

SECTION B. — EXPOSÉS ÉCRITS
SECTION B.—WRITTEN STATEMENTS.

THE NORTH CORFU CHANNEL.

**1.—MEMORIAL SUBMITTED BY THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND.**

*Claim in respect of damage by mines to ships of the Royal Navy
in the North Corfu Channel on 22nd October, 1946.*

Part I.

INTRODUCTORY.

I. This Memorial is submitted to the Court in pursuance of an Order made by the President of the Court following upon an Application dated 13th May, 1947, addressed by the Agent of the Government of the United Kingdom to the Registrar of the Court. As stated in that Application, the Government of the United Kingdom contend that the Court has jurisdiction in the present dispute under Article 36 (1) of its Statute as being a matter which is one specially provided for in the Charter of the United Nations, on the grounds—

- (a) that the Security Council of the United Nations at the conclusion of proceedings in which it dealt with the dispute under Article 36 of the Charter, by a Resolution, of which a copy formed Annex 2 to the Application (and will now be found in Annex 23, S/PV 127, p. 393), decided to recommend both the Government of the United Kingdom and the Albanian Government to refer the present dispute to the International Court of Justice;
- (b) that the Albanian Government accepted the invitation of the Security Council under Article 32 of the Charter to participate in the discussion of the dispute, and accepted the condition laid down by the Security Council, when conveying the invitation, that Albania accepts in the present case all the obligations which a Member of the

United Nations would have to assume in a similar case (a copy of the invitation of the Security Council and of the Albanian Government's reply thereto formed Annex 3 to the Application, and will now be found in Annex 23 of this Memorial);

- (c) that Article 25 of the Charter provides that "the Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter".

2. By a letter dated 2nd July, 1947, addressed to the Registrar of the Court and communicated to the latter on 23rd July by the Agent of the Albanian Government, the Government of the People's Republic of Albania informed the Court that it considered that the Government of the United Kingdom "was not entitled to refer this dispute to the Court by unilateral application", and disputed the validity of that Government's contentions based on Article 25 of the Charter. The Albanian Government, however, added that "it is prepared, notwithstanding this irregularity in the action taken by the Government of the United Kingdom, to appear before the Court". The Government of the United Kingdom interprets this to mean, and submits accordingly to the Court, that the Albanian Government has therefore accepted the jurisdiction of the Court in the present dispute, without, however, accepting the contentions of the Government of the United Kingdom as set out in the preceding paragraph. In the circumstances the difference of opinion as to the effect of Article 25 of the Charter is of no practical importance for the purpose of the present case. The Government of the United Kingdom for its part does not, however, admit that the observations of the Albanian Government on the subject of the Court's jurisdiction are well founded in law, nor does it withdraw its own submission in this regard as set forth in its Application of 13th May, 1947.

3. By an Order made on 31st July, 1947, the President of the Court fixed as time-limits for the filing of the Memorial and Counter-Memorial the 1st October, 1947, and 10th December, 1947, respectively.

Part II.

THE FACTS.

4. This claim arises out of an incident which occurred in the North Corfu Channel on 22nd October, 1946, while a squadron of His Majesty's ships were proceeding through that channel. Two destroyers, H.M.S. *Saumarez* and H.M.S. *Volage*, struck mines which had been laid in the fairway, and as a result forty-

United Nations would have to assume in a similar case (a copy of the invitation of the Security Council and of the Albanian Government's reply thereto formed Annex 3 to the Application, and will now be found in Annex 23 of this Memorial);

- (c) that Article 25 of the Charter provides that "the Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter".

2. By a letter dated 2nd July, 1947, addressed to the Registrar of the Court and communicated to the latter on 23rd July by the Agent of the Albanian Government, the Government of the People's Republic of Albania informed the Court that it considered that the Government of the United Kingdom "was not entitled to refer this dispute to the Court by unilateral application", and disputed the validity of that Government's contentions based on Article 25 of the Charter. The Albanian Government, however, added that "it is prepared, notwithstanding this irregularity in the action taken by the Government of the United Kingdom, to appear before the Court". The Government of the United Kingdom interprets this to mean, and submits accordingly to the Court, that the Albanian Government has therefore accepted the jurisdiction of the Court in the present dispute, without, however, accepting the contentions of the Government of the United Kingdom as set out in the preceding paragraph. In the circumstances the difference of opinion as to the effect of Article 25 of the Charter is of no practical importance for the purpose of the present case. The Government of the United Kingdom for its part does not, however, admit that the observations of the Albanian Government on the subject of the Court's jurisdiction are well founded in law, nor does it withdraw its own submission in this regard as set forth in its Application of 13th May, 1947.

3. By an Order made on 31st July, 1947, the President of the Court fixed as time-limits for the filing of the Memorial and Counter-Memorial the 1st October, 1947, and 10th December, 1947, respectively.

Part II.

THE FACTS.

4. This claim arises out of an incident which occurred in the North Corfu Channel on 22nd October, 1946, while a squadron of His Majesty's ships were proceeding through that channel. Two destroyers, H.M.S. *Saumarez* and H.M.S. *Volage*, struck mines which had been laid in the fairway, and as a result forty-

four officers and men lost their lives, forty-two officers and men were injured and serious damage was caused to the two ships. His Majesty's Government in the United Kingdom contend—

- (1) that the Albanian Government on some date in 1946 before 22nd October, either caused to be laid, connived at or had knowledge of the laying of mines in certain areas of its territorial waters in the Strait of Corfu;
- (2) that these areas were part of an international highway and to the knowledge of the Albanian Government were being used as such by the shipping of other States;
- (3) that, whether or not these areas were part of an international highway, a State is not entitled to lay, or knowingly to permit the existence of, an unnotified minefield constituting a danger to shipping of other States;
- (4) that the Albanian Government did not notify the existence of these mines as required by Articles 3 and 4 of The Hague Convention No. VIII of 1907, by the general principles of international law, and by the ordinary dictates of humanity;
- (5) that the Albanian Government is internationally responsible for the said deaths, injury and damage; and
- (6) that the Albanian Government is under an obligation to make reparation or compensation to the Government of the United Kingdom in respect thereof.

5. *The incident to which this claim relates took place in the Strait of Corfu, which is a strait between the north-eastern corner of the Island of Corfu and the mainland of Albania. The Strait varies in width from 1 to 6½ miles. In the wider portion the western side of the Strait lies within the territorial waters of Greece and the eastern side within the territorial waters of Albania while, as it becomes narrower than 6 miles, it is entirely within the territorial waters of one or the other country, the dividing line between such waters being, according to the well-established rule of international law, in mid-channel. The Strait affords a normal and direct route between the open seas lying to the north-east, north and north-west and the seas lying to the south-east of the Island of Corfu, and is an international highway for shipping much used in peace-time. Apart from coastal traffic, it is a commonly used route for traffic from the heel of Italy or the Northern Adriatic ports plying to Greece or the Eastern Mediterranean. For navigational reasons many types of shipping prefer a coast-wise route in this area.*

6. During the war of 1939-1945, mines were laid by the Italians and Germans in the Strait through which the Axis Powers established and maintained a swept channel for purposes of navigation. This swept channel is hereafter referred to as the

"North Corfu swept channel". It is about a mile wide and lies within both Greek and Albanian territorial waters. This route was subsequently re-swept by British minesweepers in the circumstances hereafter set out. A chart showing the Strait is attached (Annex 1). The position of the "North Corfu swept channel" is shown in Annexes 5 and 7.

7. A German mine information chart is annexed to this Memorial (Annex 2), showing the position of a German minefield. It will be seen that this minefield was mainly in Greek territorial waters but a small part of it was in Albanian territorial waters, and that the North Corfu swept channel as established by the Axis authorities lay eastwards of this minefield. The North Corfu swept channel has existed and been used for navigation since approximately June 1940, as the Albanian Government at all material times in the year 1946 were well aware.

8. During the war of 1939-1945, some hundreds of thousands of mines were laid in the waters of the Mediterranean and North-West Europe. Of these mines only about 20,000 had been swept by the end of hostilities. In order to carry out the task of removing the remainder in a co-ordinated manner, an international organisation was set up in May 1945, by agreement between the Governments of the U.S.S.R., United States, United Kingdom and France. The objects of this Organisation, entitled the International Central Mine Clearance Board, as defined by a written Agreement dated 22nd November, 1945 (of which the text is in Annex 3), were—

- (i) to use the available minesweeping forces to the best advantage for—
 - (a) the clearance of fishing grounds,
 - (b) the widening of all channels,
 - (c) the establishment of clear waters for vessels repairing important telegraph cable routes,
 - (d) the clearance of areas containing mines dangerous to surface shipping,
 - (e) clearance of deep anti-submarine mines; and
- (ii) to promulgate information about mines and mine clearance to the shipping of the world.

9. This Board was composed of the representatives of the four Powers mentioned above. Further, as provided by the Agreement of 22nd November, 1945, there was set up to co-ordinate mine-sweeping in the Mediterranean area a Mediterranean Zone Board consisting of representatives of France, Greece, the Union of Soviet Socialist Republics, the United Kingdom, United States and Yugoslavia. Certain other governments were invited to send observers to the Mediterranean Zone Board, but the four Powers

did not invite Albania primarily because she possessed no mine-sweeping forces.

10. In pursuance of the second of the two objects mentioned in paragraph 8 above, charts and pamphlets described as "Medri Charts" were issued by an organisation known as the International Routeing and Reporting Authority, consisting of representatives of the European maritime Powers whose function it was to co-ordinate the information on swept channels and minefields passed to it by the International Central Mine Clearance Board. These charts and pamphlets showed the areas and the routes for shipping in the Mediterranean area and were published to all Mediterranean countries who relied on them for purposes of safe navigation. Thirty copies of these documents were forwarded monthly from October 1945 to October 1946 to the Albanian Government. Proof of the despatch of these documents will be found in Annex 4.

