

INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING OIL PLATFORMS

(ISLAMIC REPUBLIC OF IRAN V. UNITED STATES OF AMERICA)

PRELIMINARY OBJECTION

SUBMITTED BY

THE UNITED STATES OF AMERICA

16 DECEMBER 1993

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INTRODUCTION AND SUMMARY

1. On 2 November 1992, the Government of Iran filed an Application with this Court instituting the present case against the United States. Iran stated that the case arises out of the attack and destruction of three offshore oil production complexes by warships of the United States Navy in breach of various provisions of the Treaty of Amity, Economic Relations, and Consular Rights of 1955 between the United States and Iran¹ (hereinafter "the 1955 Treaty" or "the Treaty") and international law. The United States submits the following preliminary objection to the jurisdiction of the Court to entertain the claims filed by Iran.

2. These events occurred during the eight-year war between Iran and Iraq in the context of a long series of attacks by Iranian military and paramilitary forces on U.S. and other neutral vessels engaged in peaceful commerce in the Persian Gulf.

3. In its Application, the Government of Iran seeks relief from this Court exclusively on the basis of the 1955 Treaty. More specifically, Iran requests the Court to declare that: (1) the Court has jurisdiction over Iran's Application under the 1955 Treaty; (2) the United States, in attacking and destroying the platforms, breached its obligations to Iran under Articles I and X(1) of the Treaty and international law; (3) in adopting a patently hostile and threatening attitude towards Iran that culminated in the attacks, the United States breached the object and purpose of the Treaty; and (4) the United States is under an obligation to make reparations for the violation of its international legal obligations.

4. In this case, Iran is invoking, under Article 36(1) of the Statute of the Court, the basis of jurisdiction provided for in Article XXI(2) of the 1955 Treaty. This provision confers on the

¹ 8 U.S.T. 899, TIAS 3853, 284 U.N.T.S. 93, Exhibit 1.

Court jurisdiction to decide disputes relating to the interpretation and application of the Treaty. It is the contention of the United States that there is no relationship between the Treaty and the claims contained in Iran's Application, which focus exclusively on the exercise by regular military units of the United States of its inherent right of self-defense in the face of armed attacks by Iranian military and paramilitary units. The United States therefore is requesting that the Court address the issue of jurisdiction first, in accordance with Article 79, paragraph 6, of the Rules of Court.

5. In its Memorial, Iran also asserted that the United States violated "international law", referring at times to the United Nations Charter and various other conventions, including the 1981 Algiers Accords between the United States and Iran, and, more generally, principles of international law. While these allegations reflect the true character of the dispute which Iran seeks to bring before the Court, the Court must disregard them, since the Court has no jurisdiction over any of these allegations.

6. In effect, Iran is seeking by these proceedings to have the Court do what Iran failed repeatedly to have the Security Council do - condemn the United States as a participant on the side of Iraq in its war with Iran.² In doing so, Iran seeks to bring to this Court a dispute over which the Court has no jurisdiction. The Court has the authority under Article 79 of the Rules of Court to act on this preliminary objection. The United States submits that the Court should do so by rejecting Iran's improper invocation of the Court's jurisdiction.

7. The United States reserves its right to object to any other issue of the Court's

² See, e.g., Case Concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Memorial Submitted by the Islamic Republic of Iran of 8 June 1993 (hereinafter Iranian Memorial), Vol. III, Exh. 75; Iranian Memorial, Vol. IV, Exh. 91.

jurisdiction over, or the admissibility of, Iran's claims that arises in the course of these proceedings, as well as the right under Article 80 of the Rules of Court to present counter-claims in the event the Court determines that it has jurisdiction in this matter.

PART I

STATEMENT OF FACTS RELEVANT TO JURISDICTION

1.01 The Application and Memorial filed by Iran in this case are based on events that occurred on 19 October 1987 and 18 April 1988 in international waters of the Persian Gulf. In considering the question of jurisdiction, many of the factual assertions made by Iran need not be addressed at this time. It is, however, important for the Court to appreciate that each of these events occurred during the eight-year war between Iraq and Iran and in the context of a long series of attacks by Iranian military and paramilitary forces on U.S. and other neutral vessels engaged in peaceful activities in the Gulf. The events of 19 October 1987 and 18 April 1988 cannot be separated from the events that preceded them and from the hostile environment that existed at those times due to the actions of Iran's own forces.

1.02 For more than three years prior to 19 October 1987, Iran repeatedly had attacked innocent merchant shipping in the Gulf as a part of its conduct of the Iran-Iraq war, which had been waged actively since September 1980. Several U.S. merchant ships, as well as several hundred merchant ships from other States, were attacked and damaged by Iranian naval vessels, aircraft, mines, and missiles during this period. Iran asserts that "[t]he Iranian measures taken against shipping in the Persian Gulf were not unlawful,"³ yet the ships attacked by Iran were in international waters or the territorial sea of third States navigating to and from non-Iraqi ports inside and outside the Gulf. As far as we can determine, these ships were not stopped and searched by Iran to ascertain whether they were trading with Iraq or carrying contraband destined for Iraq, notwithstanding the fact that Iran exercised that right against numerous other ships. The United States is aware of no evidence that the ships attacked by Iran had resisted visit and search,

³ Iranian Memorial, para. 4.77. See also, ibid, paras. 1.43, 1.54, 4.59 & 4.63.

or that they were armed, or that they were carrying contraband destined for Iraq, or that they sailed under the convoy of Iraqi warships or were escorted by Iraqi military aircraft. Consequently, these Iranian attacks on merchant shipping were plainly unlawful.⁴

1.03 Although United States naval forces have been present in the Persian Gulf since 1949,⁵ these events explain why additional U.S. military forces were deployed to the Gulf during the period in question and why they found it necessary to attack Iranian offshore facilities on 19 October 1987 and 18 April 1988.

1.04 The information set forth below is based on publicly available sources, including information submitted to the Security Council and assembled by the Secretary-General at the request of the Security Council. If needed, the United States is prepared to submit additional information to establish the facts asserted by the United States.⁶

⁴ B. Boczek, "The Law of Maritime Warfare and Neutrality in the Gulf War," in *THE PERSIAN GULF WAR: LESSONS FOR STRATEGY, LAW, AND DIPLOMACY*, p. 173, at pp. 179, 185 (C. Joyner ed. 1990), Exhibit 2.

⁵ U.S. Dep't of State, "U.S. Policy in the Persian Gulf," Special Report No. 166, p. 3 (July 1987), Exhibit 3.

⁶ In this submission, the United States has refuted a number of factual assertions contained in Iran's Memorial. Factual assertions not contested in this submission should not be taken as admitted.

CHAPTER I

MILITARY FORCES OF THE UNITED STATES AND OTHER NATIONS WERE PRESENT IN THE PERSIAN GULF IN RESPONSE TO IRANIAN ARMED ATTACKS AGAINST INNOCENT SHIPPING DURING THE IRAN-IRAQ WAR

1.05 It is a matter of common knowledge, as documented in the records of the Security Council,⁷ that in late 1980 armed hostilities broke out between Iran and Iraq, leading to extensive fighting between those two countries which lasted for eight years. Attacks against shipping in the Gulf, particularly attacks against shipping going into or out of the ports of non-belligerents within the Gulf, accelerated in March of 1984 when Iraq resumed attacks on tankers using Iran's oil terminal at Kharg Island.⁸ Lacking comparable Iraqi targets which could be attacked easily, Iran chose to respond by attacking in international waters and third country territorial seas ships destined for, or outward bound from, non-Iraqi ports in the Gulf. Iran's attacks were overwhelmingly directed against vessels that were not of Iraqi nationality and were not carrying goods from Iraq. Some of the vessels or their cargoes, primarily tankers carrying non-Iraqi oil, belonged to or originated in countries, such as Kuwait and Saudi Arabia, which in Iran's view politically, financially or materially supported Iraq in the war. In Iran's view, this alleged support made such states participants in the conflict on the side of Iraq and attacks on their

⁷ "Situation between Iran and Iraq," 34 YEARBOOK OF THE UNITED NATIONS 1980 pp. 312-319(1983), Exhibit 4.

