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INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING ARMED ACTIVITIES ON THE TERRITORY OF THE CONGO
(DEMOCRATIC REPUBLIC OF THE CONGO v. UGANDA)**

SECOND PHASE

QUESTION OF REPARATION

**COMMENTS OF THE DEMOCRATIC REPUBLIC OF THE CONGO ON THE REPLIES
OF UGANDA TO THE QUESTIONS PUT BY THE COURT**

ANNEXES

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ANNEXES

- Annex I: Marysse, S. and André, C., *Guerre et pillage économique en République Démocratique du Congo*, L’Afrique des Grands Lacs: Annuaire 2000-2001
- Annex II: Global Witness, *Natural Resource Exploitation and Human Rights in the Democratic Republic of Congo 1993 to 2003*, December 2009
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ANNEX I

Marysse, S. and André, C., *Guerre et pillage économique en République Démocratique du Congo, L'Afrique des Grands Lacs: Annuaire 2000-2001*

[Annex not translated]

ANNEX II

***Global Witness, Natural Resource Exploitation and Human Rights in the
Democratic Republic of Congo 1993 to 2003, December 2009***



global witness

**NATURAL RESOURCE EXPLOITATION AND HUMAN RIGHTS
IN THE DEMOCRATIC REPUBLIC OF CONGO
1993 to 2003**

**A Global Witness briefing paper
December 2009**

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Global Witness investigates and campaigns to prevent natural resource-related conflict and corruption and associated environmental and human rights abuses.

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**NATURAL RESOURCE EXPLOITATION AND HUMAN RIGHTS
IN THE DEMOCRATIC REPUBLIC OF CONGO
1993 to 2003**

The Democratic Republic of Congo (DRC) is a country with huge natural wealth. Almost every valuable natural resource can be found there, from a multitude of minerals – including diamonds, gold, copper, cobalt, cassiterite (tin ore) and coltan – to timber and oil.¹ But this vast natural wealth has brought nothing but suffering and misery to the Congolese people. Not only has it failed to deliver economic benefits and development, but it has been the cause of numerous and grave human rights abuses. The weakness of state institutions and a pervasive culture of impunity have meant that the perpetrators of crimes connected to the illicit exploitation of natural resources have rarely, if ever, been punished.

Note on documentation on natural resource exploitation and human rights

The two issues of natural resource exploitation and human rights have been very closely linked in the DRC for many years, dating back to the pre-colonial era, the period of colonisation and the three decades of President Mobutu Sese Seko's rule.² Yet at the international level, awareness of the inter-connection between human rights and natural resource exploitation developed comparatively recently. With the exception of studies by historians and other academics, detailed documentation of abuses committed in the context of natural resource exploitation only became available from around 2000. In the following years, Congolese and international non-governmental organisations began investigating and campaigning on this issue. The reports of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC, published between 2001 and 2003, also helped bring the issue to the fore. Indeed, most subsequent reports by other organisations relied heavily on the findings of the Panel of Experts. However, the majority of these studies still concentrated on political and economic analysis of the situation; the human rights angle received less attention.³

The Panel of Experts

The Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, established following a request by the UN Security Council in June 2000, was critical in raising awareness of the scale of illegal exploitation of natural resources in the DRC and the role natural resources played in fuelling the armed conflict. Although it did not investigate specific incidents of human rights violations, its reports made clear that the parties responsible for some of the gravest human rights violations in the DRC during this period were motivated in large part by the scramble for natural resources. Its five reports, produced between 2001 and 2003, identified some of the key individuals and entities behind the trade – both Congolese and foreign. From the outset, the Panel did not shy away from exposing the networks behind the illicit exploitation of resources; its first report, published in April 2001, contained tough conclusions and

recommendations.⁴ Subsequently, its work attracted controversy and criticism, not least from some of the governments, companies and individuals named in its reports.

Disappointingly, despite the Panel's extensive work and damning conclusions, its findings were never acted upon, and the patterns of illicit and abusive exploitation of natural resources documented in its reports have continued, almost unchanged, in the subsequent years.

The Group of Experts

The Panel of Experts was succeeded by a Group of Experts, established in 2004, which had a narrower though related mandate: its primary task was to monitor the arms embargo in force against armed groups in eastern DRC, but its secondary purpose was to investigate the natural resource trade as a source of finance for these armed groups. Like the Panel, the Group of Experts has documented the way the natural resource trade has enabled armed groups to survive and has produced several detailed reports. The work of the Group of Experts post-dates the period covered by this briefing, but it is important to take its findings into account, as many of the actors named in its reports had been engaging in these activities during previous years.

I. 1993 - 2003: An overview

Throughout the period 1993 to 2003 – as well as before and after – the exploitation of natural resources in the DRC was characterised by extensive corruption, fraud, pillage, mismanagement and lack of transparency. Political, military and business elites, as well as rebel groups and armies of neighbouring countries, plundered these resources and got rich off the back of the Congolese population. Violations of economic rights were systematic. The DRC has huge economic potential: for example, it accounts for around 17% of global production of rough diamonds⁵ and at least 4% of global tin ore production;⁶ the copper belt which runs through Katanga and Zambia contains 34% of the world's cobalt and 10% of the world's copper.⁷ But successive governments allowed this potential to go to waste. Very little of the revenues from the natural resource trade were ploughed back into the country or contributed to raising standards of living. In 2003, the DRC ranked 167th out of 177 countries in the UN Human Development Index.⁸

The two wars in 1996 and 1998 represented a further major setback to development, but even before 1996, Congo's natural wealth had never been channelled into development in any significant way. Some of the naturally richest areas are the poorest and the least developed. President Mobutu set up predatory systems to control and exploit the country's mineral wealth for his own benefit, and for those around him.⁹

Mobutu's legacy forms the backdrop for the further dramatic deterioration which occurred from 1996 onwards. President Laurent-Désiré Kabila followed in Mobutu's footsteps and was equally ruthless in his tactics to appropriate natural resource revenues. The way in which Mobutu, then Kabila used and misused the diamond sector, and set up formal and informal structures to control the trade, is one of the

clearest examples of state looting, and one of the most significant in view of the importance of diamonds to the country's economy.¹⁰

1996 marked a turning point in two respects:

- The exploitation of natural resources acquired a more violent dimension and started acting as an engine of war. The exploitation of minerals and timber became heavily militarised. Previously, it was mostly civilians who controlled these sectors, even if some of the profits were channelled to the military. Now, the mines and the forests, and those who worked in them, fell under the control of soldiers or rebel fighters.
- A number of foreign actors became directly involved in the exploitation of natural resources. The chaos and power vacuum brought about by the 1996 rebellion led to an opportunistic scramble for the DRC's resources. Everyone wanted a piece of the cake. Rebel groups and armies from neighbouring countries all helped themselves, some (such as Zimbabwe) with the blessing of the Congolese authorities, others (such as Rwanda or Uganda) by occupying territory by force or through proxy rebel groups, committing grave human rights abuses in the process.

The direct and indirect consequences of these two developments, in human rights terms, were catastrophic. The presence of natural resources can be considered to be a major contributing factor to some of the most serious human rights abuses in the DRC from 1996 onwards.

Patterns of human rights abuses

The patterns of human rights abuses fall into three broad categories:

- Human rights abuses committed by state and non-state groups in the course of seeking physical control over resource-rich areas, as well as trade routes, border posts and commercial centres. These abuses were particularly severe in areas affected by the armed conflict in eastern DRC, but also occurred in other areas.
- Human rights abuses committed by these groups once they had conquered these areas, in order to retain control. Once again, these were mostly committed by warring parties in the context of the armed conflict. The exploitation of natural resources was a motivation for these parties to keep fighting; a major source of finance which sustained their activities and enabled them to continue perpetrating acts of violence against civilians; and a factor which prolonged the conflict.
- Systematic violations of economic rights resulting from large-scale looting, theft and corruption, both in conflict and non-conflict areas.

Perpetrators

The perpetrators of all three categories of abuses have included:

- the Congolese government and security forces
- a range of Congolese non-state armed groups, including the *Rassemblement congolais pour la démocratie* (RCD) – and its three factions RCD-Goma, RCD-Mouvement de libération (RCD-ML) and RCD-National –, the *Mouvement de la libération du Congo* (MLC), the *Union des patriotes congolais* (UPC), the *Front des nationalistes et intégrationnistes* (FNI), the *Forces armées du peuple congolais* (FAPC), the *Forces de résistance patriotique d'Ituri* (FRPI), and a host of *mai-mai* and other groups
- foreign armies, in particular those of Rwanda, Uganda and Zimbabwe, with the knowledge and collusion of senior military and political officials in these countries.¹¹

Companies and individual traders who were prepared to trade in natural resources produced in these conditions, or to trade with groups with notoriously bad human rights records, can also be considered to have contributed to, or even enabled, these human rights abuses. In some cases, they were directly implicated.

Persecution of Kasaiens in Shaba¹²

From 1991 to 1993, the province of Shaba, now known as Katanga, was the scene of mass expulsions of people originally from the Kasai provinces. In the culmination of an "anti-Kasaien" campaign, led by Governor Kyungu wa Kumwanza, hundreds of thousands of Kasaiens were expelled from their homes and driven out of the province by gangs of youths. An unknown number are believed to have died as a result of violence or from the harsh conditions they endured as they were forced to travel back to the Kasais. Many of these Kasaiens had lived in Shaba all their lives.

These events were partly motivated by a desire, on the part of the Katangese movement, to reclaim economic control of the region, though there were also political considerations at play.¹³ The mining sector symbolised that control. Shaba was one of the country's richest provinces, with huge copper and cobalt mines. Many Kasaiens worked for the state mining company Gécamines, and their expulsion centred, first and foremost, on removing them from key jobs in the mining sector.

II. Natural resource exploitation and human rights abuses in areas directly affected by the conflict

It is no coincidence that some of the gravest and most widespread human rights abuses between 1996 and 2003 occurred in areas rich in natural resources and that the armed conflict was played out in these areas: in the provinces of North and South Kivu, where the 1996 and 1998 wars were launched, and in Province Orientale and

the northern part of Katanga, where the fighting spread in the following years. These areas fell under the control of a succession of rebel groups and foreign armies, spurred on by the lure of the natural resources. There was little or no state presence and no law enforcement in these regions, other than that the brutal regime imposed by the rebels and their supporters. Thus eastern DRC's rich mineral deposits and extensive forests were suddenly within reach of any group which was determined and violent enough to impose control.

The eastern provinces of the DRC were also attractive because of their easy access to the export routes of the east, via towns close to the eastern border such as Goma, Bukavu, Bunia and Butembo, avoiding government-held Kinshasa. Goods exported through Uganda, Rwanda and Burundi would then transit through Tanzania and Kenya, and on to the international markets in the Middle East, Asia or Europe.

The patterns of natural resource exploitation and human rights abuses were very similar in the Kivus and in Ituri (see below). Congolese rebel groups, the Congolese military and foreign armies which occupied these areas all used the same tactics to seize control of territory rich in natural resources: widespread killings of unarmed civilians, rape, torture, arbitrary arrests and detention, and forced displacement. In the mines, forced labour and use of child labour were widespread.

Some of these actors, such as the Rwandan and Ugandan military, had a far-reaching strategy to occupy these areas, which they implemented through well-organised military operations.¹⁴ Others, such as some of the smaller Congolese rebel groups and the different factions into which they splintered, were more opportunistic, seizing chances as they arose or doing the bidding of their backers. The common thread linking the behaviour of all these actors was the extreme suffering they inflicted on the civilian population. Congolese in eastern DRC often told human rights organisations that it made no difference who was in control: they all came to loot the minerals and killed those who got in their way.

The profits were such that within a short time, the war became self-financing. All the parties to the conflict, including the Congolese government, raised significant amounts through the natural resource trade, using a variety of means, including formal or semi-formal systems of taxation, licences and fees; extortion at mining sites, roadblocks and borders; and requisitioning stockpiles of timber and minerals. There were also more organised systems, such as the arrangements set up between the Congolese government and parastatals (see below); the creation of front companies, notably to serve Ugandan interests;¹⁵ and networks set up by the Rwandan and Ugandan armies in collaboration with the RCD and other rebel groups they supported.¹⁶

The motivations behind the conflict

The warring parties' motives evolved as the conflict unravelled. Initially, in 1996, the conflict appeared to be driven primarily by political, ethnic, and, to an extent, security considerations. However, as the parties became more entrenched, the exploitation of natural resources became increasingly attractive, not only because it enabled these groups to sustain their war efforts but because it was a source of personal enrichment.

Natural resources provided an incentive to keep on fighting. This was a "war for profit".¹⁷

For example, initially, Rwanda presented security concerns as the justification for its invasion of eastern DRC in 1996, at a time when more than a million predominantly Hutu refugees, including some who participated in the 1994 genocide in Rwanda, were living close to its borders. Rwanda continued invoking the security factor in the years that followed, long after the bulk of the refugees had returned to Rwanda in late 1996, thousands of others had been killed in refugee camps and in the Congolese forests in 1996 and 1997, and incursions by Rwandan armed groups from the DRC into Rwanda had all but ceased. In reality, it appears that Rwanda's strategy was designed, in large part, to further its economic interests, first in the Kivus and, later, in Ituri.

The Ugandan army, for its part, justified its presence in Ituri on the basis that it was trying to defuse tensions between the Hema and the Lendu. In practice, it did the opposite: it pursued a strategy of war in the name of peace, sometimes deliberately stoking ethnic tensions and escalating the conflict, providing military assistance to various increasingly violent Congolese armed groups as a pretext for prolonging its own presence in Ituri.

The Rwandan and Ugandan armies' pretext of security concerns acted as a cover for large-scale looting – a form of "military commercialism", with "entrepreneurial considerations as a key consideration in the deployment of national armies".¹⁸ Even after they withdrew from the DRC, both armies continued profiting through their proxies. These included the various rebel groups they had backed; businessmen with whom they maintained close links; and companies, some of which they had set up for this very purpose. For example, the Panel of Experts noted that even though the withdrawal of Ugandan troops had "given the impression that the exploitation activities have been reduced, they are in fact continuing [...] UPDF have thus been able to pull out their troops, while leaving behind structures that permit military officers and associates, including rebel leaders, to continue profiting."¹⁹ It also described tactics deployed by the Rwandan Patriotic Army (RPA) which had "prepared for withdrawal by putting in place economic control mechanisms that do not rely on [its] explicit presence."²⁰

The various armed groups which were supported, or, in some cases, created, by the Rwandan or Ugandan armies to further their own interests turned out to be the perpetrators of some of the worst atrocities against civilians in the DRC's recent history.

By 2003, five years after the start of the second war, Amnesty International was describing the ambition of Congolese and foreign combatant forces to exploit eastern DRC's mineral and economic wealth as the biggest single factor in the violence.²¹

The increasing importance of the economic factor explains the shifting alliances between armed groups and armies throughout the conflict. While political calculations undoubtedly underpinned these frequent changes in alignment, economic motivations also influenced the decisions as to who was going to fight whom and for how long. This helps explain how opponents suddenly joined ranks and how the closest allies

turned against each other, time and again, in North and South Kivu and in Ituri. The fighting between Rwandan and Ugandan forces in Kisangani (described below) was perhaps the starkest illustration of this phenomenon.

In addition, opponents could become allies in business while continuing to fight each other on the ground. In North and South Kivu, battlefield enemies momentarily overcame their political and ethnic differences for the sake of extracting maximum profits from the mineral trade. For example, members of the Rwandan military ended up buying minerals produced by Rwandan Hutu militia, believed to include individuals who participated in the 1994 genocide in Rwanda, or by the *mai-mai*, thus effectively helping finance their activities.²² The Panel of Experts described this situation as a " 'win-win' situation for all belligerents" with "the only loser in this huge business venture" being the Congolese people.²³

The importance of the economic agenda is exemplified by battles which were fought for the control of specific mines or lucrative customs posts. On every occasion, civilians got caught in between, and more often than not, were directly targeted by one or both sides. Fighting around the gold mining town of Mongwbalu in Ituri (described below) was one of the most striking examples, but there were numerous other instances of clashes for control of natural resources between, for example, troops of different factions of the RCD, the MLC, different *mai-mai* groups and the Rwandan army.²⁴

North and South Kivu

In terms of natural resource exploitation, the 1996 war can be seen, in some respects, as a rehearsal for the 1998 war. The circumstances of the two wars were different, but Laurent-Désiré Kabila's *Alliance des forces démocratiques pour la libération du Congo-Zaïre* (AFDL) and his Rwandan and Ugandan backers set the scene for the patterns of brutal appropriation of natural resources in the years that followed.

The plunder of North and South Kivu in the first war has been less well documented than that in the second. Yet there is little doubt that the first war gave the DRC's neighbours – in particular Rwanda and Uganda – an opportunity to see how easy it was to seize control of coltan, cassiterite, gold and diamond mines and to make vast profits from this trade.²⁵

By the time the second war was launched in 1998, the parties knew where their interests lay and wasted no time in securing them. The RCD, which seized control of large parts of North and South Kivu before splintering into three different factions, quickly secured the mineral-rich areas and imposed a stranglehold on the trade. Despite presenting themselves as "liberators", the RCD did not use revenues from the natural resource trade for the benefit of the population in the territories they occupied; nor did they channel the money they collected from mineral taxes into even the most basic services.²⁶ The money was used for the war effort and for personal enrichment.

The main minerals found in North and South Kivu are coltan, cassiterite and gold, but when the price of coltan rose sharply in 2000, it became the most attractive of all, triggering a scramble which some described as the "coltan rush".²⁷ The high prices were short lived, and the value of coltan crashed in 2001, but it had peaked long

enough for the RCD and the Rwandan and Ugandan armies to make considerable profits.²⁸ The coltan trade continued after 2001, but was gradually overtaken by cassiterite.

The civilian population of North and South Kivu suffered devastating human rights abuses during the period that the RCD was in control: massacres, summary executions, torture and arbitrary arrests were the norm. Thousands of people were killed during this period.²⁹

The RCD (and, following its internal split, the RCD-Goma) imposed itself brutally to ensure that it could control the mineral trade unopposed. Initially, it was acting principally on behalf of the Rwandan military and political elite, but it also took a significant share of the wealth for itself. As time passed, the RCD, and other rebel groups, became less dependent on Rwanda or Uganda and found ways of raising money for themselves through the natural resource trade.³⁰

The new RCD "administration" took over what was left of the machinery of state in North and South Kivu. Among other things, it collected licence fees and taxes on mineral exports. All payments which would previously have been made to Congolese government state agencies were now made to the RCD. Between November 2000 and March 2001, the RCD set up a monopoly on all coltan exports in the territories under its control through the company SOMIGL, set up to finance the war effort.³¹

Behind the RCD, Rwanda had its own methods of syphoning off the profits from the mineral trade. Aside from the physical presence of Rwandan troops in North and South Kivu, who were often on site to ensure that miners worked for them, it controlled most of the main mineral *comptoirs* (trading houses) during the war.³² It also had a well-organised system for receiving funds within Rwanda. The Congo Desk, located in the Department of External Security in Kigali, was the central point for administering revenues from the mineral trade in eastern DRC and dealing with financial and economic matters for the RPA.³³ According to some estimates, the income received by the Congo Desk provided 80% of all the RPA's expenditure in 1999.³⁴ Amnesty International described the RPA's extraction and transfer of coltan and other natural resources to Rwanda as "a carefully managed military operation".³⁵

The Panel of Experts concluded in 2002 that "no coltan exits from the eastern Democratic Republic of Congo without benefiting either the rebel group or foreign armies."³⁶

The cost of this plunder, in human rights terms, was enormous. Civilians who attempted to resist the theft of their natural resources, or who did not collaborate with those in power, were subjected to attacks. Coltan traders were among the victims of unlawful killings, torture, ill-treatment and arbitrary detention.³⁷ The RCD and the Rwandan army were responsible for the forcible displacement of whole villages to make way for mining or logging operations and carried out killings, sexual violence and other abuses in the process.³⁸ They also attacked and burned villages to seize coltan which had been produced locally.³⁹

The national parks of Virunga and Kahuzi-Biega were particular magnets for rebel and military forces, because of the mineral deposits and wildlife found there, and the

ivory which could be obtained from poaching elephants. Dozens of staff members of these and other parks in eastern DRC were killed in confrontations with armed groups.⁴⁰

To ensure maximum profits, the RCD and Rwandan troops used forced labour, including children, in coltan mines in North and South Kivu. The Panel of Experts reported that "with minor exceptions, the objective of military activity is to secure access to mining sites or ensure a supply of captive labour." The local population was forced to abandon agriculture and turn to mining.⁴¹ In some cases, people were made to work at gunpoint. The miners were usually Congolese civilians, but the workforce was supplemented by prisoners brought from Rwanda.⁴² The conditions in the mines were extremely dangerous (see section on labour conditions below). In one incident in 2001, in Masisi, North Kivu, more than 50 people, including a six-year-old child, reportedly died in a landslide in a coltan mine under Rwandan army control.⁴³

Province Orientale

Province Orientale held even greater promise in terms of natural resources. With its diamond fields, gold mines, vast expanses of forests with valuable timber and barely explored oil reserves, Province Orientale was, in some ways, the biggest prize.

The battles for Kisangani

The Rwandan and Ugandan armies and the RCD-Goma derived significant revenue from the diamond trade in and around Kisangani, the country's third largest city. Even after Rwandan and Ugandan troops turned against each other in 1999, and the RCD-Goma managed to keep control of Kisangani itself, each continued to profit from the diamond trade in the territories they controlled.⁴⁴ As in other parts of eastern DRC, these armies used violence to impose themselves and to counter any attempts at obstructing their access to the diamond market.⁴⁵

In 1999, 2000 and again in 2002, fierce battles took place for the control of Kisangani, first between the armies of Rwanda and Uganda – former allies – then between a group of RCD soldiers who launched a mutiny, and troops sent by their commanders to crush their revolt. In all three instances, competition over the natural wealth of the area and the strategic importance of the town were among the factors which precipitated the fighting. Not only is the town of Kisangani located in an area rich in diamonds and timber, but, situated on the river, it acts as important trade and transport hub, linking the east of the DRC to the rest of the country. The UN Special Rapporteur on the human rights situation in the DRC described the conflict in Kisangani as the one which "best illustrates Rwanda's and Uganda's lust for conquest" and stated: "The cause of the conflict is both economic (both armies want the huge wealth of Orientale province) and political (control of the territory)."⁴⁶ An official of Rwanda's Congo Desk told a Belgian parliamentary commission of inquiry that Rwanda had gone to war against Uganda because it alone wanted to control the diamonds.⁴⁷

More than a thousand civilians were killed in the three waves of fighting between Rwandan and Ugandan troops in Kisangani. Around 200 civilians were killed in the

crossfire in the first outbreak of hostilities in 1999, while around 1,200 were killed in June 2002.⁴⁸

In May 2002, a number of RCD soldiers launched an anti-Rwandan mutiny in Kisangani, provoking a brutal crackdown by their officers. Human Rights Watch reported that more than 80 people were killed in total, but quoted the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions as saying that the RCD had been responsible for more than 160 deaths. RCD troops also carried out rapes and beatings during the crackdown.⁴⁹

Ituri

The conflict in Ituri between the Hema and Lendu ethnic groups – originally a dispute over land – began in 1999, but when the Ugandan and Rwandan armies became directly involved, the violence escalated to unprecedented levels. From 2002 onwards, Ituri became the scene of some of the bloodiest events since the start of the 1998 war, with tens of thousands of people dying as a direct result of the violence.⁵⁰

The conflict in Ituri was originally distinct from the conflict in the Kivus, but gradually, interests merged as the attention of neighbouring countries shifted northwards. The presence of gold and timber was a major factor in fuelling the conflict in Ituri, and the plunder of these resources was at least as violent as it had been in the Kivus. In 2003, the UN Special Rapporteur on Human Rights in the DRC stated: "Despite the ethnic appearance of the conflict, its root causes are of an economic nature."⁵¹ Amnesty International described the competition for control of natural resources by combatant forces as "a major – if not the main – factor in the evolution and prolongation of the crisis in Ituri."⁵²

Although most of the human rights abuses in Ituri in 2002 and 2003 were carried out on an ethnic basis, reflecting the original tensions between Hema and Lendu, the economic agendas of the parties to the conflict became increasingly obvious as events unfolded.

These economic agendas, and the political strategies which ensued as Uganda and Rwanda alternately backed a series of extremely violent rebel groups, led to a massive loss of human life. According to Human Rights Watch, an estimated 5,000 civilians died from direct violence in Ituri between July 2002 and March 2003 alone.⁵³ Further killings took place after that date, and all sides carried out systematic human rights abuses against the civilian population. The number of armed groups escalated as militia split into different factions, re-armed and launched fresh attacks. Additional armed groups, such as Jean-Pierre Bemba's MLC, were drawn in from areas as far away as Equateur; the joint MLC/RCD-N onslaught on Mambasa in 2002, nicknamed "*Effacer le tableau*" ("Wipe the slate clean"), led to a new wave of killings and systematic looting.⁵⁴

The fight for Mongbwalu

Events in and around the town of Mongbwalu, in the heart of the gold mining area, illustrate the direct link between human rights abuses and the scramble for resources. Mongbwalu changed hands several times in 2002 and 2003, and as Hema and Lendu

armed groups fought to control it, each carried out widespread killings of civilians and other abuses.⁵⁵ The UPC and the FNI both used forced labour in the gold mines in 2002 and 2003,⁵⁶ including children in mines controlled by the UPC.⁵⁷

As the conflict spiralled, other groups joined in. The involvement of these different groups was largely dictated by economic interests: all had their eyes on the gold mines.⁵⁸ A MONUC report described Mongbwalu as "a town to conquer for its natural resources."⁵⁹ Aside from the prospects of personal enrichment, the armed groups made no secret of the fact that they used the proceeds from gold mining to buy weapons and ammunition.⁶⁰

Human Rights Watch documented the killing of at least 2,000 civilians in the Mongbwalu area between June 2002 and September 2004, as well as cases of rape, torture, arbitrary arrests and detention. Tens of thousands of people were forced to flee their homes.⁶¹ The perpetrators included members of the RCD-ML, the Hema-dominated UPC (backed first by Uganda, then by Rwanda), the Lendu-dominated FNI and other armed groups, including the FAPC headed by Jérôme Kakwavu.

Abuses by the FAPC

The activities of the FAPC received less attention than those of the UPC and the FNI. In 2003, Commandant Jérôme Kakwavu controlled key commercial centres and gold trading routes through the towns of Aru and Ariwara and made substantial profits from taxing gold exports at the borders with Uganda.⁶² Constantly changing sides during the conflict, he had collaborated, at different times, with the RCD-ML, the UPC and with the FNI, always with a view to maximising profits from the gold trade. The FAPC forces may not have massacred as many people as some of the other armed groups in Ituri, but they were responsible for acts of particular cruelty, many of them directly connected with the gold trade. These included public executions and torture, at which Commandant Jérôme Kakwavu was personally present, and the arbitrary arrest and torture of several gold traders, at least one of whom died. Omar Oria, a Ugandan gold trader with whom Commandant Jérôme Kakwavu had close business relations, was also involved in some of these abuses.⁶³

The role of the Ugandan and Rwandan military

The Ugandan military, who were deployed in the area from 1998 to 2003, were key players in the conflict in Ituri. They switched support from one side to another in order to continue profiting from the gold trade, backing or strengthening the Congolese armed groups which seemed most likely to be able to seize or retain control of the gold mines.⁶⁴ Different elements of the Ugandan army sometimes supported opposing rebel groups at the same time.⁶⁵ They deliberately sowed divisions between armed groups, exacerbating the ethnic conflict for the sake of economic interests.

The Ugandan army exploited gold not only in Ituri, but in the neighbouring district of Haut-Uele, from 1998 to 2002. In 1999, unsafe mining practices used by the Ugandan military led to the collapse of the Gorumbwa gold mine, killing around 100 miners.⁶⁶

In the mines in both Haut-Uele and Ituri (in particular in Mongbwalu), Ugandan forces used forced labour and arrested, detained and ill-treated those who refused to cooperate with them.⁶⁷

Individuals within the Ugandan military and political establishment are believed to have made substantial profits from the gold trade. In addition, much of the gold produced in Ituri was exported through Uganda⁶⁸, then re-exported as if it were its domestic production – a pattern similar to that which characterised its exports of diamonds, as well as Rwanda and Burundi's exports of coltan, cassiterite and other minerals produced in the Kivus.

