it falls squarely within the provisions of the amended joint resolution of March 14, 1912 . . . It is true that the amending resolution bases the President's power to prohibit such export upon his finding „that . . .“, whereas by the joint resolution of April 22, 1898 the President is generally authorized, in his discretion, to prohibit such export, and it is not necessary that the exercise of that discretion be predicated upon a finding such as is required by the resolution of March 14, 1912. However, the later resolution does not in any way invalidate the proclamation issued under the authority of the previous resolution, which, by its terms and in accordance with the act of its promulgation, is to continue operative until otherwise ordered by the President or by Congress. — In my opinion, therefore, the prohibition in the proclamation of Oct. 14, 1905, is still operative« (29 Op. Atty. Gen. 387, 388).

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States, approved April twenty-second, eighteen hundred and ninetyeight, be, and hereby is, amended to read as follows:

That whenever the President shall find that in any American country conditions of domestic violence exist which are promoted by the use of arms or munitions of war procured from the United States, and shall make proclamation thereof, it shall be unlawful to export except under such limitations and exceptions as the President shall prescribe any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

Sec. 2. That any shipment of material hereby declared unlawful after such a proclamation shall be punishable by fine not exceeding ten thousand dollars, or imprisonment not exceeding two years, or both.

Von dieser Resolution, für deren Anwendung der Tatbestand innerer Unruhen Voraussetzung ist, wurde 1912, 1915 und 1919 gegenüber Mexico Gebrauch gemacht 4).

Da für die Durchführung des »Arms Embargo Agreement«, das die Mächte 1919 gegenüber China eingingen 5), in den Vereinigten Staaten die Rechtsgrundlage fehlte, fügte die Joint Resolution vom 31. Januar 1922 6) in Sect. I hinter den Worten »in any American country« den Zusatz »or in any country in which the United States exercises extraterritorial jurisdiction« ein. Die so abgeänderte Resolution fand Anwendung: seit 1922 gegenüber China 7), 1924 gegenüber Mexico 8), Cuba 9) und Honduras 10),

4) Proklamationen des Präsidenten vom 14. März 1912, 19. Oktober 1915 und 12. Juli 1919 (37 Stat. 1733, For. Rel. 1912, 745; 39 Stat. 1756, For. Rel. 1915, 780; 41 Stat. 1762).

5) Note vom 5. Mai 1919 an den chinesischen Minister für Auswärtige Angelegenheiten: »The Governments of Great Britain, Spain, Portugal, the United States, Russia, Brazil, France and Japan have agreed effectively to restrain their subjects and citizens from exporting to or importing into China arms and munitions of war, and material destined exclusively for their manufacture, until the establishment of a government whose authority is recognized throughout the whole country and also to prohibit during the above period the delivery of arms and munitions for which contracts have already been made but not executed« (U. S. Daily, May 2, 1929, p. 1, 2). Durch Note vom 26. April 1929 ist dem chinesischen Minister für Auswärtige Angelegenheiten die Aufhebung des Abkommens mitgeteilt worden (U. S. Daily, May 2, 1929, p. 1).

6) 42 Stat. 361.

7) Proklamation des Präsidenten vom 4. März 1922 (42 Stat. 2264).

8) Proklamation des Präsidenten vom 7. Januar 1924 (43 Stat. 1934).

9) Proklamation des Präsidenten vom 2. Mai 1924 (43 Stat. 1946), aufgehoben durch Proklamation vom 29. August 1924 (43 Stat. 1965).

10) Proklamation des Präsidenten vom 22. März und 15. Mai 1924 (43 Stat. 1942, 1950) mit Erleichterungen gemäß Bekanntmachung des Staatsdepartements vom 10. Mai 1929 (U. S. Daily, May 11, 1929, p. 3).

1926 gegenüber Nicaragua ¹¹⁾, 1929 gegenüber Mexiko in Fortführung des 1924 erlassenen Verbotes ¹²⁾. Um ihr Ausfuhrverbot gegenüber Nicaragua wirksamer zu gestalten, regten die Vereinigten Staaten bei den anderen zentralamerikanischen Staaten den Erlass eines entsprechenden Verbotes an — mit Erfolg bei Costa Rica, Honduras, Salvador und Guatemala, ohne Erfolg bei Mexiko ¹³⁾.