11. During the winter of 1944-1945 the following areas of Albanian territorial waters were swept, or searched, by British minesweepers :—

- (1) North Corfu Channel (October 1944 and January and February 1945).
- (2) Valona Bay (November 1944).
- (3) Durazzo Approaches (December 1944, March 1945).

No objection to this action was raised by Albania or any other Power. The fact that these areas had been swept of mines was shown on the Medri Charts and pamphlets, which, as already stated, were communicated to the Albanian Government. In addition, the head of the British Military Mission personally handed a Medri Chart of the minefields and swept route to the Albanian Government in or about January 1946. In Annex 5 is attached the relevant portion of a key Medri Chart. Charts in this form were in force and were issued between October 1945 and October 1946. There are also attached in the same annex the relevant Medri pamphlets, showing as safe for navigation the route through the "North Corfu swept channel" (numbered in the Medri Index Chart 18/32 and 18/34)¹.

12. No mines were found in the North Corfu Channel either during the sweeping which took place in October 1944, or in the subsequent sweeps which took place in January and February 1945, or at any time subsequently until 22nd October, 1946. There is no record of any enemy or Allied mines having been laid in the Channel since February 1945.

¹ Originally these two routes were designated 18/53 and 18/54, but Medri 5 (in which they so appear) was cancelled on 8th March, 1946, by the issue of Medri 9; thereupon they became 18/32 and 18/34.

13. As a result of the publication of the Medri Charts and pamphlets as stated above, it was publicly notified each month from October 1945 that the North Corfu Channel was once again open to navigation, as an international highway for navigation, and it and other swept channels, wholly or partly in Albanian territorial waters, were used by British and other ships in possession of these documents. In fact, until May 1946 shipping of all kinds used the Channel without hindrance from either Greece or Albania, who were the territorial Powers concerned, and without encountering any mines.

14. On 15th May, 1946, however, His Majesty's cruisers *Orion* and *Superb*, while passing southwards through the swept channel on a routine voyage during which they were exhibiting their national naval ensign in accordance with normal procedure and the regulations in force in the Royal Navy, were fired on by Albanian batteries, fortunately without damage. His Majesty's Government at once protested strongly to the Albanian Government against this breach of international law, which recognises that, in peace and in war, there is both for warships and merchant vessels a right of innocent passage through straits forming highways of international maritime traffic. There ensued a diplomatic correspondence culminating in a note from His Majesty's Government to the Albanian Government, dated 2nd August, 1946, in which the Government of the United Kingdom maintained its attitude that it could not recognise any right of a territorial Power to demand the fulfilment of conditions before entry was permitted into a recognised international channel. The correspondence is attached (Annex 6).

15. In the early afternoon of 22nd October, 1946, a squadron of British warships was proceeding through the Strait. The squadron had, in accordance with many years of peace-time tradition, been visiting Greek ports and, ultimately, the port of Corfu. It was proceeding in innocent passage by the normal and direct route to a rendezvous with other British ships in the open seas north-west of Corfu. It was proceeding in normal passage formation, the guns trained fore and aft. The exact positions and tracks of the ships are shown in the chart at Annex 7. No mine detection devices were used. The cruiser *Mauritius* (11,090 tons) was leading, followed at an interval of a few hundred yards by the destroyer *Saumarez* (2,545 tons); behind them, after a gap of two miles but on the same course, was the cruiser *Leander* (9,560 tons), followed at an interval of a few hundred yards by the destroyer *Volage* (2,530 tons). The course they were taking was through the North Corfu swept channel, which, as shown in paragraphs 2 and 5 above, had been check-swept for mines in October 1944 and again in January and February 1945, and was denoted 18/34 on the Medri Charts. This course was in any event the natural course to take

for navigational reasons. The weather was clear and the depth of water about 30 fathoms.

16. At 14.45 hours two bursts of machine-gun fire were heard on the Albanian coast. The ships proceeded on their passage and did not alter formation. At 14.53 hours a heavy explosion took place in H.M.S. *Saumarez*. The destroyer *Volage* was immediately ordered forward to give her assistance and to take her in tow. At 15.32 hours an Albanian launch came out of the port of Saranda (Porto Edda) and hailed the damaged destroyer, enquiring what the ships were doing there. The launch remained in the area for twenty or thirty minutes without offering any assistance, and then returned to port. A photograph of H.M.S. *Saumarez* taken thirty seconds after the explosion is attached (Annex 8).

17. Three-quarters of an hour later, at 16.16 hours, there was a heavy explosion in H.M.S. *Volage* and her bows were blown off. Annex 8 also contains a photograph of the *Volage* taken immediately after the explosion. The exact position of the ships at the time the explosions took place is shown on the chart at Annex 9. All ships, including the ships damaged, were within the swept channel.

18. The two incidents above mentioned caused the death of 44 sailors and injury to 42 others. H.M.S. *Saumarez* became a total loss and H.M.S. *Volage* was seriously damaged. There are attached:—

- (a) Report on damage to H.M.S. *Saumarez* (Annex 10).
- (b) Report on damage to H.M.S. *Volage* (Annex 11).
- (c) List of sailors killed with statement of pensions and other benefits payable to dependants for which His Majesty's Government has become liable as the result of such deaths (Annex 12).
- (d) List of sailors injured with statement of expenses, pensions and other payments to which His Majesty's Government has become liable as the result of such injury (Annex 13).
- (e) Statement of cost of repair to the *Volage* and the cost of replacement of the *Saumarez* (Annex 14).

19. The nature of the explosions and the extent of the damage were such as to indicate that they were caused by contact mines. It was urgently necessary to ascertain the cause of the explosions and, if caused by mines, what mines they were—whether they were moored or not and how they came to be in a channel which had for two years been clear. The Government of the United Kingdom therefore notified the Albanian Government on 26th October, 1946, that, in view of the serious incidents to two of His Majesty's ships when passing through the North Corfu Channel, it would shortly be re-swept by British minesweepers.

20. The matter was also reported immediately to the Mediterranean Zone Board, whose composition has been described in paragraph 9 above. The relevant minutes of the Central and Mediterranean Boards are annexed (Annex 15). The International Routing and Reporting Authority, on receipt of this information, closed the Channel to shipping and on 28th October, 1946, the Mediterranean Zone Board recommended a check sweep of the "North Corfu swept channel" (Annex 15, pp. 125-126, para. 138). The recommendation was submitted to the Central International Mine Clearance Board which, on 1st November, 1946 (Annex 15, p. 104, para. 326), confirmed that the Channel should be re-swept at a favourable opportunity, at the same time recording that the sweeping of the Channel raised an issue outside its scope.

21. Meanwhile, the reply of the Albanian Government to His Majesty's Government's note communicating its intention to re-sweep the North Corfu swept channel had been received on 31st October, 1946. The Albanian Government in this reply expressed no objection provided the minesweepers did not enter territorial waters. In view of the nature of the Channel, the greater part of which lies exclusively in Albanian territorial waters, such a reply was tantamount to a refusal to allow this necessary humanitarian task to be carried out, and is open to the interpretation that the Albanian Government did not desire to have the cause of the incidents to His Majesty's ships on 22nd October, 1946, investigated. Having regard to the recommendations of the competent Mine Clearance Board, and, as the sweeping of the Channel, being an international highway, was of international benefit, His Majesty's Government decided that the sweeping should proceed. The Albanian Government was therefore, by a note dated 10th November, 1946 (Annex 6, 2nd Incident, Item IV), warned of the date on which it was intended to carry out the operation and of the exact area to be swept. By a note dated 11th November, 1946, addressed to the Government of the United Kingdom, and by a separate note dated 12th November, 1946, addressed to the Secretary-General of the United Nations, the Albanian Government protested against this decision (Annex 6, 2nd Incident, Item VI).

22. The North Corfu swept channel was accordingly re-swept by British minesweepers under the direction of the Allied Naval Commander-in-Chief, Mediterranean, on 12th-13th November, 1946. In order to obtain an unbiased report of the happenings during the period of sweeping, the American and French members of the Mediterranean Zone Board (the only members considered likely to be available) were invited to attend the operation. The American representative was unable to participate; the French representative accepted, and Capitaine de Frégate Mestre accordingly

attended the minesweeping operations. His reports are annexed hereto (Annex 16).

23. During the sweeping operation carried out on 13th November, 1946, twenty-two moored mines were detected and cut. In order to destroy these mines small arms fire and anti-tank rifles only were used and instructions were given to the vessels concerned not to fire towards the coast and not to proceed outside the swept channel. Contrary to the statements made by the Albanian representative on the Security Council, at no time were machine-guns used during the operation. As many as possible of the mines were destroyed by small arms fire, but, owing to the severe restrictions under which the minesweepers operated, not all the mines were cleared, some remaining outside the charted confines of the Channel, particularly to the North and East. Reports on the operation are annexed hereto (Annex 17). The positions in which these mines were found are shown in the chart at Annex 18. They extended right across the swept channel. Two mines were taken to Malta for expert examination. This examination was carried out in the presence of Capitaine Mestre, the French observer. The examination showed that the mines were of German manufacture, containing 600 lb. of explosive, being the largest type of anchored mines in existence, capable of inflicting the most serious damage upon the largest type of ship afloat (photographs of the mines taken at the time are at Annex 19). The mines were free from marine growth; the paint was fresh, the mooring wire was still loaded with grease, there was no rust on the mechanism plate, and the horns unscrewed easily (see Annex 20). These facts leave no doubt whatever that the mines were laid only a very short time before the date on which H.M.S. *Saumarez* and H.M.S. *Volage* suffered damage and casualties.