⁸ Between 1981 and 1984 Iraq attacked some three dozen tankers serving Iranian oil export facilities in the Persian Gulf, particularly around the port of Bandar Khomeini, as well as neutral shipping to and from third countries in the Gulf. T. Schiller, "The Gulf War and Shipping: Recent Developments," in VIOLENCE AT SEA: A REVIEW OF TERRORISM, ACTS OF WAR AND PIRACY, AND COUNTERMEASURES TO PREVENT TERRORISM (B. Parritt ed. 1986) p. 109 at pp. 112-114, Exhibit 5; Sreedhar & K. Kaul, TANKER WAR: ASPECT OF IRAQ-IRAN WAR 1980-88, pp. 87-89 (1989), Exhibit 6. See also U.S. Statement to the U.N. Security Council, 30 May 1984, in Dep't of State Bulletin, Aug. 1984, pp. 73-74, Exhibit 7.

merchant vessels lawful,⁹ even though under the laws and customs of war they remained neutral vessels not subject to attack on sight.

1.06 These Iranian attacks on innocent merchant vessels in the Gulf intensified in 1987 and continued until the end of hostilities. Iran attacked almost 200 merchant ships between May 1984 and August 1988, about half of the ships attacked by both sides during the war.¹⁰ Between 1984 and 1988, more than 320 persons were reported killed, wounded or missing as a result of attacks by both sides.¹¹ According to one authority, the total tonnage of ships sunk or so badly damaged as to be written off as constructively lost, as a result of attacks by both sides in the "Tanker War" totalled more than half the 24 million tons of allied merchant shipping sunk during all of World War II.¹² It has also been asserted that merchant ship losses in the "Tanker War"

⁹ Iranian Memorial, para. 4.59; Letter from Iranian Foreign Minister Vellayati to the U.N. Secretary-General, 23 July 1987, quoted in part in 33 KEESING'S RECORD OF WORLD EVENTS, 35598, (Dec. 1987), Exhibit 8; A. de Guttry & N. Ronzitti, eds. THE IRAN-IRAQ WAR (1980-1988) AND THE LAW OF NAVAL WARFARE (hereinafter cited as "de Guttry & Ronzitti"), p. 30, Exhibit 9.

¹⁰ The U.S. Navy has compiled, with the assistance of Lloyd's of London, a comprehensive list of the 198 Iranian attacks on merchant shipping between 13 May 1984 and 4 August 1988. U.S. Navy, "COMIDEASTFOR List of Iranian Ship Attacks Against Neutral Shipping in the Persian Gulf Between 1984 and 1988" (hereinafter "Navy List"), Exhibit 10. So far as the United States is aware, no complete tabulation of all merchant ships attacked by both sides between 21 September 1980 and 10 August 1988 has been published. The number in published lists varies between 373 and 543 ships. See Annex 1, note 3. Iran's attempt to minimize the number of its attacks (Iranian Memorial, para. 1.56) consequently is not well founded. Iran does not quantify in its Memorial the number of merchant ships it attacked during the war. Those attacks are characterized by Iran as exercises of its right of self-defense on the basis of the assertion that these were "neutral vessels resisting visit and search or carrying cargoes directly related to sustaining the Iraqi war effort rendered themselves liable to attack," Iranian Memorial, paras. 1.43, 4.59 & 4.63.

¹¹ A. Cordesman & A. Wagner, 2 THE LESSONS OF MODERN WAR: THE IRAN-IRAQ WAR, p. 546 (1990) (hereinafter cited as "Cordesman & Wagner"), Exhibit 11. The General Council of British Shipping (GCBS) estimated that 471 merchant seamen were killed between May 1981 and 1 June 1988 in the Tanker War. GCBS Guidance Notes, reprinted in de Guttry & Ronzitti, p. 292, Exhibit 9.

¹² International Ass'n of Independent Tanker Owners ("INTERTANKO") Statement (Dec. 1987), quoted in Sreedhar & Kaul, p. 1, Exhibit 6.

exceeded the total of all merchant shipping lost in all other actions since World War II.¹³

1.07 The hostile environment in which innocent shipping in the Persian Gulf was exposed as a result of Iranian (and Iraqi) attacks was addressed by the Security Council as early as June 1984. In Resolution 552, the Security Council condemned attacks on commercial ships en route to and from the ports of Kuwait and Saudi Arabia, demanded that such attacks cease and that there be no interference with ships en route to and from states that are not parties to the hostilities, and requested the Secretary-General to report on the progress of the implementation of that resolution.¹⁴ The Secretary-General solicited information from Member States and the International Maritime Organization relevant to the implementation of the resolution. He submitted his first report in December 1984 detailing attacks on neutral shipping in the Persian Gulf, including numerous attacks by Iran. The Secretary-General supplemented his report in January 1985, December 1985, December 1986, January 1987, December 1987, and January 1988.¹⁵

¹³ F. Wiswall, "Neutrality, the Rights of Shipping and the Use of Force in the Persian Gulf," 31 *Va. J. Int'l L.* 619, 620 (1991), Exhibit 12.

¹⁴ Resolution 552, United Nations Security Council 2546th meeting, 1 June 1984), United Nations Document S/RES/552 (Exhibit 13). The resolution was adopted following complaints to the Security Council by the Governments of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates of Iranian attacks on commercial ships en route to and from Kuwait and Saudi Arabia, Exhibit 13.

¹⁵ Attached are the Report plus Addenda of the Secretary-General, which recount the dates of incidents, the name, type and nationality of the vessels attacked, and information on the location and type of attack, through 31 Dec. 1987, Exhibit 14. These documents generally do not identify the attacking nation. Report of the Secretary-General in Pursuance of Security Council Resolution 552, U. N. Security Council Doc. S/16877 (Dec. 1984); Add.1, 22 (Jan. 1985); Add.2, 31 (Dec. 1985); Add.3, 31 (Dec. 1986); Add.4, 22 (Jan. 1987); Add.3, Corr. 1, 10 (Feb. 1987); Add.5, 31 (Dec. 1987); and Add.6, 26 (Jan. 1988). The Secretary-General did not publish a comparable list of the attacks on shipping that occurred during 1988. Sreedhar & Kaul list attacks on shipping from 1981 through the end of the war in 1988, and in almost every case identify the attacking nation but do not identify ships subjected to visit and search, Exhibit 6.

1.08 In all, these reports from the Secretary-General describe 330 attacks on innocent merchant shipping by both sides, including approximately 140 attacks by Iran.¹⁶ The Secretary-General's reports list only 35 incidents of Iranian visits and searches of merchant ships, none of which is reported to have been attacked subsequently by Iran or Iraq.¹⁷ There is no indication that Iran made a prior effort to stop and search the vessels it did attack, as required under the laws and customs of war.¹⁸ This is not surprising given Iran's attitude that merchant ships could be legitimate military targets simply because the vessels involved, or their cargoes, belonged to states that allegedly supported Iraq in the war.

1.09 The United States includes as Annex 1 to this pleading a more detailed description of unprovoked Iranian attacks on merchant vessels during the 1987-88 period.

1.10 The major aim of U.S. policy in the region during the Iran-Iraq war was to seek a peaceful settlement of the conflict, especially through the U.N. Security Council.¹⁹ In the interim,

¹⁶ The number of Iranian attacks was determined by comparing the information in the Secretary-General's Report with the other lists in Exhibits 6 and 10.

¹⁷ Another source identifies 27 incidents in which merchant ships en route to Kuwait were visited and searched by Iranian forces between May 1985 and January 1986. None of these ships was a tanker. Schiller, pp. 114-118, Exhibit 5. None of these ships is listed as having been attacked during the voyage in question.

¹⁸ Iran claims to have inspected scores of merchant ships transiting the Strait of Hormuz daily during the war. Iranian Memorial, para. 4.56 (the Iranian Navy visited and searched "many hundreds of ships, and seized contraband cargo in a small minority of cases"); "Iranians Stop 2 Soviet Freighters Believed Carrying Cement for Iraq," N.Y. Times, 4 Sep. 1986, p. A1, Exhibit 15; "Iran Marines Board 14 Ships in Search for Iraq War Goods," N.Y. Times, 3 May 1987, p. A22, Exhibit 15. (Copies of all of the newspaper articles referred to in this Part are collected chronologically in Exhibit 15.) Cordesman & Wagner report Iran intercepted nearly 300 cargo ships during October 1985, and kept up that rate during the rest of the early winter, p. 213, Exhibit 11.