Derartige Ausfuhrverbote können ein sehr wirkungsvolles Instrument einer Interventionspolitik sein, insbesondere dann, wenn einem Lande unter den gegebenen örtlichen Verhältnissen eine überragende Bedeutung als Waffenlieferant zukommt. Der Staat, der sich dieses Instrumentes zu bedienen weiß, hat u. U. das Schicksal der Regierung des Landes, in dem eine Revolution ausgebrochen ist, in der Hand. Das Verbot kann eine Erschwerung, seine Aufhebung eine Erleichterung der Revolution bedeuten. Es kann Ausdruck des Willens zu neutraler Haltung gegenüber dem Bürgerkriege sein, wenn es gegenüber beiden sich befehdenden Parteien streng durchgeführt wird. Es kann mit positiver Förderung der bestehenden Regierung verbunden werden, indem zu deren Gunsten Ausnahmen gestattet werden in Gestalt von Ausfuhr-lizenzen an Privatpersonen oder von direkten Materiallieferungen aus staatlichen Beständen.

Von allen diesen Möglichkeiten machten die Vereinigten Staaten nach ihrer jeweiligen Interessenlage Gebrauch, namentlich gegenüber den mittelamerikanischen Staaten ¹⁴⁾. Beispielsweise wurde das am

¹¹⁾ Proklamation des Präsidenten vom 15. September 1926 (44 Stat. 2625) mit Erleichterungen gemäß Bekanntmachung des Staatsdepartements vom 10. Mai 1929 (U. S. Daily, May 11, 1929, p. 3).

¹²⁾ S. die Erklärung des Staatsdepartements vom 4. März 1929 (U. S. Daily, March 5, 1929, p. 1), die Erklärung des Weißen Hauses vom 5. März 1929 (U. S. Daily, March 6, 1929, p. 1, 10) sowie die Erklärung des Staatsdepartements (betreffend Rücknahme der seit März 1928 gewährten Erleichterungen) vom 8. März 1929 (U. S. Daily, March 9, 1929, p. 1).

¹³⁾ Botschaft des Präsidenten Coolidge an den Kongreß vom 10. Januar 1927 (H. Doc. No. 633, 69th Cong. 2nd sess., p. 6).

¹⁴⁾ „The object is to avoid the fomenting of revolution and also to avoid any basis for the contention that we are taking part in the struggle. Such embargoes have been laid and withdrawn at the discretion of the President. It is manifest that our relation to the established government of a country may have an important bearing upon our action. In some instances it is in our power by withholding arms to make a revolution difficult and in other instances the Government itself may not desire the embargo as it may wish a supply of arms . . .

No one can question the authority of the United States to impose an embargo on the shipment of arms from its territory. No one can question the right of the United States to dispose of its surplus arms to a recognized government when there is no question of the violation of neutrality. These questions, however, are delicate and their determination involves the choices which all, even governments, must make between good and evil in a world of moral decisions. Without departing from the exercise of our normal rights, we are often in a position to influence proceedings in other lands and we should be as careful to exercise our admitted rights to good ends as we should be to avoid making good ends a pretext for an abuse of power. With regard to the placing of embargoes on shipments of arms, or of supplying arms where there is domestic violence in American countries, each case must be judged on its own merits.” Charles Evans Hughes, *Our Relations to the Nations of the Western Hemisphere*. Princeton 1928 p. 51, 53—54.

14. März 1912 erlassene Verbot der Waffenausfuhr nach Mexiko zunächst gleichmäßig gegenüber den rivalisierenden mexikanischen Parteien durchgeführt¹⁵⁾, am 3. Februar 1914 aber aufgehoben¹⁶⁾, um den Abschluß des Bürgerkrieges zu beschleunigen¹⁷⁾, was praktisch auf eine Begünstigung der sog. konstitutionellen Partei (Carranza—Villa—Obregon) hinauslief¹⁸⁾, die im Kampfe gegen den von den Vereinigten Staaten entschieden abgelehnten¹⁹⁾ Diktator Huerta stand. Ausfuhrlicenzen wurden an Privatpersonen erteilt u. a. zu Lieferungen an die Regierung Diaz in Nicaragua 1926²⁰⁾. Direkte Materialabgaben aus Beständen der Regierung der Vereinigten Staaten erfolgten u. a. 1924 an die Regierung Obregon in Mexiko²¹⁾, 1927 an die Regierung Diaz in Nicaragua unter Gewährung eines langfristigen Kredits²²⁾, 1929 an die Regierung Gil in Mexiko²³⁾.

