

CONFIDENTIAL

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JCS STUDY  
on  
HOT PURSUIT AND PURSUIT UNDER DOCTRINE OF  
SELF-PRESERVATION

1. The term "hot pursuit" has been used in various joint and service papers, as well as by Commanders in the field, in connection with the protective measures United States military forces are authorized to take in self-defense. The term has also been used with reference to its special meaning under international law. The purpose of this paper is to clarify the concepts involved with a view to eliminating some of the confusion which has arisen from the interchangeable use of the term.

2. The term "hot pursuit" has a well-established and special meaning in international law. It is recognized as the right of a coastal State to pursue COMMERCIAL vessels of a foreign State suspected of violating the laws or regulations of the coastal State applicable to its territorial sea or contiguous zone. Basically, it is a peacetime concept not connected with hostilities or the threat of hostilities by the military forces of a State. Pursuit under this doctrine does not include the right to pursue warships or military aircraft, or for that matter any type of aircraft. In addition, under custom and practice, hot pursuit may be undertaken only under certain limited conditions. For example, the pursued vessel or one of its boats must be within the territorial sea or contiguous zone of the coastal State before pursuit can begin. Once the pursued ship enters the territorial waters of its flag state or a third state, the right of hot pursuit ends. Although hot pursuit may be undertaken for a violation of any law or regulation enacted pursuant to the sovereign authority of the coastal State when the violation occurs within internal waters or the territorial sea, it can be undertaken for a violation of only those laws covering customs, fiscal, immigration, or sanitary matters when the violation occurs within the contiguous zone.

3. In marked contrast, the right of pursuit under the doctrine of self-preservation or self-defense is a much broader concept, not dependent on the territorial sea or contiguous zone. International law recognizes the right of a State to take whatever measures are necessary for its self-defense. A unit of the armed forces of the United States in time of peace may repel or resist any hostile act committed or threatened against it by foreign vessels or aircraft. The right to repel and resist includes "the right of pursuit" where considered feasible and necessary to ensure the safety of threatened forces or territory. In this connection, a hostile act has been defined in various instructions as "any act which involves a clear and present danger to the security of the United States or its forces, territory, possessions, or territory under the United States administration." Some examples of what may constitute hostile acts are:

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