¹⁹ During the Gulf war, the U.N. Security Council adopted six resolutions calling upon Iran and Iraq to cease their military operations. Res. 479, U.N. Sec. Council (2248th meeting, 28 Sep. 1980), reprinted in U.N. Doc. S/INF/36, p. 23; Res. 514, U.N. Sec. Council (2383rd meeting, 12 July 1982), U.N. Doc. S/RES/514; Res. 522, U.N. Sec. Council (2399th meeting, 4 Oct. 1982), U.N. Doc. S/RES/522; Res. 540,

however, the United States undertook appropriate steps to protect its interests and those of other friendly States, especially because of an Iranian threat to close the Strait of Hormuz - a major strait used for international navigation - and the likelihood that U.S. ships would be attacked in the Gulf.²⁰

1.11 In particular, the United States exercised its right under international law to deploy additional warships to the Gulf to protect merchant ships flying the U.S. flag, and later to protect U.S.-owned and other merchant ships flying other flags, that were not bound for Iran or Iraq and were not carrying contraband for either of the two belligerents. Other States also deployed warships to the Gulf for this purpose, including the United Kingdom, France, the Netherlands, Italy, Belgium, and the USSR.²¹

1.12 Numerous Iranian helicopter attacks against merchant shipping were launched from Persian Gulf oil platforms in 1985 and 1986.²² Subsequently, Iran's indiscriminate attacks on merchant vessels were conducted by small high-speed twin-engine boats of Swedish manufacture, commonly called Boghammers. These patrol boats were equipped typically with machine guns,

U.N. Sec. Council (2493rd meeting, 31 Oct. 1983), U.N. Doc. S/RES/540; Res. 552, U.N. Sec. Council (2546th meeting, 1 June 1984), U.N. Doc. S/RES/552; Res. 582, U.N. Sec. Council (2666th meeting, 24 Feb. 1986), U.N. Doc. S/RES/582; Res. 588, U.N. Sec. Council (2713th meeting, 8 Oct. 1986), reprinted in U.N. Doc. S/INF/42, p. 13; Res. 598, U.N. Sec. Council (2750th meeting, 20 July 1987), U.N. Doc. S/RES/598. These resolutions are reproduced in Exhibit 13.

²⁰ "U.S. Policy in the Persian Gulf", pp. 3-4, Exhibit 3.

²¹ Cordesman & Wagner, pp. 314-315, Exhibit 11; "U.S. Policy in the Persian Gulf, Exhibit 3; Statement by the Italian Minister of Defence, 8 September 1987, reprinted in de Guttry & Ronzitti, p. 445, Exhibit 9. In April 1987, Kuwait signed an agreement with the Soviet Union to lease Soviet tankers to Kuwait; by May 1987 the first of three Soviet ships leased to Kuwait began operating in the Gulf, with a Soviet frigate and two minesweepers as escorts. "Iraqi Missile Hits U.S. Navy Frigate in Persian Gulf", N.Y. Times, 18 May 1987, p. A-1, Exhibit 15.

²² Navy List, Exhibit 10; Cordesman & Wagner, pp. 230-231, Exhibit 11.

rocket launchers (including rocket-propelled grenades), and small arms. They were manned by members of the Islamic Revolutionary Guard Corps Navy (IRGC or Pasdaran). The IRGC also used similarly armed Boston Whale boats and other small boats. In addition, the IRGC used a number of islands, oil platforms, and shore-based radar stations in the Persian Gulf to support and coordinate attacks on merchant shipping. Iranian speed boats were deployed from such facilities to attack shipping and to lay naval mines.²³ Other attacks on merchant shipping were conducted by regular Islamic Republic of Iran Navy (IRIN) personnel from Iranian frigates or fighter aircraft.²⁴

1.13 U.S.-owned vessels were among those attacked by Iranian military vessels. For example, on 9 July 1987, an Iranian frigate attacked and damaged the U.S.-owned, Liberian-flagged tanker Peconic off Kuwait, and on 6 November 1987, Iranian Pasdaran speed boats from Abu Musa attacked with rocket-propelled grenades the U.S.-owned, Panamanian-flagged tanker Grand Wisdom in the southern Persian Gulf about 20 miles west of the United Arab Emirates.²⁵ On 16 November 1987, Iranian small boats attacked and severely damaged the U.S.-owned, Bahamian-flagged tanker Esso Freeport and the U.S.-owned, Liberian-flagged tanker Lucy near the Strait of Hormuz.²⁶ From the information available to the United States, none of these ships

²³ Cordesman & Wagner, p. 285, Exhibit 11.

²⁴ Cordesman & Wagner, ibid.

²⁵ S/16877/Add.5, pp. 8, 14, Exhibit 14; Sreedhar & Kaul, pp. 119 & 124, Exhibit 6; Cordesman & Wagner, p. 334, Exhibit 11. In fact, the Grand Wisdom was subject to a gun attack from an Iranian frigate. Navy List, p. 6, Exhibit 10.

²⁶ S/16877/Add. 5, p. 15, Exhibit 14; Sreedhar & Kaul, p. 125, Exhibit 6; Cordesman & Wagner, p. 335, Exhibit 11; "Gunboats Attack U.S. Tanker", Foreign Broadcast Information Service, Near East and South Asia, 16 Nov. 1987, p. 23 (hereinafter "FBIS"), Exhibit 15; "Lloyds Reports Liberian Tanker Attacked by Iran", FBIS, 17 Nov. 1987, p. 20, Exhibit 15.

was bound to or from Iraqi ports or carrying contraband or Iraqi oil,²⁷ and none had been subject to visit and search by Iranian warships on the voyage in which they were attacked.

1.14 U.S. military forces took an active role in responding to requests for help from U.S. and other vessels in distress when attacked by Iranian military and paramilitary patrol boats. For example, on 12 December 1987, following an attack by an Iranian frigate off Dubai, a helicopter from the destroyer USS Chandler rescued 11 seamen from the burning Cypriot-flagged tanker Pivot, which was carrying a full load of Saudi Arabian crude oil. Four crewmen were injured, two seriously.²⁸ On 25 December 1987, a U.S. Navy helicopter rescued eleven seamen and a British Navy helicopter rescued nine seamen from a burning South Korean freighter, the Hyundai-7, after it had been attacked by Iranian small boats 25 miles north of Sharjah.²⁹

1.15 This assistance sometimes brought U.S. military forces into hostile contact with the Iranian small boats, which would attack the U.S. forces. For instance, on 8 October 1987, three Iranian fast attack boats in international waters about 15 miles southwest of Farsi Island fired upon U.S. helicopters that had taken off from the mobile sea base Hercules to defend it. Two of the three U.S. helicopters returned fire, sinking all three of the Iranian boats.³⁰ On 9 October 1987, the United States notified the Security Council that it had taken this action in the exercise

²⁷ Outbound tankers attacked by Iraq generally carried Kuwaiti or Saudi oil.

²⁸ S/16877/Add.5, p. 17, Exhibit 14; Sreedhar & Kaul, p. 126, Exhibit 6; "U.S. Navy Rescues Tanker Crew in Gulf", N.Y. Times, 13 Dec. 1987, p. L-3, Exhibit 15.

²⁹ S/16877/Add.5, p. 18, Exhibit 14; Sreedhar & Kaul, p. 128, Exhibit 6; "Lloyds Cited in Attack on S. Korean Ship", FBIS, 28 Dec. 1987, p. 27, Exhibit 15.

³⁰ Letter from the Permanent Representative of the U.S. to the U.N. Security Council, 9 Oct. 1987, U.N. Security Council Doc. S/19194, Exhibit 16; Letter from President Reagan to the President Pro Tempore of the Senate and the Speaker of the House, 10 Oct. 1987, in Weekly Compil. of Pres. Docs., p. 1159 (1987) Exhibit 17; Cordesman & Wagner, pp. 325-326, Exhibit 11.

of its inherent right of self-defense. In that communication, the United States noted that it had informed Iran previously that it would take appropriate defensive measures against such hostile attacks.³¹ Separately, the United States informed Iran through the good offices of the Protecting Power, the Government of Switzerland, that Iran should take note that such hostile actions will be defended against in the future by U.S. forces as in the recent past.³²

1.16 Other nations also were forced to take steps to protect their shipping from these attacks.³³ After the 13 July 1987 attack by two Iranian small boats on the French container ship Ville d'Anvers, France broke diplomatic relations with Iran and announced on 29 July 1987 that the aircraft carrier Clemenceau and three support ships were being dispatched to the Gulf area.³⁴ After the 3 September 1987 attack on the Italian cargo ship Jolly Rubino, Italy announced that it would send ships to the Gulf to protect Italian merchantmen.³⁵

1.17 In addition to fast attack boats, Iran used naval mines, missiles and aircraft to attack neutral merchant shipping in the Gulf.