¹⁵⁾ Vgl. die Botschaft des Präsidenten Wilson an den Kongreß vom 27. August 1913 (For. Rel. 1913, p. 823): »I deem it my duty to exercise the authority conferred upon me by the law of March 14, 1912, to see to it that neither side to the struggle now going on in Mexico receive any assistance from this side of the border. I shall follow the best practice of nations in the matter of neutrality by forbidding the exportation of arms or munitions of war of any kind from the United States to any part of the Republic of Mexico — a policy suggested by several interesting precedents and certainly dictated by many manifest considerations of practical expediency. We can not in the circumstances be the partisans of either party to the contest that now distracts Mexico, or constitute ourselves the virtual umpire between them.«

¹⁶⁾ Proklamation des Präsidenten (38 Stat. 1992, For. Rel. 1914, 447).

¹⁷⁾ Vgl. das erläuternde Zirkulartelegramm des Staatssekretärs Bryan an alle diplomatischen Missionen der Vereinigten Staaten vom 31. Januar 1914 (For. Rel. 1914, 446—7): »No one outside Mexico can now accomodate her affairs. The withdrawal of all moral or material support from without is the indispensable first step toward a solution from within . . . The President is so fully convinced of this, after months of the most careful study of the situation at close range, that he no longer feels justified in maintaining an irregular position as regards the contending parties in the matter of neutrality. He intends, therefore, almost immediately, to remove the inhibition on the exportation of arms and ammunition from the United States into Mexico. Settlement by civil war carried to its bitter conclusion is a terrible thing, but it must come now whether we wish it or not, unless some outside power is to sweep Mexico with its armed forces from end to end; which would be the beginning of a still more difficult problem.«

¹⁸⁾ J. Fred Rippy: *The United States and Mexico, 1910—1927*, in: *American Policies Abroad—Mexico*, Chicago 1928, p. 45.

¹⁹⁾ Vgl. Telegramm des Staatssekretärs Bryan an Chargé O'Shaughnessy vom 24. November 1913 (For. Rel. 1914, 443): »The purpose of the United States is solely and singly to secure peace and order in Central America by seeing to it that the processes of self government there are not interrupted or set aside. — Usurpations like that of General Huerta menace the peace and development of America as nothing else could . . . — It is the purpose of the United States therefore to discredit and defeat such usurpations whenever they occur. The present policy of the Government of the United States is to isolate General Huerta entirely; to cut him off from foreign sympathy and aid and from domestic credit, whether moral or material, and to force him out.«

²⁰⁾ H. Doc. No. 633, 69th Cong. 2nd sess. p. 6.

²¹⁾ Charles Evans Hughes, l. c. p. 52.

²²⁾ Department of State, *A Brief History of the Relations between the United States and Nicaragua 1909—1928*, Washington 1928, p. 43.

²³⁾ Erklärung des Staatsdepartements vom 8. März 1929 (U. S. Daily, March 9, 1929, p. 1).

Welchen Wert die Vereinigten Staaten auf das »Arms Embargo« als politisches Instrument legen, ergibt sich u. a. aus ihrer Stellungnahme zu der 1919 in St. Germain abgeschlossenen Konvention über die Kontrolle des Handels mit Waffen, Munition und Kriegsmaterial. In der Rede des damaligen Staatssekretärs Hughes vom 23. Januar 1924 heißt es darüber ²⁴⁾: »Indeed, one of the grounds upon which, under President Harding's Administration, this Government declined to become a party to the convention of Saint Germain relating to the traffic in arms was that the convention . . . prevented the sale of arms to governments not signatory, and it was then pointed out that this would prevent our Government from selling arms to our neighboring republics not parties to the convention, however necessary that course might be to the maintenance of stability and peace in this hemisphere²⁵⁾.«

Es soll hier nicht entschieden werden, ob diese »Embargo-Politik« stets den Charakter einer »Intervention« im Interesse der Vereinigten Staaten trug. Unter dem Präsidenten Wilson trug sie ihn unstrittig. Staatsmänner der Vereinigten Staaten behaupten neuerdings ²⁶⁾, die

²⁴⁾ Foreign Affairs vol. II No. 2 Special Supplement p. X.