The Rwandan army also supported armed groups in Ituri, notably the UPC. Its backing was less widely publicised than that of the Ugandan army but was well documented by human rights organisations and the Panel of Experts.⁶⁹

Oil

In addition to minerals and timber, oil is found in Ituri, in Lake Albert, on the border with Uganda. In June 2002, Canadian-British company Heritage Oil Corp. announced that it had signed an exploration agreement with the Congolese government. At the time, the region was under the control of various rebels groups.⁷⁰ The announcement of this contract could have precipitated further conflict in an area which was already torn apart by violence. In fact, the armed groups in Ituri seemed more preoccupied with gold, which was easier to get hold of than oil. Nevertheless, the presence of oil in this region has the potential to lead to further conflict, not only between parties in the DRC but between the DRC and Uganda, as evidenced by fatal clashes between Congolese and Ugandan military several years later, in 2007.⁷¹

The MLC

The MLC, under Jean-Pierre Bemba, profited from minerals, timber and coffee during the conflict, in its heartland of Equateur Province as well as in Ituri and other parts of Province Orientale. More self-sufficient than some of the other armed groups, the MLC managed to finance a significant part of its war efforts without resorting too heavily on foreign backers.⁷²

The MLC secured a monopoly on coffee exports from Equateur.⁷³ It also took over parts of the timber sector, initially seizing and smuggling timber stockpiles which had been left behind by logging companies, then collecting taxes from logging companies when they restarted operations.⁷⁴ Like other armed groups, and like the Congolese government, the MLC granted mining concessions in the territories it controlled in exchange for military equipment and other forms of support, primarily from Uganda.⁷⁵

Diamonds were an important source of finance for the MLC, and it was easy to smuggle diamonds out from Equateur Province into neighbouring Central African Republic (CAR).⁷⁶ The MLC then also became embroiled in the conflict in the CAR from 2001; the mineral and timber trade from which it had derived significant profits served to fuel human rights abuses not only in the DRC itself but in the CAR too.⁷⁷

MLC troops carried out serious human rights abuses in Equateur and Province Orientale in their bid to gain or maintain control of territory (see section on Ituri above). They also used forced labour and violence against artisanal miners who refused to work for them, for example in some of the diamond mines in Province Orientale.⁷⁸

III. The role of the formal sector

Contributions of state-owned enterprises to Kabila's war effort

State-owned enterprises, such as the diamond company, MIBA, made direct financial contributions to the AFDL and Kabila's war efforts between 1998 and 2001. Congolese government and MIBA officials confirmed to Amnesty International that MIBA was "a key part of the war effort".⁷⁹

The Panel of Experts reported that in 1999, over 30% of MIBA's first semester earnings were transferred to accounts of the Congolese government (for unspecified purposes) and another 11% were funnelled directly to the Congolese armed forces. Additional payments from MIBA revenues, worth tens of millions of dollars, were described in official documents as "deductions for the war effort". The Panel concluded that between 1998 and 2001, "a hefty percentage of MIBA earnings" had been diverted "to high level government officials for their personal benefit, as well as to cover war or military-related expenses." It goes on to describe diamond deals which appeared to have been concluded "because they were linked, directly or indirectly, to arms and military support."⁸⁰ In its October 2002 report, the Panel reported that diamond revenues were used to buy arms for the Congolese army and to contribute to the salaries of the Zimbabwean military.⁸¹

For a period, the state copper and cobalt mining company Gécamines was used to similar ends,⁸² as were the gold company OKIMO and oil companies, which made significant payments to the government.⁸³

Paying back Kabila's allies

Zimbabwe's military intervention and political support were critical to Laurent-Désiré Kabila during the war. From Zimbabwe's point of view, there was much to be gained. In 2001, the Panel of Experts described Zimbabwe as "the most active of the [government's] allies" in terms of the exploitation of natural resources.⁸⁴ In order to repay his debt to Zimbabwe, Kabila granted President Robert Mugabe's government the rights to significant diamond, copper, cobalt and timber concessions in the DRC. He also allowed Zimbabwean troops to deploy in some of the richest mining areas, where they became involved in human rights abuses, particularly in the diamond mines in Mbuji-Mayi, as described below.

Although the deals which Kabila struck with Zimbabwe entirely lacked transparency and accountability, they were official agreements between the two governments, with Kabila giving away enormously valuable state resources in order to pay back some of his war debt. A number of joint venture companies were formed in the mining and forest sectors. Several of these involved COSLEG, a joint venture company formed

between the DRC government and senior Zimbabwean military and political officials.⁸⁵

The deals between the governments of the DRC and Zimbabwe were probably most significant in the diamond sector. In 1999, President Kabila gave the rights to exploit one of the richest diamond mining concessions previously held by the parastatal, MIBA, to a joint venture company, Sengamines, partly owned by Zimbabwean interests.⁸⁶

Other, existing companies, such as the state mining enterprise Gécamines in Katanga, were taken over by Congolese and Zimbabwean political interests and subverted to serve Kabila's purposes; this was notably the case when Zimbabwean Billy Rautenbach was appointed managing director of Gecamines from 1998 to 1999.⁸⁷

In 2000, COSLEG set up a subsidiary, SOCEBO, to exploit four timber concessions, in Katanga, Kasai, Bandundu and Bas-Congo. In this way, the Zimbabweans gained the rights to exploit 33 million hectares of forests, or 15% of the DRC's total land area. However, due to a combination of factors including financial problems and poorly elaborated plans, logging did not begin as planned, and the Zimbabweans were not able to recoup as much as they might have anticipated.⁸⁸ In any case, in both the timber and the mineral deals, the main beneficiaries were not the Zimbabwean state as a whole, but senior political and military officials close to President Mugabe's Zanu-PF party. Those who lost out, as ever, were the Congolese people.

It was not only Zimbabwe which was handsomely repaid for its military support to Kabila. Kabila also rewarded his other allies, Angola and Namibia, with favourable diamond and oil deals.⁸⁹

Illegal or unfavourable contracts

When Laurent-Désiré Kabila launched his rebellion in 1996, one of his priorities was to take over and, in many cases, cancel or modify, mining contracts which had been signed by President Mobutu. Many of these transactions were conducted illegally. The consequences for the country, as a whole, were serious, as millions of dollars were tied up in these contracts for several decades

Kabila allocated major mining concessions during the AFDL's advance on Kinshasa in 1996, before he had even formed a government. In 1997 and 1998, he proceeded to sign, then revoke and modify a number of gold, copper and cobalt contracts, causing confusion among companies, as some of the concessions he allocated had already been granted to other companies under Mobutu.⁹⁰ Large mining companies, such as American Mineral Fields and Anglo American, jostled for Kabila's favours; in some cases, competition resulted in litigation, then in agreements to split joint ventures.⁹¹

Rebel groups also allocated concessions to mining and logging companies illegally. For example, DARA Forest, a Ugandan-Thai logging company, first had its application turned down by the government in Kinshasa in 1998. It engaged in logging and timber trading nonetheless, in parts of North Kivu and Ituri controlled by the RCD-ML and the Ugandan army, and was granted a concession by the RCD-ML

in 2000. Between 1998 and 2003, the company was exporting approximately 48,000 cubic metres of timber every year.⁹²

The Lutundula Commission

It was not until 2003, at the start of the transition, that these contracts came under scrutiny. Set up by the transitional National Assembly following the 2003 peace agreements, the Lutundula Commission (named after its chairman, Christophe Lutundula) was tasked with analysing the legality of economic and financial contracts signed between 1996 and 2003; many of these contracts concerned mineral rights. The Commission was made up of parliamentarians from the different parties in the transitional government, including representatives of former rebel groups such as the RCD and the MLC.

The Lutundula Commission faced a difficult task as its remit touched on high level political and financial interests on all sides, particularly within the ranks of President Joseph Kabila's party. Despite coming under enormous pressure from individuals with vested interests, the Commission produced a detailed report, which was courageous and frank in parts, if incomplete.⁹³ The report concluded that dozens of contracts were either illegal or of limited value for the development of the country and recommended that they be revoked or renegotiated. It also recommended judicial action against a number of senior political and corporate actors.

Following the completion of their report in 2005, some of the members of the Commission received threats. The National Assembly strongly resisted publishing the report, but eventually agreed to do so after the report was leaked.⁹⁴ The report was never discussed by the National Assembly and its findings and recommendations were never acted upon.

IV. Links with the arms trade

Trafficking of natural resources in the DRC, particularly during the conflict, has been closely intertwined with other criminal networks, including those involved in arms trafficking. The Panel of Experts and research institutes have documented some of these links and identified key arms traffickers and trafficking routes.⁹⁵ The Panel of Experts concluded that "it is very difficult to stem or halt illegal exploitation without also tackling the issue of arms trafficking" and highlighted the interconnection between these two activities, the conflict, insecurity and impunity.⁹⁶ Connections with these networks enabled the perpetrators of human rights abuses in the DRC to smuggle natural resources out of the country without any difficulty, often using the profits to purchase arms, and committing yet further human rights abuses. The arms trafficking networks in turn overlapped with the transport networks; certain airline companies were known to fly minerals out and fly arms back into the DRC.⁹⁷

V. The regional dimension

The involvement of so many foreign governments and armies in the DRC's conflict, and in the exploitation of natural resources, inevitably had an impact on the human rights situation in neighbouring countries. Apart from the fact that troops from several of these countries carried out serious human rights violations within the DRC, the

conflict spilled over into countries such as the CAR, the Republic of Congo or Angola, which were already wracked by war and violence.

The wealth which Rwanda, Uganda and Zimbabwe derived from their exploitation of resources in the DRC also helped shore up these governments back home and boosted the budgets of their own army and defence agencies.⁹⁸ Rwanda was probably the most successful example of this phenomenon, in that its exploitation was designed to benefit not only individual commanders but whole government and military departments. This solid economic base provided the Rwandan government with a certain stability and confidence. Since that time, Rwanda's economy has developed significantly, and it is perceived, at the international level, as an increasingly stable country. Yet Rwanda's relative stability was, and still is, inextricably intertwined with the continuing chaos and human suffering in eastern DRC. Furthermore, the period of Rwanda's most intense exploitation of the DRC's resources coincided with serious human rights abuses inside Rwanda itself.⁹⁹

Some donors, including the World Bank, actively supported the Rwandan and Ugandan governments and continued praising their economic performance at the very time that their illicit mineral trading activities in the DRC were at their peak, and their troops were engaging in serious human rights abuses there.

Four years later, a Global Witness report concluded: "It could be argued that the foundations of Rwanda's increasing stability are being built on the continuing predatory exploitation that has characterised the history of the DRC"¹⁰⁰ – a view echoed by many ordinary Congolese and Rwandans. Residents of Kigali have nicknamed a wealthy neighbourhood of newly-built luxury houses on the outskirts of the capital as "*Vive la guerre au Congo*".

In the case of Zimbabwe, the strategy may not have been so successful. Although the country's economy was in a perilous state when the government decided to send troops to the DRC, the exploitation of the DRC's resources did more to enrich top officials in the Zimbabwean army than it did to keep the country's economy afloat.

VI. The plight of artisanal miners

Labour conditions in artisanal mines

Much of the mining in the DRC is done in the informal sector, by an estimated one to two million artisanal miners. Artisanal mining accounts for the vast majority of the DRC's mineral production, as much as 90% according to some estimates.¹⁰¹

The artisanal mining sector is unregulated. Artisanal miners are extremely vulnerable to exploitation and abuse, both because they work outside the framework of the law and therefore have no legal rights or protection, and because they engage in this dangerous work out of economic desperation. They have no technical or other training in mining techniques and no special clothing or equipment.

In areas such as Katanga, parts of Kasai and North and South Kivu, minerals are found almost everywhere, not only in large, designated mines. Artisanal mining is often a spontaneous activity, so miners dig wherever they think there may be valuable

deposits. The conditions in which they dig are extremely hazardous. Mineshafts frequently collapse, killing scores of miners every year.¹⁰² It can be estimated that several hundred miners would have died between 1993 and 2003. The victims have included young children.¹⁰³

Artisanal miners work in harsh conditions for very little pay, but it is not only the miners themselves that suffer health and safety risks. Porters have to carry heavy sacks of minerals, sometimes across long distances on foot, for several days. These painful labour conditions prevail in almost all artisanal mines in the DRC, whether diamond, gold, copper, coltan or cassiterite mines.

In Katanga, those who work in uranium mines may be exposed to high levels of radiation and other health risks. One of the most serious examples is the Shinkolobwe mine. Despite the fact that the mine has been officially closed for many years, thousands of miners have continued to dig there since at least 1998, with the complicity of Congolese police or military who guard the mine, and with the full knowledge of government authorities. There have been frequent accidents at Shinkolobwe, the most serious in July 2004 when at least 60 people may have been killed in a collapsing mineshaft. Neither these incidents nor the fact that miners continue to work at Shinkolobwe have been investigated by the Congolese authorities.¹⁰⁴ Health risks associated with gold mining include the presence of mercury which miners had to handle without protection when they worked under the control of armed groups in Ituri in 2002 and 2003.¹⁰⁵

Child labour is common. Children as young as seven or eight are found working in mines. Outside the conflict areas, child labour is usually the result of families' extreme poverty, rather than a form of forced labour. Many children drop out of school in order to work in the mines. A coltan mine manager in Numbi, North Kivu, told the Pole Institute that he accepted children from the age of 12 upwards.¹⁰⁶

The Congolese authorities have failed to take responsibility for the health and safety of artisanal miners. Fatal accidents or serious injuries are only occasionally reported, and rarely investigated. There is no accurate record of the number of fatalities, no comprehensive list of the victims and no system for preventing miners from working in unsafe locations.

The DRC's *Code du Travail* (Labour Code), adopted in 2002, contains several provisions relating to health and safety at work, which are breached on a daily basis in artisanal mines. However, the Labour Code contains a loophole in that it does not explicitly cover the protection of workers who do not have an identifiable employer. The state has thus shrugged off responsibility for this entire workforce.

Human rights abuses in the diamond polygone¹⁰⁷

The *polygone*, an area located in MIBA's diamond mining concession in Mbuji-Mayi, in Kasai Oriental, has been the scene of repeated, violent clashes between artisanal miners and law enforcement officials. Until mid 2002, security at the *polygone* was the joint responsibility of the Zimbabwean military, the Congolese mining police and MIBA guards. These different groups competed with each other for control of the diamond mines and preyed upon the artisanal miners, who were especially vulnerable

as they were not legally entitled to work there. Corruption played a big part in escalating the violence, as miners paid each side to protect them against the others. MIBA guards, as well as Zimbabwean soldiers, allowed miners into the concession in exchange for money or diamonds.¹⁰⁸

Shootings were common, and the situation soon degenerated into a situation resembling gang warfare. Dozens of people were killed and hundreds wounded in the *polygone* every year. MIBA guards were responsible for the majority of the shootings and frequently opened fire on unarmed civilians. Zimbabwean soldiers were also involved in fatal shootings. MIBA guards illegally arrested and detained miners, including many children, and held them in their own unofficial detention centres, in harsh conditions. Several journalists and activists who denounced the shootings in the MIBA concession were arrested, detained by the Congolese authorities and put under pressure not to report on these incidents.

Those responsible for the human rights abuses in the *polygone* benefited from complete impunity. In October 2002, Amnesty International reported that "not a single state agent has ever been prosecuted for the unlawful killing of a suspected illegal miner in Mbuji-Mayi. Those who are guarding the diamond concessions are acting, and killing, with utter impunity. The Congolese authorities refuse to acknowledge that these abuses are even taking place."¹⁰⁹

In 2002, the DRC signed up to the Kimberley Process, an international certification scheme that regulates the trade in rough diamonds and aims to prevent the flow of conflict diamonds while helping to protect the legitimate trade. However, the Kimberley Process only covers the diamond trade by non-state groups, and is not designed to address human rights abuses committed in the context of diamond mining outside conflict areas. It has therefore been ineffective in addressing the violence seen in areas such as the *polygone*, which persists several years later.

VII. Corporate responsibility for human rights abuses in the context of natural resource exploitation

The illicit exploitation of natural resources in the DRC, and the accompanying serious human rights abuses, would not have taken place on such a large scale if there had not been customers willing to trade in these resources. There has never been a shortage of foreign buyers willing to handle these goods – neither under Mobutu, nor under Laurent Kabila or throughout the war – despite the well-publicised abuses committed by the parties involved. Buyers have included not only individual traders in the DRC and neighbouring countries, but private companies registered in other jurisdictions, including multinationals.

Companies' involvement in human rights abuses connected to natural resource exploitation has taken various forms. Companies closest to the source of the minerals or timber – Congolese and foreign *comptoirs* or trading companies – dealt directly with rebel groups responsible for serious human rights abuses, either by trying to strike deals with them¹¹⁰ or by paying them taxes, licences and various other fees to enable them to stay in business.¹¹¹

Foreign-registered companies did not always make payments directly to the rebel groups, but their suppliers did, and the foreign companies did not perform due diligence checks.¹¹² As rebel groups took over the tax collecting functions of the state, companies continued making payments to them as they had done to government agencies in the past, ignoring the entirely different context which prevailed and the human rights abuses being perpetrated by the groups now in control.

In a number of cases, foreign or multinational companies were directly involved in negotiations with perpetrators of human rights abuses, paying armed groups or providing them with facilities or logistics in order to exploit natural resources. One example is the logging company SIFORCO, which made payments to the MLC in Equateur Province during the conflict. SIFORCO's operations were disrupted by the war, but in November 2002, it resumed logging in a forest concession near Bumba, while the area was still under the control of the MLC, and held negotiations with the MLC in order to start logging again.¹¹³

Another serious example is AngloGold Ashanti, one of the largest gold mining companies in the world. In order to be able to operate in its gold concession in Mongbwalu, in 2003 the company made payments and provided logistics to the FNI, one of the most murderous armed groups in Ituri. Not only did this relationship legitimise the FNI as the de-facto authority in the area, but it conveyed the message that AngloGold Ashanti was prepared to overlook human rights considerations for the sake of business interests. The company had previously been in discussion with the UPC (the FNI's rival at the time, also responsible for numerous human rights abuses) when the UPC was in control of the area in 2002. The FNI claimed that it had also been approached by other companies to discuss working in the area under its control.¹¹⁴

From around 2001, companies started coming under concerted pressure from the Panel of Experts and NGOs to review their practices. Their reactions to accusations that they were fuelling the conflict were not encouraging. Several companies attempted to discredit the work of the Panel of Experts, particularly its October 2002 report, which listed 29 companies (and 54 individuals) on which the Panel recommended the placing of financial restrictions and 85 companies which the Panel considered to be in violation of the OECD Guidelines for Multinational Enterprises.¹¹⁵ Certain companies which had been named in the report then quickly claimed that they had been "cleared" by the Panel. However, the process of resolution of these cases was seriously flawed. It gave the impression that certain cases had been satisfactorily resolved when, in fact, many of the specific concerns raised by the Panel had not been addressed.¹¹⁶

The governments of the home states in which these companies were registered were not willing to take action either and allowed the international trade to continue in ways which were clearly fuelling the conflict in the DRC. They waited for NGOs to lodge formal complaints against companies for breaches of the OECD Guidelines for Multinational Enterprises, and even then, reacted slowly and unsatisfactorily. It was not until much later, in 2008, in response to complaints brought by the NGOs RAID and Global Witness, that the UK government published stronger statements on the conduct of at least two companies – DAS Air, which had transported coltan between

eastern DRC, Rwanda and Uganda during the conflict, and Afrimex, which had traded in minerals throughout the conflict.¹¹⁷

The OECD Guidelines provided a useful tool for drawing attention to companies' role in fuelling human rights abuses, but, as a non-binding mechanism, their remit, in terms of obtaining justice, is extremely limited. There are still no strong laws to hold companies to account when they contribute to human rights abuses.

VIII. The absence of justice

Impunity has been the rule for crimes committed in the context of natural resource exploitation in the DRC, reflecting the broader absence of justice for human rights abuses across the country. Impunity for these crimes may be even more entrenched than in other types of cases, as there has never been a tradition of accountability about how the country's natural resources are used. Although many Congolese know that the way their natural resources are being used violates their basic economic rights, they do not expect justice to be done for these crimes, as there has never been any precedent in this regard. As a result, these patterns of abuse have been repeated again and again.

In practice, many of the people responsible for committing or overseeing the most serious abuses in the context of natural exploitation are those who have also committed other types of human rights abuses, especially in the context of the conflict. For example, some of the leaders of armed groups who have since been arrested, including some of those indicted by the International Criminal Court for crimes committed in Ituri, have been directly implicated in illicit natural resource exploitation; yet none of them have been charged with these crimes. Other leaders of armed groups have never been arrested for any of the crimes they have committed. Instead, they have been given positions of responsibility in the Congolese national army.

The search for justice in this context poses a significant challenge. The intertwining of high level political, military and economic interests has meant that it has been extremely difficult for victims to seek justice for these crimes; combined with the lack of independence of the judiciary, it has ensured that impunity has prevailed.

The influence of private companies has also obstructed the search for justice, as illustrated by the Kilwa case. Although this incident took place after the period covered by this briefing, there are important lessons to be drawn from the case, relating to the weakness and lack of independence of the judiciary when confronted with powerful business and political interests. In 2004, at least 73 people were killed by the Congolese army in the town of Kilwa, Katanga province; Australian-Canadian mining company Anvil Mining provided the army with logistics and transport during its military operation. In 2007, in the first case of its kind, nine Congolese soldiers and three expatriate employees of Anvil Mining were charged respectively with war crimes and complicity in war crimes in connection with these events. The case could have set an important precedent in terms of corporate accountability. Instead, interference and obstruction by high level business interests prevented justice from taking its course; the judges failed to take into account strong eye-witness testimony at the trial and witnesses were intimidated. All the defendants were acquitted of the

charges relating to the events in Kilwa, in a trial by a military court which failed to meet international standards of fairness.¹¹⁸

The role of Uganda in the conflict in the DRC came under scrutiny in two separate initiatives. In Uganda itself, a commission of inquiry, known as the Porter Commission, was established in 2001 to investigate the Panel of Experts' allegations of Ugandan involvement in the illicit exploitation of natural resources in the DRC. The scope of the Commission's work was restricted and it did not investigate incidents of human rights abuses in detail. The report it produced in November 2002 was criticised by some for being too lenient on the Ugandan government. The Commission rejected several of the accusations of the Panel of Experts regarding Uganda's official involvement, but recommended disciplinary action, and further investigations, against individual senior Ugandan army officers, some of whom it named in its report.¹¹⁹

In December 2005, the International Court of Justice (ICJ) pronounced its judgment on a case brought against Uganda by the government of the DRC. The case included numerous accusations relating to the conduct of Ugandan troops in eastern DRC, including the illegal exploitation of natural resources. The Court found that Uganda had "by acts of looting, plundering and exploitation of Congolese natural resources committed by members of the Ugandan armed forces in the territory of the DRC and by its failure to comply with its obligations as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources, violated obligations owed to the Democratic Republic of Congo under international law." The Court also found that Uganda had violated its obligations under international human rights law and international humanitarian law "by the conduct of its armed forces which committed acts of killing, torture and other forms of inhumane treatment of the Congolese civilian population [...] incited ethnic conflict and failed to take measures to put an end to such conflict." The Court concluded that Uganda was under obligation to make reparation to the DRC, for these and other violations.¹²⁰

The DRC government submitted a similar case to the ICJ against Rwanda.¹²¹ However, the case did not proceed. The ICJ cannot consider a case unless both parties consent to the case being heard under its jurisdiction. The Rwandan government challenged the jurisdiction of the ICJ and did not provide its consent. The ICJ concluded that it had no jurisdiction to hear the case.¹²²

IX. Conclusion

The abundance of natural resources in the DRC and the absence of effective law enforcement in this sector create a particular set of dynamics which has been shown to contribute directly to widespread human rights abuses.

The patterns of human rights abuses described in this briefing have persisted since 2003, but were born out of a history where the DRC has long been regarded by outsiders purely as a repository for natural resource wealth, with the Congolese people as the workforce to extract this wealth. Unfortunately, this view persists today. In its final report in October 2003, the Panel of Experts stated: "Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating conflict".¹²³ Its successor, the Group of Experts, has reached a similar conclusion concerning the period 2004 to 2009, illustrating how the trade in natural resources still underpins

some of the most serious violence in eastern DRC.¹²⁴ Congolese and foreign companies are continuing to trade with individuals and entities responsible for grave human rights abuses, thereby enabling them to survive and to continue inflicting violence on the civilian population.¹²⁵

Justice will be the key to breaking these patterns, not only within the DRC, but at the international level: action should be taken to address the international systems that make these trading practices legally possible, despite the fact that they continue to cause massive loss of life. The presence of natural resources in the DRC will continue to undermine security and lead to further human rights violations for as long as impunity persists. There is an urgent need for Congolese authorities and for international actors, both in the political and economic sphere, to tackle this issue more forcefully.

The question of how the DRC's natural resources are exploited and governed needs to be redefined as a human rights issue. To date, the tendency has been to focus on the economic, trade and technical aspects of natural resource exploitation, but viewing the economic situation in isolation from the external environment could further exacerbate the human rights situation. The use of the DRC's natural resources is, above all, a political and human rights issue. It therefore calls for political and human rights solutions.

X. Recommendations

These recommendations are not intended to be comprehensive but highlight a few priority actions to address the most serious human rights violations committed between 1993 and 2003 and to prevent a recurrence of these patterns in the future.

- The Congolese government and judicial authorities should bring to justice individuals known to have committed serious human rights abuses in the course of natural resource exploitation and trade, going back to 1993. These should include leaders of the various armed groups and factions which fought in Ituri and in North and South Kivu, and members of other armed groups against whom ample evidence is already available.
- Foreign governments and other donors should provide assistance to the Congolese justice system to enable such cases to proceed according to international standards and to support the victims of these crimes in obtaining redress.
- Violations linked to the exploitation of natural resources should play a prominent role in the investigations of UN human rights observers and cases should be followed up vigorously with the relevant Congolese authorities.
- The UN peacekeeping force MONUC, with the support of UN member states, should ensure that the task of curtailing the provision of support to armed groups through the trade in natural resources (included in MONUC's mandate since December 2008)¹²⁶ is fully integrated into the work of UN military and civilian teams deployed in mineral-rich areas of the DRC.

- The UN Security Council should continue supporting the work of the Group of Experts and ensure that member states act on its findings.
- Security sector reform programmes should incorporate elements relating to natural resource exploitation. Training programmes for the Congolese security forces should include clear guidelines and instructions prohibiting members of the armed forces from exploiting natural resources (as outlined in Article 27 of the DRC's 2002 Mining Code). Vetting procedures should exclude from the security forces individuals known to have engaged in or ordered the illicit exploitation or trade of natural resources or committed human rights abuses in this context.
- In view of the weakness of the Congolese justice system, and the time it will take to strengthen it, foreign governments should undertake their own investigations and, if appropriate, prosecutions of individuals or companies registered in their country known to have contributed to the illegal exploitation of natural resources and human rights abuses in the DRC, or who have supported groups responsible for war crimes in this context.
- At the international level, governments should review their trade, development and foreign policy on the DRC with a view to taking more concerted action to break the links between the trade in natural resources and ongoing human rights violations.
- The International Criminal Court should investigate war crimes or crimes against humanity committed in the context of natural resource exploitation in the DRC. It should also investigate the role of economic actors and companies in these crimes, particularly those who, through their trading practices, have financed armed groups responsible for war crimes or crimes against humanity. Where appropriate, and pursuant to the principle of complementarity with national jurisdictions, it should initiate prosecutions of individuals against whom there is evidence of involvement in such crimes. Under Article 25, 3 (c) of the Rome Statute, the ICC has jurisdiction against an individual who "for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission".

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- ¹ For details of the different resources found in the DRC, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004.
- ² For background information on the historical context of natural resource exploitation in the DRC, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004. See also Adam Hochschild, "King Leopold's Ghost", Pan Books, 1998.
- ³ The exceptions were reports produced by international human rights organisations, notably Amnesty International and Human Rights Watch, some of which are quoted in this briefing.
- ⁴ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357).
- ⁵ Annual Global Summary: 2007 Production, Imports, Exports and KPC Counts (see <https://mmsd.mms.nrcan.gc.ca/kimberleystats/publicstats.asp>).
- ⁶ See www.itri.co.uk
- ⁷ Global Witness, "Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines", July 2006.
- ⁸ United Nations Development Programme, "Human Development Report 2005: International cooperation at a crossroads. Aid, trade and security in an unequal world".
- ⁹ For details of how Mobutu exploited the country's minerals, particularly diamonds, see Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002.
- ¹⁰ See Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002.
- ¹¹ The Panel of Experts described the "elite networks" composed of senior officials in the Congolese, Zimbabwe, Ugandan and Rwandan governments and armies implicated in natural resource exploitation in the DRC. See reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357) and 15 October 2003 (S/2002/1146).
- ¹² The information in this section is based primarily on the following sources: Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 23 December 1994 (E/CN.4/1995/67), paragraphs 104-113; Jean-Claude Willame et al, "Zaire: predicaments and prospects. A report to the Minority Rights Group (USA)", United States Institute for Peace, January 2007, pages 32-33; The Atlantic Online, "Zaire: an African horror story", August 1993; and IRIN, "Zaire IRIN Briefing Part V: Shaba", 19 March 2007.
- ¹³ See Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 23 December 1994 (E/CN.4/1995/67), paragraphs 104-113.
- ¹⁴ See Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357).
- ¹⁵ IPIS, "Network War: An introduction to Congo's privatised war economy", October 2002.
- ¹⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357). Section III B of the report describes how the different parties to the conflict financed the war.
- ¹⁷ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 11. See also Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 147-148.
- ¹⁸ Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 36.
- ¹⁹ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 97 and 99.
- ²⁰ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraphs 15 and 16.