1.18 Contrary to Iran's denials of minelaying in international waters, in 1987 and 1988 Iran laid at least seven mine fields in the international waters of the Persian Gulf and in the

³¹ U.N. Doc. S/19194, Exhibit 16.

³² Message from the U.S. to Iran, 18 April 1988; in Dep't of State Bulletin, June 1988, p. 36, Exhibit 18.

³³ British and Soviet warships had been in the Gulf since shortly after the beginning of the war. Cordesman & Wagner, pp. 103, 128 & 316, Exhibit 11.

³⁴ S/16877/Add.5, p. 8; Exhibit 6, Sreedhar & Kaul, p. 120, Exhibit 14; "French Ship is Attacked in Gulf, Raising Paris-Teheran Tensions", N.Y. Times, 14 July 1987, p. A-6, Exhibit 15.

³⁵ Italy firmly protested to Iran about this attack. Statement by the Minister for Foreign Affairs, 11 Sep. 1987, reprinted in de Guttry & Ronzitti, p. 449, Exhibit 9. Cordesman & Wagner, pp. 311, 313-314, Exhibit 11; "Iran Fires Missile at Kuwait", Wash. Post, 5 Sep. 1987, p. A 1, Exhibit 15.

international waters of the Gulf of Oman. These mines inflicted extreme damage to ships and loss of life.

1.19 For example, on 24 July 1987, the S.S. Bridgeton, a U.S.-reflagged Kuwaiti tanker under U.S. military escort into the Gulf, hit an Iranian mine in international waters about 18 miles west of the Iranian island of Farsi, causing extensive damage to the ship.³⁶ Map 1. Consequently, the United States ordered U.S. Navy minesweeping helicopters to the Gulf.³⁷ Other nations dispatched mine hunting and sweeping units as well. On 11 August 1987, the United Kingdom and France announced that they would send a total of seven mine hunting vessels to the Gulf.³⁸ In September, Belgium, the Netherlands, and Italy announced that they also would dispatch a total of seven minesweepers to the Gulf.³⁹

1.20 Unfortunately, despite these efforts, the mines laid throughout the Gulf continued to inflict extensive damage to innocent vessels. In August and September 1987, three ships hit Iranian mines, resulting in the sinking of two of them and the death of four crewmen.⁴⁰

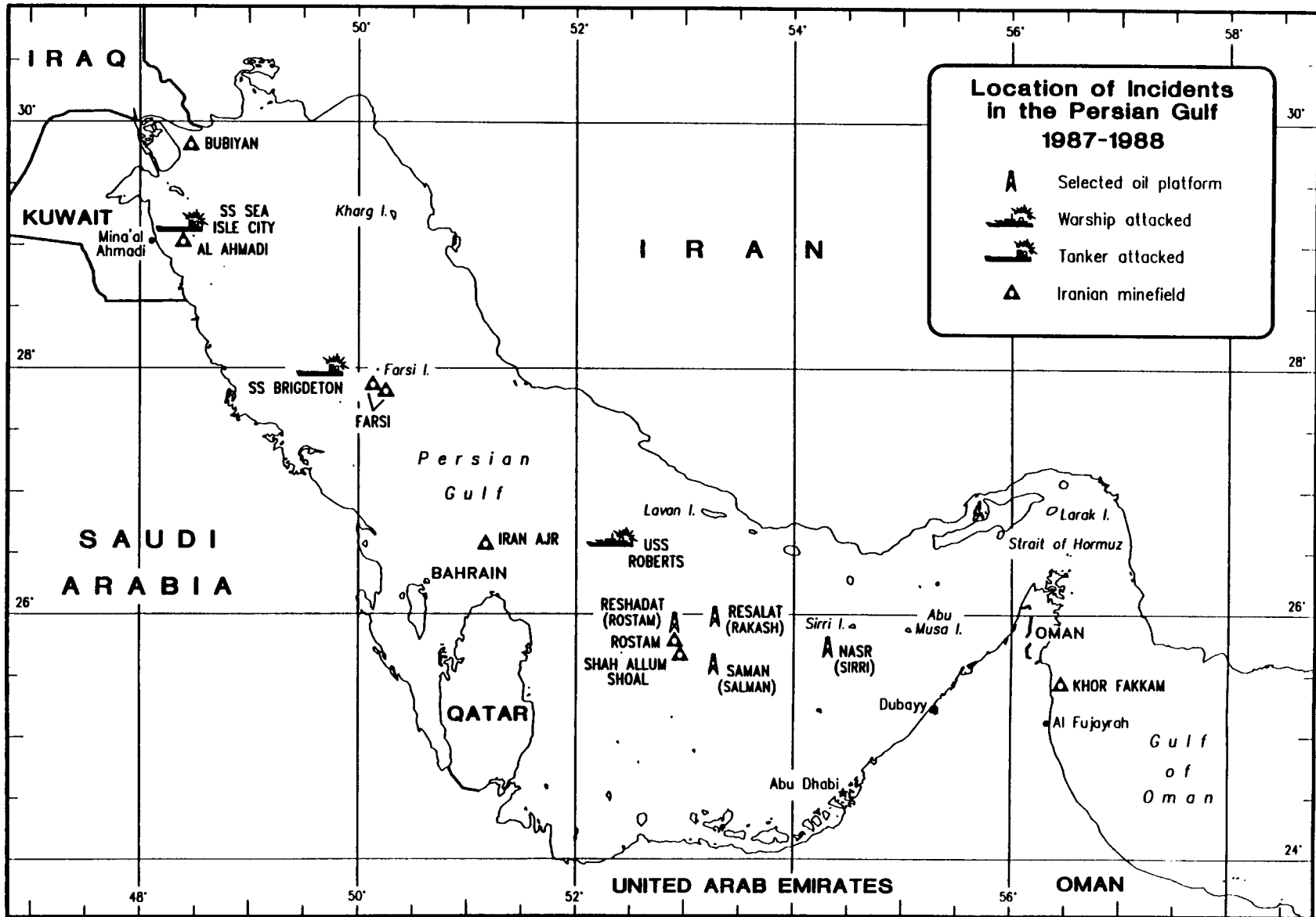
³⁶ S/16877/Add.5, p. 9, Exhibit 14; Sreedhar & Kaul, p. 120, Exhibit 6; Exhibit 11, Cordesman & Wagner, p. 298; M. Palmer, GUARDIANS OF THE GULF: A History of America's Expanding Role In the Persian Gulf, 1883-1992, p. 131, Exhibit 19; "After the Blast, Journey Continues", N.Y. Times, 25 July 1987, p. 5, Exhibit 15.

³⁷ Cordesman & Wagner, pp. 299-300, Exhibit 11; "U.S. Acts to Bolster Gulf Mine Defenses on Several Fronts", Wall Street Journal, 4 Aug. 1987, p. 1, Exhibit 15; "8 U.S. Helicopters Arrive for Mission to Sweep the Gulf", N.Y. Times, 17 Aug. 1987, p. A-1, Exhibit 15; "U.S. Orders 8 Old Minesweepers to the Gulf", N.Y. Times, 20 Aug. 1987, p. A1, Exhibit 15.

³⁸ Cordesman & Wagner, pp. 304-305, Exhibit 11; "Europeans Send Mine Sweepers", Wash. Post, 12 Aug. 1987, p. A1, Exhibit 15.

³⁹ Cordesman & Wagner, pp. 313-315, Exhibit 11; "Dutch Sending 2 Ships to Hunt Mines in Gulf", N.Y. Times, 8 Sep. 1987, p. A3, Exhibit 15; "Perez de Cuellar's Gulf Trip Ends in Apparent Failure", Wash. Post, 16 Sep. 1987, p. A1, Exhibit 15.

⁴⁰ These were the Texaco Caribbean, Anita, and Marissa I. S/16877/Add.5, p. 9, Exhibit 14; Sreedhar & Kaul, pp. 120, 121, Exhibit 6.