²⁵⁾ Vgl. ferner die Note der Vereinigten Staaten an den Generalsekretär des Völkerbundes vom 28. Juli 1922 und ihre Antwort vom 12. September 1923 auf den Brief des Präsidenten des Völkerbundsrates vom 1. Mai 1923 (Société des Nations, Conférence pour le contrôle du commerce international des armes, munitions et matériels de guerre, C 758. M 258. 1924 IX, p. 11, 13) sowie die Erklärungen des Vertreters der Vereinigten Staaten vom 7. 2., 25. 3. und 7. 7. 1924 (l. c. p. 58—9, 81, 179). Den Wünschen der Vereinigten Staaten hat die Konferenz zu entsprechen gesucht (l. c. p. 27, 106).

²⁶⁾ Staatssekretär Hughes in seiner schon erwähnten Rede vom 23. Januar 1924: »The refusal to aid the established government would have thrown our moral influence on the side of those who were challenging the peace and order of Mexico, and we should have incurred a grave responsibility for the consequent disturbances. In granting the request, there is no question of intervention, no invasion of the sovereignty of Mexico, as we were acting at its instance and were exercising our undoubted right to sell arms to the existing government . . . That particular declaration was simply a feature of our well-known general policy as to the limitation of armaments. It is our fixed purpose that our surplus war equipment should not be employed in encouraging warfare by fostering militarism and the building up of the competitive armaments that threaten the peace of the world . . . In standing for constitutional procedure and frowning upon attempts to conduct political campaigns by force of arms we create no precedent that embarrasses us. Many of our people are solicitous with respect to the contribution of the United States to the cause of peace. That duty and privilege begin at home. In aiding stability in this hemisphere, in throwing our influence in an entirely correct manner in favor of the development of constitutional government and against unwarrantable uprisings, in protecting the legitimate freedom of commerce, we are making the greatest contribution directly within our power, and in accord with our established traditions and manifest interest, to the cause of world peace« (Foreign Affairs vol. II No. 2 Special Supplement p. X—XI). — Ähnlich Staatssekretär Stimson in seiner Rede vom 6. Februar 1931 (Foreign Affairs vol. IX No. 3 Special Supplement p. XIII, Current History, March 1931, p. 923): »Until belligerency is recognized and the duty of neutrality arises, all the human predispositions towards stability of government, the preservation of international amity, and the protection of established intercourse between nations are in favor of the existing government. This is particularly the case in countries where civil strife has been as frequent, as personal, and as disastrous as it has been in some sections of Central and South America during the past century. The law of nations is not static. It grows and develops with the experience of mankind, and its development follows that same line of

Embargo-Politik bezwecke im Rahmen einer fortschrittlichen Völkerrechtspolitik nur den Schutz der bestehenden Regierungen gegen revolutionäre Umtriebe, die Einschränkung der Rüstungen und die Förderung des Weltfriedens überhaupt ²⁷⁾. Gegen diese Deutung erheben sich allerdings in den Vereinigten Staaten selbst beachtliche Stimmen ²⁸⁾. Soviel kann jedenfalls festgestellt werden, daß die Embargo-Politik, was immer ihre Zwecke sein mögen, stets uneingeschränkt gemäß der jeweiligen Lage der Interessen der Vereinigten Staaten gehandhabt werden konnte. Die genannten Joint Resolutions stellen ihre Anwendung völlig in das Ermessen der Exekutive.