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- ²¹ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003.
- ²² IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003. In some cases, a form of collaboration even developed between the RPA and former *interahamwe*. See, for example, Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraphs 66-69.
- ²³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 218.
- ²⁴ See reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), 10 November 2001 (S/2001/1072), and 22 May 2002 (S/2002/565); and IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002, page 33.
- ²⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 27 and 28.
- ²⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 9.
- ²⁷ For information on the coltan trade under the RCD, see IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002.
- ²⁸ For estimates of the profits made from the coltan trade by the RCD, Rwanda and Uganda, see IPIS, "European companies and the coltan trade, part 2", September 2002. IPIS's estimates are lower than those of the Panel of Experts, but the amounts are still significant.
- ²⁹ For details of the human rights situation during this period, see numerous reports published by Amnesty International and Human Rights Watch, available at www.amnesty.org and www.hrw.org and reports by the UN Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, produced between 1996 and 2001.
- ³⁰ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 147.
- ³¹ IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 22.
- ³² Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraphs 76-77.
- ³³ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 12; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 21; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 127.
- ³⁴ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraphs 70-71.
- ³⁵ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 30.
- ³⁶ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 15 October 2002 (S/2002/1146), paragraph 80.
- ³⁷ See Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 32, 33, 35 and 38.
- ³⁸ Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 22 May 2002 (S/2002/565); Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 39.
- ³⁹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 93.
- ⁴⁰ Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 22 May 2002 (S/2002/565), paragraphs 51-52.

⁴¹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 93; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraph 10; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 36.

⁴² Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 35; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 60; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 75; Carina Tertsakian, "Le Château: the lives of prisoners in Rwanda", Arves Books, 2008, page 232.

⁴³ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 36.

⁴⁴ Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 41; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 25-26; Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 44-46.

⁴⁵ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 25.

⁴⁶ Report of the Special Rapporteur on the situation of human rights in the DRC, Roberto Garreton, 1 February 2001 (E/CN.4/2001/40).

⁴⁷ Sénat de Belgique, Commission d'enquête parlementaire chargée d'enquêter sur l'exploitation et le commerce légaux et illégaux de richesses naturelles dans la région des Grands Lacs au vu de la situation conflictuelle actuelle et de l'implication de la Belgique, Rapport fait au nom de la Commission d'enquête « Grands Lacs », Mm. Colla et Dallemagne, 20 February 2003, Annex 7.

⁴⁸ Human Rights Watch reports, "Uganda in eastern DRC: Fueling political and ethnic strife", March 2001, and "War crimes in Kisangani: the response of Rwandan-backed rebels to the May 2002 mutiny", August 2002; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003; "Report of the inter-agency assessment mission to Kisangani", 4 December 2000 (S/2000/1153).

⁴⁹ Human Rights Watch, "War crimes in Kisangani: the response of Rwandan-backed rebels to the May 2002 mutiny", August 2002.

⁵⁰ For a detailed documentation of the human rights situation in Ituri between 2002 and 2004, see Human Rights Watch reports "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, and "The Curse of Gold", 2005; MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573); and Report on the mission carried out by Roberto Garreton, Special Rapporteur on the situation of human rights in the DRC, from 11 to 21 March 2001, (E/CN.4/2001/40/Add.1), 27 March 2001.

⁵¹ Interim report of the Special Rapporteur on the situation of human rights in the Democratic Republic of Congo, 24 October 2003 (A/58/534).

⁵² Amnesty International, "On the precipice: the deepening human rights and humanitarian crisis in Ituri", March 2003, page 3.

⁵³ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003.

⁵⁴ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, pages 36-38; Amnesty International, "On the precipice: the deepening human rights and humanitarian crisis in Ituri", March 2003, pages 17-19; MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573), paragraphs 105-112.

⁵⁵ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003.

⁵⁶ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, page 26; Human Rights Watch, "The Curse of Gold", 2005, pages 33 to 34.

⁵⁷ MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573), paragraph 155.

- ⁵⁸ Human Rights Watch, "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, pages 23-26. Similar patterns were replicated in Durba, in Haut-Uele district. See Human Rights Watch, "The Curse of Gold", 2005.
- ⁵⁹ MONUC "Special report on the events in Ituri, January 2002-December 2003", 16 July 2004 (S/2004/573).
- ⁶⁰ Human Rights Watch, "The Curse of Gold", 2005, pages 55 to 56.
- ⁶¹ Human Rights Watch, "The Curse of Gold", 2005.
- ⁶² Sources reported to the Panel of Experts that Commandant Jérôme Kakwavu collected several thousands of US dollars every week from the Mahagi and Aru customs posts, a percentage of which was shared with "the Ugandan-linked elite network." Confidential Section V of the Panel of Experts October 2003 report, 20 October 2003.
- ⁶³ Human Rights Watch, "The Curse of Gold", 2005, pages 84-96.
- ⁶⁴ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003. Amnesty International lists four armed groups which benefited from Ugandan support: RCD-ML, MLC, RCD-N and the UPC. Human Rights Watch's report "Ituri: 'Covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, lists ten armed groups in Ituri, most of which have received military or political support from Uganda at some time.
- ⁶⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 180; Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 122.
- ⁶⁶ Human Rights Watch, "The Curse of Gold", 2005, pages 15-20.
- ⁶⁷ Human Rights Watch reports, "The Curse of Gold", 2005, pages 16-17; Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 27-28.
- ⁶⁸ Human Rights Watch, "The Curse of Gold", 2005, pages 105-11, and "Ituri: 'covered in blood'. Ethnically targeted violence in northeastern DR Congo", July 2003, page 12-13.
- ⁶⁹ Details of Rwanda's military support for the UPC, including supply of weapons and ammunition, military training and reporting lines to the Rwandan Defence Forces command are contained in the Confidential Section V of the Panel of Experts' October 2003 report.
- ⁷⁰ See Pole Institute, "Shifting sands: oil exploration in the Rift Valley and the Congo conflict", 2003.
- ⁷¹ See Reuters, "Six killed in Uganda-DRC shooting on Lake Albert - UN", 25 September 2007.
- ⁷² International Crisis Group, "Scramble for the Congo: Anatomy of an ugly war", 20 December 2000, pages 36-35.
- ⁷³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 13.
- ⁷⁴ Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004, page 36.
- ⁷⁵ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 122-123.
- ⁷⁶ For information on the links between the MLC and the CAR in the context of the diamond trade, see Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, pages 21-22 and 41.
- ⁷⁷ For information on the MLC's involvement in human rights abuses in the CAR, see International Criminal Court, Case Information Sheet, Situation in the Central African Republic, The Prosecutor v. Jean-Pierre Bemba Gombo (ICC-PIDS-CIS-CAR-01-002/09); and Amnesty International, "Central African Republic: Five months of war against women", 10 November 2004.
- ⁷⁸ Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, page 39.
- ⁷⁹ Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.
- ⁸⁰ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 66-69.
- ⁸¹ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 54.

⁸² Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 55.

⁸³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraph 153.

⁸⁴ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraph 14.

⁸⁵ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146); Global Witness, "Branching out: Zimbabwe's resource colonialism in Democratic Republic of Congo", February 2002.

⁸⁶ Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 38 to 41; Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

⁸⁷ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 156 and 157; Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 30 to 35; Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, page 48.

⁸⁸ For background on the timber deals between the DRC and Zimbabwe, see Global Witness, "Branching out: Zimbabwe's resource colonialism in Democratic Republic of Congo", February 2002; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004; and Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 10 November 2001 (S/2001/1072), paragraphs 49 to 55.

⁸⁹ International Crisis Group, "Scramble for the Congo: Anatomy of an ugly war", 20 December 2000, page 57; Christian Dietrich, "Hard Currency: The criminalized diamond economy of the Democratic Republic of Congo and its neighbours", published by Partnership Africa Canada, IPIS and Network Movement for Justice and Development, June 2002, pages 42-44.

⁹⁰ For further information on Kabila's allocation of contracts, see Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004; Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357); and Dena Montague, "Stolen goods: coltan and conflict in the Democratic Republic of Congo", in SAIS Review vol. XXII no. 1 (winter-spring 2002), pages 108-111.

⁹¹ See Associated Press, "Angry businessmen side with Congo's rebels", 14 September 1998; The Globe and Mail, "Barrick, Anglo join ventures South African conglomerate to manage Barrick's African mining and exploration projects", 11 May 1998.

⁹² Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 47-54.

⁹³ Assemblée nationale, Commission spéciale chargée de l'examen de la validité des conventions à caractère économique et financier conclues pendant les guerres de 1996-1997 et de 1998, Rapport des travaux, 1ère partie.

⁹⁴ See press release signed by 14 Congolese and international NGOs, "DR Congo: End illegal exploitation of natural resources", 21 February 2006.

⁹⁵ See, for example, IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002.

⁹⁶ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraphs 46-47.

⁹⁷ IPIS, "Network War: an introduction to Congo's privatised war economy", October 2002; IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002. Local airline companies operating in the Kivus also flew minerals out and brought arms and equipment in. See Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003.

⁹⁸ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 12 April 2001 (S/2001/357), paragraphs 110-121.

⁹⁹ See Amnesty International and Human Rights Watch reports published between 1996 and 2000, available at www.amnesty.org and www.hrw.org. The UN Human Rights Field Operation in Rwanda also produced reports on the human rights situation in Rwanda during this period.

¹⁰⁰ Global Witness, "Under-mining peace. Tin: the explosive trade in cassiterite in eastern DRC", June 2005, page 8.

¹⁰¹ World Bank, "Democratic Republic of Congo: growth with governance in the mining sector", Report no 43402-ZR, May 2008, Chapter 4.

¹⁰² Several people interviewed by the Pole Institute about coltan mining in North Kivu in 2000 and 2001 cited the risk of landslides as one of their main concerns. One referred to an incident in which 20 people, including seven soldiers, were buried in a landslide near Luwowo. See Pole Institute, "The coltan phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the East of the Democratic Republic of Congo", 2002.

¹⁰³ Amnesty International reported that a nine-year-old boy was among five miners buried alive in the *polygone* diamond concession, in Mbuji-Mayi, and that MIBA officials sometimes bulldozed over the holes without checking whether there were any miners at the bottom of the mineshafts. See Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹⁰⁴ Global Witness reports "Digging in corruption: fraud, abuse and exploitation in Katanga's copper and cobalt mines", July 2006, and "Rush and ruin: the devastating mineral trade in southern Katanga, DRC", September 2004.

¹⁰⁵ Human Rights Watch, "The Curse of Gold", 2005, page 55.

¹⁰⁶ Pole Institute, "The coltan phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the East of the Democratic Republic of Congo", 2002.

¹⁰⁷ Unless otherwise stated, the information in this section is taken from Amnesty International's report, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹⁰⁸ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), paragraph 48.

¹⁰⁹ Amnesty International, "Making a killing: The diamond trade in government-controlled DRC", 22 October 2002.

¹¹⁰ The comptoir MDM, for example, which supplied the Belgian company Sogem, tried to enter into an agreement with the RCD in 2000. See IPIS, "Supporting the war economy in the DRC: European companies and the coltan trade", January 2002.

¹¹¹ One such company was UK-registered Afrimex. One of the largest buyers of cassiterite from RCD-controlled parts of eastern DRC during the war, it operated in South Kivu through the Congolese-registered Société Kotecha and SOCOMI. See Global Witness, "Under-mining peace. Tin: the explosive trade in cassiterite in eastern DRC", June 2005, page 23, and Global Witness Complaint to the UK National Contact Point under the Specific Instance Procedure of the OECD Guidelines for Multinational Enterprises, 20 February 2007.

¹¹² One example, among many, is Metalor Technologies, a Swiss gold refining company which bought gold originating from Ituri via Uganda. See Human Rights Watch, "The Curse of Gold", 2005.

¹¹³ Greenpeace International, "Carving up the Congo", April 2007; Global Witness, "Same Old Story – A background study on natural resources in the Democratic Republic of Congo", June 2004.

¹¹⁴ These events, as well as AngloGold Ashanti's response, are documented in detail in the Human Rights Watch report "The Curse of Gold", 2005.

¹¹⁵ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 16 October 2002 (S/2002/1146), Annexes I, II and III.

¹¹⁶ For a detailed critique of this process, and further information on the role of companies during the conflict in the DRC, see Rights and Accountability in Development (RAID), "Unanswered Questions: Companies, Conflict and the Democratic Republic of Congo," May 2004.

¹¹⁷ See Final Statement by the UK National Contact Point for OECD Guidelines for Multinational Enterprises: DAS Air, 21 July 2008, and Final Statement by the UK National Contact Point for OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd, 28 August 2008. The statements upheld the majority of allegations brought by RAID and Global Witness respectively.

¹¹⁸ See ACIDH, ASADHO/Katanga, Global Witness, RAID, "Kilwa trial: a denial of justice. A chronology: October 2004-July 2007," 17 July 2007; Office of the High Commissioner for Human Rights, "High Commissioner for Human Rights concerned at Kilwa military trial in the Democratic Republic of the Congo," 4 July 2007.

¹¹⁹ Judicial Commission of Inquiry into allegations into illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of Congo 2001 (May 2001-November 2002), Final Report, November 2002. For comments on the work of the Porter Commission, see Human Rights Watch, "The Curse of Gold", 2005, pages 122-123, and Amnesty International, "Democratic Republic of the Congo: 'Our brothers who help kill us' – economic exploitation and human rights abuses in the east", April 2003, pages 44-45.

¹²⁰ International Court of Justice, Case concerning armed activities on the territory of the Congo (Democratic Republic of the Congo v. Uganda), 19 December 2005.

¹²¹ See ICJ press release, "The Democratic Republic of Congo initiates proceedings against Rwanda citing massive human rights violations by Rwanda on Congolese territory" (2002/15), 28 May 2002.

¹²² ICJ Judgment, "Armed activities on the territory of the Congo (new application: 2002), Democratic Republic of the Congo v Rwanda, Jurisdiction of the Court and Admissibility of the Application", 3 February 2006.

¹²³ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo, 23 October 2003 (S/2001/1027), paragraph 44.

¹²⁴ See reports published by the Group of Experts on the DRC between 2004 and 2009.

¹²⁵ See reports by Global Witness and by the UN Group of Experts on the DRC.

¹²⁶ UN Security Council resolution S/RES/1856 (2008), 22 December 2008.

ANNEX III

**Aubry, S. and Henao Trip, M.I., *Collective Reparations and the International Criminal Court*,
University of Essex, August 2011**

[Original English: not reproduced]

ANNEX IV

**Separate opinion of Judge Cançado Trindade, *Ahmadou Sadio Diallo (Republic of Guinea v.
Democratic Republic of the Congo)*, *Compensation, Judgment*,
I.C.J. Reports 2012 (I), p. 729**

[Original English: not reproduced]

ANNEX V

Peace Treaty of 10 February 1947 between the Council of Four and Italy

No. 747. TREATY¹ OF PEACE WITH ITALY. SIGNED AT PARIS, ON
10 FEBRUARY 1947

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, China, France, Australia, Belgium, the Byelorussian Soviet Socialist Republic, Brazil, Canada, Czechoslovakia, Ethiopia, Greece, India, the Netherlands, New Zealand, Poland, the Ukrainian Soviet Socialist Republic, the Union of South Africa, and the People's Federal Republic of Yugoslavia, hereinafter referred to as "the Allied and Associated Powers", of the one part, and Italy, of the other part:

¹ Came into force on 15 September 1947 upon the deposit with the Government of the French Republic of the instruments of ratification by the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and France, in accordance with Article 90.

List of States which have deposited instruments of ratification or accession with the Government of the French Republic and dates of deposit thereof:

United States of America	15 September 1947	Ratification
France	15 September 1947	Ratification
United Kingdom	15 September 1947	Ratification
U.S.S.R.	15 September 1947	Ratification
Yugoslavia*	15 September 1947	Ratification
Italy	15 September 1947	Ratification
India**	15 September 1947	Ratification
Canada	15 September 1947	Ratification
Czechoslovakia	14 October 1947	Ratification
Albania	20 October 1947	Accession
Greece	28 October 1947	Ratification
Union of South Africa	4 November 1947	Ratification
Ethiopia	6 November 1947	Ratification
China	24 November 1947	Ratification
New Zealand	24 December 1947	Ratification
Poland	4 February 1948	Ratification
Mexico	10 April 1948	Accession
Australia	9 July 1948	Ratification
Belgium	4 September 1948	Ratification
Brazil	4 January 1949	Ratification
Netherlands	7 February 1949	Ratification

* Yugoslavia deposited instruments of ratification on 4 September 1947.

** The Government of Pakistan has informed the French Government that it considers the ratification deposited by the Indian Government as binding on its country.

Whereas Italy under the Fascist regime became a party to the Tripartite Pact with Germany and Japan, undertook a war of aggression and thereby provoked a state of war with all the Allied and Associated Powers and with other United Nations, and bears her share of responsibility for the war; and

Whereas in consequence of the victories of the Allied forces, and with the assistance of the democratic elements of the Italian people, the Fascist regime in Italy was overthrown on July 25, 1943, and Italy, having surrendered unconditionally, signed terms of Armistice on September 3 and 29 of the same year; and

Whereas after the said Armistice Italian armed forces, both of the Government and of the Resistance Movement, took an active part in the war against Germany, and Italy declared war on Germany as from October 13, 1943, and thereby became a co-belligerent against Germany; and

Whereas the Allied and Associated Powers and Italy are desirous of concluding a treaty of peace which, in conformity with the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and will form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Italy's application to become a member of the United Nations and also to adhere to any convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I
TERRITORIAL CLAUSES
SECTION I—FRONTIERS

Article 1

The frontiers of Italy shall, subject to the modifications set out in Articles 2, 3, 4, 11 and 22, be those which existed on January 1, 1938. These frontiers are traced on the maps¹ attached to the present Treaty (Annex I). In case of a discrepancy between the textual description of the frontiers and the maps, the text shall be deemed to be authentic.

Article 2

The frontier between Italy and France, as it existed on January 1, 1938, shall be modified as follows:

1. *Little St. Bernard Pass*

The frontier shall follow the watershed, leaving the present frontier at a point about 2 kilometers northwest of the Hospice, crossing the road about 1 kilometer northeast of the Hospice and rejoining the present frontier about 2 kilometers southeast of the Hospice.

2. *Mont Cenis Plateau*

The frontier shall leave the present frontier about 3 kilometers northwest of the summit of Rochemelon, cross the road about 4 kilometers southeast of the Hospice and rejoin the present frontier about 4 kilometers northeast of Mont d'Amhin.

3. *Mont Thabor-Chaberton*

(a) In the Mont Thabor area, the frontier shall leave the present frontier about 5 kilometers to the east of Mont Thabor and run southeastward to rejoin the present frontier about 3 kilometers west of the Pointe de Charra.

(b) In the Chaberton area, the frontier shall leave the present frontier about 3 kilometers north-northwest of Chaberton, which it skirts on the east, and shall cross the road about 1 kilometer from the present frontier, which it rejoins about 2 kilometers southeast of the village of Montgenevre.

¹ United Nations, *Treaty Series*, Volume 50.

4. *Upper Valleys of the Tinée, Vesubie and Roya*

The frontier shall leave the present frontier at Colla Longa, shall follow along the watershed by way of Mont Clapier, Col de Tenda, Mont Marguareis, whence it shall run southward by way of Mont Saccarello, Mont Vacchi, Mont Pietravecchia, Mont Lega and shall reach a point approximately 100 meters from the present frontier near Colla Pegairolle, about 5 kilometers to the northeast of Breil; it then shall run in a southwesterly direction, and shall rejoin the existing frontier approximately 100 meters southwest of Mont Mergo.

5. The detailed description of those sections of the frontier to which the modifications set out in paragraphs 1, 2, 3 and 4 above apply, is contained in Annex II to the present Treaty and the maps to which this description refers form part of Annex I.

Article 3

The frontier between Italy and Yugoslavia shall be fixed as follows:

(i) The new frontier follows a line starting from the junction of the frontiers of Austria, Italy and Yugoslavia as they existed on January 1, 1938, and proceeding southward along the 1938 frontier between Yugoslavia and Italy to the junction of that frontier with the administrative boundary between the Italian provinces of Friuli (Udine) and Gorizia;

(ii) From this point the line coincides with the said administrative boundary up to a point approximately 0.5 kilometer north of the village of Mernico in the valley of the Iudrio;

(iii) Leaving the administrative boundary between the Italian provinces of Friuli and Gorizia at this point, the line extends eastward to a point approximately 0.5 kilometer west of the village of Vercoglia di Cosbana and thence southward between the valleys of the Quarnizzo and the Cosbana to a point approximately 1 kilometer southwest of the village of Fleana, bending so as to cut the river Recca at a point approximately 1.5 kilometers east of the Iudrio and leaving on the east the road from Cosbana via Nebola to Castel Dobra;

(iv) The line then continues to the southeast passing due south of the road between points 111 and 172, then south of the road from Vipulzano to Uclanzi passing points 57 and 122, then crossing the latter road about 100 meters east of point 122 and curving north in the direction of a point situated 350 meters southeast of point 266;

(v) Passing about 0.5 kilometer north of the village of San Floriano, the line extends eastward to Monte Sabotino (point 610), leaving to the north the village of Poggio San Valentino;

(vi) From Monte Sabotino the line extends southward, crosses the Isonzo (Soca) river at the town of Salcano, which it leaves in Yugoslavia, and runs immediately to the west of the railway line from Canale d'Isonzo to Montespino to a point about 750 meters south of the Gorizia-Aisovizza road;

(vii) Departing from the railway, the line then bends southwest leaving in Yugoslavia the town of San Pietro and in Italy the Hospice and the road bordering it and, some 700 meters from the station of Gorizia S. Marco, crosses the railway connection between the above railway and the Sagrado-Cormons railway, skirts the Gorizia cemetery, which is left in Italy, passes between Highway No. 55 from Gorizia to Trieste, which highway is left in Italy, and the crossroads at point 54, leaving in Yugoslavia the towns of Vertoiba and Merna, and reaches a point located approximately at point 49;

(viii) Thence the line continues in a southerly direction across the Karst plateau, approximately 1 kilometer east of Highway No. 55, leaving on the east the village of Opacchiasella and on the west the village of Iamiano;

(ix) From a point approximately 1 kilometer east of Iamiano, the line follows the administrative boundary between the provinces of Gorizia and Trieste as far as a point approximately 2 kilometers northeast of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free Territory of Trieste.

The map to which this description refers forms part of Annex I.

Article 4

The frontier between Italy and the Free Territory of Trieste shall be fixed as follows:

(i) The line starts from a point on the administrative boundary between the provinces of Gorizia and Trieste approximately 2 kilometers northeast of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free Territory of Trieste, and runs southwestward to a point adjacent to Highway No. 14 and approximately 1 kilometer northwest of the junction between Highways Nos. 55 and 14, respectively running from Gorizia and Monfalcone to Trieste;

(ii) The line then extends in a southerly direction to a point, in the Gulf of Panzano, equidistant from Punta Sdobba at the mouth of the Isonzo (Soca) river and Castello Vecchio at Duino, about 3.3 kilometers south from the point where it departs from the coastline approximately 2 kilometers northwest of the town of Duino;

(iii) The line then reaches the high seas by following a line placed equidistant from the coastlines of Italy and the Free Territory of Trieste.

The map to which this description refers forms part of Annex I.

Article 5

1. The exact line of the new frontiers laid down in Articles 2, 3, 4 and 22 of the present Treaty shall be determined on the spot by Boundary Commissions composed of the representatives of the two Governments concerned.

2. The Commissions shall begin their work immediately on the coming into force of the present Treaty, and shall complete it as soon as possible and in any case within a period of six months.

3. Any questions which the Commissions are unable to agree upon will be referred to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, acting as provided in Article 86, for final settlement by such methods as they may determine, including, where necessary, the appointment of an impartial third Commissioner.

4. The expenses of the Boundary Commissions will be borne in equal parts by the two Governments concerned.

5. For the purpose of determining on the spot the exact frontier laid down in Articles 3, 4 and 22, the Commissioners shall be allowed to depart by 0.5 kilometer from the line laid down in the present Treaty in order to adjust the frontier to local geographical and economic conditions, provided that no village or town of more than 500 inhabitants, no important railroads or highways, and no major power or water supplies are placed under a sovereignty other than that resulting from the delimitations laid down in the present Treaty.

SECTION II—FRANCE (Special Clauses)

Article 6

Italy hereby cedes to France in full sovereignty the former Italian territory situated on the French side of the Franco-Italian frontier defined in Article 2.

Article 7

The Italian Government shall hand over to the French Government all archives, historical and administrative, prior to 1860, which concern the territory ceded to France under the Treaty of March 24, 1860,¹ and the Convention of August 23, 1860.²

Article 8

1. The Italian Government shall co-operate with the French Government for the possible establishment of a railway connection between Briançon and Modane, via Bardonnèche.

2. The Italian Government shall authorize, free of customs duty and inspection, passport and other such formalities, the passenger and freight railway traffic travelling on the connection thus established, through Italian territory, from one point to another in France, in both directions; and shall take all necessary measures to ensure that the French trains using the said connection are allowed, under the same conditions, to pass duty free and without unjustifiable delay.

3. The necessary arrangements shall be concluded in due course between the two Governments.

*Article 9*1. *Plateau of Mont Cenis*

In order to secure to Italy the same facilities as Italy enjoyed in respect of hydro-electric power and water supply from the Lake of Mont Cenis before cession of this district to France, the latter shall give Italy under a bilateral agreement the technical guarantees set out in Annex III.

2. *The Tenda-Briga District*

In order that Italy shall not suffer any diminution in the supplies of electric power which Italy has drawn from sources existing in the Tenda-Briga district before its cession to France, the latter shall give Italy under a bilateral agreement the technical guarantees set out in Annex III.

SECTION III—AUSTRIA (Special Clauses)

Article 10

1. Italy shall enter into or confirm arrangements with Austria to guarantee free movement of passenger and freight traffic between the North and East Tyrol.

¹ De Martens, *Nouveau Recueil général de Traités*, tome XVI, partie II, page 539.

² De Martens, *Nouveau Recueil général de Traités*, tome XVII, partie II, page 22.

2. The Allied and Associated Powers have taken note of the provisions (the text of which is contained in Annex IV) agreed upon by the Austrian and Italian Governments on September 5, 1946.

SECTION IV — PEOPLE'S FEDERAL REPUBLIC OF YUGOSLAVIA
(Special Clauses)

Article 11

1. Italy hereby cedes to Yugoslavia in full sovereignty the territory situated between the new frontiers of Yugoslavia as defined in Articles 3 and 22 and the Italo-Yugoslav frontier as it existed on January 1, 1938, as well as the commune of Zara and all islands and adjacent islets lying within the following areas:

(a) The area bounded:

On the north by the parallel of $42^{\circ} 50' N.$;

On the south by the parallel of $42^{\circ} 42' N.$;

On the east by the meridian of $17^{\circ} 10' E.$;

On the west by the meridian of $16^{\circ} 25' E.$;

(b) The area bounded:

On the north by a line passing through the Porto del Quieto, equidistant from the coastline of the Free Territory of Trieste and Yugoslavia, and thence to the point $45^{\circ} 15' N.$, $13^{\circ} 24' E.$;

On the south by the parallel $44^{\circ} 23' N.$;

On the west by a line connecting the following points:

1) $45^{\circ} 15' N. - 13^{\circ} 24' E.$;

2) $44^{\circ} 51' N. - 13^{\circ} 37' E.$;

3) $44^{\circ} 23' N. - 14^{\circ} 18' 30'' E.$

On the east by the west coast of Istria, the islands and the mainland of Yugoslavia.

A chart of these areas is contained in Annex I.

2. Italy hereby cedes to Yugoslavia in full sovereignty the island of Pelagosa and the adjacent islets.

The island of Pelagosa shall remain demilitarised.

Italian fishermen shall enjoy the same rights in Pelagosa and the surrounding waters as were there enjoyed by Yugoslav fishermen prior to April 6, 1941.

Article 12

1. Italy shall restore to Yugoslavia all objects of artistic, historical, scientific, educational or religious character (including all deeds, manuscripts, documents and bibliographical material) as well as administrative archives (files, registers, plans and documents of any kind) which, as the result of the Italian occupation, were removed between November 4, 1918, and March 2, 1924, from the territories ceded to Yugoslavia under the treaties signed in Rapallo on November 12, 1920,¹ and in Rome on January 27, 1924.² Italy shall also restore all objects belonging to those territories and falling into the above categories, removed by the Italian Armistice Mission which operated in Vienna after the first World War.

2. Italy shall deliver to Yugoslavia all objects having juridically the character of public property and coming within the categories in paragraph 1 of the present Article, removed since November 4, 1918, from the territory which under the present Treaty is ceded to Yugoslavia, and those connected with the said territory which Italy received from Austria or Hungary under the Peace Treaties signed in St. Germain on September 10, 1919, and in the Trianon on June 4, 1920, and under the convention between Austria and Italy, signed in Vienna on May 4, 1920.³

3. If, in particular cases, Italy is unable to restore or hand over to Yugoslavia the objects coming under paragraphs 1 and 2 of this Article, Italy shall hand over to Yugoslavia objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy.

Article 13

The water supply for Gorizia and its vicinity shall be regulated in accordance with the provisions of Annex V.

SECTION V—GREECE (Special Clause)

Article 14

1. Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Stampalia (Astropalia), Rhodes (Rhodos), Calki (Kharki), Scarpanto, Casos (Casso), Piscopis (Tilos), Misiros (Nisyros), Calimnos (Kalymnos), Leros, Patmos, Lipsos (Lipso), Simi (Symi), Cos (Kos) and Castellorizo, as well as the adjacent islets.