Specially prepared for presentation to the International Court of Justice

1.21 At times Iran denied that it was the source of these mines. Nevertheless, in a Tehran radio dispatch on 20 August 1987, Iran admitted that it had mined the Persian Gulf, purportedly to "protect" its coastline.⁴¹ On 21 September 1987, the Iran Ajr was observed by U.S. helicopters laying mines at night near the Bahrain Bell in an international shipping channel used regularly by U.S. ships in the central Persian Gulf. The United States military forces seized the Iran Ajr and subsequently destroyed the vessel so that it could no longer threaten U.S. and neutral vessels. Nine armed Iranian-made mines ready for deployment in shipping channels were found on board. Charts aboard the ship detailing the minelaying helped the U.S. Navy locate and disarm nine additional mines identical to those captured on the Iran Ajr that similarly had been laid that night by Iran Ajr in international shipping channels.⁴² These facts conclusively disprove Iran's denials that Iran Ajr was engaged in minelaying.⁴³ Contrary to well-established international law, no notice had been given to the international community that these minefields had been laid, and none of these mines had been set to disarm when it broke loose from its mooring as required by international law.⁴⁴

⁴¹ "Iran Says it Mines the Gulf", Wash. Post, 21 Aug. 1987, p. A1, Exhibit 15; "Discovering Self-Interest", N.Y. Times, 23 Aug. 1987, p. D22, Exhibit 15. Iran admits laying mines only near the Khor Abdullah. Iranian Memorial, para. 4.65.

⁴² Letter from the Permanent Representative of the U.S. to the President of the U.N. Security Council, 22 Sept. 1987, U.N. Security Council Doc. S/19149, Exhibit 20; Letter from President Reagan to the Speaker of the House of Representatives and the President Pro Tempore for the Senate, 24 Sep. 1987, in Public Papers of the Presidents of the United States: Ronald Reagan (1987), at p. 1074 (1989). Exhibit 21; "Caught in the Act", Time, 5 Oct. 1987, pp. 20, 22, Exhibit 22; O'Rourke, "Gulf Ops," in U.S. Naval Institute Proceedings/Naval Review 1989, p. 50. n.3, Exhibit 23.

⁴³ Iranian Memorial, paras. 1.97, 1.98 & 4.68.

⁴⁴ Articles 1(2) & 3, Hague Convention VIII of 1907; Exhibit 21, Letter from President Reagan; Exhibit 11, Cordesman & Wagner, pp. 565 & 589 n.57, Exhibit 11; Boczek, p. 179, Exhibit 2. Iran accepts the requirement of giving notice to the international community when it lays naval mines, yet it makes no excuse for failing to do so for the mines it admits having laid. Iranian Memorial, para. 4.66

1.22 In accordance with Article 51 of the United Nations Charter, on 22 September 1987, the United States notified the Security Council that it had taken this action against the Iran Ajr in the exercise of its inherent right of self-defense. In that communication, the United States noted that it had previously informed the Iranian Government that it would take appropriate defensive measures against such provocative actions, which present an immediate risk to all ships, including those of the United States.⁴⁵ On 9 October 1987, the United States again advised Iran that the laying of mines in international waters will be defended against in the future by the United States.⁴⁶ This warning to Iran was repeated on 19 October 1987.⁴⁷

1.23 Nevertheless, on 13 April 1988, Iranian ships laid new minefields in international waters used by US and other neutral vessels in the southern Gulf, near Shah Allum shoal and the Rostam platform. The next afternoon, 14 April 1988, at about 5:00 pm, the USS Samuel B. Roberts, returning to Bahrain after having previously convoyed U.S. merchant vessels through the area, encountered three newly-laid contact mines in international waters near Shah Allum shoal.⁴⁸ While attempting to back out of the minefield, the Roberts struck a submerged mine, which caused extensive damage to the vessel and injured ten crewmen, some seriously.⁴⁹ Map

n.282.

⁴⁵ UN Security Council Doc. S/19149, Exhibit 20.

⁴⁶ See, Message from the U.S. to Iran, 18 April 1988, Exhibit 18.

⁴⁷ Ibid.

⁴⁸ Contrary to Iran's assertion that the water was "extremely shallow" (Iranian Memorial, para. 1.116), the charted water depth at this point is 62 meters or 36 fathoms. See Annex 1, para. A1.17.

⁴⁹ Letter dated 19 April 1988 from President Reagan to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, in Public Papers of the Presidents of the United States: Ronald Reagan (1988), at p. 477 (1990), Exhibit 25; Cordesman & Wagner, pp. 298, 375-376, Exhibit 11; "Blast Damages U.S. Frigate in Gulf", N.Y. Times, 15 Apr. 1988, A21, Exhibit 15. The mine explod-

1.

1.24 On 18 April 1988, the United States attacked the Nasr (Sirri) and Sassan (Salman) platforms, which, in addition to producing oil, were used to support attacks on innocent shipping. On the same day, the United States duly notified the Security Council that it had taken this action in the exercise of its inherent right of self-defense.⁵⁰ Also on that same day, the United States separately reminded Iran that it had been repeatedly warned of the consequences of placing mines in the international waters of the Persian Gulf in violation of international law.⁵¹

1.25 Iran also attacked innocent shipping by surface-to-surface missiles. Iran maintained Silkworm missile sites on the Faw Peninsula from the time it captured the peninsula in January 1986. Iran launched Silkworm missiles from those sites in 1987, damaging Kuwaiti shipping facilities and merchant ships off Kuwait.⁵²

1.26 On 4 and 5 September 1987, Iran fired three Silkworm missiles from the Faw Peninsula toward Kuwait. The missiles landed in Kuwait but caused little damage. At about 7 a.m. local time 15 October 1987, an Iranian Silkworm missile fired from the Faw Peninsula hit the U.S.-owned, Liberian-flagged oil tanker Sungari which was anchored off Kuwait's Mina al-Ahmadi port in Kuwaiti territorial waters. Fortunately, there were no casualties. At about 6 a.m. local time the next morning, another Iranian Silkworm missile hit the aft crew compartment

ed on the port side of the keel by the engine room, opening a hole 30 by 23 feet. Extensive damage occurred from the explosion and subsequent fire and flooding. O'Rourke, p. 44, Exhibit 23.

⁵⁰ Letter from the Acting Permanent Representative of the U.S. to the U.N. Security Council, 18 April 1988, U.N. Security Council Doc. S/19791, Exhibit 26.

⁵¹ Message from the U.S. to Iran, 18 April 1988, Exhibit 18.

⁵² Cordesman & Wagner, pp. 311-312, Exhibit 11.

of the Sea Isle City, a Kuwaiti-owned, U.S.-flagged tanker proceeding to the oil loading terminal from the anchorage seven nautical miles east of Mina al-Ahmadi. Eighteen seamen, including the U.S. captain, were injured.⁵³

1.27 On 19 October 1987, United States forces destroyed the Rashadat platform in the Rostam oil field. The platform, which was inoperative as an oil production facility,⁵⁴ was located near the sea lanes and had been used by the Pasdaran to track and report ship movements, as well as to launch mines and boat attacks.⁵⁵ On the same day, the United States duly notified the Security Council that it had taken this action in the exercise of its inherent right of self-defense.⁵⁶ Iran continued its missile attacks, and on 22 October 1987, another Iranian Silkworm missile hit Kuwait's Sea Island terminal.⁵⁷

1.28 Iran denies firing the Silkworm missiles from the Faw Peninsula.⁵⁸ It asserts "the Sea Isle City was well-beyond the range of a Silkworm missile even if such missiles had been

⁵³ U.N. Security Council Doc. S/16877, Add.5, p. 14, Exhibit 14; Letter from the Permanent Representative of Kuwait to the U.N. Security Council, 15 October 1987, U.N. Security Council Doc. S/19210, Exhibit 28; U.N. Doc. S/19219, Exhibit 27; Presidential Letter to Congress, 20 October 1987, p. 1212, Exhibit 29; Cordesman & Wagner, pp. 311-312, 328-332, Exhibit 11; "Iran Fires Missile at Kuwait", Wash. Post, 5 Sep. 1987, p. A1, Exhibit 15; "Iran Hits U.S. Owned Tanker", Wash. Post, 16 Oct. 1987, p. A1, Exhibit 15; "UN Head Told of Attack", FBIS, 19 Oct. 1987, p. 17, Exhibit 15; Cordesman & Wagner, p. 328-329, Exhibit 11.

⁵⁴ Iranian Memorial para. 1.101.

⁵⁵ Palmer p. 139, Exhibit 19.

⁵⁶ Letter from the Permanent Representative of the U.S. to the U.N. Security Council, 19 October 1987, U.N. Security Council Doc. S/19219, Exhibit 27.

⁵⁷ "Silkworm Hits Kuwaiti Oil Terminal", Wash. Post, 23 Oct. 1987, p. A-1, Exhibit 15.

