

---

# BLOCKADE IN INTERNATIONAL LAW

Follow H.O Aggarwal Book for further reference

---

## I. Definition and Conceptual Framework

A blockade is the act of actively preventing a country or region from receiving or sending out food, supplies, weapons, or communications, and sometimes people, by military force. In more technical terms, it has been defined as "*a belligerent operation to prevent vessels and/or aircraft of all nations, enemy as well as neutral, from entering or exiting specified ports, airfields, or coastal areas belonging to, occupied by, or under the control of an enemy nation.*"

It is essential to distinguish the blockade from related concepts:

- A blockade differs from an embargo or sanction, which are legal barriers to trade rather than physical barriers.
- It is also distinct from a siege, in that a blockade is usually directed at an entire country or region, rather than a fortress or city.
- An embargo is not an act of war but a type of economic sanction, whether multilateral or unilateral, adopted under the aegis of the United Nations, a regional organisation, or a State, to try to change the behaviour of another State.

## II. Sources and Legal Instruments

A blockade is an act of war regulated by international law. The primary instruments governing blockades are:

- **Declaration Respecting Maritime Law, Paris, 16 April 1856**

- **Declaration Concerning the Laws of Naval War, London, 26 February 1909 (Arts. 1–21)**
- **San Remo Manual on International Law Applicable to Armed Conflicts at Sea (SRM), 1994 (paras. 67(a), 93–104, 146(f), 153(f))**
- **UN Charter, Article 42 — empowers the Security Council to authorise blockades as measures to maintain or restore international by peace and security.**

## III. Conditions for a Lawful Blockades

Customary international law and treaty instruments have identified five cumulative requirements for a blockade to be legally valid:

### 1. Proper Establishment

A blockade must be established under the authority of a belligerent government or a naval commander specially authorised to declare a particular blockade.

### 2. Notification

The belligerent must declare the existence of the blockade and must specify the **starting date, geographical limits** of the blockaded territory, and the **time allowed** to neutral vessels to leave. This declaration must be notified to all neutral Powers and to the local authorities.

### 3. Effectiveness

The blockade must be duly effective — not a fictitious or "paper" blockade — but must

---

be **maintained by a force sufficient to prevent access** to the coasts of the enemy. The prohibition on paper blockades was first formally codified in the 1856 Paris Declaration.

#### 4. Continuity

The blockade must be **continuously maintained**. When the blockading squadron is driven off by superior force, the blockade is null and defective from the beginning. However, it will not be impaired if the blockading squadron is temporarily withdrawn due to bad weather.

#### 5. Impartiality

The blockade must be *universal*, without discrimination against the vessels of any nation. A belligerent cannot selectively enforce a blockade against certain neutral States while permitting others free passage.

### IV. The Blockade and International Humanitarian Law

A blockade is a **method of warfare** to which the general principles and rules of the law of international armed **conflicts and IHL apply**. The most critical limitation is the prohibition against *starvation of the civilian population*.

A blockade will be deemed **unlawful** under IHL if it is implemented in a way that **denies the civilian population access to essential goods** necessary for their survival. Any blockade, siege, or embargo implemented with the purpose of causing starvation of the civilian population is prohibited under:

- *SRM, Art. 102*
- *Geneva Convention IV, Arts. 23 and 55*
- *Additional Protocol I, Art. 54; Additional Protocol II, Art. 14*
- *Customary IHL Rules 53, 55, and 56*

**Criminal Responsibility:** Starvation of civilians is a **war crime under the ICC's jurisdiction** in the context of an international armed conflict (**Rome Statute, Art. 8(2)(b)(xxv)**). A blockade of a State's ports or coastlines could also constitute an act of aggression prosecutable under Art. 8 bis(2)(c) of the Rome Statute.