2. These islands shall be and shall remain demilitarised.

¹ League of Nations, *Treaty Series*, Volume XVIII, page 387.

² League of Nations, *Treaty Series*, Volume XXIV, page 31.

³ De Martens, *Nouveau Recueil général de Traités*, troisième série, tome XIX, page 682.

3. The procedure and the technical conditions governing the transfer of these islands to Greece will be determined by agreement between the Governments of the United Kingdom and Greece and arrangements shall be made for the withdrawal of foreign troops not later than 90 days from the coming into force of the present Treaty.

PART II

POLITICAL CLAUSES

SECTION I—GENERAL CLAUSES

Article 15

Italy shall take all measures necessary to secure to all persons under Italian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

Article 16

Italy shall not prosecute or molest Italian nationals, including members of the armed forces, solely on the ground that during the period from June 10, 1940, to the coming into force of the present Treaty, they expressed sympathy with or took action in support of the cause of the Allied and Associated Powers.

Article 17

Italy, which, in accordance with Article 30 of the Armistice Agreement, has taken measures to dissolve the Fascist organizations in Italy, shall not permit the resurgence on Italian territory of such organizations, whether political, military or semi-military, whose purpose it is to deprive the people of their democratic rights.

Article 18

Italy undertakes to recognize the full force of the Treaties of Peace with Roumania, Bulgaria, Hungary and Finland and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Austria, Germany and Japan for the restoration of peace.

SECTION II — NATIONALITY. CIVIL AND POLITICAL RIGHTS

Article 19

1. Italian citizens who were domiciled on June 10, 1940, in territory transferred by Italy to another State under the present Treaty, and their children born after that date, shall, except as provided in the following paragraph, become citizens with full civil and political rights of the State to which the territory is transferred, in accordance with legislation to that effect to be introduced by that State within three months from the coming into force of the present Treaty. Upon becoming citizens of the State concerned they shall lose their Italian citizenship.

2. The Government of the State to which the territory is transferred shall, by appropriate legislation within three months from the coming into force of the present Treaty, provide that all persons referred to in paragraph 1 over the age of eighteen years (or married persons whether under or over that age) whose customary language is Italian, shall be entitled to opt for Italian citizenship within a period of one year from the coming into force of the present Treaty. Any person so opting shall retain Italian citizenship and shall not be considered to have acquired the citizenship of the State to which the territory is transferred. The option of the husband shall not constitute an option on the part of the wife. Option on the part of the father, or, if the father is not alive, on the part of the mother, shall, however, automatically include all unmarried children under the age of eighteen years.

3. The State to which the territory is transferred may require those who take advantage of the option to move to Italy within a year from the date when the option was exercised.

4. The State to which the territory is transferred shall, in accordance with its fundamental laws, secure to all persons within the territory, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

Article 20

1. Within a period of one year from the coming into force of the present Treaty, Italian citizens over 18 years of age (or married persons whether under or over that age), whose customary language is one of the Yugoslav

languages (Serb, Croat or Slovene), and who are domiciled on Italian territory may, upon filing a request with a Yugoslav diplomatic or consular representative in Italy, acquire Yugoslav nationality if the Yugoslav authorities accept their request.

2. In such cases, the Yugoslav Government will communicate to the Italian Government through the diplomatic channel lists of the persons who have thus acquired Yugoslav nationality. The persons mentioned in such lists will lose their Italian nationality on the date of such official communication.

3. The Italian Government may require such persons to transfer their residence to Yugoslavia within a period of one year from the date of such official communication.

4. For the purposes of this Article, the rules relating to the effect of options on wives and on children, set forth in Article 19, paragraph 2, shall apply.

5. The provisions of Annex XIV, paragraph 10 of the present Treaty, applying to the transfer of properties belonging to persons who opt for Italian nationality, shall equally apply to the transfer of properties belonging to persons who opt for Yugoslav nationality under this Article.

SECTION III—FREE TERRITORY OF TRIESTE

Article 21

1. There is hereby constituted the Free Territory of Trieste, consisting of the area lying between the Adriatic Sea and the boundaries defined in Articles 4 and 22 of the present Treaty. The Free Territory of Trieste is recognized by the Allied and Associated Powers and by Italy, which agree that its integrity and independence shall be assured by the Security Council of the United Nations.

2. Italian sovereignty over the area constituting the Free Territory of Trieste, as above defined, shall be terminated upon the coming into force of the present Treaty.

3. On the termination of Italian sovereignty, the Free Territory of Trieste shall be governed in accordance with an instrument for a provisional regime drafted by the Council of Foreign Ministers and approved by the Security Council. This Instrument shall remain in force until such date as

the Security Council shall fix for the coming into force of the Permanent Statute which shall have been approved by it. The Free Territory shall thenceforth be governed by the provisions of such Permanent Statute. The texts of the Permanent Statute and of the Instrument for the Provisional Regime are contained in Annexes VI and VII.

4. The Free Territory of Trieste shall not be considered as ceded territory within the meaning of Article 19 and Annex XIV of the present Treaty.

5. Italy and Yugoslavia undertake to give to the Free Territory of Trieste the guarantees set out in Annex IX.

Article 22

The frontier between Yugoslavia and the Free Territory of Trieste shall be fixed as follows:

(i) The line starts from a point on the administrative boundary between the provinces of Gorizia and Trieste, approximately 2 kilometers northeast of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free Territory of Trieste, and follows this administrative boundary as far as Monte Lanaro (point 546); thence it extends southeastward as far as Monte Cocusso (point 672) through point 461, Meducia (point 475), Monte dei Pini (point 476) and point 407, crossing Highway No. 58, from Trieste to Sesana, about 3.3 kilometers to the southwest of this town, and leaving the villages of Vogliano and Orle to the east, and at approximately 0.4 kilometer to the west, the village of Zolla.

(ii) From Monte Cocusso, the line, continuing southeastward leaving the village of Grozzana to the west, reaches Monte Goli (point 621), then turning southwestward, crosses the road from Trieste to Cosina at point 455 and the railway at point 485, passes by points 416 and 326, leaving the villages of Beca and Castel in Yugoslav territory, crosses the road from Osposo to Gabrovizza d'Istria about 100 meters to the southeast of Osposo; then crosses the river Risana and the road from Villa Decani to Risano at a point about 350 meters west of the latter village, the village of Rosario and the road from Risano to San Sergio being left in Yugoslav territory; from this point the line proceeds as far as the cross roads situated about 1 kilometer northeastward of point 362, passing by points 285 and 354.

(iii) Thence, the line runs as far as a point about 0.5 kilometer east of the village of Cernova, crossing the river Dragogna about 1 kilometer north of this village, leaving the villages of Bucciai and Truscolo to the west and the village of Tersecco to the east, it then runs southwestward to the southeast of the road connecting the villages of Cernova and Chervoï, leaving this road 0.8 kilometer to the east of the village of Cucciani; it then runs in a general south-southwesterly direction, passing about 0.4 kilometer east of Monte Braico and at about 0.4 kilometer west of the village of Sterna Filaria, leaving the road running from this village to Piemonte to the east, passing about 0.4 kilometer west of the town of Piemonte and about 0.5 kilometer east of the town of Castagna and reaching the river Quieto at a point approximately 1.6 kilometer southwest of the town of Castagna.

(iv) Thence the line follows the main improved channel of the Quieto to its mouth, passing through Porto del Quieto to the high seas by following a line placed equidistant from the coastlines of the Free Territory of Trieste and Yugoslavia.

The map to which this description refers forms part of Annex I.

SECTION IV—ITALIAN COLONIES

Article 23

1. Italy renounces all right and title to the Italian territorial possessions in Africa, i. e. Libya, Eritrea and Italian Somaliland.

2. Pending their final disposal, the said possessions shall continue under their present administration.

3. The final disposal of these possessions shall be determined jointly by the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France within one year from the coming into force of the present Treaty, in the manner laid down in the joint declaration of February 10, 1947, issued by the said Governments, which is reproduced in Annex XI.

SECTION V—SPECIAL INTERESTS OF CHINA

Article 24

Italy renounces in favour of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901,¹ and all annexes, notes and documents supplementary thereto, and

¹ De Martens, *Nouveau Recueil général de Traités*, deuxième série, tome XXXII, page 94.

agrees to the abrogation in respect of Italy of the said protocol, annexes, notes and documents. Italy likewise renounces any claim thereunder to an indemnity.

Article 25

Italy agrees to the cancellation of the lease from the Chinese Government under which the Italian Concession at Tientsin was granted, and to the transfer to the Chinese Government of any property and archives belonging to the municipality of the said Concession.

Article 26

Italy renounces in favour of China the rights accorded to Italy in relation to the International Settlements at Shanghai and Amoy, and agrees to the reversion of the said Settlements to the administration and control of the Chinese Government.

SECTION VI—ALBANIA

Article 27

Italy recognises and undertakes to respect the sovereignty and independence of the State of Albania.

Article 28

Italy recognises that the Island of Saseno is part of the territory of Albania and renounces all claims thereto.

Article 29

Italy formally renounces in favour of Albania all property (apart from normal diplomatic or consular premises), rights, concessions, interests and advantages of all kinds in Albania, belonging to the Italian State or Italian para-statal institutions. Italy likewise renounces all claims to special interests or influence in Albania, acquired as a result of the aggression of April 7, 1939, or under treaties or agreements concluded before that date.

The economic clauses of the present Treaty, applicable to the Allied and Associated Powers, shall apply to other Italian property and other economic relations between Albania and Italy.

Article 30

Italian nationals in Albania will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all Albanian

measures annulling or modifying concessions or special rights granted to Italian nationals provided that such measures are taken within a year from the coming into force of the present Treaty.

Article 31

Italy recognises that all agreements and arrangements made between Italy and the authorities installed in Albania by Italy from April 7, 1939, to September 3, 1943, are null and void.

Article 32

Italy recognises the legality of any measures which Albania may consider necessary to take in order to confirm or give effect to the preceding provisions.

SECTION VII—ETHIOPIA

Article 33

Italy recognises and undertakes to respect the sovereignty and independence of the State of Ethiopia.

Article 34

Italy formally renounces in favour of Ethiopia all property (apart from normal diplomatic or consular premises), rights, interests and advantages of all kinds acquired at any time in Ethiopia by the Italian State, as well as all para-statal property as defined in paragraph 1 of Annex XIV of the present Treaty.

Italy also renounces all claims to special interests or influence in Ethiopia.

Article 35

Italy recognises the legality of all measures which the Government of Ethiopia has taken or may hereafter take in order to annul Italian measures respecting Ethiopia taken after October 3, 1935, and the effects of such measures.

Article 36

Italian nationals in Ethiopia will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all measures of the Ethiopian Government annulling or modifying concessions or special rights granted to Italian nationals, provided such measures are taken within a year from the coming into force of the present Treaty.

Article 37

Within eighteen months from the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since October 3, 1935.

Article 38

The date from which the provisions of the present Treaty shall become applicable as regards all measures and acts of any kind whatsoever entailing the responsibility of Italy or of Italian nationals towards Ethiopia, shall be held to be October 3, 1935.

SECTION VIII—INTERNATIONAL AGREEMENTS

Article 39

Italy undertakes to accept any arrangements which have been or may be agreed for the liquidation of the League of Nations, the Permanent Court of International Justice and also the International Financial Commission in Greece.

Article 40

Italy hereby renounces all rights, titles and claims deriving from the mandate system or from any undertakings given in connection therewith, and all special rights of the Italian State in respect of any mandated territory.

Article 41

Italy recognises the provisions of the Final Act of August 31, 1945, and of the Franco-British Agreement of the same date on the Statute of Tangier, as well as all provisions which may be adopted by the Signatory Powers for carrying out these instruments.

Article 42

Italy shall accept and recognise any arrangements which may be made by the Allied and Associated Powers concerned for the modification of the Congo Basin Treaties with a view to bringing them into accord with the Charter of the United Nations.

Article 43

Italy hereby renounces any rights and interests she may possess by virtue of Article 16 of the Treaty of Lausanne signed on July 24, 1923.¹

SECTION IX—BILATERAL TREATIES

Article 44

1. Each Allied or Associated Power will notify Italy, within a period of six months from the coming into force of the present Treaty, which of its pre-war bilateral treaties with Italy it desires to keep in force or revive. Any provisions not in conformity with the present Treaty shall, however, be deleted from the above-mentioned treaties.

2. All such treaties so notified shall be registered² with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

3. All such treaties not so notified shall be regarded as abrogated.

PART III
WAR CRIMINALS*Article 45*

1. Italy shall take all necessary steps to ensure the apprehension and surrender for trial of:

(a) Persons accused of having committed, ordered or abetted war crimes and crimes against peace or humanity;

(b) Nationals of any Allied or Associated Power accused of having violated their national law by treason or collaboration with the enemy during the war.

2. At the request of the United Nations Government concerned, Italy shall likewise make available as witnesses persons within its jurisdiction, whose evidence is required for the trial of the persons referred to in paragraph 1 of this Article.

3. Any disagreement concerning the application of the provisions of paragraphs 1 and 2 of this Article shall be referred by any of the Governments concerned to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will reach agreement with regard to the difficulty.

¹ League of Nations, *Treaty Series*, Volume XXVIII, page 11.

² See the note registered by Czechoslovakia, United Nations, *Treaty Series*, Volume 26, page 103.

PART IV
NAVAL, MILITARY AND AIR CLAUSES
SECTION I—DURATION OF APPLICATION

Article 46

Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Italy or, after Italy becomes a member of the United Nations, by agreement between the Security Council and Italy.

SECTION II—GENERAL LIMITATIONS

Article 47

1. (a) The system of permanent Italian fortifications and military installations along the Franco-Italian frontier, and their armaments, shall be destroyed or removed

(b) This system is deemed to comprise only artillery and infantry fortifications whether in groups or separated, pillboxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (a) The following construction to the east of the Franco-Italian frontier is prohibited: permanent fortifications where weapons capable of firing into French territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into French territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(b) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed

to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the Franco-Italian frontier to the meridian of 9°30'E., Italy shall not establish any new, nor expand any existing, naval bases or permanent naval installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing naval installations provided that their overall capacity will not thereby be increased.

Article 48

1. (a) Any permanent Italian fortifications and military installations along the Italo-Yugoslav frontier, and their armaments, shall be destroyed or removed.

(b) These fortifications and installations are deemed to comprise only artillery and infantry fortifications whether in groups or separated, pill-boxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier, as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (a) The following construction to the west of the Italo-Yugoslav frontier is prohibited: permanent fortifications where weapons capable of firing into Yugoslav territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into Yugoslav territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(b) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the frontier between Italy and Yugoslavia and between Italy and the Free Territory of Trieste to the latitude of 44° 50' N. and in the islands adjacent to this coast, Italy shall not establish any new, nor expand any existing, naval bases or permanent naval installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing naval installations and bases provided that their overall capacity will not thereby be increased.

6. In the Apulian Peninsula east of longitude 17° 45' E., Italy shall not construct any new permanent military, naval or military air installations nor expand existing installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing installations provided that their overall capacity will not thereby be increased. Accommodation for such security forces as may be required for tasks of an internal character and local defence of frontiers will, however, be permitted.

Article 49

1. Pantellaria, the Pelagian Islands (Lampedusa, Lampione and Linosa) and Pianosa (in the Adriatic) shall be and shall remain demilitarised.

2. Such demilitarisation shall be completed within one year from the coming into force of the present Treaty.

Article 50

1. In Sardinia all permanent coast defence artillery emplacements and their armaments and all naval installations which are located within a distance of 30 kilometers from French territorial waters shall be removed to the mainland of Italy or demolished within one year from the coming into force of the present Treaty.

2. In Sicily and Sardinia all permanent installations and equipment for the maintenance and storage of torpedoes, sea mines and bombs shall be demolished or removed to the mainland of Italy within one year from the coming into force of the present Treaty.

3. No improvements to, reconstruction of, or extensions of existing installations or permanent fortifications in Sicily and Sardinia shall be permitted; however, with the exception of the northern Sardinia areas described in paragraph 1 above, normal maintenance of such installations

or permanent fortifications and weapons already installed in them may take place.

4. In Sicily and Sardinia Italy shall be prohibited from constructing any naval, military and air force installations or fortifications except for such accommodation for security forces as may be required for tasks of an internal character.

Article 51

Italy shall not possess, construct or experiment with (i) any atomic weapon, (ii) any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo-launching gear comprising the normal armament of naval vessels permitted by the present Treaty), (iii) any guns with a range of over 30 kilometers, (iv) sea mines or torpedoes of non-contact types actuated by influence mechanisms, (v) any torpedoes capable of being manned.

Article 52

The acquisition of war material of German or Japanese origin or design, either from inside or outside Italy, or its manufacture, is prohibited to Italy.

Article 53

Italy shall not manufacture or possess, either publicly or privately, any war material different in type from, or exceeding in quantity, that required for the forces permitted in Sections III, IV and V below.

Article 54

The total number of heavy and medium tanks in the Italian armed forces shall not exceed 200.

Article 55

In no case shall any officer or non-commissioned officer of the former Fascist Militia or of the former Fascist Republican Army be permitted to hold officer's or non-commissioned officer's rank in the Italian Navy, Army, Air Force or Carabinieri, with the exception of such persons as shall have been exonerated by the appropriate body in accordance with Italian law.

SECTION III — LIMITATION OF THE ITALIAN NAVY

Article 56

1. The present Italian Fleet shall be reduced to the units listed in Annex XII A.

2. Additional units not listed in Annex XII and employed only for the specific purpose of minesweeping, may continue to be employed until the end of the mine clearance period as shall be determined by the International Central Board for Mine Clearance of European Waters.

3. Within two months from the end of the said period, such of these vessels as are on loan to the Italian Navy from other Powers shall be returned to those Powers, and all other additional units shall be disarmed and converted to civilian use.

Article 57

1. Italy shall effect the following disposal of the units of the Italian Navy specified in Annex XII B:

(a) The said units shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France;

(b) Naval vessels required to be transferred in compliance with sub-paragraph (a) above shall be fully equipped, in operational condition including a full outfit of armament stores, and complete with on-board spare parts and all necessary technical data;

(c) The transfer of the naval vessels mentioned above shall be effected within three months from the coming into force of the present Treaty, except that, in the case of naval vessels that cannot be refitted within three months, the time limit for the transfer may be extended by the Four Governments;

(d) Reserve allowance of spare parts and armament stores for the naval vessels mentioned above shall, as far as possible, be supplied with the vessels.

The balance of reserve spare parts and armament stores shall be supplied to an extent and at dates to be decided by the Four Governments, in any case within a maximum of one year from the coming into force of the present Treaty.

2. Details relating to the above transfers will be arranged by a Four Power Commission to be established under a separate protocol.

3. In the event of loss or damage, from whatever cause, to any of the vessels in Annex XII B scheduled for transfer, and which cannot be made good by the agreed date for transfer of the vessel or vessels concerned, Italy undertakes to replace such vessel or vessels by equivalent tonnage from the

list in Annex XII A, the actual vessel or vessels to be substituted being selected by the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France.

Article 58

1. Italy shall effect the following disposal of submarines and non-operational naval vessels. The time limits specified below shall be taken as commencing with the coming into force of the present Treaty.

(a) Surface naval vessels afloat not listed in Annex XII, including naval vessels under construction afloat, shall be destroyed or scrapped for metal within nine months.

(b) Naval vessels under construction on slips shall be destroyed or scrapped for metal within nine months.

(c) Submarines afloat and not listed in Annex XII B shall be sunk in the open sea in a depth of over 100 fathoms within three months.

(d) Naval vessels sunk in Italian harbours and approach channels, in obstruction of normal shipping, shall, within two years, either be destroyed on the spot or salvaged and subsequently destroyed or scrapped for metal.

(e) Naval vessels sunk in shallow Italian waters not in obstruction of normal shipping shall within one year be rendered incapable of salvage.

(f) Naval vessels capable of reconversion which do not come within the definition of war material, and which are not listed in Annex XII, may be reconverted to civilian uses or are to be demolished within two years.

2. Italy undertakes, prior to the sinking or destruction of naval vessels and submarines as provided for in the preceding paragraph, to salvage such equipment and spare parts as may be useful in completing the on-board and reserve allowances of spare parts and equipment to be supplied, in accordance with Article 57, paragraph 1, for all ships specified in Annex XII B.

3. Under the supervision of the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, Italy may also salvage such equipment and spare parts of a non-warlike character as are readily adaptable for use in Italian civil economy.

Article 59

1. No battleship shall be constructed, acquired or replaced by Italy.

2. No aircraft carrier, submarine or other submersible craft, motor torpedo boat or specialised types of assault craft shall be constructed, acquired, employed or experimented with by Italy.

3. The total standard displacement of the war vessels, other than battleships, of the Italian Navy, including vessels under construction after the date of launching, shall not exceed 67,500 tons.

4. Any replacement of war vessels by Italy shall be effected within the limit of tonnage given in paragraph 3. There shall be no restriction on the replacement of auxiliary vessels.

5. Italy undertakes not to acquire or lay down any war vessels before January 1, 1950, except as necessary to replace any vessel, other than a battleship, accidentally lost, in which case the displacement of the new vessel is not to exceed by more than ten per cent the displacement of the vessel lost.

6. The terms used in this Article are, for the purposes of the present Treaty, defined in Annex XIII A.

Article 60

1. The total personnel of the Italian Navy, excluding any naval air personnel, shall not exceed 25,000 officers and men.

2. During the mine clearance period as determined by the International Central Board for Mine Clearance of European Waters, Italy shall be authorized to employ for this purpose an additional number of officers and men not to exceed 2,500.

3. Permanent naval personnel in excess of that permitted under paragraph 1 shall be progressively reduced as follows, time limits being taken as commencing with the coming into force of the present Treaty:

- (a) To 30,000 within six months;
- (b) To 25,000 within nine months.

Two months after the completion of minesweeping by the Italian Navy, the excess personnel authorized by paragraph 2 is to be disbanded or absorbed within the above numbers.

4. Personnel, other than those authorized under paragraphs 1 and 2, and other than any naval air personnel authorized under Article 65, shall not receive any form of naval training as defined in Annex XIII B.

SECTION IV — LIMITATION OF THE ITALIAN ARMY

Article 61

The Italian Army, including the Frontier Guards, shall be limited to a force of 185,000 combat, service and overhead personnel and 65,000

Carabinieri, though either of the above elements may be varied by 10,000 as long as the total ceiling does not exceed 250,000. The organisation and armament of the Italian ground forces, as well as their deployment throughout Italy, shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and anti-aircraft defence.

Article 62

The Italian Army, in excess of that permitted under Article 61 above, shall be disbanded within six months from the coming into force of the present Treaty.

Article 63

Personnel other than those forming part of the Italian Army or Carabinieri shall not receive any form of military training as defined in Annex XIII B.

SECTION V — LIMITATION OF THE ITALIAN AIR FORCE

Article 64

1. The Italian Air Force, including any naval air arm, shall be limited to a force of 200 fighter and reconnaissance aircraft and 150 transport, air-sea rescue, training (school type) and liaison aircraft. These totals include reserve aircraft. All aircraft except for fighter and reconnaissance aircraft shall be unarmed. The organisation and armament of the Italian Air Force as well as their deployment throughout Italy shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and defence against air attack.

2. Italy shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

Article 65

1. The personnel of the Italian Air Force, including any naval air personnel, shall be limited to a total of 25,000 effectives, which shall include combat, service and overhead personnel.

2. Personnel other than those forming part of the Italian Air Force shall not receive any form of military air training as defined in Annex XIII B.

Article 66

The Italian Air Force, in excess of that permitted under Article 65 above, shall be disbanded within six months from the coming into force of the present Treaty.

SECTION VI—DISPOSAL OF WAR MATERIAL
(as defined in ANNEX XIII C)

Article 67

1. All Italian war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France, according to such instructions as they may give to Italy.

2. All Allied war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions to be given to Italy by the Allied or Associated Power concerned.

3. All German and Japanese war material in excess of that permitted for the armed forces specified in Sections III, IV and V, and all German or Japanese drawings, including existing blueprints, prototypes, experimental models and plans, shall be placed at the disposal of the Four Governments in accordance with such instructions as they may give to Italy.

4. Italy shall renounce all rights to the above-mentioned war material and shall comply with the provisions of this Article within one year from the coming into force of the present Treaty except as provided for in Articles 56 to 58 thereof.

5. Italy shall furnish to the Four Governments lists of all excess war material within six months from the coming into force of the present Treaty.

SECTION VII—PREVENTION OF GERMAN AND
JAPANESE REARMAMENT

Article 68

Italy undertakes to co-operate fully with the Allied and Associated Powers with a view to ensuring that Germany and Japan are unable to take steps outside German and Japanese territories towards rearmament.

Article 69

Italy undertakes not to permit the employment or training in Italy of any technicians, including military or civil aviation personnel, who are or have been nationals of Germany or Japan.

Article 70

Italy undertakes not to acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

SECTION VIII—PRISONERS OF WAR*Article 71*

1. Italian prisoners of war shall be repatriated as soon as possible in accordance with arrangements agreed upon by the individual Powers detaining them and Italy.

2. All costs, including maintenance costs, incurred in moving Italian prisoners of war from their respective assembly points, as chosen by the Government of the Allied or Associated Power concerned, to the point of their entry into Italian territory, shall be borne by the Italian Government.

SECTION IX—MINE CLEARANCE*Article 72*

As from the coming into force of the present Treaty, Italy will be invited to join the Mediterranean Zone Board of the International Organisation for Mine Clearance of European Waters, and shall maintain at the disposal of the Central Mine Clearance Board all Italian minesweeping forces until the end of the post-war mine clearance period as determined by the Central Board.

PART V**WITHDRAWAL OF ALLIED FORCES***Article 73*

1. All armed forces of the Allied and Associated Powers shall be withdrawn from Italy as soon as possible and in any case not later than 90 days from the coming into force of the present Treaty.

2. All Italian goods for which compensation has not been made and which are in possession of the armed forces of the Allied and Associated Powers in Italy at the coming into force of the present Treaty shall be returned to the Italian Government within the same period of 90 days or due compensation shall be made.

3. All bank and cash balances in the hands of the forces of the Allied and Associated Powers at the coming into force of the present Treaty which have been supplied free of cost by the Italian Government shall similarly be returned or a corresponding credit given to the Italian Government.

PART VI

CLAIMS ARISING OUT OF THE WAR

SECTION I—REPARATION

Article 74

A. REPARATION FOR THE UNION OF SOVIET SOCIALIST REPUBLICS

1. Italy shall pay the Soviet Union reparation in the amount of \$100,000,000 during a period of seven years from the coming into force of the present Treaty. Deliveries from current industrial production shall not be made during the first two years.

2. Reparation shall be made from the following sources:

(a) A share of the Italian factory and tool equipment designed for the manufacture of war material, which is not required by the permitted military establishments, which is not readily susceptible of conversion to civilian purposes and which will be removed from Italy pursuant to Article 67 of the present Treaty;

(b) Italian assets in Roumania, Bulgaria and Hungary, subject to the exceptions specified in paragraph 6 of Article 79;

(c) Italian current industrial production, including production by extractive industries.

3. The quantities and types of goods to be delivered shall be the subject of agreements between the Governments of the Soviet Union and of Italy, and shall be selected and deliveries shall be scheduled in such a way as to avoid interference with the economic reconstruction of Italy and the imposition of additional liabilities on other Allied or Associated Powers. Agreements concluded under this paragraph shall be communicated to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France.

4. The Soviet Union shall furnish to Italy on commercial terms the materials which are normally imported into Italy and which are needed for the production of these goods. Payments for these materials shall be made by deducting the value of the materials furnished from the value of the goods delivered to the Soviet Union.

5. The Four Ambassadors shall determine the value of the Italian assets to be transferred to the Soviet Union.

6. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on July 1, 1946, i.e. \$35 for one ounce of gold.

B. REPARATION FOR ALBANIA, ETHIOPIA, GREECE AND YUGOSLAVIA

1. Italy shall pay reparation to the following States:

Albania in the amount of.....	\$5,000,000
Ethiopia in the amount of.....	\$25,000,000
Greece in the amount of.....	\$105,000,000
Yugoslavia in the amount of.....	\$125,000,000

These payments shall be made during a period of seven years from the coming into force of the present Treaty. Deliveries from current industrial production shall not be made during the first two years.

2. Reparation shall be made from the following sources:

(a) A share of the Italian factory and tool equipment designed for the manufacture of war material, which is not required by the permitted military establishments, which is not readily susceptible of conversion to civilian purposes and which will be removed from Italy pursuant to Article 67 of the present Treaty;

(b) Italian current industrial production, including production by extractive industries;

(c) All other categories of capital goods or services, excluding Italian assets which, under Article 79 of the present Treaty, are subject to the jurisdiction of the States mentioned in paragraph 1 above. Deliveries under this paragraph shall include either or both of the passenger vessels *Saturnia* and *Vulcania*, if, after their value has been determined by the Four Ambassadors, they are claimed within 90 days by one of the States mentioned in paragraph 1 above. Such deliveries may also include seeds.