⁵⁸ Iranian Memorial, paras. 1.105, 4.72, and 4.74 and Maps 4 and 5.

placed on Fao".⁵⁹ In this respect, Iran asserts that the Silkworm's maximum effective range was about 85 km (or 45.7 nautical miles), while the distance from Iranian-held territory on Faw Peninsula to the ship was almost 110 km (or 60 nautical miles).⁶⁰

1.29 Nonetheless, Iran had publicly threatened to attack Kuwait with missiles.⁶¹ - Moreover, Iran does not explicitly deny possessing any Silkworm sites on the Faw Peninsula.⁶² In fact, it possessed two sites and a storage facility located there from the time it captured the peninsula from Iraq. Finally, the ship was located within the outer limit of the range of the Silkworm missiles possessed by Iran.⁶³ Map 2.

1.30 Iran also inflicted considerable damage on innocent merchant shipping in the Gulf through aircraft attacks, usually by F-4 fighter aircraft using Maverick missiles and gravity bombs. Most of the 71 Iranian attacks on shipping between May 1984 and October 1986 used these weapons.⁶⁴ On 2 February 1988, two Iranian F-4s once again attacked a merchant ship in the southern Persian Gulf with Maverick missiles, this time firing two at the Liberian tanker

⁵⁹ Iranian Memorial, para. 4.72.

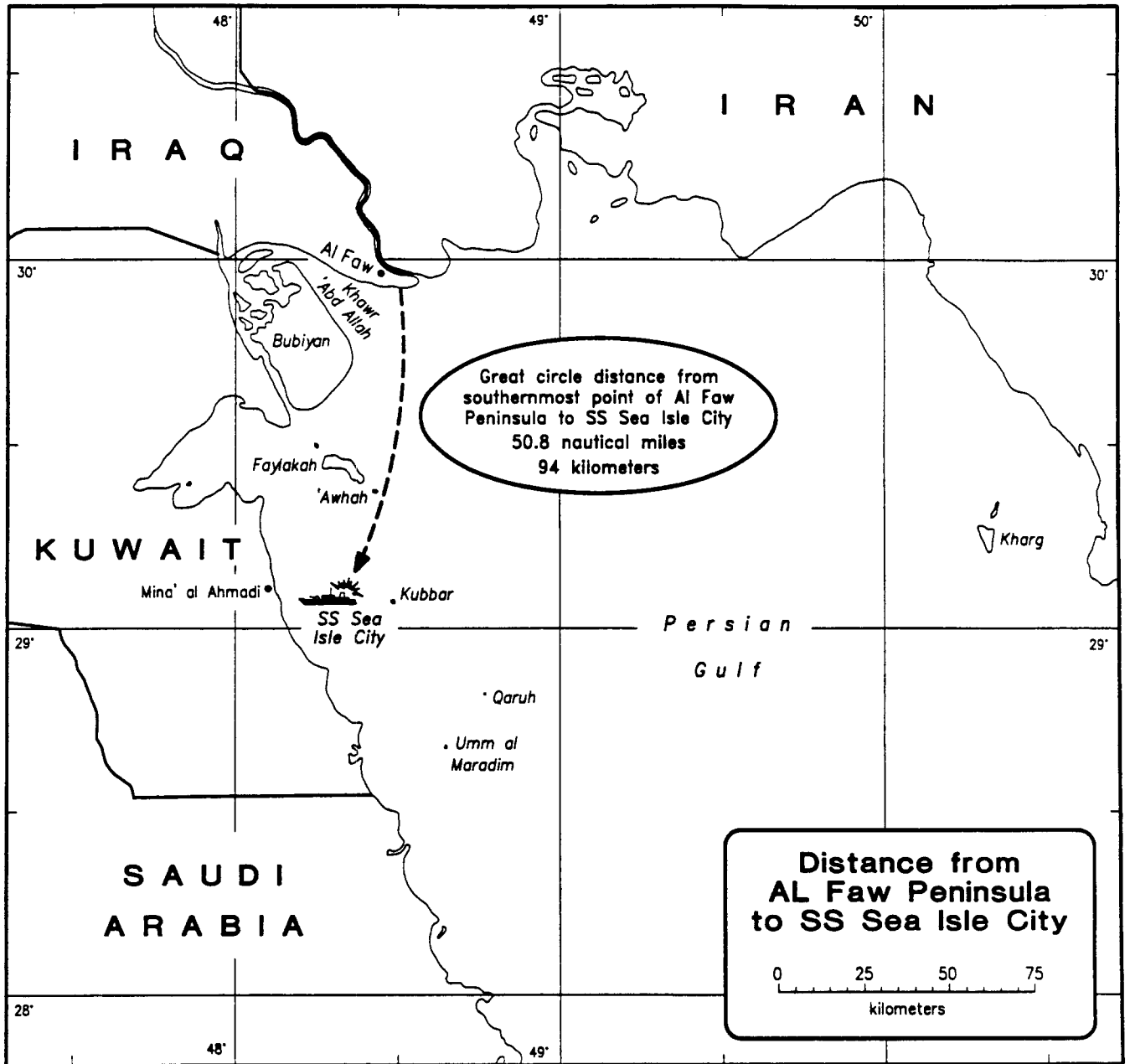
⁶⁰ Iranian Memorial, paras. 1.105, 4.72, and 4.74 and Maps 4 and 5.

⁶¹ On 25 July 1987, Tehran radio quoted Iranian President Ali Khomeini as threatening to fire missiles at Kuwait. Newport, R.I. Daily News, 4 Sep. 1987, p. 1, Exhibit 15.

⁶² Iranian Memorial, para. 1.105.

⁶³ The ship was actually located 50.8 nautical miles (94 km) measured along the great circle from the tip of the Faw Peninsula. Iran possessed Chinese HY-2 Silkworm missiles which have a maximum range of 95 km (51 nautical miles). See, N. Friedman, THE NAVAL INSTITUTE GUIDE TO WORLD NAVAL WEAPONS SYSTEMS (1989), p. 79, Exhibit 30. See also JANE'S WEAPON SYSTEMS 1985-86, p. 75, Exhibit 31.

⁶⁴ Maverick missiles can be launched from ranges of 0.5 to 13 nautical miles and are television guided. The launching aircraft must be able to keep visual track of the target, but does not have to scan the target with radar. Friedman, pp. 47 & 75-76, Exhibit 30; Cordesman & Wagner, pp. 393, 409 n.90, 579 & 590 n.68, Exhibit 11.



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Petrobulk Pilot.⁶⁵

⁶⁵ Sreedhar & Kaul, p. 130, Exhibit 6; Cordesman & Wagner, p. 363, Exhibit 11; "Iran Tries Aerial Attack on Cargo Ship in Gulf", Christian Science Monitor, 3 Feb. 1988, p. 2, Exhibit 15.

CHAPTER II

UNITED STATES MILITARY FORCES DESTROYED THE IRANIAN OIL PLATFORMS AT RASHADAT (ROSTAM) ON 19 OCTOBER 1987 IN RESPONSE TO THEIR USE TO SUPPORT ATTACKS BY IRAN AGAINST U.S. AND OTHER NEUTRAL VESSELS ENGAGED IN PEACEFUL ACTIVITIES IN THE PERSIAN GULF

1.31 On 19 October 1987, the United States responded to the attack on the Sea Isle City as the latest in a series of Iranian missile attacks against U.S.-flagged and other non-belligerent vessels. At approximately 2 p.m. local time on that date, after loudspeaker warnings in Farsi and English to personnel located on the Rashadat (Rostam) Platform and after allowing them to depart the platform, Armed Forces of the United States attacked and destroyed the platform. The platform, which was inoperative as an oil production facility, was armed and equipped with radar and communications devices beyond that reasonably required for the defensive purposes alleged by Iran⁶⁶. Rather, this facility frequently was used for surveillance in the south central Gulf, and as a staging base for small boat and helicopter attacks on innocent shipping. The military forces stationed on the platform had monitored the movements of nearby United States merchant vessels by two surface search radars and other means, assisted in resupplying small boats and helicopters which attacked innocent shipping; and coordinated mine laying in the path of US vessels. ⁶⁷

1.32 In connection with the attack on the Rashadat Platform, U.S. forces boarded and searched another non-producing platform nearby, the Resalat (Rakash), when Iranian military personnel on the platform engaged in action that threatened U.S. forces, manning one of its two

⁶⁶ Iranian Memorial, paras. 1.102 and 1.103.