24. During the period since May 1946, when, as indicated in paragraph 14 above, British vessels were fired on, it is clear that the Albanian Government had maintained a close watch over events taking place in the North Corfu swept channel. The chart at Annex 21 shows the defences maintained by the Albanian Government overlooking the Bay of Saranda and in addition defences exist at other points along the coast. The degree of vigilance maintained (as well as the violation of the rights of innocent passage) is shown by the fact that the *Tanac Tug* F/CT. 12, accompanying three U.N.R.R.A. barges, was fired on at night on 29th October, 1946 (Annex 22). As further evidence of the vigilance of the Albanian Government during the six months preceding this, the Government of the United Kingdom will rely on the statement made by the Albanian representative at the Security Council that, in consequence of alleged provocations on the part of Greek vessels up to 30th April, 1946, the Albanian Government "took measures of vigilance against any fresh violations of the

sovereignty of the Albanian State" (Annex 23, *Security Council, Official Records*, Second Year, No. 16, p. 223). The nearest mine found on the sweeping of 13th November, was only some 500 yards from the shore. Each mine weighed approximately 1 ton and however launched would make a considerable splash and noise on entering the water. It would be impossible for over twenty of such mines to be laid without the laying of the mines and the engines of the craft laying the mines being heard by the look-outs and coastguards around Saranda. The process of laying mines of this type is, on the other hand, a simple one and they can be laid from almost any type of vessel; no specialised equipment is required, by contrast to what is needed for sweeping mines.

25. In point of fact the positions of the recently laid mines found on 13th November, 1946 (see Chart in Annex 18), strongly point to the conclusion that the mines were carefully placed with the express intention of providing a defensive minefield covering the Bay of Saranda.

26. The Government of the United Kingdom contends that these facts point to the irresistible inference that:—

- (a) The mines which caused damage and casualties to British ships on 22nd October, 1946, were part of a minefield of anchored automatic contact mines deliberately laid shortly before the incident in the international highway which had last been swept and found clear of mines in February 1945 and had been extensively used by maritime traffic since that date;
- (b) the mines were laid, or caused to be laid, either by Albania, or with the knowledge and connivance of the Albanian Government.

27. No notification was given by Albania of the laying or existence of the mines.

28. In the light of the facts set out above the Government of the United Kingdom addressed to the Albanian Government a note dated 9th December, 1946, setting forth its grounds for believing that the Albanian Government was responsible for the damage and casualties sustained by His Majesty's ships as aforesaid and requesting an apology and compensation. The Government of the United Kingdom added that if no satisfactory reply to its note was received from the Albanian Government within fourteen days of the receipt of its note, it would be obliged to bring the matter before the Security Council. The Albanian Government replied on 21st December, 1946 (Annex 6, 2nd Incident, Item VIII), but the Government of the United Kingdom, regarding this reply as unsatisfactory, by a letter dated 10th January, 1947 (Annex 6, 2nd Incident, Item IX) and addressed to the Secretary-General

of the United Nations Organisation, brought the dispute before the Security Council under Article 35 of the Charter of the United Nations. (See also Annex 23, *Security Council, Official Records*, Second Year, Supplement No. 3.)

29. On 20th January, 1947, the Security Council commenced its consideration of the dispute and in pursuance of Article 32 of the Charter decided to invite Albania (not being a Member of the United Nations) to participate without a vote in the discussion relating to the dispute (that is to say on the same footing as the United Kingdom, which, as a party to the dispute, exercised no vote by reason of Article 27 of the Charter). The Security Council decided also to ask the Albanian Government, if it chose to accept this invitation, to accept for the purposes of the dispute all those obligations which would fall upon a Member of the United Nations.

30. In pursuance of this decision the Acting Secretary-General of the United Nations addressed a communication to Colonel-General Enver Hoxha, President of the Council of Ministers of The People's Republic of Albania, enquiring whether his Government accepted this decision. The Albanian Government after some delay replied that it accepted the decision and nominated as its representative to the Security Council, M. Hysni Kapo. The matter was further discussed at meetings of the Security Council held on the 28th and 31st January, 1947, but, as the Albanian representative had not arrived in New York, consideration of the merits of the dispute was postponed. (Annex 23, *Security Council, Official Records*, Second Year, No. 7 and No. 8.)

31. On 18th February, 1947, the Security Council at its 107th Meeting proceeded to hear the arguments of the parties to the dispute. At this meeting, Sir Alexander Cadogan, permanent representative of the United Kingdom on the Security Council, addressed the Council setting forth the facts of the case as recited in this Memorial. In explaining the standpoint of his Government he used exhibits which are detailed in Annex 24 hereto, and these exhibits were before the Security Council and were taken into account by it in reaching its conclusions. All these exhibits are annexed to this Memorial to the extent shown in Annex 24.

32. On 19th February, at the 109th Meeting, the representative of the Albanian Government replied to the charges of the Government of the United Kingdom, making a number of totally unfounded allegations concerning the actions and intentions of His Majesty's ships. He also made a number of irrelevant allegations regarding the supposed violation of Albanian territorial waters by Greek vessels, stating that "after successive acts of provocation by Greek ships the Albanian Government fully within its rights and without breach of international rules

took measures of vigilance against any fresh violation of the sovereignty of the Albanian State. The coastal State's right of sovereignty over its territorial waters is not invalidated by the right of innocent passage which is recognised and respected by our Government." (Annex 23, *Security Council, Official Records*, Second Year, No. 16, pp. 223-224.)

33. The Court is asked to take note of this admission by Albania of the special vigilance exercised by it over its coasts and adjacent waters and also of the admission by the Albanian Government of the existence of the right of innocent passage according to international law. The Government of the United Kingdom in paragraph 80 of this Memorial will invite the attention of the Court to other statements made by Albania in which the right of innocent passage is recognised to exist. The statement of the Albanian representative concluded by denying that the Albanian Government was responsible for the incident of 22nd October, 1946.

34. On 24th February, 1947, at the 111th Meeting of the Security Council, the Australian representative spoke. He stated that if the facts as alleged by the United Kingdom were established, the Council had before it not merely a dispute, but an act which could only be characterised "as an international crime of the most serious sort". (Annex 23, *Security Council, Official Records*, Second Year, No. 18, p. 244.) In the circumstances he emphasised the importance of establishing the facts and proposed a resolution appointing a sub-committee consisting of three Members to examine the material in the case and to report not later than 3rd March, 1947.

35. As this meeting the representative of the Soviet Union also spoke. He expressed the view that the facts refuted the statement "that Albania was responsible for the damage by mines to the British destroyers" (Annex 23, *ibid.*, p. 248). He held that Article 35 of the Charter had no relation to the question at issue on the ground that "any statement that the behaviour of Albania in connexion with damage by mines to the British destroyers in the Corfu Channel constitutes, or may constitute, a threat to peace is devoid of all foundation" (Annex 23, *ibid.*, p. 252).

36. The representative of the United States then spoke. He stated that his Government found it difficult to believe the professed Albanian ignorance regarding these mines and their laying. He favoured a further examination of the facts and supported therefore the Australian motion (Annex 23, *ibid.*, p. 252).

37. The representative of Poland said that the parties were in disagreement as to the facts on several points. He was, never-

theless, opposed to the appointment of a sub-committee on the ground that on the basis of the documents available "at the present moment here in New York, it is impossible to find any convincing evidence" (Annex 23, *ibid.*, p. 257). In his view there had been negotiations within the meaning of Article 33 of the Charter, but it was open to the Security Council to call upon the parties to use some other means for the peaceful settlement of the controversy. In addition he referred to Article 36 (3) of the Charter and Article 36 (2) of the Statute of the International Court of Justice, and stated that, if the Council so wished, the Polish delegation would not oppose the reference of the dispute to the International Court.

38. Further opinions were expressed on the subject whether a sub-committee should be appointed and the discussion was adjourned and resumed by the Security Council on 27th February, 1947, at its 114th Meeting. At this Meeting the representative of China spoke supporting the Australian motion made at the Meeting on 24th February. Other speeches were made by members of the Soviet Union, Australia, Poland, United Kingdom, Brazil, United States concerning what procedure the Security Council should adopt. At the conclusion of this discussion the Council voted on a resolution submitted by the representative of Australia deciding to set up a sub-committee. Eight votes were cast in favour of this resolution; none against. There were three abstentions, and as a result the motion was carried (Annex 23, *Security Council, Official Records, Second Year, No. 21, p. 280*).

39. At the same Meeting, the Sub-Committee consisting of representatives of Australia, Colombia and Poland, was appointed. This Sub-Committee was empowered to request further information as it might deem necessary from the parties to the dispute. The Sub-Committee reported on 12th March, 1947, and a copy of this report is at Annex 23, *Official Records, S/300*¹.

40. The Sub-Committee stated that it had proceeded on the principle that it was neither a commission of investigation nor a fact-finding sub-committee in the strict sense of the word, and that its main duty was to examine the statements and evidence already submitted to the Security Council and to ascertain whether additional evidence existed. The Sub-Committee held ten meetings; some of the meetings were devoted to the interrogation of the representatives of the United Kingdom and Albania. Another meeting was devoted to questioning Ambassador Dendramis, the permanent representative of Greece to the United Nations. The remaining meetings were taken up with the study by members of the Sub-Committee of the allegations

¹ See pp. 312 *et seq.*

and evidence submitted by the two parties. The Syrian delegate to the Security Council having expressed the desire to put several questions to the representatives of the United Kingdom and Albania, took part in one of the meetings of the Sub-Committee. In addition to the documents submitted directly to the Council, the Sub-Committee examined other documents, such as extracts from the records of the International Central Mine Clearance Board and the Mediterranean Zone Mine Clearance Board, and also various charts submitted by the representative of the United Kingdom. Commander Sworder, an expert from the British Admiralty, was made available to the Sub-Committee in order to give the necessary technical evidence and explanations on the matters at issue.