### V. Notable Historical Examples

#### 1. The British Naval Blockade of France (1803–1815)

The **Royal Navy** successfully blockaded **Napoleonic France** during the **Napoleonic Wars of 1803–1815**, leading to major economic disruptions. Napoleon responded with the Continental System — a **counter-blockade** of British trade — but it largely failed due to British naval supremacy. This episode is widely cited as an early illustration of blockade effectiveness in customary international law.

#### 2. The Union Blockade (American Civil War, 1861–1865)

The Union blockade of southern ports was a major strategic factor in the American Civil War. Declared by **President Lincoln** under **formal proclamation**, it targeted Confederate coastlines and is frequently cited as an early example of blockade practice consistent with the emerging requirements of notification and effectiveness under the 1856 Paris Declaration.

#### 3. The Berlin Blockade (1948–1949)

Following **World War II**, the **Soviet Union** imposed a **land blockade on West Berlin**, cutting off road, rail, and canal access. This episode — though primarily a land-based measure — prompted the famous Western Airlift and highlighted how blockade-type measures could be used as **instruments of**

---

**political coercion** short of declared war. It raised important questions about whether land blockades were governed by the same legal regime as naval blockades.

#### 4. The Cuban Missile Crisis "Quarantine" (1962)

This is perhaps the most **debated** blockade episode in the **post-UN Charter era**. On 22 October 1962, President Kennedy ordered a **naval "quarantine" of Cuba**. The deliberate use of the word "*quarantine*" rather than "*blockade*" legally distinguished this action from a blockade, which **assumed a state of war existed**. It also enabled the United States to secure the support of the Organization of American States under the Rio Treaty. The measure's legal foundation in regional collective self-defence remains highly contested among scholars.

#### 5. Contemporary Blockades and IHL Concerns

Modern conflicts have revived the debate over blockade legality, particularly where civilian populations are affected. Customary IHL, governing both State and non-State actors, **prohibits deliberate starvation and impediment of humanitarian relief**, regardless of conflict classification. A key structural problem identified by scholars is that while the *Rome Statute explicitly lists starvation and barring humanitarian relief as prosecutable war crimes in international armed conflicts*, it is silent as to **non-international armed conflicts, leaving an impunity gap**. Scholars have proposed that prosecuting such conduct as crimes against humanity — which require no nexus to armed conflict classification — could fill this gap.

#### VI. The Evolution of Blockade Law and Modern Challenges

The development of **submarines** and **aircraft** made it impossible to station blockading warships in constant positions off an enemy's coast to maintain close blockades, and it has subsequently been accepted that long-range blockades maintained by naval forces out of sight of the enemy's coast are legal if they effectively prevent ingress and egress.

The classical doctrine developed in the nineteenth century to regulate naval surface warfare has thus been significantly strained by modern military technology. Some scholars observe that developments in naval and aerial warfare have turned the establishment of a naval blockade in the traditional sense into a virtual impossibility, suggesting that the rules in the Declaration on blockade in time of war are now mainly of historical interest. Others, however, maintain that State practice during the World Wars contributed to the progressive development of customary rules that remain operative.

#### Key References

- Declaration of Paris, 1856
- London Declaration on the Laws of Naval War, 1909
- San Remo Manual on International Law Applicable to Armed Conflicts at Sea, 1994
- Rome Statute of the International Criminal Court, 1998 (Arts. 7, 8, 8 bis)
- Geneva Convention IV and Additional Protocols I & II
- Abram Chayes, *The Cuban Missile Crisis* (Oxford University Press, 1974)
- W. Heintschel von Heinegg, 'Naval Blockade,' in *International Law Studies*, U.S. Naval War College

- 
- ICRC, Customary International Humanitarian Law (Cambridge University Press, 2005), Rules 53, 55–56
  - Yoram Dinstein, The Conduct of Hostilities under the Law of International Armed Conflict (3rd edn, Cambridge, 2016)
- 

*This academic note is intended for educational and research purposes. It reflects established doctrine and leading scholarly opinion as of the date of preparation.*