Dieser Ermessensspielraum aber hat in jüngster Zeit durch das Inkrafttreten der panamerikanischen Konvention über die Rechte und Pflichten der Staaten im Falle eines Bürgerkrieges vom 20. Februar 1928 ²⁹⁾ eine Einschränkung erfahren. Nach Art. I Ziffer 3 der Konvention verpflichten sich die Vertragsstaaten, im Falle eines Bürgerkrieges in einem der Vertragsstaaten den Handel mit Waffen und Kriegsmaterialien zu verbieten, ausgenommen wenn sie für die Regierung bestimmt sind, solange die Eigenschaft der Aufständischen als kriegführende Partei nicht anerkannt ist, in welchem letzterem Falle die Regeln der Neutralität angewandt werden sollen. Nachdem die Vereinigten Staaten diese Konvention ratifiziert haben ³⁰⁾, ist also der Erlaß eines Waffenausfuhrverbotes unter bestimmten Voraussetzungen nicht mehr eine Angelegenheit des politischen Ermessens des Präsidenten, sondern eine vertragliche Verpflichtung der Vereinigten Staaten gegenüber den Staaten, welche die Konvention ebenfalls ratifiziert haben ³¹⁾.

Der erste Fall, in dem die Vereinigten Staaten diese Verpflichtung zu erfüllen hatten, war der Fall Brasilien 1930/31, auf den sich die nachstehend im Wortlaut abgedruckten Urkunden beziehen. Eine unmittel-

human predispositions and experiences to which I have referred. The domestic legislation of the United States prescribing the duties of its citizens towards nations suffering from civil strife is following the line of these predispositions and is blazing the way for the subsequent growth of the law of nations. I am not one who regards this development of American legislation, exemplified by the joint resolution of 1922, as a departure from the principles of international law or as a reactionary or backward step. The reverse is true.«

²⁷⁾ In diese Linie wird die Embargo-Politik gegenüber Ländern, in denen Unruhen ausgebrochen sind, auch durch die — am 11. Februar 1929 eingebrachte, vom Kongreß aber nicht verabschiedete — Porter-Resolution (American Journal of International Law vol. 23 [1929] p. 379) gerückt, die den Anwendungsbereich der Joint Resolution von 1922 erweitern wollte: »That whenever the President finds that in any country conditions of domestic violence or of international conflict exist or are threatened . . .« (Text der Resolution von 1922 im übrigen unverändert).

²⁸⁾ Lawrence Dennis in Foreign Affairs vol. IX no. 2 p. 204 ff., J. Fred Rippy in Current History, April 1931, p. 12 ff.

²⁹⁾ S. Bd. 3, T. 2, S. 198/9 dieser Zeitschrift.

³⁰⁾ Die Niederlegung der Ratifikationsurkunde bei der Panamerikanischen Union ist am 21. Mai 1930 erfolgt (Treaty Series No. 814 p. 4).

³¹⁾ Ratifikationsurkunden haben bei der Panamerikanischen Union ferner hinterlegt Mexiko, Panama, Brasilien und Nicaragua am 6. Februar 1929, 21. Mai 1929, 3. September 1929 und 20. März 1930 (Treaty Series No. 814, p. 4—5).

Z. ausl. öff. Recht u. Völkerr. Bd. 3, T. 2: Urk.

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bare Berufung auf die Konvention von 1928 ist in diesen Urkunden nicht zu finden, wohl aber in der erwähnten Rede des Staatssekretärs Stimson vom 6. Februar 1931, in der er u. a. das Verbot der Waffenausfuhr nach Brasilien rechtfertigt³²⁾. Die Vereinigten Staaten mußten das Verbot erlassen, wenn sie die brasilianischen Aufständischen nicht als Kriegführende anerkennen wollten; ob diese Anerkennung erfolgen sollte, war eine Frage der politischen Wertung der damaligen Umstände. Tatsächlich erwies sich das Verbot als eine Fehlwertung, denn bereits zwei Tage nach Erlass des Verbotes mußte der Sturz der brasilianischen Regierung bekanntgegeben werden³³⁾. Der damit verbundene Prestigeverlust hat begreiflicherweise Kritik an der Beteiligung der Vereinigten Staaten an der panamerikanischen Konvention von 1928 überhaupt und an ihrer Anwendung im vorliegenden Falle hervorgerufen³⁴⁾. Auf diese politische Kritik einzugehen, ist hier nicht der Ort.

Anlagen.

a) Note des brasilianischen Botschafters in Washington an den Staatssekretär der Vereinigten Staaten von Amerika vom 22. Oktober 1930³⁵⁾.

BRAZILIAN EMBASSY,
Washington, October 22, 1930.