41. In its conclusions the Sub-Committee submitted that the first question which the Security Council should face was whether or not, having regard to the nature and extent of the evidence available, the Security Council felt itself able to pronounce upon the following questions:—

- (a) whether or not a minefield existed in the swept channel opposite Saranda Bay on 22nd October, 1946, and
- (b) whether or not this minefield was laid by the Albanian Government or with the connivance of the Albanian Government?

42. On 20th, 21st and 25th March, 1947, the Security Council discussed the Sub-Committee's report. The representative of Albania took part in the discussions without the right to vote and the representative of the United Kingdom did not vote.

43. On 20th March, at the 120th Meeting of the Council, the report of the Sub-Committee was introduced by its Chairman (the representative of Colombia). He pointed out that the Sub-Committee was not making any precise recommendations on the measures to be taken and was not submitting any conclusions on the evidence given or on facts to be taken as proof, "because it felt that its function was rather that of a *rappporteur* than that of a commission of investigation". Each of its three members reserved the right to "state his opinion to the Council on the substance of the problem and to give such further reasons as he may have for feeling that the two questions at the end of the report" (set out in para. 41 of this Memorial) "can or cannot be answered affirmatively".

44. The representative of Colombia then proceeded to give his own opinion on the subject (Annex 23, *Security Council, Official Records*, Second Year, No. 27, p. 288). He stated in the first place that there was no doubt in his mind that on 13th November, 1946, there were, in fact, discovered in the navigable channel which had been previously swept in 1944, twenty-two German Y type mines

containing six hundred pounds of explosives. In his opinion there was no doubt (a) that such mines had been laid there recently, certainly not more than six months before the incidents occurred; and (b) that this was the minefield which, on 22nd October, 1946, caused serious damage to two ships of the British Navy and some loss of life. The minefield discovered on 13th November was in his opinion identical with that which caused the damage on 22nd October, 1946.

45. As regards the second question at the end of the Sub-Committee's report (set out in para. 41 of this Memorial) the representative of Colombia observed that it was not maintained by the Government of the United Kingdom that there was direct evidence beyond doubt of the laying of the mines by Albania or with her connivance. It was simply contended that there was a strong presumption based on previous events and particularly on the vigilance maintained by the Albanian authorities over the Channel.

46. The Colombian representative concluded that he considered the presumption that the minefield could not have been laid in the Corfu Channel without the knowledge of the Albanian Government so strong that he was prepared to vote in favour of putting that opinion on record. If, however, the majority of the Council did not consider themselves sufficiently informed to state that the mines could not have been laid without Albania's knowledge, he was inclined to suggest that in that case the Council should recommend the two parties to bring their dispute before the International Court of Justice.

47. The representative of Australia (the second member of the Sub-Committee) then spoke (Annex 23, *ibid.*, p. 293). He pointed out that the additional report presented by the representative of Poland was not strictly speaking part of the report of the Committee. He then proceeded to give his own opinion on the questions raised in the Committee's report. He stated that his delegation supported the opinions regarding the nature of the evidence and the conclusions to be reached from the evidence in this case as set forth by the representative of Colombia. He agreed that there was no doubt whatever that twenty-two mines were found on 22nd November, in the swept channel opposite Saranda Bay, and that the explosion of two mines which took place on 22nd October, took place in this identical minefield. He also held the view that the Council "is justified in finding that the mines must have been laid with the knowledge of Albania while there is a strong probability that they were also laid with the connivance of Albania" (Annex 23, *ibid.*, p. 295). He held this view "having regard to the detailed evidence regarding the conditions of the mines, the nature of the minelaying operation and the places in which the mines were found".

48. The representative of Poland (the third member of the Sub-Committee) then spoke. He emphasised the fact that the report was unanimous and was accepted by him. He agreed that mines were found on 13th November, but "some mines might have been laid later, some time between 22nd October and 13th November, rather closer to the latter date" (Annex 23, *ibid.*, p. 298). He thought it possible that the mines might have been laid without the knowledge of the Albanian Government. He referred to Article 33 of the Charter and stated that in his view the Security Council should call upon the parties to settle their dispute by the means enumerated in that Article. Further speeches were made at this meeting of the Security Council, in which the Polish representative gave explanations of his separate report in reply to a request from the representative of the United Kingdom. At the conclusion of the discussion at this meeting a resolution was presented by Sir Alexander Cadogan which, subject to certain amendments proposed by the representative of the United States, was put to the vote at a later meeting (para. 59 below).

49. On the 21st March, 1947, at its 121st Meeting, the Security Council resumed its discussion of the dispute (Annex 23, S/PV/121¹). The representative of Albania made a long statement expressing his views on the report. He was followed by the Soviet representative, who stated that he was not satisfied with the evidence or with Sub-Committee's report.

50. At this meeting the Belgian representative spoke. He stated that "the Belgian delegation considers that after the sweeping operations of 13th November, 1946, it is established that a minefield has been secretly laid on the Corfu Channel". He observed that "apart from the just reparation for the damage caused, the Security Council has the duty to prevent, as far as it is in its power, the repetition of similar incidents which are of a nature to endanger peace and security". In the opinion of the Belgian delegation the existence of the minefield, which was discovered on 13th November, 1946, was established. Further, this delegation held the view that "this minefield was laid in those waters as the Albanian Government wished to prevent the entrance of foreign ships, and particularly of British ships, and in which, as a consequence, it exercised a strict vigilance" (Annex 23, S/PV/121, p. 351). He concluded: "In these circumstances, the Belgian delegation, while noting that there are no direct witnesses to establish the fact that the mines were laid by the Albanian Government, cannot conceive that these mines were laid without the knowledge of that Government."

51. The representative of the United States then spoke (Annex 23, *ibid.*, p. 353). He made the following statement: "It

¹ See pp. 338 *et seq.*

seems, too, that another conclusion which we" (*i.e.*, the United States delegation) "have reached is shared by the majority of the Members of the Council who have spoken. We find it difficult to reach the conclusion that the Council ought to find that Albania laid these mines in the absence of direct evidence to that effect. However, the weight of the evidence, it seems to the United States delegation, seems to be overwhelmingly in favour of the proposition that these mines, under all the circumstances, could not have been laid without the knowledge of the Albanian authorities. I find it impossible to believe that the Albanian Government is and was entirely ignorant of the laying and placing of these mines."

52. In view of his reluctance to support a finding that Albania actually laid the mines, the representative of the United States suggested two small amendments to the resolution proposed by the representative of the United Kingdom on 20th March (as mentioned in para. 48 of this Memorial) (Annex 23, *ibid.*, p. 353).

53. The Security Council met again on 25th March, 1947 (Annex 23, S/PV/122¹). At this meeting the representative of France expressed his opinion on the matters in dispute. He had no doubt that the two mines which caused the two explosions on 22nd October, 1946, belonged to the minefield "which was discovered only some two or three weeks after the incident". He did not agree that it was established that the Albanian Government laid the minefield, on the ground that they did not possess the expert staff and equipment necessary for the purpose. He held, however, that it was "very unlikely" that these mines were laid without the knowledge of the Albanian Government. Accordingly, he reached a conclusion "which is very close to the view expressed by the representative of Colombia and the representative of the United States".

54. Sir Alexander Cadogan accepted the amendments proposed by the United States at the Council meeting on 21st March (as mentioned in para. 52 of this Memorial), and the Albanian and Polish representatives made further speeches.

55. The representative of China then spoke. He stated that "In view of the very great and zealous care and strict vigilance with which the Albanian Government has guarded its sovereignty over its territorial waters and the close proximity of the mines the existence of which resulted in the blowing up of the British warships, I also have come to the conclusion that it is impossible for the mines to have been laid without the knowledge of the Albanian Government" (Annex 23, *ibid.*, p. 361).

56. The representative of Syria spoke (Annex 23, *ibid.*, p. 364). He held the view that the matter should be studied further and that the parties to the dispute should try some other means,

¹ See pp. 355 *et seq.*

such as mediation, which is mentioned in Article 33 of the Charter. Further speeches were made by the representatives of the United Kingdom and the Soviet Union, and thereafter a vote was taken on the resolution set forth in the next paragraph of this Memorial.

57. At the 122nd Meeting of the Security Council on 25th March, 1947 (Annex 23, *ibid.*, p. 369), the representative of the United Kingdom presented a resolution in the following terms :—

“The Security Council, having considered statements of representatives of the United Kingdom and of Albania, concerning a dispute between the United Kingdom and Albania arising out of an incident on 22nd October, 1946, in the Strait of Corfu in which two British ships were damaged by mines with resulting loss of life and injury to their crews ;

- (1) *Considers* that the laying of mines in peace-time without notification is unjustified and an offence against humanity ;
- (2) *Finds* that an unnotified minefield was laid in the immediate vicinity of the Albanian coast, resulting in serious injury to two of His Majesty's ships with loss of life and injury to their crews ; that the minefield could not have been laid without the knowledge of the Albanian authorities ;
- (3) *Recommends* that the United Kingdom and Albanian Governments should settle the dispute on the basis of the Council's finding in (2) above, and that in the event of failure to settle, either party may apply to the Council for further consideration of the matter ;
- (4) *Resolves* to retain this dispute on its agenda until both parties certify that it has been settled to their satisfaction.”