3. The quantities and types of goods and services to be delivered shall be the subject of agreements between the Governments entitled to receive reparation and the Italian Government, and shall be selected and deliveries shall be scheduled in such a way as to avoid interference with the economic reconstruction of Italy and the imposition of additional liabilities on other Allied or Associated Powers.

4. The States entitled to receive reparation from current industrial production shall furnish to Italy on commercial terms the materials which are normally imported into Italy and which are needed for the production of these goods. Payment for these materials shall be made by deducting the value of the materials furnished from the value of the goods delivered.

5. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on July 1, 1946, i.e. \$35 for one ounce of gold.

6. Claims of the States mentioned in paragraph 1 of part B of this Article, in excess of the amounts of reparation specified in that paragraph, shall be satisfied out of the Italian assets subject to their respective jurisdictions under Article 79 of the present Treaty.

7. (a) The Four Ambassadors will coordinate and supervise the execution of the provisions of part B of this Article. They will consult with the Heads of the Diplomatic Missions in Rome of the States named in paragraph 1 of part B and, as circumstances may require, with the Italian Government, and advise them. For the purpose of this Article, the Four Ambassadors will continue to act until the expiration of the period for reparation deliveries provided in paragraph 1 of part B.

(b) With a view to avoiding conflict or overlapping in the allocation of Italian production and resources among the several States entitled to reparation under part B of this Article, the Four Ambassadors shall be informed by any one of the Governments entitled to reparation under part B of this Article and by the Italian Government of the opening of negotiations for an agreement under paragraph 3 above and of the progress of such negotiations. In the event of any differences arising in the course of the negotiations the Four Ambassadors shall be competent to decide any point submitted to them by either Government or by any other Government entitled to reparation under part B of this Article.

(c) Agreements when concluded shall be communicated to the Four Ambassadors. The Four Ambassadors may recommend that an agreement which is not, or has ceased to be, in consonance with the objectives set out in paragraph 3 or sub-paragraph (b) above be appropriately modified.

C. SPECIAL PROVISION FOR EARLIER DELIVERIES

With respect to deliveries from current industrial production, as provided in part A, paragraph 2 (c) and part B, paragraph 2 (b), nothing in

either part A or part B of this Article shall be deemed to prevent deliveries during the first two years, if such deliveries are made in accordance with agreements between the Government entitled to reparation and the Italian Government.

D. REPARATION FOR OTHER STATES

1. Claims of the other Allied and Associated Powers shall be satisfied out of the Italian assets subject to their respective jurisdictions under Article 79 of the present Treaty.

2. The claims of any State which is receiving territories under the present Treaty and which is not mentioned in part B of this Article shall also be satisfied by the transfer to the said State, without payment, of the industrial installations and equipment situated in the ceded territories and employed in the distribution of water, and the production and distribution of gas and electricity, owned by any Italian company whose *siège social* is in Italy or is transferred to Italy, as well as by the transfer of all other assets of such companies in ceded territories.

3. Responsibility for the financial obligations secured by mortgages, liens and other charges on such property shall be assumed by the Italian Government.

E. COMPENSATION FOR PROPERTY TAKEN FOR REPARATION PURPOSES

The Italian Government undertakes to compensate all natural or juridical persons whose property is taken for reparation purposes under this Article.

SECTION II—RESTITUTION BY ITALY

Article 75

1. Italy accepts the principles of the United Nations Declaration of January 5, 1943, and shall return, in the shortest possible time, property removed from the territory of any of the United Nations.

2. The obligation to make restitution applies to all identifiable property at present in Italy which was removed by force or duress by any of the Axis Powers from the territory of any of the United Nations, irrespective of any subsequent transactions by which the present holder of any such property has secured possession.

3. The Italian Government shall return the property referred to in this Article in good order and, in this connection, shall bear all costs in Italy relating to labour, materials and transport.

4. The Italian Government shall co-operate with the United Nations in, and shall provide at its own expense all necessary facilities for, the search for and restitution of property liable to restitution under this Article.

5. The Italian Government shall take the necessary measures to effect the return of property covered by this Article held in any third country by persons subject to Italian jurisdiction.

6. Claims for the restitution of property shall be presented to the Italian Government by the Government of the country from whose territory the property was removed, it being understood that rolling stock shall be regarded as having been removed from the territory to which it originally belonged. The period during which such claims may be presented shall be six months from the coming into force of the present Treaty.

7. The burden of identifying the property and of proving ownership shall rest on the claimant Government, and the burden of proving that the property was not removed by force or duress shall rest on the Italian Government.

8. The Italian Government shall restore to the Government of the United Nation concerned all monetary gold looted by or wrongfully removed to Italy or shall transfer to the Government of the United Nation concerned an amount of gold equal in weight and fineness to that looted or wrongfully removed. This obligation is recognised by the Italian Government to exist irrespective of any transfers or removals of gold from Italy to any other Axis Power or a neutral country.

9. If, in particular cases, it is impossible for Italy to make restitution of objects of artistic, historical or archaeological value, belonging to the cultural heritage of the United Nation from whose territory such objects were removed by force or duress by Italian forces, authorities or nationals, Italy shall transfer to the United Nation concerned objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy.

SECTION III—RENUNCIATION OF CLAIMS BY ITALY

Article 76

1. Italy waives all claims of any description against the Allied and Associated Powers on behalf of the Italian Government or Italian nationals arising directly out of the war or out of actions taken because of the existence

of a state of war in Europe after September 1, 1939, whether or not the Allied or Associated Power was at war with Italy at the time, including the following:

(a) Claims for losses or damages sustained as a consequence of acts of forces or authorities of Allied or Associated Powers;

(b) Claims arising from the presence, operations, or actions of forces or authorities of Allied or Associated Powers in Italian territory;

(c) Claims with respect to the decrees or orders of Prize Courts of Allied or Associated Powers, Italy agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after September 1, 1939, concerning Italian ships or Italian goods or the payment of costs;

(d) Claims arising out of the exercise or purported exercise of belligerent rights.

2. The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which will be henceforward extinguished, whoever may be the parties in interest. The Italian Government agrees to make equitable compensation in lire to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Italian territory and in satisfaction of non-combat damage claims against the forces of Allied or Associated Powers arising in Italian territory.

3. Italy likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Italian Government or Italian nationals against any of the United Nations which broke off diplomatic relations with Italy and which took action in co-operation with the Allied and Associated Powers.

4. The Italian Government shall assume full responsibility for all Allied military currency issued in Italy by the Allied military authorities, including all such currency in circulation at the coming into force of the present Treaty.

5. The waiver of claims by Italy under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied and Associated Powers with respect to Italian ships between September 1, 1939, and the coming into force of the present Treaty, as well as any claims and debts arising out of the Conventions on prisoners of war now in force.

6. The provisions of this Article shall not be deemed to affect the ownership of submarine cables which, at the outbreak of the war, were owned by the Italian Government or Italian nationals. This paragraph shall not preclude the application of Article 79 and Annex XIV to submarine cables.

Article 77

1. From the coming into force of the present Treaty property in Germany of Italy and of Italian nationals shall no longer be treated as enemy property and all restrictions based on such treatment shall be removed.

2. Identifiable property of Italy and of Italian nationals removed by force or duress from Italian territory to Germany by German forces or authorities after September 3, 1943, shall be eligible for restitution.

3. The restoration and restitution of Italian property in Germany shall be effected in accordance with measures which will be determined by the Powers in occupation of Germany.

4. Without prejudice to these and to any other dispositions in favour of Italy and Italian nationals by the Powers occupying Germany, Italy waives on its own behalf and on behalf of Italian nationals all claims against Germany and German nationals outstanding on May 8, 1945, except those arising out of contracts and other obligations entered into, and rights acquired, before September 1, 1939. This waiver shall be deemed to include debts, all inter-governmental claims in respect of arrangements entered into in the course of the war, and all claims for loss or damage arising during the war.

5. Italy agrees to take all necessary measures to facilitate such transfers of German assets in Italy as may be determined by those of the Powers occupying Germany which are empowered to dispose of the said assets.

PART VII

PROPERTY, RIGHTS AND INTERESTS

SECTION I—UNITED NATIONS PROPERTY IN ITALY

Article 78

1. In so far as Italy has not already done so, Italy shall restore all legal rights and interests in Italy of the United Nations and their nationals as

they existed on June 10, 1940, and shall return all property in Italy of the United Nations and their nationals as it now exists.

2. The Italian Government undertakes that all property, rights and interests passing under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war and without the imposition of any charges by the Italian Government in connection with their return. The Italian Government shall nullify all measures, including seizures, sequestration or control, taken by it against United Nations property between June 10, 1940, and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, application shall be made to the Italian authorities not later than twelve months from the coming into force of the present Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Italian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force or duress exerted by Axis Governments or their agencies during the war.

4. (a) The Italian Government shall be responsible for the restoration to complete good order of the property returned to United Nations nationals under paragraph 1 of this Article. In cases where property cannot be returned or where, as a result of the war, a United Nations national has suffered a loss by reason of injury or damage to property in Italy, he shall receive from the Italian Government compensation in lire to the extent of two-thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered. In no event shall United Nations nationals receive less favourable treatment with respect to compensation than that accorded to Italian nationals.

(b) United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 9 (a) of this Article, but which have suffered a loss by reason of injury or damage to property in Italy, shall receive compensation in accordance with sub-paragraph (a) above. This

compensation shall be calculated on the basis of the total loss or damage suffered by the corporation or association and shall bear the same proportion to such loss or damage as the beneficial interests of such nationals in the corporation or association bear to the total capital thereof.

(c) Compensation shall be paid free of any levies, taxes or other charges. It shall be freely usable in Italy but shall be subject to the foreign exchange control regulations which may be in force in Italy from time to time.

(d) The Italian Government shall grant United Nations nationals an indemnity in lire at the same rate as provided in sub-paragraph (a) above to compensate them for the loss or damage due to special measures applied to their property during the war, and which were not applicable to Italian property. This sub-paragraph does not apply to a loss of profit.

5. All reasonable expenses incurred in Italy in establishing claims, including the assessment of loss or damage, shall be borne by the Italian Government.

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies or imposts imposed on their capital assets in Italy by the Italian Government or any Italian authority between September 3, 1943, and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces or of reparation payable to any of the United Nations. Any sums which have been so paid shall be refunded.

7. Notwithstanding the territorial transfers provided in the present Treaty, Italy shall continue to be responsible for loss or damage sustained during the war by property in ceded territory or in the Free Territory of Trieste belonging to United Nations nationals. The obligations contained in paragraphs 3, 4, 5 and 6 of this Article shall also rest on the Italian Government in regard to property in ceded territory and in the Free Territory of Trieste of United Nations nationals except in so far as this would conflict with the provisions of paragraph 14 of Annex X and paragraph 14 of Annex XIV of the present Treaty.

8. The owner of the property concerned and the Italian Government may agree upon arrangements in lieu of the provisions of this Article.

9. As used in this Article:

(a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organised under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status on September 3, 1943, the date of the Armistice with Italy.

The term "United Nations nationals" also includes all individuals, corporations or associations which, under the laws in force in Italy during the war, have been treated as enemy;

(b) "Owner" means the United Nations national, as defined in sub-paragraph (a) above, who is entitled to the property in question, and includes a successor of the owner, provided that the successor is also a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law;

(c) "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property. Without prejudice to the generality of the foregoing provisions, the property of the United Nations and their nationals includes all seagoing and river vessels, together with their gear and equipment, which were either owned by United Nations or their nationals, or registered in the territory of one of the United Nations, or sailed under the flag of one of the United Nations and which, after June 10, 1940, while in Italian waters, or after they had been forcibly brought into Italian waters, either were placed under the control of the Italian authorities as enemy property or ceased to be at the free disposal in Italy of the United Nations or their nationals, as a result of measures of control taken by the Italian authorities in relation to the existence of a state of war between members of the United Nations and Germany.

SECTION II—ITALIAN PROPERTY IN THE TERRITORY
OF ALLIED AND ASSOCIATED POWERS

Article 79

1. Each of the Allied and Associated Powers shall have the right to seize, retain, liquidate or take any other action with respect to all property,

rights and interests which on the coming into force of the present Treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other Articles of the present Treaty. All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned.

2. The liquidation and disposition of Italian property shall be carried out in accordance with the law of the Allied or Associated Power concerned. The Italian owner shall have no rights with respect to such property except those which may be given him by that law.

3. The Italian Government undertakes to compensate Italian nationals whose property is taken under this Article and not returned to them.

4. No obligation is created by this Article on any Allied or Associated Power to return industrial property to the Italian Government or Italian nationals, or to include such property in determining the amounts which may be retained under paragraph 1 of this Article. The Government of each of the Allied and Associated Powers shall have the right to impose such limitations, conditions and restrictions on rights or interests with respect to industrial property in the territory of that Allied or Associated Power, acquired prior to the coming into force of the present Treaty by the Government or nationals of Italy, as may be deemed by the Government of the Allied or Associated Power to be necessary in the national interest.

5. (a) Italian submarine cables connecting points in Yugoslavia shall be deemed to be Italian property in Yugoslavia, despite the fact that lengths of these cables may lie outside the territorial waters of Yugoslavia.

(b) Italian submarine cables connecting a point in the territory of an Allied or Associated Power with a point in Italian territory shall be deemed to be Italian property within the meaning of this Article so far as concerns the terminal facilities and the lengths of cables lying within territorial waters of that Allied or Associated Power.

6. The property covered by paragraph 1 of this Article shall be deemed to include Italian property which has been subject to control by reason of a state of war existing between Italy and the Allied or Associated Power having jurisdiction over the property, but shall not include:

(a) Property of the Italian Government used for consular or diplomatic purposes;

(b) Property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(c) Property of natural persons who are Italian nationals permitted to reside within the territory of the country in which the property is located or to reside elsewhere in United Nations territory, other than Italian property which at any time during the war was subjected to measures not generally applicable to the property of Italian nationals resident in the same territory;

(d) Property rights arising since the resumption of trade and financial relations between the Allied and Associated Powers and Italy, or arising out of transactions between the Government of any Allied or Associated Power and Italy since September 3, 1943;

(e) Literary and artistic property rights;

(f) Property in ceded territories of Italian nationals, to which the provisions of Annex XIV shall apply;

(g) With the exception of the assets indicated in Article 74, part A, paragraph 2(b) and part D, paragraph 1, property of natural persons residing in ceded territories or in the Free Territory of Trieste who do not opt for Italian nationality under the present Treaty, and property of corporations or associations having *siège social* in ceded territories or in the Free Territory of Trieste, provided that such corporations or associations are not owned or controlled by persons in Italy. In the cases provided under Article 74, part A, paragraph 2(b), and part D, paragraph 1, the question of compensation will be dealt with under Article 74, part E.

SECTION III—DECLARATION OF THE ALLIED AND ASSOCIATED POWERS IN RESPECT OF CLAIMS

Article 80

The Allied and Associated Powers declare that the rights attributed to them under Articles 74 and 79 of the present Treaty cover all their claims and those of their nationals for loss or damage due to acts of war, including measures due to the occupation of their territory, attributable to Italy and having occurred outside Italian territory, with the exception of claims based on Articles 75 and 78.

SECTION IV—DEBTS

Article 81

1. The existence of the state of war shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obligations and contracts which existed, and rights which were acquired, before the existence of the state of war, which became payable prior to the coming into force of the present Treaty, and which are due by the Government or nationals of Italy to the Government or nationals of one of the Allied and Associated Powers or are due by the Government or nationals of one of the Allied and Associated Powers to the Government or nationals of Italy.

2. Except as otherwise expressly provided in the present Treaty, nothing therein shall be construed as impairing debtor-creditor relationships arising out of pre-war contracts concluded either by the Government or nationals of Italy.

PART VIII

GENERAL ECONOMIC RELATIONS

Article 82

1. Pending the conclusion of commercial treaties or agreements between individual United Nations and Italy, the Italian Government shall, during a period of eighteen months from the coming into force of the present Treaty, grant the following treatment to each of the United Nations which, in fact, reciprocally grants similar treatment in like matters to Italy:

(a) In all that concerns duties and charges on importation or exportation, the internal taxation of imported goods and all regulations pertaining thereto, the United Nations shall be granted unconditional most-favoured-nation treatment;

(b) In all other respects, Italy shall make no arbitrary discrimination against goods originating in or destined for any territory of any of the United Nations as compared with like goods originating in or destined for territory of any other of the United Nations or of any other foreign country;

(c) United Nations nationals, including juridical persons, shall be granted national and most-favoured-nation treatment in all matters pertaining to commerce, industry, shipping and other forms of business activity within Italy. These provisions shall not apply to commercial aviation;

(d) Italy shall grant no exclusive or discriminatory right to any country with regard to the operation of commercial aircraft in international traffic, shall afford all the United Nations equality of opportunity in obtaining international commercial aviation rights in Italian territory, including the right to land for refueling and repair, and, with regard to the operation of commercial aircraft in international traffic, shall grant on a reciprocal and non-discriminatory basis to all United Nations the right to fly over Italian territory without landing. These provisions shall not affect the interests of the national defense of Italy.

2. The foregoing undertakings by Italy shall be understood to be subject to the exceptions customarily included in commercial treaties concluded by Italy before the war; and the provisions with respect to reciprocity granted by each of the United Nations shall be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State.

PART IX SETTLEMENT OF DISPUTES

Article 83

1. Any disputes which may arise in giving effect to Articles 75 and 78 and Annexes XIV, XV, XVI and XVII, part B, of the present Treaty shall be referred to a Conciliation Commission consisting of one representative of the Government of the United Nation concerned and one representative of the Government of Italy, having equal status. If within three months after the dispute has been referred to the Conciliation Commission no agreement has been reached, either Government may ask for the addition to the Commission of a third member selected by mutual agreement of the two Governments from nationals of a third country. Should the two Governments fail to agree within two months on the selection of a third member of the Commission, the Governments shall apply to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will appoint the third member of the Commission. If the Ambassadors are unable to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. When any Conciliation Commission is established under paragraph 1 above, it shall have jurisdiction over all disputes which may thereafter arise between the United Nation concerned and Italy in the application or interpretation of Articles 75 and 78 and Annexes XIV, XV, XVI, and XVII, part B, of the present Treaty, and shall perform the functions attributed to it by those provisions.

3. Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and equity.

4. Each Government shall pay the salary of the member of the Conciliation Commission whom it appoints and of any agent whom it may designate to represent it before the Commission. The salary of the third member shall be fixed by special agreement between the Governments concerned and this salary, together with the common expenses of each Commission, shall be paid in equal shares by the two Governments.

5. The parties undertake that their authorities shall furnish directly to the Conciliation Commission all assistance which may be within their power.

6. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

PART X

MISCELLANEOUS ECONOMIC PROVISIONS

Article 84

Articles 75, 78, 82 and Annex XVII of the present Treaty shall apply to the Allied and Associated Powers and to those of the United Nations which broke off diplomatic relations with Italy or with which Italy broke off diplomatic relations. These Articles and this Annex shall also apply to Albania and Norway.

Article 85

The provisions of Annexes VIII, X, XIV, XV, XVI and XVII shall, as in the case of the other Annexes, have force and effect as integral parts of the present Treaty.

PART XI

FINAL CLAUSES

Article 86

1. For a period not to exceed eighteen months from the coming into force of the present Treaty, the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, acting in concert, will represent the Allied and Associated Powers in dealing with the Italian Government in all matters concerning the execution and interpretation of the present Treaty.

2. The Four Ambassadors will give the Italian Government such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.

3. The Italian Government shall afford to the said Four Ambassadors all necessary information and any assistance which they may require in the fulfilment of the tasks devolving on them under the present Treaty.

Article 87

1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Four Ambassadors acting under Article 86 except that in this case the Ambassadors will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

Article 88

1. Any member of the United Nations, not a signatory to the present Treaty, which is at war with Italy, and Albania, may accede to the Treaty and upon accession shall be deemed to be an Associated Power for the purposes of the Treaty.

2. Instruments of accession shall be deposited with the Government of the French Republic and shall take effect upon deposit.

Article 89

The provisions of the present Treaty shall not confer any rights or benefits on any State named in the Preamble as one of the Allied and Associated Powers or on its nationals until such State becomes a party to the Treaty by deposit of its instrument of ratification.

Article 90

The present Treaty, of which the French, English and Russian texts are authentic, shall be ratified by the Allied and Associated Powers. It shall also be ratified by Italy. It shall come into force immediately upon the deposit of ratifications by the Union of Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by the United States of America, and by France. The instruments of ratification shall, in the shortest time possible, be deposited with the Government of the French Republic.

With respect to each Allied or Associated Power whose instrument of ratification is thereafter deposited, the Treaty shall come into force upon the date of deposit. The present Treaty shall be deposited in the archives of the Government of the French Republic, which shall furnish certified copies to each of the signatory States.

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¹ United Nations, *Treaty Series*, Volume 50.

ANNEX I

Maps to Accompany the Peace Treaty with Italy

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ANNEX II

Franco-Italian Frontier

*Detailed description of the sections of the frontier
to which the modifications set out in Article 2 apply*

Little Saint Bernard Pass

Reference: 1:20,000 map: Ste. Foy Tarentaise Nos. 1-2

The new frontier follows a line which starts from the rocky ridge of Lancebranlette, then, descending towards the east, follows the line of the watershed to the 2,180 meter level, whence it passes to the Colonna Joux (2188). From there, still following the line of the watershed, it reascends on to Costa del Belvedere, the rocky outcrops of which it follows, climbs Mt. Belvedere, skirting its summit and leaving the latter in French territory 120 meters away from the frontier and, passing through points 2570, 2703, Bella Valletta and point 2746, it rejoins the old frontier at Mt. Valaisan.

Mont Cenis Plateau

Reference: 1:20,000 map: Lanslebourg, Nos. 5-6 and 7-8 and of Mont D'Ambin, Nos. 1-2

The new frontier follows a line which leaves the old frontier at Mt. Tour, follows westwards the administrative boundary shown on the map, follows the Vitoun as soon as it meets it on its northern branch and descends along it as far as Rocca della Torretta.

Then following the line of rocky outcrops, it reaches the stream coming from the Alpe Lamet and descends with it as far as the base of the rocky escarpment along which it runs for about 800 meters as far as the thalweg at a point situated about 200 meters north of point 1805.

Then it mounts to the top of the landslips which overlook Ferrera Cenisio about 300 meters away and, continuing westwards, meets the road which skirts the east of Rne. Paradiso 400 meters west of the loop (1854), leaving it immediately and bending southwards.

It cuts the Bar Cenisia road at a point about 100 meters southeast of Refuge 5, crosses the thalweg in the direction of Lago S. Giorgio, roughly follows contour 1900 as far as point 1907, then skirts the southern side of Lago d'Arpon and rejoins the rocky ridge on which it remains in a south-westerly direction as far as the confluence of the streams coming from the Bard glacier (Ghiacciaio di Bard) at a point approximately 1,400 meters southwest of Lago d'Arpon.

From there, bending southwards, it roughly follows contour 2500, goes as far as point 2579, then, running along contour 2600, it reaches the Lago della Vecchia and rejoins, at the administrative boundary marked on the map about 700 meters southeast of the lake, the Pso. d'Avanza path, which it follows along the rocky escarpments to the old frontier, half-way between the Col della Vecchia and the Col de Clapier.

Mont Thabor

Reference: 1:20,000 map: Nevache, 1-2, 5-6 and 7-8

From Cima de la Planette to Rocher de Guion (Cima del Sueur)

The new frontier follows a line which leaves the present frontier at Cima de la Planette and, proceeding southwards, follows the ridge through points 2980, 3178, Rca. Bernaude (3228), points 2842, 2780, 2877, Pso. della Gallina (2671), points 2720, 2806 and Pta. Quattro Sorelle (2700).

Descending the eastern slope of this summit, the line leaves in French territory point 2420, whence it rejoins and follows on the east the path leading to the buildings situated about 200 meters from point 2253, this path and these buildings being left in French territory. It then enters a thalweg, passing about 300 meters northeast of point 1915, whence it reaches the northwestern edge of the reservoir which, in the Vallee Etroite (Valle Stretta) feeds the hydro-electric installations of Sette Fontane, leaving this reservoir and these installations in Italian territory. Skirting the reservoir on the south, it reaches the crossroads at point 1499.

contour; then it ascends the thalweg towards point 1974 and joins the edge of the rocky escarpments of La Sueur as marked by points 2272, 2268, 2239, 2266, 2267, remaining on this edge until it meets the old frontier, the crest of the rocks and the path bordering it remaining in French territory.

Chaberton

Reference: 1:20,000 map: Briançon, Nos. 3-4

The new frontier follows a line which leaves the old frontier at point 3042 (north of point 3070 and north of Pointe des Trois Scies) and follows the rocky ridge as far as Croce del Vallonetto.

From the Croce del Vallonetto it bends towards the south along the rocky ridge and meets the Chaberton road at the point where the latter enters the *cirque* of the Clot des Morts.

Crossing this road and the thalweg which borders it, the line roughly follows, for 1250 meters, contour 2300 which, on the ground, follows to the southeast a series of rocky outcrops and debris, then it cuts straight across the eastern slope of Mt. Chaberton, reaches a point about 400 meters west of point 2160 leaving in French territory the intermediate pylon of the cable railway which stands there.

Then it proceeds in a straight line, across a series of rocky barriers and steep ravines, towards the position (not marked on the map) of La Fontaine des Chamois, near point 2228 (about 1400 meters northeast of Clavières) which it skirts to the east, following the second bend of the road joining this position with the fortified barracks of Chaberton, on the road from Cézanne (Cesana) to Clavières, leaving the fortifications at La Fontaine des Chamois in French territory.

Thence following first in a southerly direction the commune boundary marked on the map, and then the rocky barrier about 400 meters north of the Clavières-Cézanne (Cesana) road, it bends towards the southwest, passing along the foot of the rocky cliffs, sufficiently far from the latter to allow the construction of a double-track road.

Skirting in this way to the north the village of Clavières, which is left in Italian territory, it meets the Rio Secco about 200 meters upstream from the Clavières bridge and follows down its course, then that of Doire Ripaire (Doria Riparia) as far as the road from Clavières to Val Gimont, which is left to Italy, and follows this road as far as the bridge over the Gimont.

Proceeding up the course of the latter for about 300 meters, the line then leaves it and follows the mule-track which takes it to the upper pylon of the Clavières cable railway (Col du Mont Fort du Boeuf), which is left in French territory. Then, across the ridge, it rejoins the present frontier at Mont la Plane, frontier post 251. The road in the valley of the Gimont is left in Italian territory.

Upper Valleys of La Tinée, La Vesubie and La Roya

1. From Cime de Colla Longa to Cima di Mercantour

References: 1:20,000 maps: St. Etienne de Tinée, Nos. 3-4 and 7-8, Les Trois Ponts, Nos. 5-6

The new frontier follows a line which leaves the old frontier at Cime de Colla Longa and proceeding eastwards and following the line of the watershed, skirts the rocky ridge, passing through points 2719, 2562, Cle. di Seccia, reaches at point 2760 the Testa dell'Autaret, passes to point 2672, to the Cle. della Guercia (2456) and through points 2640, 2693, 2689, reaches Rocche di Saboulé and follows the northern ridge thereof.

Following the ridge, it passes through points 2537, 2513, Pso. del Lausfer (2461) and point 2573 to Testa Auta del Lausfer (2587) whence it bends southwards as far as Testa Colla Auta, passing Cima del Lausfer (2544), leaving the latter point in Italy.

Thence through point 2484, and along the ridge path which is left in French territory, through points 2240 and 2356, it crosses the Passo di S. Anna, and passing through points 2420 and 2407 it reaches a point about 80 meters south of point 2378 (Cima Moravacciera).

Following the ridge path left in French territory, it passes through Testa Ga del Caval and point 2331, both left in French territory, then leaving the path it continues on the ridge of Testa del'Adreck (2475) and through Cle. della Lombarda and point 2556 and arrives at Cima della Lombarda (2801).

Bending southeastwards, it then follows the rocky ridge and passing through Pso. di Peania, Cima di Vermeil, point 2720 left in French territory, Testa Cba. Grossa (2792), Pso. del Lupo (2730) and point 2936, reaches Mt. Malinvern.

Thence, in a southerly direction, through points 2701, 2612 and Cima di Tavelis (2804), then in an easterly direction through point 2823, it reaches Testa del Claus (2889).

Then, bending in a general southeasterly direction, it crosses Passo delle Portette, passes to point 2814, to Testa delle Portette, to point 2868, to Testa Margiola (2831), to Caire di Prefouns (2840), to Passo del Prefouns (2620), to Testa di Tablasses (2851), to Passo di Bresses (2794), to Testa di Bresses (2820), and passing through Cima di Fremamorta (2731), Cle. Fremamorta, point 2625, point 2675, and point 2539, Cima di Pagari (2686), Cima di Naucetas (2706), points 2660 and 2673, Cle. di Ciriegia (2581), reaches Cima di Mercantour (2775).