HIS EXCELLENCY

THE HONORABLE HENRY L. STIMSON,
Secretary of State of the United States of America.

EXCELLENCY:

Among the legislative acts in force in the United States of America, there is a resolution by the Senate and House of Representatives in Congress assembled, of January 31, 1922, providing that whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

The undersigned, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil, has already verbally conveyed to Your Excellency the intelligence that a revolutionary outbreak took place in Brazil on the 3d of the current month of October, and that the Federal

³²⁾ Foreign Affairs vol. IX No. 3 Special Supplement p. XI—XII; Current History, March 1931, p. 922—3.

³³⁾ U. S. Daily, October 25, 1930, p. 1.

³⁴⁾ Vgl. z. B. Dennis a. a. O. S. 210 f.

³⁵⁾ Department of State Press Releases, Oct. 25, 1930, p. 265—266; U. S. Daily, Oct. 23, 1930, p. 2.

Government have concentrated all the military and naval forces in operations to restore public order until the rebellion is suppressed.

The conditions of domestic violence to which the Joint Resolution of the Congress of the United States refers exist in several zones of the Brazilian territory, and such conditions of domestic violence, promoted by rebel forces, are or may be promoted by the use of arms or munitions of war procured from the United States. As a matter of fact, the undersigned has been informed that some elements in the United States, in close union with the revolutionary elements against the Federal Government of Brazil, have been and are endeavoring to purchase arms and munitions in the United States to turn them against the Federal Government of Brazil.

The undersigned, therefore, having in view the Joint Resolution of the Congress of the United States, above referred to, acts on behalf of the Federal Government of Brazil by asking Your Excellency that the United States Government give full force, in the present moment, to their existing legislation, namely, under the proclamation of the President, to put in force the provisions of said Resolution of January 31, 1922, with the exception of such limitations and exceptions as the President might prescribe as being approved as lawful with regard to exportation of arms or munitions of war for shipment from the United States to the Federal Government of Brazil.

The undersigned begs leave to thank Your Excellency for the attention given to this matter and avails himself of this opportunity to reiterate to Your Excellency, Mr. Secretary of State, the assurances of his highest consideration.

S. GURGEL DO AMARAL.

b) Proklamation des Präsidenten der Vereinigten Staaten von Amerika vom 22. Oktober 1930 ³⁶⁾.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.
A PROCLAMATION.

WHEREAS, Section I of a Joint Resolution of Congress, entitled „Joint Resolution to Prohibit the Exportation of Arms and Munitions of War from the United States to Certain Countries, and for other Purposes”, approved January 31, 1922, provides as follows:

That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United

³⁶⁾ Department of State Press Releases, Oct. 25, 1930, p. 264—265; U. S. Daily, Oct. 23, 1930, p. 2.

States to such country until otherwise ordered by the President or by Congress.

AND WHEREAS, it is provided by Section II of the said Joint Resolution that „Whoever exports any arms or munitions of war in violation of Section I shall on conviction be punished by fine not exceeding \$ 10,000, or by imprisonment not exceeding two years or both.”

NOW, THEREFORE I, HERBERT HOOVER, President of the United States of America, acting under and by virtue of the authority conferred in me by the said Joint Resolution of Congress, do hereby declare and proclaim that I have found, as has been formally represented to this Government by the Government of Brazil, that there exist in Brazil such conditions of domestic violence which are or may be promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the Joint Resolution above set forth, hereby made applicable to Brazil, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of said Joint Resolution and this my Proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby prescribe as an exception and limitation to the foregoing restrictions such exportations of arms or munitions of war as are approved by the Government of the United States for shipment to the Government of Brazil which has been recognized by the Government of the United States, and such arms and munitions for industrial or commercial uses as may from time to time be exported with the consent of the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the city of Washington on this twenty-second day of October, in the year of our Lord nineteen hundred and thirty, and of the Independence of the United States of America the one hundred and fifty-fifth.

[SEAL]

By the President:

HERBERT HOOVER.

HENRY L. STIMSON,
Secretary of State.

c) Erklärung des Staatssekretärs Stimson vom 23. Oktober 1930 37).