58. A vote was taken on the above resolution with the result that seven States (Australia, Belgium, Brazil, China, Colombia, France, United States) voted in favour of it. Two States (Poland and the U.S.S.R.) voted against it. One State (Syria) abstained, and the United Kingdom did not vote (Annex 23, *ibid.*, p. 369).

59. This resolution having failed to obtain the concurring vote of one of the five permanent Members of the Council, was, under Article 27 of the Charter, not effective as a decision of the Council.

60. Such an expression of opinion by seven members out of ten votes cast fortifies the Government of the United Kingdom in their submission that the inferences of fact set out in paragraph 26 of this Memorial are correct.

61. At the 127th Meeting of the Security Council on 9th April, 1947 (Annex 23, S/PV 127¹) (the representatives of Albania and the Soviet Union having made further speeches), the representative of the United Kingdom presented a resolution in the following terms :—

¹ See pp. 387 *et seq.*

'The Security Council having considered statements of representatives of the United Kingdom and of Albania concerning a dispute between the United Kingdom and Albania arising out of an incident on 22nd October, 1946, in the Straits of Corfu, in which two British ships were damaged by mines with resulting loss of life and injury to their crews;

Recommends that the United Kingdom and the Albanian Governments should immediately refer the dispute to the International Court in accordance with the provisions of the Statute of the Court."

This resolution was carried by eight votes, two States (Poland and the U.S.S.R.) having abstained, and the United Kingdom not having voted. The proceedings of the Security Council in this matter, careful, deliberate and prolonged, as they had been, thus terminated (*ibid.*, p. 393).

62. By its Application dated 13th May, 1947, and in pursuance of the above resolution, the Government of the United Kingdom commenced these proceedings.

Part III.

THE LAW.

63. The international law on the subject of the laying of mines is, in the submission of the Government of the United Kingdom, well established. In the first place, in view of the inevitable danger to the lives and property of innocent persons caused by the existence of minefields, the laying of minefields is *prima facie* forbidden and is an international wrong involving responsibility. This is based upon the elementary principle that one who, knowingly and without legal justification, creates a danger to the life or property of another is answerable for any injury or damage sustained by that other.

64. While this primary principle remains generally applicable both in peace and war, it was recognised by nations that in war-time some use of mines by belligerents, and also by neutrals in defence of their neutrality, had for the time being to be accepted. Accordingly, in order to regulate such uses and to minimise the damage and suffering caused thereby, certain rules were formulated and adopted by the Second Peace Conference held at The Hague in 1907 and attended by forty-four States; these rules are referred to in detail in the following paragraph. The rules so adopted were drawn up to establish a minimum standard of conduct for nations in the particular circumstances of war and indeed appear to contemplate the use of mines as legal in war-time only, though no doubt there is no objection to laying (with all due safety precautions) minefields in peacetime for the purposes of training and practice. The Hague rules

'The Security Council having considered statements of representatives of the United Kingdom and of Albania concerning a dispute between the United Kingdom and Albania arising out of an incident on 22nd October, 1946, in the Straits of Corfu, in which two British ships were damaged by mines with resulting loss of life and injury to their crews ;

Recommends that the United Kingdom and the Albanian Governments should immediately refer the dispute to the International Court in accordance with the provisions of the Statute of the Court."

This resolution was carried by eight votes, two States (Poland and the U.S.S.R.) having abstained, and the United Kingdom not having voted. The proceedings of the Security Council in this matter, careful, deliberate and prolonged, as they had been, thus terminated (*ibid.*, p. 393).

62. By its Application dated 13th May, 1947, and in pursuance of the above resolution, the Government of the United Kingdom commenced these proceedings.

Part III.

THE LAW.

63. The international law on the subject of the laying of mines is, in the submission of the Government of the United Kingdom, well established. In the first place, in view of the inevitable danger to the lives and property of innocent persons caused by the existence of minefields, the laying of minefields is *prima facie* forbidden and is an international wrong involving responsibility. This is based upon the elementary principle that one who, knowingly and without legal justification, creates a danger to the life or property of another is answerable for any injury or damage sustained by that other.

64. While this primary principle remains generally applicable both in peace and war, it was recognised by nations that in war-time some use of mines by belligerents, and also by neutrals in defence of their neutrality, had for the time being to be accepted. Accordingly, in order to regulate such uses and to minimise the damage and suffering caused thereby, certain rules were formulated and adopted by the Second Peace Conference held at The Hague in 1907 and attended by forty-four States ; these rules are referred to in detail in the following paragraph. The rules so adopted were drawn up to establish a minimum standard of conduct for nations in the particular circumstances of war and indeed appear to contemplate the use of mines as legal in war-time only, though no doubt there is no objection to laying (with all due safety precautions) minefields in peacetime for the purposes of training and practice. The Hague rules

constitute a minimum international standard binding at all times on civilised States.

65. The position therefore is that, apart from the limited exceptions referred to above, States remain bound by the stricter general principle stated in paragraph 63, and the Government of the United Kingdom contends that in this case the Government of Albania has committed a breach not only of the stricter general principle of international law but also of the rules which establish a minimum standard of conduct applicable in time of war to belligerents and neutrals.

66. The war-time rules above referred are to be found in the Hague Convention No. VIII of 1907 which is set out in Annex 25. The Convention, in its Preamble, declares itself to be "inspired by the principle of the freedom of the seas as the common highway of all nations", and continues: "seeing that, while the existing position of affairs makes it impossible to forbid the employment of automatic submarine contact mines, it is, nevertheless, expedient to restrict and regulate their employment in order to mitigate the severity of war and to ensure, as far as possible, to peaceful navigation the security to which it is entitled, despite the existence of war".

This clearly contemplates that, apart from the necessities of war, the employment of automatic submarine contact mines would be wholly illegal.

67. After prohibiting (Art. 2) the laying of automatic contact mines off the coasts and ports of the enemy with the sole object of intercepting commercial navigation, the Convention lays down (Art. 3) that, when anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful navigation. Belligerents must provide, so far as possible, for mines becoming harmless after a limited time has elapsed, and, where the mines cease to be under observation, must notify the danger zones as soon as military exigencies permit by a notice to mariners which must also be communicated to governments through the diplomatic channel. The same rules and precautions must, according to Article 4, be observed by neutrals who lay automatic contact mines off their coasts. The duty of notification in the case of neutrals is, however, higher, for they must give advance notice of areas mined, and governments must be informed as a matter of urgency, through diplomatic channels.

68. Article 5 lays down that at the end of a war every effort must be made to remove mines laid. Each Power is obliged to remove the mines it has laid except in cases where anchored automatic contact mines have been laid off the coast of another

Power, in which case the latter Power, after notification, is obliged to remove the mines.

69. The Convention thus, while recognising that contact mines may be used in war-time by belligerents, and even by neutrals in defence of their neutrality, imposes on this use the severest restrictions compatible with military exigencies, the most important being the requirement of notice to governments of the use of mines. In prescribing, by Article 5, that mines must be removed at the end of hostilities, it clearly contemplates that the use of mines in peace-time is illegal; and Article 4, which requires neutrals to give notice of mines laid in advance, shows that only the most strict military exigencies in time of war can justify such use.

70. This Convention was ratified by twenty-nine States and must be regarded as establishing the general rules of international law governing the laying of mines. Authoritative writers upon international law treat the provisions of the Hague Convention No. VIII as declaratory of principles of international law, now generally applicable, and it is to be observed that the Institute of International Law in the resolutions adopted at their conferences held at Paris in 1910, at Madrid in 1911 and at Oxford in 1913, proposed even more stringent rules for the use of mines in the interests of the safety of innocent shipping. Furthermore, since the adoption of the Convention in 1907, States have in their practice treated its provisions as having been received into general international law. Even Germany, who in the wars of 1914-1918 and 1939-1945 was guilty of serious breaches of the Convention, publicly professed to be complying with its provisions. The Allied Powers in both wars held themselves bound by the Convention and throughout observed the provisions relating to notification. Similarly, the action taken by certain of the United Nations, through the various Mine Clearance Boards, to remove mines from channels of navigation was dictated by the provisions of Article 5 of the Convention.

71. Albania, although not a party, has declared that it was aware of the terms of the Convention and respected them. (Annex 23: Report of Sub-Committee to Security Council, Appendix II, Question 2—S/300, p. 320, and Security Council Proceedings S/PV/III, p. 101.) The Albanian Government, therefore, appears to be at one with the United Kingdom Government in holding that the laying of mines in the Corfu Strait in time of peace and without notification contrary to the terms of the Convention would be a breach of international law. The same view was taken by the Security Council at its Meeting of 25th March, 1946, when in the first paragraph of its draft

resolution it characterised the laying of mines in peace-time without notification as unjustified and an offence against humanity (see para. 57 of Part II of this Memorial). No objection was at any time taken by any Member of the Security Council to this passage in the draft resolution, as was pointed out by the Australian representative at the Meeting of the Council of 9th April (see Annex 23, S/PV/127, p. 389).

72. The United Kingdom Government accordingly submit that for the purpose of deciding the present case the following are the established rules of international law relating to the laying of mines :—

- (a) A State, which lays, or connives in the laying of, mines without the special necessity which in war exonerates from liability belligerents and neutrals acting in conformity with the Hague Convention No. VIII, commits a breach of international law and an international delinquency.
- (b) A State, which lays, or connives in the laying of, mines in a channel of navigation as in (a) and fails to satisfy the categorical requirements of the Hague Convention No. VIII concerning advance notification of the mine-laying, is guilty of an offence against humanity which most seriously aggravates the breach of international law and the international delinquency committed by that State.
- (c) A State found to be delinquent under either (a) or (b) is liable under international law to make reparation for the damage resulting to others from the delinquency. (Such liability was expressly recognised in Art. 9 of the resolution of the Institute of International Law adopted at the meetings of 1911 and 1913.)