2. *From Cima di Mercantour to Mt. Clapier*

References: 1:20,000 map: Les Trois Ponts, Nos. 5-6 and the Italian 1:20,000 map: Madonna delle Finestre

From Cima di Mercantour, it proceeds through point 2705, Cle. Mercantour (2611), Cima Ghilie (2998), points 2939 and 2955, Testa della Rovina (2981), points 2844 and 2862, Paso della Rovina, Caire dell'Agnel (2935, 2867, 2784), Cima del Caire Agnel (2830), Cima Mallariva (2860), Cima Cairas (2831), Cima Cougourda (2881, 2921), Cima dei Gaisses (2896), points 2766, 2824, Cima del Lombard (2842), points 2831, 2717, 2591, 2600 and 2582, Boccia Forno, Cima delle Finestre (2657), Col delle Finestre, points 2634, 2686 and 2917 and reaches Cima dei Gelas (3143), then through point 3070 to Cima della Maledia (3061), from whence it skirts the Passo del Pagari (2819) path and then, following the commune boundary, shown on the map, it reaches the Passo di Mt. Clapier (2827), winds round the north and east of Mt. Clapier (3045) along the administrative boundary shown on the map.

3. *From Mt. Clapier to Colle di Tenda*

References: Italian 1:20,000 map: Madonna delle Finestre and Colle di Tenda

From Mt. Clapier, the line follows the administrative boundary represented on the map by points 2915, 2887 and 2562, Passo dell'Agnel and point 2679, up to Cima dell'Agnel (2775).

The line then bears eastwards, still adhering to the administrative boundary represented on the map by points 2845 and 2843 of Rce. dell'Agnel; it then reaches Cima della Scandeiera (2706), crosses Cle. del Sabbione (2332), proceeds over points 2373, 2226, 2303, and 2313 to Cma. del Sabbione (2610), point 2636, Pta. Peirafica, points 2609, 2585, 2572, 2550 and reaches Rca. dell'Abisso (2755).

The line still continues along the administrative boundary marked on the map up to the east of point 2360, then skirts the rocky outcrops north of Rne. Pian Misson, from whence it reaches the Mt. Becco Rosso path and follows it to the north of points 2181, 2116 and 1915 and then skirts the road for approximately 1 kilometer northwards before rejoining the above-mentioned path up to Colle di Tenda. The path and the section of highway mentioned above remain in French territory.

4. *From Colle di Tenda to Cima Missun*

Reference: Italian 1:20,000 map: Tenda and Certosa di Pesio

From Colle di Tenda the line, leaving the path in French territory, proceeds to points 1887 and 2206, then branches off the path to follow along the ridge the administrative boundary shown on the map, then passing through point 2262 reaches Cma. del Becco (2300).

Bearing northward and along the administrative boundary shown on the map it reaches the Col della Perla (2086), follows the path which skirts the rocky outcrop in Cma. del Cuni to Col della Boaira, where it leaves it to follow the ridge to the north. The above-mentioned path remains in French territory.

Skirting the rocky outcrop, it proceeds to point 2275, reaches Testa Ciaudon (2386), skirts the rocky escarpments, crosses Colla Piana (2219) and reaches point 2355 of Mt. Delle Carsene which is left on French soil, then it follows the northern ridge of this mountain over Pta. Straldi (2375), points 2321 and 2305 up to Pso. Scarason, then swerves northwards up to point 2352, where it meets the administrative boundary shown on the map and follows this boundary through points 2510 and 2532 up to Pta. Marguareis (2651).

Deviating southward it then follows the ridge, passes point 2585 and, passing down the rocky crest, reaches Colle del Lago dei Signori.

Following the path on the summit, which is left in French territory, then running along the crest proper, it comes to Cima di Pertega (2402), passes along the rocky ridge down to Cle. delle Vecchie (2106), whence it follows the summit path, which it leaves in French territory, through points 2190, 2162, Cima del Vescovo (2257) and Cima di Velega (2366) up to Mt. Bertrand.

From Mt. Bertrand (2481) it follows the administrative boundary shown on the map up to Cla. Rossa, where it rejoins the summit path which it then skirts passing through points 2179 and 2252 up to Cima Missun (2356), then, winding round the east of this mountain summit, the line follows the above-mentioned path which remains in French territory.

5. *From Cima Missun to Col de Pegairole*

References: 1:20,000 map: Pointe de Lugo, Nos. 1-2 and 5-6

Following the same summit path, the line crosses Cla. Cravirora and passes east of point 2265 to Pta. Farenga. It then leaves the path and winds round Cma. Ventosa to the east, after which it joins the Passo di Tanarello path and leaves in France the constructions beside this path. The line then passes along Mt. Tanarello, crosses Passo Basera (2038), skirts Mt. Saccarello which is left approximately 300 meters to the westwards, then following first the rocky ridge and then the path up to Pso. di Collardente it reaches the ridge which leads up to Mt. Collardente, leaving point 1762 on French territory. At this point it skirts a path which is left in Italian territory and comes to Mt. Collardente, leaving on French soil the path which crosses it. The line then follows this path through the Bassa di Sanson east and south of point 1769 up to the constructions, situated approximately 500 meters east of Testa della Nava (1934), which are left in French territory.

When it reaches these works, it leaves the road, rejoins at the ridge the road along the Testa della Nava ridge which remains in French territory, and follows it as far as the works to the southeast of the Cima di Marta or Mt. Vacche, skirting it from the east.

From there, passing along the ridge road left in French territory, it skirts Mt. Ceriana, leaves the road to reach Mt. Grai (2014) and joins it again at the col (1875), follows it to skirt Cima della Valetta and Mt. Pietravecchia as far as the rocky crest.

It then crosses Gola dell'Incisa, runs by way of the ridge and point 1759 to Mt. Toraggio (1972), then to Cima di Logambon and the Gola del Corvo, skirts Mt. Bauso and Mt. Lega (1552, 1563 and 1556) and follows the ridge downwards to Passo di Muratone.

Along the ridge road, left in French territory, it runs to Mt. Scarassan, to the south of Mt. Battolino and of point 1358 and reaches Cla. Pegairole.

6. *From Cla. Pegairole to Mt. Mergo*

References: 1:20,000 maps: Pointe de Lugo, Nos. 5-6, San Remo, Nos. 1-2 and Menton, Nos. 3-4

From Cla. Pegairole the line follows the administrative boundary marked on the map, leaving Cisterne to France, climbs Mt. Simonasso, drops as far as the col and follows the road to Margheria Suan which it leaves in French territory, the chalets remaining in Italian territory.

Continuing to follow the road, left in French territory, it passes to the east of Testa d'Alpe to Fontana dei Draghi, to the springs at point 1406, to point 1297, skirts Colla Sgora on the east, passes the points 1088, 1016, and 1026, crosses the rocky ridge of Mt. Colombin, follows the cantonal boundary shown on the map along Cima di Reglie (846 and 858), departs from this cantonal boundary in a southwesterly direction to follow the ridge of Serra dell'Arpetta (543, 474 and 416) down to the thalweg of the Roya, which it crosses about 200 meters northwest of the bridge of Fanghetto.

The line then ascends the thalweg of Roya to a point situated about 350 meters from the above-mentioned bridge. It leaves the Roya at this point and bears southwest to point 566. From this point it bears west until it meets the ravine descending to Olivetta which it follows as far as the road, leaving the dwellings on this road in Italian territory, mounts the Vle. di Trono for about 200 meters and then turns towards point 410 as far as the road from Olivetta to San Girolamo. Thence it runs southeast along this road for about 100 meters and then bears generally southwest to point 403, running for about 20 meters along and to the south of the road marked on the map. From point 403, it follows the ridge of Pta. Becche as far as point 379, then again bearing southwest, crosses the Bevera, following the thalweg towards Mt. Mergo which it skirts on the south at about 50 meters from the summit (686), left in French territory, and rejoins the present frontier at a point about 100 meters to the southwest of that summit.

ANNEX III

Guarantees in Connection with Mont Cenis and the Tenda-Briga District

(See Article 9)

A — GUARANTEES TO BE GIVEN BY FRANCE TO ITALY IN CONNECTION WITH THE CESSION OF THE PLATEAU OF MONT CENIS

I. *In Respect of Water Supplied from the Lake of Mont Cenis for Hydro- Electric Purposes*

(a) France shall so control the supply of water from the Lake of Mont Cenis to the underground conduits supplying the Gran Scala, Venaus and Mompantero hydro-electric plants, as to supply for those plants such quantities of water at such rates of flow as Italy may require.

(b) France shall repair and maintain in good and substantial condition and, as may be necessary, shall renew all the works required for the purposes of controlling and supplying the water in accordance with subparagraph (a) in so far as these works are within French territory.

(c) France shall inform Italy, as and when required by Italy, of the amount of water in the Lake of Mont Cenis and of any other information pertaining thereto, so as to enable Italy to determine the quantities of water and rates of flow to be supplied to the said underground conduits.

(d) France shall carry out the foregoing provisions with due regard for economy and shall charge Italy the actual cost incurred in so doing.

II. *In Respect of Electricity Produced at the Gran Scala Hydro-Electric Plant*

(a) France shall operate the Gran Scala hydro-electric plant so as to generate (subject to the control of the supply of water as provided in Guarantee I) such quantities of electricity at such rates of output as Italy may require after the local requirements (which shall not substantially exceed the present requirements) in the vicinity of Gran Scala within French territory have been met.

(b) France shall operate the pumping plant adjacent to the Gran Scala plant so as to pump water to the Lake of Mont Cenis as and when required by Italy.

(c) France shall repair and maintain in good and substantial condition and, as may be necessary, shall renew all the works comprising the Gran Scala hydro-electric plant and pumping plant together with the transmission line and equipment from the Gran Scala plant to the Franco-Italian frontier.

(d) France shall transmit over the transmission line from Gran Scala to the Franco-Italian frontier the electricity required by Italy as aforesaid, and shall deliver that electricity to Italy at the point at which that transmission line crosses the Franco-Italian frontier into Italian territory.

(e) France shall maintain the voltage and periodicity of the electricity supplied in accordance with the foregoing provisions at such levels as Italy may reasonably require.

(f) France shall arrange with Italy for telephone communication between Gran Scala and Italy and shall communicate with Italy in order to ensure that the Gran Scala plant, the pumping plant and transmission line are operated in such a manner as to comply with the foregoing guarantees.

(g) The price to be charged by France and paid by Italy for electricity available to Italy from the Gran Scala plant (after the local requirements as aforesaid have been met) shall be the same as the price charged in France for the supply of similar quantities of hydro-electricity in French territory in the neighbourhood of Mont Cenis or in other regions where conditions are comparable.

III. *Duration of Guarantees*

Unless otherwise agreed between France and Italy these guarantees will remain in force in perpetuity.

IV. *Supervisory Technical Commission*

A Franco-Italian Supervisory Technical Commission comprising an equal number of French and Italian members shall be established to supervise and facilitate the execution of the foregoing guarantees which are designed to secure the same facilities as Italy enjoyed in respect of hydro-electric and water supplies from the Lake of Mont Cenis before the cession of this region to France. It shall also be within the functions of the Supervisory Technical Commission to cooperate with the competent French technical services in order to ensure that the safety of the lower valleys is not endangered.

B — GUARANTEES TO BE GIVEN BY FRANCE TO ITALY IN CONNECTION WITH THE CESSION OF THE TENDA-BRIGA DISTRICT TO FRANCE

1. *Guarantees* to ensure to Italy the supply of electricity generated by the two 16 $\frac{2}{3}$ period generators of the hydro-electric plant at San Dalmazzo; and the supply of electricity generated at 50 periods at the hydro-electric plants at Le Mesce, San Dalmazzo and Confine in excess of such amount thereof as may be required by France for supply to the Sospel, Menton and Nice areas until the complete reconstruction of the wrecked hydro-electric plants at Breil and Fontan, it being understood that such amount will decrease as reconstruction of these plants proceeds and will not exceed 5,000 KW in power and 3,000,000 KWH per month and that, if no special difficulties are encountered in the reconstruction, the work should be completed not later than the end of 1947:

- (a) France shall operate the said plants so as to generate (subject to such limitations as may be imposed by the amount of water available and taking into account as far as reasonably practicable the needs of the plants downstream) such quantities of electricity at such rates of output as Italy may require, firstly, at 16 $\frac{2}{3}$ periods for the Italian railways in Liguria and South Piedmont and secondly, at 50 periods for general purposes, after the requirements by France for Sospel, Menton and Nice, as aforesaid, and the local requirements in the vicinity of San Dalmazzo, have been met;
- (b) France shall repair and maintain in good and substantial condition and, as may be necessary, shall renew all the works comprising the Le Mesce, San Dalmazzo and Confine hydro-electric plants together with the transmission lines and equipment from the Le Mesce and Confine plants to the San Dalmazzo plant and also the main transmission lines and equipment from the San Dalmazzo plant to the Franco-Italian frontier;
- (c) France shall inform Italy, as and when required by Italy, of the rate of flow of water at Le Mesce and Confine and of the amount of water stored at San Dalmazzo and of any other information pertaining thereto so as to enable Italy to determine her electricity requirements as indicated in sub-paragraph (a);

- (d) France shall transmit over the main transmission lines from San Dalmazzo to the Franco-Italian frontier the electricity required by Italy as aforesaid, and shall deliver that electricity to Italy at the points at which those main transmission lines cross the Franco-Italian frontier into Italian territory;
- (e) France shall maintain the voltage and periodicity of the electricity supplied in accordance with the foregoing provisions at such levels as Italy may actually require;
- (f) France shall arrange with Italy for telephone communications between San Dalmazzo and Italy and shall communicate with Italy in order to ensure that the said hydro-electric plants and transmission lines are operated in such a manner as to comply with the foregoing guarantees.

2. *Guarantee* concerning the price to be charged by France to Italy for the electricity made available to Italy under paragraph 1 above until terminated in accordance with paragraph 3 below:

The price to be charged by France and paid by Italy for the electricity made available to Italy from the Le Mesce, San Dalmazzo and Confine hydro-electric plants after the requirements by France for Sospel, Menton and Nice and the local requirements in the vicinity of San Dalmazzo have been met as provided in sub-paragraph (a) of Guarantee 1, shall be the same as the price charged in France for the supply of similar quantities of hydro-electricity in French territory in the neighborhood of the Upper Valley of the Roya or in other regions where conditions are comparable.

3. *Guarantee* of a reasonable period of time for the supply of electricity by France to Italy:

Unless otherwise mutually agreed between France and Italy, Guarantees 1 and 2 shall remain in force until December 31, 1961, and shall terminate then or any subsequent December 31 if either country shall have given to the other at least two years notice in writing of its intention to terminate.

4. *Guarantee* of full and equitable utilization by France and Italy of the waters of the Roya and its tributaries for hydro-electric production:

- (a) France shall operate the hydro-electric plants on the Roya in French territory, taking into account as far as reasonably practicable the needs of the plants downstream. France shall inform Italy in advance of the amount of water which it is expected will be available each day, and shall furnish any other information pertaining thereto;
- (b) Through bilateral negotiations France and Italy shall develop a mutually agreeable, co-ordinated plan for the exploitation of the water resources of the Roya.

5. A commission or such other similar body as may be agreed shall be established to supervise the carrying out of the plan mentioned in subparagraph (b) of Guarantee 4 and to facilitate the execution of Guarantees 1-4.

ANNEX IV

Provisions Agreed upon by the Austrian and Italian Governments on September 5, 1946

(Original English text as signed by the two Parties and communicated to the Paris Conference on September 6, 1946)

(See Article 10)

1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element.

In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular:

- (a) elementary and secondary teaching in the mother-tongue;
- (b) purification of the German and Italian languages in public offices and official documents, as well as in bilingual topographic naming;
- (c) the right to re-establish German family names which were italianized in recent years;
- (d) equality of rights as regards the entering upon public offices, with a view to reaching a more appropriate proportion of employment between the two ethnical groups.

2. The populations of the above-mentioned zones will be granted the exercise of autonomous legislative and executive regional power. The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements.

3. The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty:

(a) to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements;

(b) to find an agreement for the mutual recognition of the validity of certain degrees and University diplomas;

(c) to draw up a convention for the free passengers and goods transit between northern and eastern Tyrol both by rail and, to the greatest possible extent, by road;

(d) to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy.

ANNEX V

Water Supply for Gorizia and Vicinity

(See Article 13)

1. Yugoslavia, as the owner, shall maintain and operate the springs and water supply installations at Fonte Fredda and Moncorona and shall maintain the supply of water to that part of the Commune of Gorizia, which, under the terms of the present Treaty, remains in Italy. Italy shall continue to maintain and operate the reservoir and water distribution system within Italian territory which is supplied by the above-mentioned springs and shall maintain the supply of water to those areas in Yugoslavia which, under the terms of the present Treaty, will be transferred to that State and which are supplied from Italian territory.

2. The water so supplied shall be in the amounts which have been customarily supplied to the region in the past. Should consumers in either

State require additional supplies of water, the two Governments shall examine the matter jointly with a view to reaching agreement on such measures as may reasonably be required to satisfy these needs. Should there be a temporary reduction in the amount of water available due to natural causes, distribution of water from the above-named sources to the consumers in Yugoslavia and Italy shall be reduced in proportion to their respective previous consumption.

3. The charges to be paid by the Commune of Gorizia to Yugoslavia for the water supplied to it, and the charges to be paid by consumers in Yugoslav territory to the Commune of Gorizia, shall be based solely on the cost of operation and maintenance of the water supply system as well as new capital expenditures which may be required to give effect to these provisions.

4. Yugoslavia and Italy shall, within one month from the coming into force of the present Treaty, enter into an agreement to determine their respective responsibilities under the foregoing provisions and to establish the charges to be paid under these provisions. The two Governments shall establish a joint commission to supervise the execution of the said agreement.

5. Upon the expiration of a ten-year period from the coming into force of the present Treaty, Yugoslavia and Italy shall reexamine the foregoing provisions in the light of conditions at that time in order to determine whether any adjustments should be made in those provisions, and shall make such alterations and additions as they may agree. Any disputes which may arise as a result of this reexamination shall be submitted for settlement under the procedure outlined in Article 87 of the present Treaty.

ANNEX VI

Permanent Statute of the Free Territory of Trieste

(See Article 21)

Article 1. Area of Free Territory

The area of the Free Territory of Trieste shall be the territory within the frontiers described in Articles 4 and 22 of the present Treaty as delimited in accordance with Article 5 of the Treaty.

Article 2. Integrity and Independence

The integrity and independence of the Free Territory shall be assured by the Security Council of the United Nations Organization. This responsibility implies that the Council shall:

(a) ensure the observance of the present Statute and in particular the protection of the basic human rights of the inhabitants.

(b) ensure the maintenance of public order and security in the Free Territory.

Article 3. Demilitarisation and Neutrality

1. The Free Territory shall be demilitarised and declared neutral.

2. No armed forces, except upon direction of the Security Council, shall be allowed in the Free Territory.

3. No para-military formations, exercises or activities shall be permitted within the Free Territory.

4. The Government of the Free Territory shall not make or discuss any military arrangements or undertakings with any State.

Article 4. Human Rights and Fundamental Freedoms

The Constitution of the Free Territory shall ensure to all persons under the jurisdiction of the Free Territory, without distinction as to ethnic origin, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of religious worship, language, speech and publication, education, assembly and association. Citizens of the Free Territory shall be assured of equality of eligibility for public office.

Article 5. Civil and Political Rights

No person who has acquired the citizenship of the Free Territory shall be deprived of his civil or political rights except as judicial punishment for the infraction of the penal laws of the Free Territory.

Article 6. Citizenship

1. Italian citizens who were domiciled on June 10, 1940, in the area comprised within the boundaries of the Free Territory, and their children born after that date, shall become original citizens of the Free Territory with full civil and political rights. Upon becoming citizens of the Free Territory they shall lose their Italian citizenship.

2. The Government of the Free Territory shall, however, provide that the persons referred to in paragraph 1 over the age of eighteen years (or married persons whether under or over that age) whose customary language is Italian shall be entitled to opt for Italian citizenship within six months from the coming into force of the Constitution under conditions to be laid down therein. Any person so opting shall be considered to have re-acquired Italian citizenship. The option of the husband shall not constitute an option on the part of the wife. Option on the part of the father, or if the father is not alive, on the part of the mother, shall, however, automatically include all unmarried children under the age of eighteen years.

3. The Free Territory may require those who take advantage of the option to move to Italy within a year from the date on which the option was exercised.

4. The conditions for the acquisition of citizenship by persons not qualifying for original citizenship shall be determined by the Constituent Assembly of the Free Territory and embodied in the Constitution. Such conditions shall, however, exclude the acquisition of citizenship by members of the former Italian Fascist Police (O.V.R.A.) who have not been exonerated by the competent authorities, including the Allied Military Authorities who were responsible for the administration of the area.

Article 7. Official Languages

The official languages of the Free Territory shall be Italian and Slovene. The Constitution shall determine in what circumstances Croat may be used as a third official language.

Article 8. Flag and Coat-of-Arms

The Free Territory shall have its own flag and coat-of-arms. The flag shall be the traditional flag of the City of Trieste and the arms shall be its historic coat-of-arms.

Article 9. Organs of Government

For the government of the Free Territory there shall be a Governor, a Council of Government, a popular Assembly elected by the people of the Free Territory and a Judiciary, whose respective powers shall be exercised in accordance with the provisions of the present Statute and of the Constitution of the Free Territory.

Article 10. Constitution

1. The Constitution of the Free Territory shall be established in accordance with democratic principles and adopted by a Constituent Assembly with a two-thirds majority of the votes cast. The Constitution shall be made to conform to the provisions of the present Statute and shall not enter into force prior to the coming into force of the Statute.

2. If in the opinion of the Governor any provisions of the Constitution proposed by the Constituent Assembly or any subsequent amendments thereto are in contradiction to the Statute he may prevent their entry into force, subject to reference to the Security Council if the Assembly does not accept his views and recommendations.

Article 11. Appointment of the Governor

1. The Governor shall be appointed by the Security Council after consultation with the Governments of Yugoslavia and Italy. He shall not be a citizen of Yugoslavia or Italy or of the Free Territory. He shall be appointed for five years and may be reappointed. His salary and allowances shall be borne by the United Nations.

2. The Governor may authorize a person selected by him to act for him in the event of his temporary absence or temporary inability to perform his duties.

3. The Security Council, if it considers that the Governor has failed to carry out his duties, may suspend him and, under appropriate safeguards of investigation and hearing, dismiss him from his office. In the event of his suspension or dismissal or in the event of his death or disability the Security Council may designate or appoint another person to act as Provisional Governor until the Governor recovers from his disability or a new Governor is appointed.

Article 12. Legislative Authority

The legislative authority shall be exercised by a popular Assembly consisting of a single chamber elected on the basis of proportional representation, by the citizens of both sexes of the Free Territory. The elections for the Assembly shall be conducted on the basis of universal, equal, direct and secret suffrage.

Article 13. Council of Government

1. Subject to the responsibilities vested in the Governor under the present Statute, executive authority in the Free Territory shall be exercised

by a Council of Government which will be formed by the popular Assembly and will be responsible to the Assembly.

2. The Governor shall have the right to be present at all meetings of the Council of Government. He may express his views on all questions affecting his responsibilities.

3. When matters affecting their responsibilities are discussed by the Council of Government, the Director of Public Security and the Director of the Free Port shall be invited to attend meetings of the Council and to express their views.

Article 14. Exercise of Judicial Authority

The judicial authority in the Free Territory shall be exercised by tribunals established pursuant to the Constitution and laws of the Free Territory.

Article 15. Freedom and Independence of Judiciary

The Constitution of the Free Territory shall guarantee the complete freedom and independence of the Judiciary and shall provide for appellate jurisdiction.

Article 16. Appointment of Judiciary

1. The Governor shall appoint the Judiciary from among candidates proposed by the Council of Government or from among other persons, after consultation with the Council of Government, unless the Constitution provides for a different manner for filling judicial posts; and, subject to safeguards to be established by the Constitution, may remove members of the Judiciary for conduct incompatible with their judicial office.

2. The popular Assembly, by a two-thirds majority of votes cast, may request the Governor to investigate any charge brought against a member of the Judiciary which, if proved, would warrant his suspension or removal.

Article 17. Responsibility of the Governor to the Security Council

1. The Governor, as the representative of the Security Council, shall be responsible for supervising the observance of the present Statute including the protection of the basic human rights of the inhabitants and for ensuring that public order and security are maintained by the Government of the Free Territory in accordance with the present Statute, the Constitution and laws of the Free Territory.

2. The Governor shall present to the Security Council annual reports concerning the operation of the Statute and the performance of his duties.

Article 18. Rights of the Assembly

The popular Assembly shall have the right to consider and discuss any matters affecting the interests of the Free Territory.

Article 19. Enactment of Legislation

1. Legislation may be initiated by members of the popular Assembly and by the Council of Government as well as by the Governor in matters which in his view affect the responsibilities of the Security Council as defined in Article 2 of the present Statute.

2. No law shall enter into force until it shall have been promulgated. The promulgation of laws shall take place in accordance with the provisions of the Constitution of the Free Territory.

3. Before being promulgated legislation enacted by the Assembly shall be presented to the Governor.

4. If the Governor considers that such legislation is in contradiction to the present Statute, he may, within ten days following presentation of such legislation to him, return it to the Assembly with his comments and recommendations. If the Governor does not return the legislation within such ten days or if he advises the Assembly within such period that it calls for no comments or recommendation on his part, the legislation shall be promulgated forthwith.

5. If the Assembly makes manifest its refusal to withdraw legislation returned to the Assembly by the Governor or to amend it in conformity with his comments or recommendations, the Governor shall, unless he is prepared to withdraw his comments or recommendations, in which case the law shall be promulgated forthwith, immediately report the matter to the Security Council. The Governor shall likewise transmit without delay to the Security Council any communication which the Assembly may wish to make to the Council on the matter.

6. Legislation which forms the subject of a report to the Security Council under the provisions of the preceding paragraph shall only be promulgated by the direction of the Security Council.

Article 20. Rights of the Governor with Respect to Administrative Measures

1. The Governor may require the Council of Government to suspend administrative measures which in his view conflict with his responsibilities as defined in the present Statute (observance of the Statute; maintenance of public order and security; respect for human rights). Should the Council of Government object, the Governor may suspend these administrative measures and the Governor or the Council of Government may refer the whole question to the Security Council for decision.

2. In matters affecting his responsibilities as defined in the Statute the Governor may propose to the Council of Government the adoption of any administrative measures. Should the Council of Government not accept such proposals the Governor may, without prejudice to Article 22 of the present Statute, refer the matter to the Security Council for decision.

Article 21. Budget

1. The Council of Government shall be responsible for the preparation of the budget of the Free Territory, including both revenue and expenditure, and for its submission to the popular Assembly.

2. If the Assembly should fail to vote the budget within the proper time limit, the provisions of the budget for the preceding period shall be applied to the new budgetary period until such time as the new budget shall have been voted.

Article 22. Special Powers of the Governor

1. In order that he may carry out his responsibilities to the Security Council under the present Statute, the Governor may, in cases which in his opinion permit of no delay, threatening the independence or integrity of the Free Territory, public order or respect of human rights, directly order and require the execution of appropriate measures subject to an immediate report thereon being made by him to the Security Council. In such circumstances the Governor may himself assume, if he deems it necessary, control of the security services.

2. The popular Assembly may petition the Security Council concerning any exercise by the Governor of his powers under paragraph 1 of this Article.

Article 23. Power of Pardon and Reprieve

The power of pardon and reprieve shall be vested in the Governor and shall be exercised by him in accordance with provisions to be laid down in the Constitution.

Article 24. Foreign Relations

1. The Governor shall ensure that the foreign relations of the Free Territory shall be conducted in conformity with the Statute, Constitution, and laws of the Free Territory. To this end the Governor shall have authority to prevent the entry into force of treaties or agreements affecting foreign relations which, in his judgment, conflict with the Statute, Constitution or laws of the Free Territory.

2. Treaties and agreements, as well as exequaturs and consular commissions, shall be signed jointly by the Governor and a representative of the Council of Government.

3. The Free Territory may be or become a party to international conventions or become a member of international organizations provided the aim of such conventions or organizations is to settle economic, technical, cultural, social or health questions.

4. Economic union or associations of an exclusive character with any State are incompatible with the status of the Free Territory.

5. The Free Territory of Trieste shall recognize the full force of the Treaty of Peace with Italy, and shall give effect to the applicable provisions of that Treaty. The Free Territory shall also recognize the full force of the other agreements or arrangements which have been or will be reached by the Allied and Associated Powers for the restoration of peace.

Article 25. Independence of the Governor and Staff

In the performance of their duties, the Governor and his staff shall not seek or receive instructions from any Government or from any other authority except the Security Council. They shall refrain from any act which might reflect on their position as international officials responsible only to the Security Council.

Article 26. Appointment and Removal of Administrative Officials

1. Appointments to public office in the Free Territory shall be made exclusively on the ground of ability, competence and integrity.

2. Administrative officials shall not be removed from office except for incompetence or misconduct and such removal shall be subject to appropriate safeguards of investigation and hearing to be established by law.

Article 27. Director of Public Security

1. The Council of Government shall submit to the Governor a list of candidates for the post of Director of Public Security. The Governor shall appoint the Director from among the candidates presented to him, or from among other persons, after consultation with the Council of Government. He may also dismiss the Director of Public Security after consultation with the Council of Government.

2. The Director of Public Security shall not be a citizen of Yugoslavia or Italy.

3. The Director of Public Security shall normally be under the immediate authority of the Council of Government from which he will receive instructions on matters within his competence.