37) Department of State Press Releases, Oct. 25, 1930, p. 266—267; U. S. Daily, Oct. 24, 1930, p. 2.

Some accounts in the press this morning reported that our action in placing an embargo upon the sale of arms and munitions to revolutionists in Brazil was unprecedented. While it is true that this is the first occasion where the United States has placed an embargo on the shipment of arms and munitions to a South American country, it is misleading to call it an unprecedented action, as it our regular action under similar circumstances. We have placed embargoes on the shipment of arms and munitions on various occasions when there were conditions of domestic violence in Central America, Mexico, Cuba, and the Orient. It just happens that a situation requiring the application of this principle has not hitherto come up in South America, and there has therefore hitherto been no occasion for applying the general principle. There is nothing unprecedented in the principle which we have applied many times before. It is very important that people should not misunderstand it as a new principle. It is important for the reason that the revolutionists who may be hurt by our action in placing an embargo may assert that we are taking sides for some ulterior reason with one or the other of the combatants. Instead of that, we are acting according to general principles of international law. Those principles declare that where we are in friendly relations through diplomatic channels with a government which has been recognized as the legitimate government of a country, that government is entitled to the ordinary rights of any government to buy arms in this country; while the people who are opposing and trying to overthrow that government and are not yet recognized as belligerents are not entitled to that right. It is not a matter of choice on our part, but is a practice of mankind known as international law. We have no personal bias and are doing nothing but attempting to carry out the law of mankind.

d) Proklamation des Präsidenten der Vereinigten Staaten von Amerika vom 2. März 1931³⁸⁾.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.
A PROCLAMATION.

WHEREAS, by proclamation No. 1923 issued on October 22, 1930, under a joint resolution of Congress entitled „Joint resolution to prohibit the exportation of arms or munitions of war from the United States to certain countries, and for other purposes”, approved January 31, 1922 (42 Stat. 361), it was declared that there existed in Brazil such conditions of domestic violence as were or might be promoted by the use of arms or munitions of war procured from the United States; and

WHEREAS, by the joint resolution above mentioned, it thereupon became unlawful to export arms or munitions of war from the United

³⁸⁾ Department of State Press Releases, March 7, 1931, p. 155; U. S. Daily, March 4, 1931, p. 3.

States to Brazil except under such limitations and exceptions as were prescribed in the said proclamation;

NOW, THEREFORE, I, HERBERT HOOVER, President of the United States of America, do hereby find, as has been formally represented to this Government by the Government of Brazil, that the conditions on which the proclamation of October 22, 1930, was based no longer obtain, and I do hereby declare and proclaim that the said proclamation of October 22, 1930, is accordingly hereby revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 2d day of March, in the year of our Lord nineteen hundred and thirty-one, and of the Independence of the United States of America the one hundred and fifty-fifth.

[SEAL]

HERBERT HOOVER.

By the President:

HENRY L. STIMSON,
Secretary of State.

2. Die Panamerikanische Konvention über die Rechte und Pflichten der Staaten im Falle eines Bürgerkrieges vom 20. Februar 1928 ¹⁾.

The Governments of the Republics represented at the Sixth International Conference of American States ²⁾, held in the city of Habana, Republic of Cuba, in the year 1928, desirous of reaching an agreement as to the duties and rights of states in the event of civil strife, have appointed the following plenipotentiaries:

Who, after exchanging their respective full powers, which were found to be in good and due form, have agreed upon the following:

ARTICLE I.

The contracting states bind themselves to observe the following rules with regard to civil strife in another one of them:

1. To use all means at their disposal to prevent the inhabitants of their territory, nationals or aliens, from participating in, gathering elements, crossing the boundary or sailing from their territory for the purpose of starting or promoting civil strife.

2. To disarm and intern every rebel force crossing their boundaries, the expenses of internment to be borne by the state where public order may have been disturbed. The arms found in the hands of the rebels may be seized and withdrawn by the

¹⁾ Treaty Series No. 814.

²⁾ Perú, Uruguay, Panamá, Ecuador, Mexico, Salvádor, Guatemala, Nicaragua, Bolivia, Venezuela, Colombia, Honduras, Costa Rica, Chile, Brazil, Argentina, Paraguay, Haiti, Dominican Republic, United States of America, Cuba.