73. The Corfu Strait, including that portion of it known as the North Corfu swept channel, is a channel of navigation for the shipping of all nations in that it connects two parts of the open sea and, as shown in paragraph 5 above, is a natural route for a considerable amount of navigation. It has long been used, frequently and unrestrictedly, by shipping without distinction of flag as an international highway. It was for that reason that the North Corfu swept channel was so quickly re-established as a maritime highway in 1944, and notified as such to the Government of Albania, through the Medri Charts and pamphlets. As such, the Strait is subject to the principle of the freedom of the seas upon which the Hague Convention No. VIII itself is founded. The laying of mines, and especially without notification, in such a waterway is thus, on the well-established principles of international law set out in the preceding para-

graph, an aggravated offence and a serious international delinquency entailing the fullest responsibility for any damage caused thereby to foreign shipping.

74. The Government of Albania, in diplomatic notes and before the Security Council, has sought to repudiate responsibility for the damage caused to His Majesty's ships by mines laid in the North Corfu swept channel within Albanian territorial waters by two main contentions. First it has denied any complicity in, or knowledge of, the existence of the mines, and secondly, it has alleged that the damaged ships were not at the time lawfully making passage through the Channel.

75. Both these contentions are denied by the Government of the United Kingdom. The second contention in any case affords no defence to the charge of maintaining an unnotified minefield.

76. The contention of the Albanian Government that it had no complicity in the existence of the minefield which damaged His Majesty's ships was rejected by the majority of the Members of the Security Council who voted in favour of the draft resolution of the 25th March, 1947. The terms of this draft resolution and the details of the voting are set out in paragraphs 57 and 58 of the Statement of Facts of this Memorial. Seven out of the nine representatives who cast their votes at that meeting thus endorsed the submission made at paragraph 26 of this Memorial that an irresistible inference arises from the facts of this case that the mines which damaged His Majesty's ships and caused death and injury to men on board were laid by the Albanian Government or at least with its connivance or knowledge.

77. The Albanian representative, on the other hand, maintained at the Meeting of 25th March, 1947, that to draw this inference would be mere supposition and, as such, contrary to principles of justice, a point of view which was also expressed by the Polish representative. But, in fact, the conclusion of the majority of the Security Council is in full accord with the principles of justice relating to judicial proof. For under these principles responsibility for breaches of law may be fixed upon a delinquent by circumstantial as well as by direct evidence. If this were not so, it would be impossible for any system of law, including international law, to be effectively enforced. Moreover, in the present case the circumstantial evidence consists of the cumulative evidence of several circumstances all pointing in one direction. It has therefore a compelling force leading only to one conclusion and, in the submission of the Government of the United Kingdom, establishes the complicity of Albania beyond all reasonable or moral doubt. No explanation of the mining of H.M.S. *Volage* and *Saumarez* on 22nd October, 1946,

is consistent with the established facts of this case other than that the mines were laid by, or with the connivance or knowledge of, the Albanian Government. It is particularly significant in considering the question of the complicity of Albania in the existence of the minefield, that Albania, while showing the utmost promptitude in protesting against alleged violations of her sovereignty by His Majesty's ships, did not make, and to this day has not made, any protest against the far more serious violation of her sovereignty, which would have been committed by the laying without her knowledge and consent of so large and dangerous minefields in her territorial waters, and blocking the entrance to one of her ports nor, as would have been the natural course for an innocent party to take, has she demanded an enquiry into such an illegal action. Her representative before the Security Council did not even appear to be very concerned over the existence in Albanian waters of an unexplained minefield whose origin he could not explain.

78. The second contention of the Albanian Government that His Majesty's ships when mined were not lawfully making passage through the North Corfu swept channel must equally, in the submission of the United Kingdom Government, be rejected as being without foundation in law or fact. As stated in paragraph 73 of this part of the Memorial, the North Corfu swept channel, being a natural channel of navigation between two parts of the open sea, constitutes an international highway. By international law such an international highway is subject to a right of innocent passage in favour of foreign shipping, but even if that were not so, the laying, or knowingly permitting the existence, of a minefield which may destroy ships passing through, even if they have no such right of passage, is an international delinquency as well as a crime against humanity.

79. Nevertheless, the Government of Albania in their diplomatic notes of 21st May and 19th June, 1946, relating to the earlier incident of 15th May, when fire was opened upon H.M.S. *Orion* and *Superb* and in their note of 31st October, 1946, concerning the mining of H.M.S. *Volage* and *Saumarez* appeared to adopt the attitude that the mere navigation of any foreign vessels through Albanian territorial waters is a breach of international law unless specially authorised.

80. Later, in the note of 21st December, 1946, Albania professed that she respects the principles of maritime navigation and accordingly changed the nature of her allegations by complaining that the British warships were not making an innocent passage. Similarly, before the Security Council on 19th February, 1947, the representative of Albania retracted the Albanian Government's former denial of the right of innocent passage in its diplomatic

notes and declared that his Government respected that principle.

81. The representative of Albania then proceeded to contend that, having regard to Articles 4 and 3 of the draft code annexed to the Final Act of the Hague Conference on the Codification of International Law held in 1930 (League of Nations publication C. 230. M. 117. 1930, V), the passage of His Majesty's ships was not innocent and violated the sovereignty of Albania in regard to its territorial waters. These later contentions of the Albanian Government are dealt with in paragraphs 85-88 below.

82. The eventual recognition by the Albanian Government of the existence of the principle of innocent passage is in full accord with the established rules of international law and the practice of civilised States. The published regulations of the large majority of States and their practice previous to the Hague Conference of 1930 acknowledged a right of passage through territorial waters in the ordinary course of navigation for foreign shipping, whether merchant ships or warships, and Albania itself has never published any regulations restricting navigation in territorial waters. The majority of governments, which replied to the *questionnaire* circulated before the Conference, stated their opinion that warships possess a right of innocent passage through the territorial waters of another State ("Bases of Discussion", Vol. II, pp. 65-70). Such a right had in fact received express recognition in Article 5 of the Convention of 1921 for the neutralisation of the Aaland Islands, in which it was explicitly reserved. In time of peace—and, indeed, in time of war—warships habitually pass through the territorial waters of other States without notice or authorisation when using them as a mere channel of passage.

83. So far as concerns straits, like the Corfu Strait, which constitute a route for international maritime traffic between two parts of the high sea, the Committee on Territorial Waters at the Conference of 1930 annexed to its report articles stating in the most categorical language that under no pretext may there be any interference with the passage of warships through such a strait. (League of Nations publication C. 351. M. 145 (b). 1930, V, p. 217.) In conformity with this principle warships have long exercised an undisputed right of passage through straits like the Straits of Bonifacio, the entrances to the Baltic and the territorial waters of Hong Kong.

84. Accordingly, the Government of the United Kingdom maintain that on 15th May and 22nd October, 1946, His Majesty's ships were exercising a right which they possessed under international law to make innocent passage through Albanian territorial waters as incidental to the ordinary navigation of the Corfu Strait.

85. The Albanian Government has, however, had recourse to the allegation that the passage of the British warships through the

Corfu Strait on 22nd October was not innocent passage and was for that reason unlawful. No proof or evidence was produced or can be produced substantiating this allegation. Indeed, it is significant that the Albanian Government now contend that the earlier passage of H.M.S. *Orion* and *Superb* on 15th May was also not innocent, whereas no such suggestion was made at the time in its diplomatic note of 21st May, 1946 (see Annex 6, First Incident, item III). This fact indicates that the allegation concerning the non-innocent character of the passage of His Majesty's ships was a mere pretence to provide a spurious justification for the unwarrantable interference with their right of passage.

86. The arguments advanced by the Albanian Government in support of this allegation, which will now be examined, are submitted to be without foundation. First it was said that His Majesty's ships penetrated into internal waters and were not in a channel of navigation. In refuting this allegation the Government of the United Kingdom refers to paragraph 15 above and to the charts at Annexes 7 and 9, which show beyond dispute that the ships proceeded through the swept and established channel to avoid the danger of mines and without deviating from it to penetrate into Albanian internal waters. The course taken by His Majesty's ships on both occasions was, in fact, precisely the normal and proper course of navigation through the Strait in the prevailing mine conditions of which the Albanian Government were at all material times fully aware.

87. Secondly, it was said that the passage of His Majesty's ships in this case amounted to a violation of Albanian sovereignty. The meaning of this allegation was not, it is presumed, merely that His Majesty's ships were in Albanian territorial waters since the right of innocent passage exists precisely in relation to such waters. It appears, in fact, that the basis for the objection was that His Majesty's ships acted in some manner provocatively. Such an allegation to be established must be supported by some evidence, and none was or could be produced by the Government of Albania in the circumstances of the case. The passage of His Majesty's ships, as related in paragraph 15 above, was a normal passage through an international highway and, as such, innocent according to the law and practice of civilised nations. So far as concerns the allegation that the British warships were in battle formation when making passage on 22nd October, this is untrue. They were in passage formation. On the other hand, it is the case that the crews were ordered to be at action stations as a necessary precaution for self-defence in view of the wholly unwarranted attack upon H.M.S. *Orion* and *Superb* on 15th May, 1946. This measure, which amounted to no more than a readiness to meet the eventuality of renewed Albanian illegalities, cannot be charged to His Majesty's ships as provocation. In any case the mines

had then been laid and the injuries would have been the same in whatever formation His Majesty's ships had sailed. Indeed, the mines would have injured any ships which used this portion of the swept channel.