4. The Governor shall:

(a) receive regular reports from the Director of Public Security, and consult with him on any matters coming within the competence of the Director.

(b) be informed by the Council of Government of its instructions to the Director of Public Security and may express his opinion thereon.

Article 28. Police Force

1. In order to preserve public order and security in accordance with the Statute, the Constitution and the laws of the Free Territory, the Government of the Free Territory shall be empowered to maintain a police force and security services.

2. Members of the police force and security services shall be recruited by the Director of Public Security and shall be subject to dismissal by him.

Article 29. Local Government

The Constitution of the Free Territory shall provide for the establishment on the basis of proportional representation of organs of local government on democratic principles, including universal, equal, direct and secret suffrage.

Article 30. Monetary System

The Free Territory shall have its own monetary system.

Article 31. Railways

Without prejudice to its proprietary rights over the railways within its boundaries and its control of the railway administration, the Free Territory may negotiate with Yugoslavia and Italy agreements for the purpose of ensuring the efficient and economical operation of its railways. Such agreements would determine where responsibility lies for the operation of the railways in the direction of Yugoslavia or Italy respectively and also for the operation of the railway terminal of Trieste and of that part of the line which is common to all. In the latter case such operation may be effected by a special commission comprised of representatives of the Free Territory, Yugoslavia and Italy under the chairmanship of the representative of the Free Territory.

Article 32. Commercial Aviation

1. Commercial aircraft registered in the territory of any one of the United Nations which grants on its territory the same rights to commercial aircraft registered in the Free Territory, shall be granted international commercial aviation rights, including the right to land for refueling and repairs, to fly over the Free Territory without landing and to use for traffic purposes such airports as may be designated by the competent authorities of the Free Territory.

2. These rights shall not be subject to any restrictions other than those imposed on a basis of non-discrimination by the laws and regulations in force in the Free Territory and in the countries concerned or resulting from the special character of the Free Territory as neutral and demilitarized.

Article 33. Registration of Vessels

1. The Free Territory is entitled to open registers for the registration of ships and vessels owned by the Government of the Free Territory or by persons or organisations domiciled within the Free Territory.

2. The Free Territory shall open special maritime registers for Czechoslovak and Swiss ships and vessels upon request of these Governments, as well as for Hungarian and Austrian ships and vessels upon the request of these Governments after the conclusion of the Treaty of Peace with Hungary

and the treaty for the reestablishment of the independence of Austria respectively. Ships and vessels entered in these registers shall fly the flags of their respective countries.

3. In giving effect to the foregoing provisions, and subject to any international convention which may be entered into concerning these questions, with the participation of the Government of the Free Territory, the latter shall be entitled to impose such conditions governing the registration, retention on and removal from the registers as shall prevent any abuses arising from the facilities thus granted. In particular as regards ships and vessels registered under paragraph 1 above, registration shall be limited to ships and vessels controlled from the Free Territory and regularly serving the needs or the interests of the Free Territory. In the case of ships and vessels registered under paragraph 2 above, registration shall be limited to ships and vessels based on the Port of Trieste and regularly and permanently serving the needs of their respective countries through the Port of Trieste.

Article 34. Free Port

A free port shall be established in the Free Territory and shall be administered on the basis of the provisions of an international instrument drawn up by the Council of Foreign Ministers, approved by the Security Council, and annexed to the present Treaty (Annex VIII). The Government of the Free Territory shall enact all necessary legislation and take all necessary steps to give effect to the provisions of such instrument.

Article 35. Freedom of Transit

Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States whose territories are traversed to goods transported by railroad between the Free Port and the States which it serves, without any discrimination and without customs duties or charges other than those levied for services rendered.

Article 36. Interpretation of Statute

Except where another procedure is specifically provided under any Article of the present Statute, any dispute relating to the interpretation or execution of the Statute, not resolved by direct negotiations, shall, unless the parties mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one

representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

Article 37. Amendment of Statute

This Statute shall constitute the permanent Statute of the Free Territory, subject to any amendment which may hereafter be made by the Security Council. Petitions for the amendment of the Statute may be presented to the Security Council by the popular Assembly upon a vote taken by a two-thirds majority of the votes cast.

Article 38. Coming into Force of Statute

The present Statute shall come into force on a date which shall be determined by the Security Council of the United Nations Organisation.

ANNEX VII

Instrument for the Provisional Regime of the Free Territory of Trieste

(See Article 21)

The present provisions shall apply to the administration of the Free Territory of Trieste pending the coming into force of the Permanent Statute.

Article 1

The Governor shall assume office in the Free Territory at the earliest possible moment after the coming into force of the present Treaty. Pending assumption of office by the Governor, the Free Territory shall continue to be administered by the Allied military commands within their respective zones.

Article 2

On assuming office in the Free Territory of Trieste the Governor shall be empowered to select from among persons domiciled in the Free Territory and after consultation with the Governments of Yugoslavia and Italy a Provisional Council of Government. The Governor shall have the right to

make changes in the composition of the Provisional Council of Government whenever he deems it necessary. The Governor and the Provisional Council of Government shall exercise their functions in the manner laid down in the provisions of the Permanent Statute as and when these provisions prove to be applicable and in so far as they are not superseded by the present Instrument. Likewise all other provisions of the Permanent Statute shall be applicable during the period of the Provisional Regime as and when these provisions prove to be applicable and in so far as they are not superseded by the present Instrument. The Governor's actions will be guided mainly by the needs of the population and its well being.

Article 3

The seat of Government will be established in Trieste. The Governor will address his reports directly to the Chairman of the Security Council and will, through that channel, supply the Security Council with all necessary information on the administration of the Free Territory.

Article 4

The first concern of the Governor shall be to ensure the maintenance of public order and security. He shall appoint on a provisional basis a Director of Public Security, who will reorganize and administer the police force and security services.

Article 5

(a) From the coming into force of the present Treaty, troops stationed in the Free Territory shall not exceed 5,000 men for the United Kingdom, 5,000 men for the United States of America and 5,000 men for Yugoslavia.

(b) These troops shall be placed at the disposal of the Governor for a period of 90 days after his assumption of office in the Free Territory. As from the end of that period, they will cease to be at the disposal of the Governor and will be withdrawn from the Territory within a further period of 45 days, unless the Governor advises the Security Council that, in the interests of the Territory, some or all of them should not, in his view, be withdrawn. In the latter event, the troops required by the Governor shall remain until not later than 45 days after the Governor has advised the Security Council that the security services can maintain internal order in the Territory without the assistance of foreign troops.

(c) The withdrawal prescribed in paragraph (b) shall be carried out so as to maintain, in so far as possible, the ratio prescribed in paragraph (a) between the troops of the three Powers concerned.

Article 6

The Governor shall have the right at any time to call upon the Commanders of such contingents for support and such support shall be given promptly. The Governor shall, whenever possible, consult with the Commanders concerned before issuing his instructions but shall not interfere with the military handling of the forces in the discharge of his instructions. Each Commander has the right to report to his Government the instructions which he has received from the Governor, informing the Governor of the contents of such reports. The Government concerned shall have the right to refuse the participation of its forces in the operation in question, informing the Security Council accordingly.

Article 7

The necessary arrangements relating to the stationing, administration and supply of the military contingents made available by the United Kingdom, the United States of America, and Yugoslavia shall be settled by agreement between the Governor and the Commanders of those contingents.

Article 8

The Governor, in consultation with the Provisional Council of Government, shall be responsible for organizing the elections of Members of the Constituent Assembly in accordance with the conditions provided for in the Statute for elections to the popular Assembly.

The elections shall be held not later than four months after the Governor's assumption of office. In case this is technically impossible the Governor shall report to the Security Council.

Article 9

The Governor will, in consultation with the Provisional Council of Government, prepare the provisional budget and the provisional export and import programmes and will satisfy himself that appropriate arrangements are made by the Provisional Council of Government for the administration of the finances of the Free Territory.

Article 10

Existing laws and regulations shall remain valid unless and until revoked or suspended by the Governor. The Governor shall have the right

to amend existing laws and regulations and to introduce new laws and regulations in agreement with the majority of the Provisional Council of Government. Such amended and new laws and regulations, as well as the acts of the Governor in regard to the revocation or suspension of laws and regulations, shall be valid unless and until they are amended, revoked or superseded by acts of the popular Assembly or the Council of Government within their respective spheres after the entry into force of the Constitution.

Article 11

Pending the establishment of a separate currency regime for the Free Territory the Italian lira shall continue to be the legal tender within the Free Territory. The Italian Government shall supply the foreign exchange and currency needs of the Free Territory under conditions no less favorable than those applying in Italy.

Italy and the Free Territory shall enter into an agreement to give effect to the above provisions as well as to provide for any settlement between the two Governments which may be required.

ANNEX VIII

Instrument for the Free Port of Trieste

Article 1

1. In order to ensure that the port and transit facilities of Trieste will be available for use on equal terms by all international trade and by Yugoslavia, Italy and the States of Central Europe, in such manner as is customary in other free ports of the world:

- (a) There shall be a customs free port in the Free Territory of Trieste within the limits provided for by or established in accordance with Article 3 of the present Instrument.
- (b) Goods passing through the Free Port of Trieste shall enjoy freedom of transit as stipulated in Article 16 of the present Instrument.

2. The international regime of the Free Port shall be governed by the provisions of the present Instrument.

Article 2

1. The Free Port shall be established and administered as a State corporation of the Free Territory, having all the attributes of a juridical person and functioning in accordance with the provisions of this Instrument.

2. All Italian state and para-statal property within the limits of the Free Port which, according to the provisions of the present Treaty, shall pass to the Free Territory shall be transferred, without payment, to the Free Port.

Article 3

1. The area of the Free Port shall include the territory and installations of the free zones of the port of Trieste within the limits of the 1939 boundaries.

2. The establishment of special zones in the Free Port under the exclusive jurisdiction of any State is incompatible with the status of the Free Territory and of the Free Port.

3. In order, however, to meet the special needs of Yugoslav and Italian shipping in the Adriatic, the Director of the Free Port, on the request of the Yugoslav or Italian Government and with the concurring advice of the International Commission provided for in Article 21 below, may reserve to merchant vessels flying the flags of either of these two States the exclusive use of berthing spaces within certain parts of the area of the Free Port.

4. In case it shall be necessary to increase the area of the Free Port such increase may be made upon the proposal of the Director of the Free Port by decision of the Council of Government with the approval of the popular Assembly.

Article 4

Unless otherwise provided for by the present Instrument the laws and regulations in force in the Free Territory shall be applicable to persons and property within the boundaries of the Free Port and the authorities responsible for their application in the Free Territory shall exercise their functions within the limits of the Free Port.

Article 5

1. Merchant vessels and goods of all countries shall be allowed unrestricted access to the Free Port for loading and discharge both for goods in transit and goods destined for or proceeding from the Free Territory.

2. In connection with importation into or exportation from or transit through the Free Port, the authorities of the Free Territory shall not levy on such goods customs duties or charges other than those levied for services rendered.

3. However, in respect of goods, imported through the Free Port for consumption within the Free Territory or exported from this Territory through the Free Port, appropriate legislation and regulations in force in the Free Territory shall be applied.

Article 6

Warehousing, storing, examining, sorting, packing and repacking and similar activities which have customarily been carried on in the free zones of the port of Trieste shall be permitted in the Free Port under the general regulations established by the Director of the Free Port.

Article 7

1. The Director of the Free Port may also permit the processing of goods in the Free Port.

2. Manufacturing activities in the Free Port shall be permitted to those enterprises which existed in the free zones of the port of Trieste before the coming into force of the present Instrument. Upon the proposal of the Director of the Free Port, the Council of Government may permit the establishment of new manufacturing enterprises within the limits of the Free Port.

Article 8

Inspection by the authorities of the Free Territory shall be permitted within the Free Port to the extent necessary to enforce the customs or other regulations of the Free Territory for the prevention of smuggling.

Article 9

1. The authorities of the Free Territory will be entitled to fix and levy harbour dues in the Free Port.

2. The Director of the Free Port shall fix all charges for the use of the facilities and services of the Free Port. Such charges shall be reasonable and be related to the cost of operation, administration, maintenance and development of the Free Port.

Article 10

In the fixing and levying in the Free Port of harbour dues and other charges under Article 9 above, as well as in the provision of the services and

facilities of the Free Port, there shall be no discrimination in respect of the nationality of the vessels, the ownership of the goods or on any other grounds.

Article 11

The passage of all persons into and out of the Free Port area shall be subject to such regulations as the authorities of the Free Territory shall establish. These regulations, however, shall be established in such a manner as not unduly to impede the passage into and out of the Free Port of nationals of any State who are engaged in any legitimate pursuit in the Free Port area.

Article 12

The rules and bye-laws operative in the Free Port and likewise the schedules of charges levied in the Free Port must be made public.

Article 13

Coastwise shipping and coastwise trade within the Free Territory shall be carried on in accordance with regulations issued by the authorities of the Free Territory, the provisions of the present Instrument not being deemed to impose upon such authorities any restrictions in this respect.

Article 14

Within the boundaries of the Free Port, measures for the protection of health and measures for combating animal and plant diseases in respect of vessels and cargoes shall be applied by the authorities of the Free Territory.

Article 15

It shall be the duty of the authorities of the Free Territory to provide the Free Port with water supplies, gas, electric light and power, communications, drainage facilities and other public services and also to ensure police and fire protection.

Article 16

1. Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States whose territories are traversed to goods transported by railroad between the Free Port and the States which it serves, without any discrimination and without customs duties or charges other than those levied for services rendered.

2. The Free Territory and the States assuming the obligations of the present Instrument through whose territory such traffic passes in transit in

either direction shall do all in their power to provide the best possible facilities in all respects for the speedy and efficient movement of such traffic at a reasonable cost, and shall not apply with respect to the movement of goods to and from the Free Port any discriminatory measures with respect to rates, services, customs, sanitary, police or any other regulations.

3. The States assuming the obligations of the present Instrument shall take no measures regarding regulations or rates which would artificially divert traffic from the Free Port for the benefit of other seaports. Measures taken by the Government of Yugoslavia to provide for traffic to ports in southern Yugoslavia shall not be considered as measures designed to divert traffic artificially.

Article 17

The Free Territory and the States assuming the obligations of the present Instrument shall, within their respective territories and on non-discriminatory terms, grant in accordance with customary international agreements freedom of postal, telegraphic, and telephonic communications between the Free Port area and any country for such communications as originate in or are destined for the Free Port area.

Article 18

1. The administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. The Council of Government shall submit to the Governor a list of qualified candidates for the post of Director of the Free Port. The Governor shall appoint the Director from among the candidates presented to him after consultation with the Council of Government. In case of disagreement the matter shall be referred to the Security Council. The Governor may also dismiss the Director upon the recommendation of the International Commission or the Council of Government.

2. The Director shall not be a citizen of Yugoslavia or Italy.

3. All other employees of the Free Port will be appointed by the Director. In all appointments of employees preference shall be given to citizens of the Free Territory.

Article 19

Subject to the provisions of the present Instrument, the Director of the Free Port shall take all reasonable and necessary measures for the admin-

istration, operation, maintenance and development of the Free Port as an efficient port adequate for the prompt handling of all the traffic of that port. In particular, the Director shall be responsible for the execution of all kinds of port works in the Free Port, shall direct the operation of port installations and other port equipment, shall establish, in accordance with legislation of the Free Territory, conditions of labour in the Free Port, and shall also supervise the execution in the Free Port of orders and regulations of the authorities of the Free Territory in respect to navigation.

Article 20

1. The Director of the Free Port shall issue such rules and bye-laws as he considers necessary in the exercise of his functions as prescribed in the preceding Article.

2. The autonomous budget of the Free Port will be prepared by the Director, and will be approved and applied in accordance with legislation to be established by the popular Assembly of the Free Territory.

3. The Director of the Free Port shall submit an annual report on the operations of the Free Port to the Governor and the Council of Government of the Free Territory. A copy of the report shall be transmitted to the International Commission.

Article 21

1. There shall be established an International Commission of the Free Port, hereinafter called "the International Commission", consisting of one representative from the Free Territory and from each of the following States: France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People's Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary, provided that such State has assumed the obligations of the present Instrument.

2. The representative of the Free Territory shall be the permanent Chairman of the International Commission. In the event of a tie in voting, the vote cast by the Chairman shall be decisive.

Article 22

The International Commission shall have its seat in the Free Port. Its offices and activities shall be exempt from local jurisdiction. The members and officials of the International Commission shall enjoy in the Free Territory

such privileges and immunities as are necessary for the independent exercise of their functions. The International Commission shall decide upon its own secretariat, procedure and budget. The common expenses of the International Commission shall be shared by member States in an equitable manner as agreed by them through the International Commission.

Article 23.

The International Commission shall have the right to investigate and consider all matters relating to the operation, use, and administration of the Free Port or to the technical aspects of transit between the Free Port and the States which it serves, including unification of handling procedures. The International Commission shall act either on its own initiative or when such matters have been brought to its attention by any State or by the Free Territory or by the Director of the Free Port. The International Commission shall communicate its views or recommendations on such matters to the State or States concerned, or to the Free Territory, or to the Director of the Free Port. Such recommendations shall be considered and the necessary measures shall be taken. Should the Free Territory or the State or States concerned deem, however, that such measures would be inconsistent with the provisions of the present Instrument, the matter may at the request of the Free Territory or any interested State be dealt with as provided in Article 24 below.

Article 24

Any dispute relating to the interpretation or execution of the present Instrument, not resolved by direct negotiations, shall, unless the parties mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

Article 25

Proposals for amendments to the present Instrument may be submitted to the Security Council by the Council of Government of the Free Territory

or by three or more States represented on the International Commission. An amendment approved by the Security Council shall enter into force on the date determined by the Security Council.

Article 26

For the purposes of the present Instrument a State shall be considered as having assumed the obligations of this Instrument if it is a party to the Treaty of Peace with Italy or has notified the Government of the French Republic of its assumption of such obligations.

ANNEX IX

Technical Dispositions Regarding the Free Territory of Trieste

(See Article 21)

A. Water Supply to Northwestern Istria

Yugoslavia shall continue to supply water to the region of northwestern Istria within the Free Territory of Trieste from the spring of San Giovanni de Pingente through the Quietto water supply system and from the spring of Santa Maria del Risano through the Risano system. The water so supplied shall be in such amounts, not substantially exceeding those amounts which have been customarily supplied to the region, and at such rates of flow, as the Free Territory may request, but within limits imposed by natural conditions. Yugoslavia shall maintain the water conduits, reservoirs, pumps, purifying systems and such other works within Yugoslav territory as may be required to fulfill this obligation. Temporary allowance must be made in respect of the foregoing obligations on Yugoslavia for necessary repair of war damage to water supply installations. The Free Territory shall pay a reasonable price for the water thus supplied, which price should represent a proportionate share, based on the quantity of water consumed within the Free Territory, of the total cost of operation and maintenance of the Quietto and the Risano water supply systems. Should, in the future, additional supplies of water be required by the Free Territory, Yugoslavia undertakes to examine the matter jointly with the authorities of the Free Territory and by agreement to take such measures as are reasonable to meet these requirements.

B. *Electricity Supplies*

1. Yugoslavia and Italy shall maintain the existing supply of electricity to the Free Territory of Trieste, furnishing to the Free Territory such quantities of electricity at such rates of output as the latter may require. The quantities furnished need not at first substantially exceed those which have been customarily supplied to the area comprised in the Free Territory, but Italy and Yugoslavia shall, on request of the Free Territory, furnish increasing amounts as the requirements of the Free Territory grow, provided that any increase of more than 20% over the amount normally furnished to the Free Territory from the respective sources shall be the subject of an agreement between the interested Governments.

2. The price to be charged by Yugoslavia or by Italy and to be paid by the Free Territory for the electricity furnished to it shall be no higher than the price charged in Yugoslavia or in Italy for the supply of similar quantities of hydro-electricity from the same sources in Yugoslav or Italian territory.

3. Yugoslavia, Italy and the Free Territory shall exchange information continuously concerning the flow and storage of water and the output of electricity in respect of stations supplying the former Italian *compartimento* of Venezia Giulia, so that each of the three parties will be in a position to determine its requirements.

4. Yugoslavia, Italy and the Free Territory shall maintain in good and substantial condition all of the electrical plants, transmission lines, substations and other installations which are required for the continued supply of electricity to the former Italian *compartimento* of Venezia Giulia.

5. Yugoslavia shall ensure that the existing and any future power installations on the Isonzo (Soca) are operated so as to provide that such supplies of water as Italy may from time to time request may be diverted from the Isonzo (Soca) for irrigation in the region from Gorizia southward to the Adriatic. Italy may not claim the right to the use of water from the Isonzo (Soca) in greater volume or under more favorable conditions than has been customary in the past.

6. Yugoslavia, Italy and the Free Territory shall, through joint negotiations, adopt a mutually agreeable convention in conformity with the foregoing provisions for the continuing operation of the electricity system which

serves the former Italian *compartimento* of Venezia Giulia. A mixed commission with equal representation of the three Governments shall be established for supervising the execution of the obligations arising under paragraphs 1 to 5 above.

7. Upon the expiration of a ten-year period from the coming into force of the present Treaty, Yugoslavia, Italy and the Free Territory shall re-examine the foregoing provisions in the light of conditions at that time in order to determine which, if any, of the foregoing obligations are no longer required, and shall make such alterations, deletions and additions as may be agreed upon by the parties concerned. Any disputes which may arise as a result of this re-examination shall be submitted for settlement under the procedure outlined in Article 87 of the present Treaty.

C. Facilities for Local Frontier Trade

Yugoslavia and the Free Territory of Trieste, and Italy and the Free Territory of Trieste, shall, within one month of the coming into force of the present Treaty, undertake negotiations to provide arrangements which shall facilitate the movement across the frontiers between the Free Territory and the adjacent areas of Yugoslavia and Italy of foodstuffs and other categories of commodities which have customarily moved between those areas in local trade, provided these commodities are grown, produced or manufactured in the respective territories. This movement may be facilitated by appropriate measures, including the exemption of such commodities, up to agreed quantities or values, from tariffs, customs charges, and export or import taxes of any kind when such commodities are moving in local trade.

ANNEX X

Economic and Financial Provisions Relating to the Free Territory of Trieste

1. The Free Territory of Trieste shall receive, without payment, Italian State and para-statal property within the Free Territory.

The following are considered as State or para-statal property for the purposes of this Annex: movable and immovable property of the Italian State, of local authorities and of public institutions and publicly owned com-

panies and associations, as well as movable and immovable property formerly belonging to the Fascist Party or its auxiliary organizations.

2. All transfers effected after September 3, 1943, of Italian State and para-statal property as defined in paragraph 1. above shall be deemed null and void. This provision shall not, however, extend to lawful acts relating to current operations of State and para-statal agencies in so far as they concern the sale, within normal limits, of goods ordinarily produced by them or sold in the execution of normal commercial arrangements or in the normal course of governmental administrative activities.

3. Submarine cables owned by the Italian State or by Italian para-statal organizations shall fall within the provisions of paragraph 1 so far as concerns terminal facilities and the lengths of cables lying within territorial waters of the Free Territory.

4. Italy shall hand over to the Free Territory all relevant archives and documents of an administrative character or historical value concerning the Free Territory or relating to property transferred under paragraph 1 of this Annex. The Free Territory shall hand over to Yugoslavia all documents of the same character relating to territory ceded to Yugoslavia under the present Treaty, and to Italy all documents of the same character which may be in the Free Territory and which relate to Italian territory.

Yugoslavia declares herself ready to hand over to the Free Territory all archives and documents of an administrative character concerning and required exclusively for the administration of the Free Territory, which are of a kind which were usually held before September 3, 1943, by the local authorities having jurisdiction over what now forms part of the Free Territory.

5. The Free Territory shall be exempt from the payment of the Italian public debt, but shall assume the obligations of the Italian State towards holders who continue to reside in the Free Territory, or who, being juridical persons, retain their *siège social* or principal place of business there, in so far as these obligations correspond to that portion of this debt which has been issued prior to June 10, 1940, and is attributable to public works and civil administrative services of benefit to the said Territory but not attributable directly or indirectly to military purposes.

Full proof of the source of such holdings may be required from the holders.

Italy and the Free Territory shall conclude arrangements to determine the portion of the Italian public debt referred to in this paragraph and the methods for giving effect to these provisions.

6. The future status of external obligations secured by charges upon the property or revenues of the Free Territory shall be governed by further agreements between the parties concerned.

7. Special arrangements shall be concluded between Italy and the Free Territory to govern the conditions under which the obligations of Italian public or private social insurance organizations towards the inhabitants of the Free Territory, and a proportionate part of the reserves accumulated by the said organizations, shall be transferred to similar organizations in the Free Territory.

Similar arrangements shall also be concluded between the Free Territory and Italy, and between the Free Territory and Yugoslavia, to govern the obligations of public and private social insurance organizations whose *siège social* is in the Free Territory, with regard to policy holders or subscribers residing respectively in Italy or in territory ceded to Yugoslavia under the present Treaty.

Similar arrangements shall also be concluded between the Free Territory and Yugoslavia to govern the obligations of public and private social insurance organizations whose *siège social* is in territory ceded to Yugoslavia under the present Treaty, with regard to policy holders or subscribers residing in the Free Territory.

8. Italy shall continue to be liable for the payment of civil or military pensions earned, as of the coming into force of the present Treaty, for service under the Italian State, municipal or other local government authorities, by persons who under the Treaty acquire the nationality of the Free Territory, including pension rights not yet matured. Arrangements shall be concluded between Italy and the Free Territory providing for the method by which this liability shall be discharged.

9. The property, rights and interests of Italian nationals who became domiciled in the Free Territory after June 10, 1940, and of persons who opt for Italian citizenship pursuant to the Statute of the Free Territory of Trieste shall, provided they have been lawfully acquired, be respected in the same measure as the property, rights and interests of nationals of the

Free Territory generally, for a period of three years from the coming into force of the Treaty.

The property, rights and interests within the Free Territory of other Italian nationals and also of Italian juridical persons, provided they have been lawfully acquired, shall be subject only to such legislation as may be enacted from time to time regarding the property of foreign nationals and juridical persons generally.

10. Persons who opt for Italian nationality and move to Italy shall be permitted, after the settlement of any debts or taxes due from them in the Free Territory, to take with them their movable property and transfer their funds, provided such property and funds were lawfully acquired. No export or import duties shall be imposed in connection with the moving of such property. Further, they shall be permitted to sell their movable and immovable property under the same conditions as nationals of the Free Territory.

The removal of property to Italy will be effected under conditions which will not be in contradiction to the Constitution of the Free Territory and in a manner which will be agreed upon between Italy and the Free Territory. The conditions and the time periods of the transfer of the funds, including the proceeds of sales, shall be determined in the same manner.

11. The property, rights and interests of former Italian nationals, resident in the Free Territory, who become nationals of the Free Territory under the present Treaty, existing in Italy at the coming into force of the Treaty, shall be respected by Italy in the same measure as the property, rights and interests of Italian nationals generally, for a period of three years from the coming into force of the Treaty.

Such persons are authorized to effect the transfer and the liquidation of their property, rights and interests under the same conditions as are provided for under paragraph 10 above.

12. Companies incorporated under Italian law and having *siège social* in the Free Territory, which wish to remove *siège social* to Italy or Yugoslavia, shall likewise be dealt with under the provisions of paragraph 10 above, provided that more than fifty per cent. of the capital of the company is owned by persons usually resident outside the Free Territory, or by persons who move to Italy or Yugoslavia.

13. Debts owed by persons in Italy, or in territory ceded to Yugoslavia, to persons in the Free Territory, or by persons in the Free Territory to persons in Italy or in territory ceded to Yugoslavia, shall not be affected by the cession. Italy, Yugoslavia and the Free Territory undertake to facilitate the settlement of such obligations. As used in this paragraph, the term "persons" includes juridical persons.

14. The property in the Free Territory of any of the United Nations and its nationals, if not already freed from Italian measures of sequestration or control and returned to its owner, shall be returned in the condition in which it now exists.

15. Italy shall return property unlawfully removed after September 3, 1943, from the Free Territory to Italy. Paragraphs 2, 3, 4, 5 and 6 of Article 75 shall govern the application of this obligation except as regards property provided for elsewhere in this Annex.

The provisions of paragraphs 1, 2, 5 and 6 of Article 75 shall apply to the restitution by the Free Territory of property removed from the territory of any of the United Nations during the war.

16. Italy shall return to the Free Territory in the shortest possible time any ships in Italian possession which were owned on September 3, 1943, by natural persons resident in the Free Territory who acquire the nationality of the Free Territory under the present Treaty, or by Italian juridical persons having and retaining *siège social* in the Free Territory, except any ships which have been the subject of a bona fide sale.

17. Italy and the Free Territory, and Yugoslavia and the Free Territory, shall conclude agreements providing for a just and equitable apportionment of the property of any existing local authority whose area is divided by any frontier settlement under the present Treaty, and for a continuance to the inhabitants of necessary communal services not specifically covered in other parts of the Treaty.

Similar agreements shall be concluded for a just and equitable allocation of rolling stock and railway equipment and of dock and harbour craft and equipment, as well as for any other outstanding economic matters not covered by this Annex.