⁶⁷ S/19219, Exhibit 27; Presidential Letter to Congress, 20 Oct. 1987, Exhibit 29; Cordesman & Wagner, p. 330, Exhibit 11.

twin ZU-23mm guns to use against the approaching U.S. forces. The U.S. search team boarded the platform immediately following the departure of the Iranian military personnel manning the platform and discovered two different kinds of radars and other equipment useful to support and coordinate attacks on innocent shipping. Rakash was destroyed to prevent its continued use in supporting ship attacks in the southern Persian Gulf.

1.33 In accordance with Article 51 of the Charter of the United Nations, on 19 October 1987, the United States immediately notified the Security Council that it had taken this action in the exercise of its inherent right of self-defense. In that communication, the United States referred to the missile attack on the Sea Isle City as the latest in a series of such missile attacks against U.S.-flagged and other non-belligerent vessels in Kuwaiti waters in pursuit of peaceful commerce. The United States also noted that these Iranian actions were only the latest in a series of unlawful armed actions by Iranian forces against the United States, including laying mines in international waters for the purpose of sinking or damaging U.S. flagged ships and firing on United States aircraft without provocation.⁶⁸

⁶⁸ S/19219, Exhibit 27. The actions of the United States were supported by other countries with ships in the area. For example, in response to a question in the House of Lords, the British Minister of State, Foreign and Commonwealth Office, stated that:

"Based on the evidence available, it is our view that the action taken by the United States on 19th October was entirely justifiable in exercise of their right of self-defence in the face of the imminent threat of future attacks."

Exhibit 9, 490 Parl. Deb. H.L. (5th ser.) 724 (1987), reprinted in de Guttry & Ronzitti, at p. 370.

CHAPTER III

UNITED STATES MILITARY FORCES DESTROYED IRANIAN OIL PLATFORMS AT NASR (SIRRI) AND SALMAN (SASSAN) ON 18 APRIL 1988 IN RESPONSE TO THEIR USE TO SUPPORT ATTACKS BY IRAN AGAINST U.S. AND OTHER VESSELS ENGAGED IN PEACEFUL ACTIVITIES IN THE PERSIAN GULF

1.34 At approximately 5:00 p.m. local time on 14 April 1988, the USS Samuel B. Roberts struck a mine in the vicinity of the Shah Allum Shoals, in international waters, while returning to Bahrain after escorting US merchant vessel in the Gulf. Ten U.S. sailors were injured, one seriously, and the ship was damaged severely. United States and other mine clearance forces located and neutralized the remaining mines from these two minefields laid in the convoy route known by Iran to be used by neutral, including U.S., vessels, and intended by Iran to damage or sink such vessels. The mines were identified as Iranian-made moored contact mines (with Iranian serial numbers), of the same type and series previously found on the Iran Air and in the other minefields in the Persian Gulf and Gulf of Oman. The fact that they were not encrusted with marine growth constituted clear evidence that they had been laid recently by Iran.⁶⁹

1.35 In response to this unlawful use of force and as a proportionate measure to reduce the likelihood of further Iranian attacks on merchant vessels, on 18 April 1988, United States military forces attacked and destroyed the gas oil separation platforms Nasr (Sirri), located 19 nautical miles southwest of Sirri Island, and Sassan (Salman), located 3.5 nautical miles north of the UAE-owned Abu Al Bu Khoosh oil field. These platforms, like the Rashadat platform

⁶⁹ U.N. Doc. S/19791, Exhibit 26; Letter from President Reagan, 19 April 1988, Exhibit 25; Cordesman & Wagner, p. 376, Exhibit 11; "U.S. Finds 2 Mines Where Ship was Damaged", N.Y. Times, 16 Apr. 1988, p. 32, Exhibit 15; "U.S. Warship Damaged by Gulf Blast", Wash. Post, 15 Apr. 1988, p. A21, Exhibit 15.

destroyed in response to the Iranian Silkworm attack on the Sea Isle City in October 1987, were being used by Iranian military authorities to support attacks by Iranian gunboats and to lay naval mines. The action taken by U.S. military forces was designed to prevent further use of the platforms for these unlawful purposes.

1.36 Iran's assertion that the platforms were manned and armed for defense only⁷⁰ is incorrect.⁷¹ The platforms were manned by Iranian naval Guards. After being warned in Farsi and English to evacuate the platforms, twenty-nine personnel left Sassan platform in two tugboats; 28 to 30 left later after giving up the fight. Searches of the two platforms revealed that Sassan was armed with three ZU-23mm automatic guns, and quantities of rocket-propelled grenades and a 12.7 mm heavy machine gun of the type used by the IRGC in its attacks on merchant shipping.⁷²

1.37 On the same day, the United States sent a message to Iran reminding it of the repeated warnings of the United States of the consequences of placing mines in international waters of the Persian Gulf in violation of international law.⁷³

1.38 In retaliation, Iranian fighter aircraft were deployed from Bandar Abbas airport to join Iranian frigates and small boats from Abu Musa Island and Qeshm Island in attacks on

⁷⁰ Iranian Memorial, para 1.113.

⁷¹ Cordesman & Wagner, p. 376, Exhibit 11; H. Pawlisch, "Operation Praying Mantis," in M. Palmer, ON COURSE TO DESERT STORM: THE UNITED STATES NAVY AND THE PERSIAN GULF (U.S. Naval Historical Center Contributions to Naval History No. 5, 1992), p. 142, Exhibit 32; B. B. Langston & D. Bringle, "Operation Praying Mantis: The Air View," in Naval Institute Proceedings/Naval Review 1989, May 1989, p.56, Exhibit 33; Perkins, "Operation Praying Mantis: The Surface View," *ibid.* p. 68, Exhibit 33.

⁷² Cordesman & Wagner, p. 285, Exhibit 11.

⁷³ Message from the U.S. to Iran, 18 April 1988, Exhibit 18.

U.S.-owned or associated oil rigs, platforms and jack-up rigs. During the resulting engagement with U.S. forces protecting these rigs and platforms, two Iranian frigates and one missile patrol boat were sunk or severely damaged. One of the Iranian F-4s that scrambled from Bandar Abbas during this incident failed to respond to repeated U.S. warnings. When it continued to close on U.S. vessels, the USS Wainwright launched missiles, damaging the aircraft.⁷⁴

1.39 On 18 April 1988, the United States, in accordance with Article 51 of the Charter, notified the Security Council that it had taken this action in the exercise of its inherent right of self-defense. The United States noted that the armed attack on the USS Samuel B. Roberts was but the latest in a series of offensive attacks and provocations Iranian naval forces had taken against neutral shipping in the international waters of the Persian Gulf. The United States further noted that it had informed the Government of the Islamic Republic of Iran through diplomatic channels on four occasions, most recently on 19 October 1987, that the United States would not accept Iran's mine-laying in international waters or in the waters of neutral states in the Gulf where this would endanger U.S. and other neutral vessels. At that time, the United States indicated that it did not seek a military confrontation with Iran, but that it would take appropriate defensive measures against such hostile acts.⁷⁵

1.40 As the United States asserted in its communication to the Security Council, U.S. actions were taken against legitimate military targets and all feasible measures were taken to minimize the risk of civilian casualties.⁷⁶ In fact, there were no civilian casualties because all

⁷⁴ Letter from President Reagan, 19 April 1988, Exhibit 25.

⁷⁵ U.N. Doc. S/19791, Exhibit 26; Message from the U.S. to Iran, 18 April 1988, Exhibit 18.

⁷⁶ U.N. Doc. S/19791, Exhibit 26. The actions of the United States were supported by other countries with ships in the area. For example, on April 18th, the British Secretary of State for Foreign and Com-

personnel on board both platforms were members of the Iranian armed forces.

monwealth Affairs, Mr. Mellor, stated to the House of Commons:

"The Americans have clear evidence of fresh Iranian mine laying, a cowardly act which we utterly condemn.

* * * *

. . . . We support the American action as a measured and proportionate response to the Iranian mine laying.

* * * *

The unacceptable action in the recent incident was clearly the decision of the Iranians to start laying mines again -- a cowardly act -- the consequence of which was the severe damage done to the United States warship in international waters. In those circumstances, the United States was fully entitled to the right of self-defence, under Article 51 of the United Nations Charter, to take measured and proportionate action against Iranian oil platforms which, the United States says, are used to facilitate attacks on international shipping. I do not believe that we would be any nearer preventing the spread of hostilities in the Gulf if the United States refused to take action on the provocation offered by this fresh mine-laying incident."