88. Thirdly, it was argued that the sovereignty of Albania was violated in that no prior notice was given of the intended passage of His Majesty's ships through Albanian territorial waters. The Government of the United Kingdom emphasise that it is contrary to the practice of civilised States, and to international law, that States should ordinarily either give or demand notice of the passage of warships through territorial waters when used merely as a channel of navigation. This is particularly so in the case of straits, in regard to which the Committee on Territorial Waters at the Hague Conference of 1930, annexed articles to its report stating that on no pretext whatever may the right of passage even for warships be interfered with. (League of Nations publication C. 351. M. 145 (b). 1930, V, p. 217.) In its diplomatic notes the Albanian Government appeared to claim that, owing to *special circumstances pretended to exist in the area at the time*, it had a particular right to restrict or forbid the passage of foreign ships through its territorial waters. But it is plain that Albanian Government at the material dates was not acting *bona fide* in reliance upon any such particular right (which in any case must, in view of the right of passage through straits, be a strictly limited one), but under the mistaken belief that it was entitled at all times to regard the mere navigation of a foreign ship, whether merchant ship or warship, within Albanian territorial waters as a violation of its sovereignty, unless specially authorised, and to oppose it by opening hostilities. This is manifest both from—

- (1) the fact that the first notice received by the Government of the United Kingdom of any pretended claim to restrict passage was the outrageous attack upon His Majesty's ships *Orion* and *Superb* on 15th May, 1946; and
- (2) from the terms of the Albanian Government's diplomatic notes, in particular those of 19th June (Annex 6, First Incident, item V) and 31st October, 1946 (Annex 6, Second Incident, item II), addressed to the Government of the United Kingdom, and that of 29th October, 1946 (Annex 6, Second Incident, item III), addressed to the Secretary-General of the United Nations.

89. Indeed, such a mistake as to a State's general rights under international law is the only explanation that can be imagined of the attack upon H.M.S. *Orion* and *Superb* on 15th May, and of Albania's complicity in the establishment of a new unnotified minefield in a swept channel used by foreign shipping. (The fact that Albania subsequently before the

Security Council paid lip-service to the principle of innocent passage and denied knowledge of the existence of the minefield, only serves to emphasise that on 15th May and 22nd October, 1946, Albania was either ignorant of, or was disregarding, the fundamental principles of maritime international law, with regard to the rights of innocent passage and to the laying of minefields, and later thought it more prudent to adopt a different line of argument.)

90. The Government of the United Kingdom therefore submit that both on 15th May and 22nd October, 1946, the passage of His Majesty's ships through Albanian territorial waters—

- (a) was the exercise of a right lawful under the recognised principles of international law, and
- (b) was "innocent" within the meaning of that term as defined in Article 3 of the draft code prepared at the Hague Conference of 1930, and indeed within any possible meaning of the term "innocent".

91. Even if, for some reason, the passage of His Majesty's ships through Albanian territorial waters on 15th May or 22nd October might be considered as not in accordance with international law, that would still not justify the laying or maintaining of an unnotified minefield in a channel of navigation. The recently-laid and unnotified minefield, which was in fact discovered in the North Corfu swept channel on 13th November, 1946, endangered all shipping, merchant vessels equally with warships, and was a violation of international law which could not be justified or excused on any pretext whatever. Accordingly, the Government of the United Kingdom submit that, even if, for any reason, the Albanian Government might have regarded themselves as entitled to exclude His Majesty's ships from making passage through Albanian territorial waters within the North Corfu swept channel, the grave measure of war taken by the Albanian Government, in allowing the secret minefield to be across the swept channel and letting His Majesty's ships run into it, to effect that exclusion was illegal and constitutes an international delinquency for which it is liable to make reparation. In this connexion the Government of the United Kingdom emphatically repeat that the passage of His Majesty's ships was innocent in its intention and was taken in the *bona fide* belief of their possessing a legal right of passage through the Corfu Strait as an international channel of navigation.

92. In Part II of this Memorial, the Government of the United Kingdom has submitted (para. 26) that an irresistible inference arises that the mines which damaged His Majesty's ships and caused the deaths and injuries of British naval personnel

were laid by the Albanian Government, or at least with the connivance or knowledge of the Albanian Government. Whichever is in fact the case, Albania remains in law responsible in the same degree. As the territorial Power, Albania is responsible for any minefield existing with her knowledge in her territorial waters and for the consequences thereof. If it was beyond her power in the circumstances to remove the dangerous situation created thereby, it was her duty at once to issue warnings to governments and/or to all shipping likely to use the international highway which would enable them to avoid the danger, and *a fortiori* to warn vessels seen to be actually approaching the dangerous area. In this connexion it is stressed that on 22nd October, 1946, the intended passage of the British warships through the Channel must have been known to the Albanian authorities in time for warning of the danger to be given. Even if they were unaware of the programme of the cruise of this part of the British Mediterranean fleet, they could observe the progress of the ships up to the swept channel for some time before the minefield was approached. The ships were proceeding at 10 knots. Even, therefore, if they were not seen until they were 5 miles away—which is most unlikely, the weather being quite clear—this would allow 30 minutes for a warning to be given. In these circumstances, to permit the ships to sail directly into a minefield, the existence of which was known to them (as the Government of the United Kingdom submit is established), was an act equivalent in law to placing the mines in the way of the ships, with the intention of destroying them, apart from being contrary to the principles of notification established by the above-mentioned Hague Convention. As the territorial Power Albania came under a clear duty to warn the ships, and failure to fulfil this duty entails responsibility.

93. But, in the submission of the Government of the United Kingdom, the grave inference arises from the established facts of this case, from the conduct of Albania prior to the incident (in particular the firing on His Majesty's ships on 15th May, 1946), from its active opposition afterwards to any suggestion that the area in question should be swept, from its apparent indifference to the violation of its sovereignty which would have been involved in an unauthorised mining of its territorial waters, and lastly from the hostile attitude of the Albanian representative before the Security Council, that Albania was influenced by active hostility towards the Government of the United Kingdom. In short, the laying of the mines or, at least, the acquiescence of the Albanian Government in the existence of a dangerous and unnotified minefield in a channel known to be used, or about to be used, by British shipping was not merely a matter of negligence but flowed from an *animus nocendi*.

94. For all the above reasons the Government of the United Kingdom contends that the Government of Albania must bear full responsibility for the loss of life, injuries and damage caused by the mines laid within its territorial waters in the Corfu Strait. The laying of the minefield by itself was, without question, an international delinquency of a grave character. The responsibility of Albania rests, firstly, upon a direct complicity in the existence of the minefield which is created by her knowledge of it, whether or not she laid it or connived in its actual laying. Secondly, it rests upon a failure—which was, in the submission of the Government of the United Kingdom, a wilful failure—to discharge an imperative international duty to notify the existence of this dangerous minefield. Thirdly, it rests upon the failure of the Albanian authorities to warn His Majesty's ships of their danger when they were seen to be approaching it.

95. As to the measure of reparation or compensation, the Government of the United Kingdom submits that this should be based upon the damage sustained by the Government of the United Kingdom, as set out in paragraph 18 above and Annexes 10, 11, 12, 13 and 14. The Government of the United Kingdom accepts as applicable to the present case the principles laid down by the Permanent Court of International Justice in the case concerning the Factory at Chorzów (Judgment No. 13, Series A., No. 17, p. 47), in which the judgment contained this passage:—

“The essential principle contained in the actual notion of an illegal act—a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals—is that reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payment in place of it—such are the principles which should serve to determine the amount of compensation due for an act contrary to international law.”

Part IV.

CONCLUSIONS.

96. The Government of the United Kingdom asks the Court to adjudge and declare as follows:—

- (1) That on 22nd October, 1946, damage was caused to His Majesty's ships *Saumarez* and *Volage* which resulted in the death and injuries of 44, and personal injuries

to 42, British officers and men by a minefield of anchored automatic mines in the international highway of the Corfu Strait in an area south-west of the Bay of Saranda.

The facts on which the Government of the United Kingdom relies in support of this finding are set out in paragraphs 15 to 18 and paragraph 23 of this Memorial together with the annexes thereto.

- (2) That the aforesaid minefield was laid between 15th May, 1946, and 22nd October, 1946, by or with the connivance or knowledge of the Albanian Government, and in support of this finding the Government of the United Kingdom submits the following facts:—
- (a) The minefield was situated in a channel maintained first by the Axis and then by the Allies as a swept channel in which no mines had been encountered since it was first check-swept by the Allies in 1944.
 - (b) His Majesty's cruisers *Orion* and *Superb* passed through the North Corfu swept channel on 15th May, 1946, without encountering mines.
 - (c) The said minefield as shown from the examination of the mines which were recovered during the sweeping operation, carried out on 13th November, 1946, was laid a short time before the date on which His Majesty's ships suffered damage and casualties.
 - (d) The position of the mines strongly points to the conclusion that they were carefully placed with the express intention of providing a defensive minefield covering the Bay of Saranda.
 - (e) It was impossible for mines to be laid on such a scale and so near the coast without being either observed or heard by the Albanian coastal authorities. The special measures of vigilance taken by the Albanian Government during the six months preceding the incident to His Majesty's ships (which measures are admitted by the Albanian Government), further exclude the possibility that the said minefield was laid without its knowledge.
- The facts upon which the Government of the United Kingdom relies to support this finding are set out in paragraphs 6, 11, 12, 13, 14, 24 and 25 of this Memorial.
- (3) That the Albanian Government knew that the said minefield was lying in a part of its territorial waters which was being used as an international highway for maritime traffic, and had been so used for a period of several months before 22nd October, 1946.