18. Citizens of the Free Territory shall, notwithstanding the transfer of sovereignty and any change of nationality consequent thereon, continue to

enjoy in Italy all the rights in industrial, literary and artistic property to which they were entitled under the legislation in force in Italy at the time of the transfer.

The Free Territory shall recognize and give effect to rights of industrial, literary and artistic property existing in the Free Territory under Italian laws in force at the time of transfer, or to be re-established or restored in accordance with Annex XV, part A of the present Treaty. These rights shall remain in force in the Free Territory for the same period as that for which they would have remained in force under the laws of Italy.

19. Any dispute which may arise in giving effect to this Annex shall be dealt with in the same manner as provided in Article 83 of the present Treaty.

20. Paragraphs 1, 3 and 5 of Article 76; Article 77; paragraph 3 of Article 78; Article 81; Annex XV, part A; Annex XVI and Annex XVII, part B, shall apply to the Free Territory in like manner as to Italy.

ANNEX XI

Joint Declaration by the Governments of the Soviet Union, of the United Kingdom, of the United States of America and of France concerning Italian Territorial Possessions in Africa

(See Article 23)

1. The Governments of the Union of Soviet Socialist Republics, of the United Kingdom of Great Britain and Northern Ireland, of the United States of America, and of France agree that they will, within one year from the coming into force of the Treaty of Peace with Italy bearing the date of February 10, 1947, jointly determine the final disposal of Italy's territorial possessions in Africa, to which, in accordance with Article 23 of the Treaty, Italy renounces all right and title.

2. The final disposal of the territories concerned and the appropriate adjustment of their boundaries shall be made by the Four Powers in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of other interested Governments.

3. If with respect to any of these territories the Four Powers are unable to agree upon their disposal within one year from the coming into force of the Treaty of Peace with Italy, the matter shall be referred to the General Assembly of the United Nations for a recommendation, and the Four Powers agree to accept the recommendation and to take appropriate measures for giving effect to it.

4. The Deputies of the Foreign Ministers shall continue the consideration of the question of the disposal of the former Italian Colonies with a view to submitting to the Council of Foreign Ministers their recommendations on this matter. They shall also send out commissions of investigation to any of the former Italian Colonies in order to supply the Deputies with the necessary data on this question and to ascertain the views of the local population.

ANNEX XII

(See Article 56)

The names in this Annex are those which were used in the Italian Navy on June 1, 1946.

A. List of Naval Vessels to be Retained by Italy

MAJOR WAR VESSELS

<i>Battleships</i> . . .	Andrea Doria Caio Duilio	<i>Torpedo Boats</i>	Giuseppe Cesare Abba Aretusa Calliope Giacinto Carini Cassiopea Clio Nicola Fabrizi Ernesto Giovannini Libra Monzambano Antonio Mosto Orione Orsa Rosalino Pilo Sagittario Sirio
<i>Cruisers</i>	Luigi di Savoia Duca degli Abruzzi Giuseppe Garibaldi Raimondo Montecuccoli Luigi Cadorna		
<i>Destroyers</i> . . .	Carabiniere Granatiere Grecale Nicoloso da Recco		

<i>Corvettes . . .</i>	Ape	Gru
	Baionetta	Ibis
	Chimera	Minerva
	Cormorano	Pellicano
	Danaide	Pomona
	Driade	Scimittara
	Fenice	Sfinge
	Flora	Sibilla
	Folaga	Urania
	Gabbiano	

Together with one corvette to be salvaged, completed or constructed.

MINOR WAR VESSELS

Minesweepers R. D. Nos. 20, 32, 34, 38, 40, 41, 102, 103, 104, 105, 113, 114, 129, 131, 132, 133, 134, 148, 149, together with 16 YMS type acquired from the United States of America.

Vedettes VAS Nos. 201, 204, 211, 218, 222, 224, 233, 235

AUXILIARY NAVAL VESSELS

<i>Fleet Tankers . . .</i>	Nettuno	<i>Water Carriers . .</i>	Stura
	Lete	(continued)	Tronto
			Vipacco
<i>Water Carriers . .</i>	Arno	<i>Tugs (large) . . .</i>	Abbazia
	Frigido		Asinara
	Mincio		Atlante
	Ofanto		Capraia
	Oristano		Chioggia
	Pescara		Emilio
	Po		Gagliardo
	Sesia		Gorgona
	Simeto		

<i>Tugs (large) ...</i>	Licosa	<i>Tugs (small) ...</i>	San Bartolomeo
(continued)	Lilibeo	(continued)	San Benedetto
	Linosa		Tagliamento
	Mestre		N 1
	Piombino		N 4
	Porto Empedocle		N 5
	Porto Fossone		N 9
	Porto Pisano		N 22
	Porto Rose		N 26
	Porto Recanati		N 27
	San Pietro		N 32
	San Vito		N 47
	Ventimiglia		N 52
			N 53
<i>Tugs (small) ...</i>	Argentario		N 78
	Astico		N 96
	Cordevole		N 104
	Generale Pozzi		RLN 1
	Irene		RLN 3
	Passero		RLN 9
	Porto Rosso		RLN 10
	Porto Vecchio		
<i>Training Ship</i>	Amerigo Vespucci		
<i>Transports</i>	Amalia Messina		
	Montegrappa		
	Tarantola		
<i>Supply Ship</i>	Giuseppe Miraglia		
<i>Repair Ship</i>	Antonio Pacinotti (after conversion from S/M Depot Ship)		
<i>Surveying Ships</i>	Azio (after conversion from mimalayer) Cherso		
<i>Lighthouse-Service Vessel</i>	Buffoluto		
<i>Cable Ship</i>	Rampino		

B. List of Naval Vessels to be placed at the Disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France

MAJOR WAR VESSELS

<i>Battleships</i>	Giulio Cesare Italia Vittorio Veneto	<i>Torpedo Boats</i> . . .	Aliseo Animoso Ardimentoso Ariete Fortunale Indomito
<i>Cruisers</i>	Emanuele Filiberto Duca d'Aosta Pompeo Magno Attilio Regolo Eugenio di Savoia Scipione Africano	<i>Submarines</i> . . .	Alagi Atropo Dandolo Giada Marea Nichelio Platino Vortice
<i>Sloop</i>	Eritrea		
<i>Destroyers</i>	Artigliere Fuciliere Legionario Mitragliere Alfredo Oriani Augusto Riboty Velite		

MINOR WAR VESSELS

<i>M.T.Bs</i>	MS Nos. 11, 24, 31, 35, 52, 53, 54, 55, 61, 65, 72, 73, 74, 75. MAS Nos. 433, 434, 510, 514, 516, 519, 520, 521, 523, 538, 540, 543, 545, 547, 562. ME Nos. 38, 40, 41.
<i>Minesweepers</i>	RD Nos. 6, 16, 21, 25, 27, 28, 29.
<i>Gunboat</i>	Illyria

Vedettes VAS Nos. 237, 240, 241, 245, 246, 248.

Landing Craft..... MZ Nos. 713, 717, 722, 726, 728, 729, 737, 744, 758,
776, 778, 780, 781, 784, 800, 831.

AUXILIARY NAVAL VESSELS

Tankers Prometeo
Stige
Tarvisio
Urano

Water Carriers .. Anapo
Aterno
Basento
Bisagno
Dalmazia
Idria
Isarco
Istria
Liri
Metauro
Polcevera
Sprugola
Timavo
Tirso

Tugs (Large)... Arsachena
Basiluzzo
Capo d'Istria
Carbonara
Cefalu
Ercole
Gaeta
Lampedusa

Tugs (Large)... Lipari
(continued) Liscanera
Marechiaro
Mesco
Molara
Nereo
Porto Adriano
Porto Conte
Porto Quieto
Porto Torres
Porto Tricase
Procida
Promontore
Rapallo
Salvore
San Angelo
San Antioco
San Remo
Talamone
Taormina
Teulada
Tifeo
Vado
Vigoroso

<i>Tugs (Small) . . .</i>	Generale Valfre	<i>Depot Ship</i>	Anteo
	Licata		
	Noli	<i>Training Ship . . .</i>	Cristoforo Colombo
	Volosca		
	N 2	<i>Auxiliary Mine-</i>	
	N 3	<i>Layer</i>	Fasana
	N 23		
	N 24	<i>Transports</i>	Giuseppe Messina
	N 28		Montecuccio
	N 35		Panigaglia
	N 36		
	N 37		
	N 80		
	N 94		

ANNEX XIII

Definitions

A. NAVAL

(See Article 59)

Standard Displacement

The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The standard displacement is expressed in tons of 2,240 lbs. (1,016 Kgs).

War Vessel

A war vessel, whatever its displacement, is:

1. A vessel specifically built or adapted as a fighting unit for naval, amphibious or naval air warfare; or

2. A vessel which has one of the following characteristics:
- (a) mounts a gun with a calibre exceeding 4.7 inches (120 mm.);
 - (b) mounts more than four guns with a calibre exceeding 3 inches (76 mm.);
 - (c) is designed or fitted to launch torpedoes or to lay mines;
 - (d) is designed or fitted to launch self-propelled or guided missiles;
 - (e) is designed for protection by armour plating exceeding 1 inch (25 mm.) in thickness;
 - (f) is designed or adapted primarily for operating aircraft at sea;
 - (g) mounts more than two aircraft launching apparatus;
 - (h) is designed for a speed greater than twenty knots if fitted with a gun of calibre exceeding 3 inches (76 mm.).

A war vessel belonging to sub-category 1 is no longer to be considered as such after the twentieth year since completion if all weapons are removed.

Battleship

A battleship is a war vessel, other than an aircraft carrier, the standard displacement of which exceeds 10,000 tons or which carries a gun with a calibre exceeding 8 inches (203 mm.).

Aircraft Carrier

An aircraft carrier is a war vessel, whatever her displacement, designed or adapted primarily for the purpose of carrying and operating aircraft.

Submarine

A submarine is a vessel designed to operate below the surface of the sea.

Specialised Types of Assault Craft

1. All types of craft specially designed or adapted for amphibious operations.
2. All types of small craft specially designed or adapted to carry an explosive or incendiary charge for attacks on ships or harbours.

Motor Torpedo Boat

A vessel of a displacement less than 200 tons, capable of a speed of over 25 knots and of operating torpedoes.

B. MILITARY, MILITARY AIR AND NAVAL TRAINING

(See Articles 60, 63 and 65)

1. Military training is defined as: the study of and practice in the use of war material specially designed or adapted for army purposes, and training devices relative thereto; the study and carrying out of all drill or movements which teach or practice evolutions performed by fighting forces in battle; and the organised study of tactics, strategy and staff work.

2. Military air training is defined as: the study of and practice in the use of war material specially designed or adapted for air force purposes, and training devices relative thereto; the study and practice of all specialised evolutions, including formation flying, performed by aircraft in the accomplishment of an air force mission; and the organised study of air tactics, strategy and staff work.

3. Naval training is defined as: the study, administration or practice in the use of warships or naval establishments as well as the study or employment of all apparatus and training devices relative thereto, which are used in the prosecution of naval warfare, except for those which are also normally used for civilian purposes; also the teaching, practice or organised study of naval tactics, strategy and staff work including the execution of all operations and manoeuvres not required in the peaceful employment of ships.

C. DEFINITION AND LIST OF WAR MATERIAL

(See Article 67)

The term "war material" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below.

The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent scientific development.

Category I.

1. Military rifles, carbines, revolvers and pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use.

2. Machine guns, military automatic or autoloading rifles, and machine pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use; machine gun mounts.

3. Guns, howitzers, mortars, cannon special to aircraft, breechless or recoil-less guns and flamethrowers; barrels and other spare parts not readily adaptable for civilian use; carriages and mountings for the foregoing.

4. Rocket projectors; launching and control mechanisms for self-propelling and guided missiles; mountings for same.

5. Self-propelling and guided missiles, projectiles, rockets, fixed ammunition and cartridges, filled or unfilled, for the arms listed in subparagraphs 1-4 above and fuses, tubes or contrivances to explode or operate them. Fuses required for civilian use are not included.

6. Grenades, bombs, torpedoes, mines, depth charges and incendiary materials or charges, filled or unfilled; all means for exploding or operating them. Fuses required for civilian use are not included.

7. Bayonets.

Category II.

1. Armoured fighting vehicles; armoured trains, not technically convertible to civilian use.

2. Mechanical and self-propelled carriages for any of the weapons listed in Category I; special type military chassis or bodies other than those enumerated in sub-paragraph 1 above.

3. Armour plate, greater than three inches in thickness, used for protective purposes in warfare.

Category III.

1. Aiming and computing devices, including predictors and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments.

2. Assault bridging, assault boats and storm boats.

3. Deceptive warfare, dazzle and decoy devices.

4. Personal war equipment of a specialised nature not readily adaptable to civilian use.

Category IV.

1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically reconverted to civilian use, as well as weapons, armour, ammunition,

aircraft and all other equipment, material, machines and installations not used in peace time on ships other than warships.

2. Landing craft and amphibious vehicles or equipment of any kind; assault boats or devices of any type as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instrument or device whether manned or unmanned, guided or uncontrolled.

3. Submersible or semi-submersible ships, craft, weapons, devices, or apparatus of any kind, including specially designed harbour defence booms, except as required by salvage, rescue or other civilian uses, as well as all equipment, accessories, spare parts, experimental or training aids, instruments or installations as may be specially designed for the construction, testing, maintenance or housing of the same.

Category V.

1. Aircraft, assembled or unassembled, both heavier and lighter than air, which are designed or adapted for aerial combat by the use of machine guns, rocket projectors or artillery, or for the carrying and dropping of bombs, or which are equipped with, or which by reason of their design or construction are prepared for, any of the appliances referred to in subparagraph 2 below.

2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or torpedo release mechanisms; gun turrets and blisters.

3. Equipment specially designed for and used solely by airborne troops.

4. Catapults or launching apparatus for ship-borne, land- or sea-based aircraft; apparatus for launching aircraft weapons.

5. Barrage balloons.

Category VI.

Asphyxiating, lethal, toxic or incapacitating substances intended for war purposes, or manufactured in excess of civilian requirements.

Category VII.

Propellants, explosives, pyrotechnics or liquefied gases destined for the propulsion, explosion, charging or filling of, or for use in connection with, the war material in the present categories, not capable of civilian use or manufactured in excess of civilian requirements.

Category VIII.

Factory and tool equipment specially designed for the production and maintenance of the material enumerated above and not technically convertible to civilian use.

D. DEFINITION OF THE TERMS "DEMILITARISATION" AND "DEMILITARISED"

(See Articles 11, 14, 49 and Article 3 of Annex VI)

For the purpose of the present Treaty the terms "demilitarisation" and "demilitarised" shall be deemed to prohibit, in the territory and territorial waters concerned, all naval, military and military air installations, fortifications and their armaments; artificial military, naval and air obstacles; the basing or the permanent or temporary stationing of military, naval and military air units; military training in any form; and the production of war material. This does not prohibit internal security personnel restricted in number to meeting tasks of an internal character and equipped with weapons which can be carried and operated by one person, and the necessary military training of such personnel.

ANNEX XIV

Economic and Financial Provisions Relating to Ceded Territories

1. The Successor State shall receive, without payment, Italian State and para-statal property within territory ceded to it under the present Treaty, as well as all relevant archives and documents of an administrative character or historical value concerning the territory in question, or relating to property transferred under this paragraph.

The following are considered as State or para-statal property for the purposes of this Annex: movable and immovable property of the Italian State, of local authorities and of public institutions and publicly owned companies and associations, as well as movable and immovable property formerly belonging to the Fascist Party or its auxiliary organizations.

2. All transfers effected after September 3, 1943, of Italian State and para-statal property as defined in paragraph 1 above shall be deemed null and void. This provision shall not, however, extend to lawful acts relating

to current operations of State and para-statal agencies in so far as they concern the sale, within normal limits, of goods ordinarily produced or sold by them in the execution of normal commercial arrangements or in the normal course of governmental administrative activities.

3. Italian submarine cables connecting points in ceded territory, or connecting a point in ceded territory with a point in other territory of the Successor State, shall be deemed to be Italian property in the ceded territory, despite the fact that lengths of these cables may lie outside territorial waters. Italian submarine cables connecting a point in ceded territory with a point outside the jurisdiction of the Successor State shall be deemed to be Italian property in ceded territory so far as concerns the terminal facilities and the lengths of cables lying within territorial waters of the ceded territory.

4. The Italian Government shall transfer to the Successor State all objects of artistic, historical or archaeological value belonging to the cultural heritage of the ceded territory, which, while that territory was under Italian control, were removed therefrom without payment and are held by the Italian Government or by Italian public institutions.

5. The Successor State shall make arrangements for the conversion into its own currency of Italian currency held within the ceded territory by persons continuing to reside in the said territory or by juridical persons continuing to carry on business there. Full proof of the source of the funds to be converted may be required from their holders.

6. The Government of the Successor State shall be exempt from the payment of the Italian public debt, but will assume the obligations of the Italian State towards holders who continue to reside in the ceded territory, or who, being juridical persons, retain their *siège social* or principal place of business there, in so far as these obligations correspond to that portion of this debt which has been issued prior to June 10, 1940, and is attributable to public works and civil administrative services of benefit to the said territory but not attributable directly or indirectly to military purposes.

Full proof of the source of such holdings may be required from the holders.

The Successor State and Italy shall conclude arrangements to determine the portion of the Italian public debt referred to in this paragraph and the methods for giving effect to these provisions.

7. Special arrangements shall be concluded between the Successor State and Italy to govern the conditions under which the obligations of Italian public or private social insurance organizations towards the inhabitants of the ceded territory, and a proportionate part of the reserves accumulated by the said organizations, shall be transferred to similar organizations in the Successor State.

Similar arrangements shall also be concluded between the Successor State and Italy to govern the obligations of public and private social insurance organizations whose *siège social* is in the ceded territory, with regard to policy holders or subscribers residing in Italy.

8. Italy shall continue to be liable for the payment of civil or military pensions earned, as of the coming into force of the present Treaty, for service under the Italian State, municipal or other local government authorities, by persons who under the Treaty acquire the nationality of the Successor State, including pension rights not yet matured. Arrangements shall be concluded between the Successor State and Italy providing for the method by which this liability shall be discharged.

9. The property, rights and interests of Italian nationals permanently resident in the ceded territories at the coming into force of the present Treaty shall, provided they have been lawfully acquired, be respected on a basis of equality with the rights of nationals of the Successor State.

The property, rights and interests within the ceded territories of other Italian nationals and also of Italian juridical persons, provided they have been lawfully acquired, shall be subject only to such legislation as may be enacted from time to time regarding the property of foreign nationals and juridical persons generally.

Such property, rights and interests shall not be subject to retention or liquidation under the provisions of Article 79 of the present Treaty, but shall be restored to their owners freed from any measures of this kind and from any other measure of transfer, compulsory administration or sequestration taken between September 3, 1943, and the coming into force of the present Treaty.

10. Persons who opt for Italian nationality and move to Italy shall be permitted, after the settlement of any debts or taxes due from them in ceded territory, to take with them their movable property and transfer their

funds, provided such property and funds were lawfully acquired. No export or import duties will be imposed in connection with the moving of such property. Further, they shall be permitted to sell their movable and immovable property under the same conditions as nationals of the Successor State.

The removal of property to Italy will be effected under conditions and within the limits agreed upon between the Successor State and Italy. The conditions and the time periods of the transfer of the funds, including the proceeds of sales, shall likewise be agreed.

11. The property, rights and interests of former Italian nationals, resident in the ceded territories, who become nationals of another State under the present Treaty, existing in Italy at the coming into force of the Treaty, shall be respected by Italy in the same measure as the property, rights and interests of United Nations nationals generally.

Such persons are authorized to effect the transfer and the liquidation of their property, rights and interests under the same conditions as may be established under paragraph 10 above.

12. Companies incorporated under Italian law and having *siège social* in the ceded territory, which wish to remove *siège social* to Italy, shall likewise be dealt with under the provisions of paragraph 10 above, provided that more than fifty per cent. of the capital of the company is owned by persons usually resident outside the ceded territory, or by persons who opt for Italian nationality under the present Treaty and who move to Italy, and provided also that the greater part of the activity of the company is carried on outside the ceded territory.

13. Debts owed by persons in Italy to persons in the ceded territory or by persons in the ceded territory to persons in Italy shall not be affected by the cession. Italy and the Successor State undertake to facilitate the settlement of such obligations. As used in this paragraph, the term "persons" includes juridical persons.

14. The property in ceded territory of any of the United Nations and its nationals, if not already freed from Italian measures of sequestration or control and returned to its owner, shall be returned in the condition in which it now exists.

15. The Italian Government recognizes that the Brioni Agreement of August 10, 1942, is null and void. It undertakes to participate with the other signatories of the Rome Agreement of March 29, 1923, in any negotiations having the purpose of introducing into its provisions the modifications necessary to ensure the equitable settlement of the annuities which it provides.

16. Italy shall return property unlawfully removed after September 3, 1943, from ceded territory to Italy. Paragraphs 2, 3, 4, 5 and 6 of Article 75 shall govern the application of this obligation except as regards property provided for elsewhere in this Annex.

17. Italy shall return to the Successor State in the shortest possible time any ships in Italian possession which were owned on September 3, 1943, by natural persons resident in ceded territory who acquire the nationality of the Successor State under the present Treaty, or by Italian juridical persons having and retaining *siège social* in ceded territory, except any ships which have been the subject of a bona fide sale.

18. Italy and the Successor States shall conclude agreements providing for a just and equitable apportionment of the property of any existing local authority whose area is divided by any frontier settlement under the present Treaty, and for a continuance to the inhabitants of necessary communal services not specifically covered in other parts of the Treaty.

Similar agreements shall be concluded for a just and equitable allocation of rolling stock and railway equipment and of dock and harbour craft and equipment, as well as for any other outstanding economic matters not covered by this Annex.

19. The provisions of this Annex shall not apply to the former Italian Colonies. The economic and financial provisions to be applied therein will form part of the arrangements for the final disposal of these territories pursuant to Article 23 of the present Treaty.

ANNEX XV

Special Provisions Relating to Certain Kinds of Property

A. INDUSTRIAL, LITERARY AND ARTISTIC PROPERTY

1. (a) A period of one year from the coming into force of the present Treaty shall be accorded to the Allied and Associated Powers and their

nationals without extension fees or other penalty of any sort in order to enable them to accomplish all necessary acts for the obtaining or preserving in Italy of rights in industrial, literary and artistic property which were not capable of accomplishment owing to the existence of a state of war.

(b) Allied and Associated Powers or their nationals who had duly applied in the territory of any Allied or Associated Power for a patent or registration of a utility model not earlier than twelve months before the outbreak of the war with Italy or during the war, or for the registration of an industrial design or model or trade mark not earlier than six months before the outbreak of the war with Italy or during the war, shall be entitled within twelve months after the coming into force of the present Treaty to apply for corresponding rights in Italy, with a right of priority based upon the previous filing of the application in the territory of that Allied or Associated Power.

(c) Each of the Allied and Associated Powers and its nationals shall be accorded a period of one year from the coming into force of the present Treaty during which they may institute proceedings in Italy against those natural or juridical persons who are alleged illegally to have infringed their rights in industrial, literary or artistic property between the date of the outbreak of the war and the coming into force of the present Treaty.

2. A period from the outbreak of the war until a date eighteen months after the coming into force of the present Treaty shall be excluded in determining the time within which a patent must be worked or a design or trade mark used.

3. The period from the outbreak of the war until the coming into force of the present Treaty shall be excluded from the normal term of rights in industrial, literary and artistic property which were in force in Italy at the outbreak of the war or which are recognised or established under part A of this Annex, and belong to any of the Allied and Associated Powers or their nationals. Consequently, the normal duration of such rights shall be deemed to be automatically extended in Italy for a further term corresponding to the period so excluded.

4. The foregoing provisions concerning the rights in Italy of the Allied and Associated Powers and their nationals shall apply equally to the rights in the territories of the Allied and Associated Powers of Italy and its na-

tionals. Nothing, however, in these provisions shall entitle Italy or its nationals to more favourable treatment in the territory of any of the Allied and Associated Powers than is accorded by such Power in like cases to other United Nations or their nationals, nor shall Italy be required thereby to accord to any of the Allied and Associated Powers or its nationals more favourable treatment than Italy or its nationals receive in the territory of such Power in regard to the matters dealt with in the foregoing provisions.

5. Third parties in the territories of any of the Allied and Associated Powers or Italy who, before the coming into force of the present Treaty, had bona fide acquired industrial, literary or artistic property rights conflicting with rights restored under part A of this Annex or with rights obtained with the priority provided thereunder, or had bona fide manufactured, published, reproduced, used or sold the subject matter of such rights, shall be permitted, without any liability for infringement, to continue to exercise such rights and to continue or to resume such manufacture, publication, reproduction, use or sale which had been bona fide acquired or commenced. In Italy, such permission shall take the form of a non-exclusive license granted on terms and conditions to be mutually agreed by the parties thereto or, in default of agreement, to be fixed by the Conciliation Commission established under Article 83 of the present Treaty. In the territories of each of the Allied and Associated Powers, however, bona fide third parties shall receive such protection as is accorded under similar circumstances to bona fide third parties whose rights are in conflict with those of the nationals of other Allied and Associated Powers.

6. Nothing in part A of this Annex shall be construed to entitle Italy or its nationals to any patent or utility model rights in the territory of any of the Allied and Associated Powers with respect to inventions, relating to any article listed by name in the definition of war material contained in Annex XIII of the present Treaty, made, or upon which applications were filed, by Italy, or any of its nationals, in Italy or in the territory of any other of the Axis Powers, or in any territory occupied by the Axis forces, during the time when such territory was under the control of the forces or authorities of the Axis Powers.

7. Italy shall likewise extend the benefits of the foregoing provisions of this Annex to United Nations, other than Allied or Associated Powers,

whose diplomatic relations with Italy have been broken off during the war and which undertake to extend to Italy the benefits accorded to Italy under the said provisions.

8. Nothing in part A of this Annex shall be understood to conflict with Articles 78, 79 and 81 of the present Treaty.

B. INSURANCE

1. No obstacles, other than any applicable to insurers generally, shall be placed in the way of the resumption by insurers who are United Nations nationals of their former portfolios of business.

2. Should an insurer, who is a national of any of the United Nations, wish to resume his professional activities in Italy, and should the value of the guarantee deposits or reserves required to be held as a condition of carrying on business in Italy be found to have decreased as a result of the loss or depreciation of the securities which constituted such deposits or reserves, the Italian Government undertakes to accept, for a period of eighteen months, such securities as still remain as fulfilling any legal requirements in respect of deposits and reserves.

ANNEX XVI

Contracts, Prescription and Negotiable Instruments

A. CONTRACTS

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part D of this Annex, shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, is without prejudice to the provisions of Article 81 of the present Treaty, nor shall it relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and, without prejudice to the rights contained in Article 79 of the present Treaty, there shall remain in force such parts of any contract as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part D of this Annex. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by any of the Allied and Associated Powers having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A of this Annex shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorization of the Government of one of the Allied and Associated Powers.

4. Notwithstanding the foregoing provisions, contracts of insurance and re-insurance shall be subject to separate agreements between the Government of the Allied or Associated Power concerned and the Government of Italy.

B. PERIODS OF PRESCRIPTION

1. All periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or property, involving United Nations nationals and Italian nationals who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights, irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended, for the duration of the war, in Italian territory on the one hand, and on the other hand in the territory of those United Nations which grant to Italy, on a reciprocal basis, the benefit of the provisions of this paragraph. These periods shall begin to run again on the coming into force of the present Treaty. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Italian territory to the prejudice of a national of one of the United Nations, the Italian Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable, the Italian Government shall provide that the United Nations national shall be afforded such relief as may be just and equitable in the circumstances.

C. NEGOTIABLE INSTRUMENTS

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment, or protest may be made.

3. If a person has, either before or during the war, incurred obligations under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

D. SPECIAL PROVISIONS

1. For the purposes of this Annex, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have

become unlawful under laws, orders or regulations to which such persons or the contracts were subject.

2. Having regard to the legal system of the United States of America, the provisions of this Annex shall not apply as between the United States of America and Italy.

ANNEX XVII

Prize Courts and Judgments

A. PRIZE COURTS

Each of the Allied and Associated Powers reserves the right to examine, according to a procedure to be established by it, all decisions and orders of the Italian Prize Courts in cases involving ownership rights of its nationals, and to recommend to the Italian Government that revision shall be undertaken of such of those decisions or orders as may not be in conformity with international law.

The Italian Government undertakes to supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued, and to accept all recommendations made as a result of the examination of the said cases, and to give effect to such recommendations.

B. JUDGMENTS

The Italian Government shall take the necessary measures to enable nationals of any of the United Nations at any time within one year from the coming into force of the present Treaty to submit to the appropriate Italian authorities for review any judgment given by an Italian court between June 10, 1940, and the coming into force of the present Treaty in any proceeding in which the United Nations national was unable to make adequate presentation of his case either as plaintiff or defendant. The Italian Government shall provide that, where the United Nations national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances. The term "United Nations nationals" includes corporations or associations organised or constituted under the laws of any of the United Nations.