The facts upon which the Government of the United Kingdom relies to support this finding are set out in paragraphs 6, 10, 11, 13 and 24 of this Memorial, in which the following reasons for this finding are developed :—

- (a) The Albanian Government was regularly informed between October 1945 and October 1946 of the routes which had been declared open for navigation by the International Routeing and Reporting Authority amongst which was Medri Route 18/32 and 18/34, in which was included the area where the said minefield was laid.
 - (b) The Albanian Government, from its own observation, and from the fact that it took special measures of vigilance over the North Corfu Channel, knew that the said Channel was used as an international highway by ships of all nations.
- (4) That the Albanian Government did not notify the existence of these mines as required by the Hague Convention No. VIII of 1907 in accordance with the general principles of international law and humanity.

The fact that the Albanian Government did not notify the existence of these mines is not and cannot be disputed by that Government. The Government of the United Kingdom claims, however, that such notification was an international obligation of the Albanian Government for the following reasons :—

- (a) The laying of mines in an international highway for maritime traffic is, *prima facie*, an international wrong and can only be justified in special circumstances in time of war (paras. 63-65 of the Memorial).
- (b) Hague Convention No. VIII regulates strictly the circumstances in which such mines may be laid and provides that, if and when they are laid, their existence must be notified to foreign governments (paras. 66-69 of the Memorial).
- (c) The said Convention is declaratory of principles of international law regarding mines which, as the Albanian Government admitted before the Security Council, are binding on all States, including Albania (paras. 70-71 of the Memorial).
- (d) The obligation to notify the minefield rested on the Albanian Government, whether or not the minefield was laid by it or with its connivance, inasmuch as, in any event, and to the knowledge of the Albanian Government, the said minefield was situated

in Albanian territorial waters (paras. 68 and 92 of the Memorial).

- (5) That the Albanian Government or its agents, knowing that His Majesty's ships were going to make the passage through the North Corfu swept channel, and being in a position to observe their approach, and having omitted as alleged in paragraph 4 of these Conclusions to notify the existence of the said mines, failed to warn His Majesty's ships of the danger of the said mines of which the Albanian Government or its agents were well aware (para. 92 of the Memorial).

The fact that the Albanian Government or its agents failed to give such warning is not and cannot be disputed by the Albanian Government.

- (6) That in addition, and as a further aggravation of the conduct of Albania as set forth in Conclusions 3, 4 and 5, the permission of the existence of the minefield in the North Corfu Channel without notification was a violation of the right of innocent passage which exists in favour of foreign vessels (whether warships or merchant ships) through an international highway (paras. 82-84 of the Memorial).
- (7) That the passage of His Majesty's ships through the North Corfu Channel on 22nd October, 1946, was an exercise of the right of innocent passage according to the law and practice of civilised nations (paras. 15 and 85-90 of the Memorial).
- (8) That even if for any reason it is held that Conclusion No. 7 is not established, nevertheless the Albanian Government is not thereby relieved of its international responsibility for the damage caused to the ships by reason of the existence of an unnotified minefield, especially in the circumstances set forth in Conclusion 5 (paras. 75 and 91).
- (9) That in the circumstances set forth in this Memorial as summarised in the preceding paragraphs of these Conclusions, the Albanian Government has committed a breach of its obligations under international law and is internationally responsible to His Majesty's Government in the United Kingdom for the deaths, injuries and damage caused to His Majesty's ships and personnel as set out more particularly in paragraph 18 of this Memorial and the annexes thereto.
- (10) That the Albanian Government is under an obligation to the Government of the United Kingdom to make reparation in respect of the breach of its international obligations as aforesaid (para. 95).

(II) That His Majesty's Government in the United Kingdom has as a result of the breach by the Albanian Government of its obligations under international law sustained the following damage :—

	£
Damage to H.M.S. <i>Saumarez</i> (total loss)	750,000
Damage to H.M.S. <i>Volage</i>	75,000
Compensation for deaths and injuries of naval personnel	50,000
Total	875,000

(Paras. 18 and Annexes 10 to 14.)

Dated this 30th day of September, 1947.

(Signed) W. E. BECKETT,
Agent for the Government
of the United Kingdom.

Part V.

LIST OF ANNEXES.

		<i>Page.</i>
Annex 1.	Admiralty Chart No. 206 showing the Corfu Strait <i>special volume</i>	—
Annex 2.	Section of German Mine Information Chart . . . <i>special volume</i> (This is a chart which was captured by the Allies showing the North Corfu Channel and the position of mines laid by the Axis there, and the original chart has been filed with the Registry.)	—
Annex 3.	International Agreement between the Governments of the United Kingdom, France, U.S.S.R. and the United States, setting up the Mine Clearance Boards and dated 22nd November, 1945	54
Annex 4.	Affidavit by despatch clerk at the Admiralty proving despatch of Medri Charts to Albania	59
Annex 5.	Section of Medri Index Chart showing North Corfu swept channel and the international highway established therein together with Medri pamphlets for use with the Index Chart (A single copy of the entire Chart and of the complete pamphlets numbered 5, 9 and 12 have been filed with Registry.)	60
Annex 6.	Diplomatic correspondence between the Government of the United Kingdom and Albania regarding the right of navigation in the Strait of Corfu	66
Annex 7.	Admiralty tracings showing the North Corfu swept channel and the position and tracks of H.M. ships <i>Orion</i> , <i>Superb</i> , <i>Leander</i> , <i>Saumarez</i> and <i>Mauritius</i> , passing through the North Corfu Channel on 15th May, 1946, and on 22nd October, 1946 <i>special volume</i>	—
Annex 8.	Photographs of H.M.S. <i>Saumarez</i> (below water line) and <i>Volage</i> (bows blown off) taken shortly after the explosion on 22nd October, 1946 <i>special volume</i>	—
Annex 9.	Admiralty tracing showing position of H.M.'s ships at the time of the explosion <i>special volume</i>	—

(II) That His Majesty's Government in the United Kingdom has as a result of the breach by the Albanian Government of its obligations under international law sustained the following damage :—

	£
Damage to H.M.S. <i>Saumarez</i> (total loss)	750,000
Damage to H.M.S. <i>Volage</i>	75,000
Compensation for deaths and injuries of naval personnel	50,000
Total	875,000

(Paras. 18 and Annexes 10 to 14.)

Dated this 30th day of September, 1947.

(Signed) W. E. BECKETT,
Agent for the Government
of the United Kingdom.

Part V.

LIST OF ANNEXES.

		<i>Page.</i>
Annex 1.	Admiralty Chart No. 206 showing the Corfu Strait <i>special volume</i>	—
Annex 2.	Section of German Mine Information Chart . . . <i>special volume</i> (This is a chart which was captured by the Allies showing the North Corfu Channel and the position of mines laid by the Axis there, and the original chart has been filed with the Registry.)	—
Annex 3.	International Agreement between the Governments of the United Kingdom, France, U.S.S.R. and the United States, setting up the Mine Clearance Boards and dated 22nd November, 1945	54
Annex 4.	Affidavit by despatch clerk at the Admiralty proving despatch of Medri Charts to Albania	59
Annex 5.	Section of Medri Index Chart showing North Corfu swept channel and the international highway established therein together with Medri pamphlets for use with the Index Chart (A single copy of the entire Chart and of the complete pamphlets numbered 5, 9 and 12 have been filed with Registry.)	60
Annex 6.	Diplomatic correspondence between the Government of the United Kingdom and Albania regarding the right of navigation in the Strait of Corfu	66
Annex 7.	Admiralty tracings showing the North Corfu swept channel and the position and tracks of H.M. ships <i>Orion</i> , <i>Superb</i> , <i>Leander</i> , <i>Saumarez</i> and <i>Mauritius</i> , passing through the North Corfu Channel on 15th May, 1946, and on 22nd October, 1946 <i>special volume</i>	—
Annex 8.	Photographs of H.M.S. <i>Saumarez</i> (below water line) and <i>Volage</i> (bows blown off) taken shortly after the explosion on 22nd October, 1946 <i>special volume</i>	—
Annex 9.	Admiralty tracing showing position of H.M.'s ships at the time of the explosion <i>special volume</i>	—

Page.

Annex 10.	Report on damage to H.M.S. <i>Saumarez</i>	87
Annex 11.	Report on damage to H.M.S. <i>Volage</i>	89
Annex 12.	List of sailors killed with statement of pensions, &c., payable to dependants	93
Annex 13.	List of sailors injured with statement of expenses, pensions, &c.	99
Annex 14.	Statement of cost of repairs to the <i>Volage</i> and cost of replacement of the <i>Saumarez</i>	101
Annex 15.	Minutes of Mine Clearance Boards	101
Annex 16.	Report of Capitaine Mestre (There were two reports, both in French. The reason why there were two reports was because Capitaine Mestre wished to make certain corrections in his second report of certain statements which he had made in his first report.)	147
Annex 17.	Reports on Operation "Retail" (The minesweeping operation of 13th November, 1946.)	150
Annex 18.	Chart showing position in which mines were found on 13th November, 1946	<i>special volume</i> ---
Annex 19.	Photographs of the mines	<i>special volume</i> ---
Annex 20.	Report on mines examined at Admiralty Mining Establishment, Leigh Park House, Hants	170
Annex 21.	Chart showing the defences of Saranda	<i>special volume</i> —
Annex 22.	Affidavit of Skipper Bargellini regarding the incident of U.N.R.R.A. barges on 29th October, 1946	171
Annex 23.	Documents and records of the Security Council, &c., relative to the dispute	<i>separate volume</i> ¹
Annex 24.	List of exhibits before the Security Council, in the present dispute, showing which of these exhibits are annexed to this Memorial	398
Annex 25.	Hague Convention No. VIII of 1907 relative to automatic submarine contact mines	400

¹ See pp. 174-403. [Note by the Registrar.]