131 Parl. Deb., H.C. (5th Ser.) 551-555, 18 Apr. 1988, reprinted in de Guttry & Ronzitti, pp. 285-286, Exhibit 9.

Mr. Mellor later stated to the Foreign Affairs Committee regarding this incident:

"What is clear is that the Iranians are put on notice that if they persist in mining international sea lanes in a way which causes damage certainly to United States interests, they must expect a measured and proportionate response, relying on the right of any sovereign state to take actions in self-defence under Article 51 of the United Nations Charter."

reprinted in de Guttry & Ronzitti, p. 331, Exhibit 9.

On 19 April 1988, the French Ministry for Foreign Affairs stated that it

"reaffirms its attachment to the freedom of navigation and safety in the Gulf and has requested an immediate end to mining operations and any other act hostile to shipping in international waters, since such activities can only lead to measures of self-defence being taken in accordance with international law and the United Nations Charter."

Reprinted in de Guttry & Ronzitti, p. 414, Exhibit 9.

PART II

THE COURT HAS AUTHORITY IN THESE PRELIMINARY PROCEEDINGS TO UPHOLD THE OBJECTION OF THE UNITED STATES TO THE COURT'S JURISDICTION

2.01 Iran is invoking Article XXI(2) of the 1955 Treaty between Iran and the United States as the basis for the Court's jurisdiction.⁷⁷ The United States notes at the outset that, as Applicant, it is Iran's duty to establish that the Court has jurisdiction and that Iran's Application is otherwise admissible.⁷⁸ The United States will demonstrate that Iran cannot meet that burden. Article XXI(2) confers on the Court jurisdiction to decide disputes relating to the interpretation and application of the Treaty. It is the contention of the United States that this is not a dispute involving the interpretation or application of the 1955 Treaty and, accordingly, the Court has no jurisdiction under the Treaty. The United States invokes Article 79 of the Rules of Court and requests that the Court address the issue of jurisdiction first.

2.02 This objection raises a question of whether there is a reasonable connection between the treaty invoked by Iran to establish jurisdiction and the claims submitted to the Court. In the view of the United States, on the basis of any reasonable interpretation of the 1955 Treaty, the facts readily available to the Court sustain this objection. The Court can dispose of the objection at this stage even if the objection raises issues that touch upon the merits of the case. Paragraph 6 of Article 79 of the Rules of Court authorizes the Court to address all legal and factual questions that bear on the issue of a preliminary objection, even to the extent of adducing

⁷⁷ Case Concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Application of the Islamic Republic of Iran of 2 November 1992, p. 8 (hereinafter Iranian Application); Iranian Memorial, para. 2.01.

⁷⁸ S. Rosenne, *THE LAW AND PRACTICE OF THE INTERNATIONAL COURT*, p. 580 (2d ed. 1985) ("Generally, in application of the principle actori incumbit probatio the Court will formally require the party putting forward a claim to establish the elements of fact and of law on which the decision in its favour might be given."), Exhibit 34.

evidence on such questions, in order to dispose of that objection. The history of that provision demonstrates that its essential purpose is to facilitate and encourage the Court to dispose of cases at the preliminary objection stage even where to do so may touch upon the merits of the proceeding.

2.03 In the early 1970s, in connection with the consideration of proposals to enhance the effectiveness of the Court, representatives in the Sixth Committee of the General Assembly criticized the previous practice of the Court in joining preliminary objections to the merits. The debates in the Sixth Committee were summarized in 1970 in the analytical report of the Committee to the General Assembly as follows:

"In particular, the view was expressed that it would be useful for the Court to decide expeditiously on all questions relating to jurisdiction and other preliminary issues which might be raised by the parties. The practice of reserving decisions on such questions pending consideration of the merits of the case had many drawbacks and had been sharply criticized in connexion with the South West Africa cases and the Barcelona Traction case."⁷⁹

This was repeated the next year and was summarized as follows in the 1971 report of the Committee:

"Mention was also made of a suggestion that the Court should be encouraged to take a decision on preliminary objections as quickly as possible and to refrain from joining them to the merits unless it was strictly essential."⁸⁰

2.04 In 1972, the Rules of Court were revised to encourage decisions on questions of jurisdiction and admissibility prior to the merits phase. Previously, the Rules expressly authorized the Court to join the objection to the merits. Paragraph 5 of Article 62 of the 1946 Rules had

⁷⁹ Review of the Role of the International Court of Justice, Report of the Sixth Committee, 11 December 1970, UN General Assembly Doc. A/8238, p. 19, Exhibit 35.

⁸⁰ Review of the Role of the International Court of Justice, Report of the Sixth Committee, 10 December 1971, UN General Assembly Doc. A/8568, p. 21, Exhibit 36.

provided:

"After hearing the parties the Court shall give its decision on the objection or shall join the objection to the merits."

In 1972, the Rules relating to preliminary objections were revised to eliminate this express authorization and provide instead a rule intended to encourage the disposition of such objections prior to the consideration of the merits, even if this required addressing questions of law or fact that may touch upon the merits. Paragraph 7 of Article 67 of the 1972 Rules, which corresponds to paragraph 7 of Article 79 of the current Rules, provides:

"After hearing the parties, the Court shall give its decision in the form of a judgment, by which it shall either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character. If the Court rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time limits for further proceedings."

2.05 Moreover, the Court added a new provision in Article 6 that provides:

"In order to enable the Court to determine its jurisdiction at the preliminary stage of the proceedings, the Court, whenever necessary, may request the parties to argue all questions of law and fact, and to adduce all evidence, which bear on the issue."

These revisions have been recognized as one of the most important changes made in the Rules.⁸¹

2.06 Prior to these revisions, the Court had felt compelled to join the issue of jurisdiction with the merits where determination of a preliminary objection required consideration of questions of fact or law that may bear a close relationship to some of the issues on the merits of the case. As recognized by the Member of the Court who was the chairman of the Court's committee that

⁸¹ E. Jimenez de Arechaga, "The Amendments to the Rules of Procedure of the International Court of Justice," 67 American Journal of International Law, pp. 1, at p 11 (1973), Exhibit 37; G. Guyomar, COMMENTAIRE DU REGLEMENT DE LA COUR INTERNATIONALE DE JUSTICE - INTERPRETATION ET PRATIQUE, p. 371 (1972), Exhibit 38.

proposed these revisions and one of their principal architects, paragraph 6 is intended to provide a different solution to such difficulties:

"In the presence of such an objection, the Court, instead of bringing in the whole of the merits by means of a joinder, would, according to paragraph 6, request the parties to argue at the preliminary stage those questions, even those touching upon the merits, which bear on the jurisdictional issue. Thus, there would no longer be justification for leaving in suspense or for postponing a decision of the Court's own jurisdiction."⁸²

Similarly, Professor Guyomar concluded:

"L'alinéa 6 reconnaît à la Cour le droit d'inviter les Parties à débattre tout point de fait ou de droit, et à produire tout moyen de preuve ayant trait à la question de la compétence de la Cour, ceci afin de permettre à cette dernière de se prononcer sur ce point au stage préliminaire de la procédure. L'accent semble donc mis sur la nécessité de statuer sur la compétence avant d'entamer l'examen de l'affaire au fond: c'est là un élément nouveau et vraisemblablement très important."⁸³
(Emphasis added).

2.07 The United States' objection to Iran's assertion of jurisdiction under the 1955 Treaty is the kind of objection which can and should be disposed of under paragraph 6 of Article 79 of the Rules. This objection goes to the question of whether there is a reasonable connection between the Treaty and Iran's claims and raises the fundamental issue of the absence of consent by the United States to these proceedings.

2.08 In accordance with Article 36(1) of the Statute, the jurisdiction of the Court under

⁸² E. Jimenez de Arechaga; *op. cit.*, p. 13, Exhibit 37.

⁸³ G. Guyomar, *op. cit.*, p. 371, Exhibit 38. As translated into English, Professor Guyomar concluded: "Paragraph 6 acknowledges the Court's right to invite the Parties to debate any point of fact or law, and to produce any evidence relating to the issue of the Court's jurisdiction in order to allow the Court to rule on this point in the preliminary stage of the procedure. In this way, the emphasis appears to be placed on the need to rule on the matter of jurisdiction prior to undertaking an examination of the case on its merits. This is a new and seemingly very important element." (Emphasis added.)

the 1955 Treaty rests on the consent of the States concerned.⁸⁴

2.09 A state cannot be presumed to have consented to jurisdiction simply on the basis of a mere assertion by another State that a particular dispute arises under one of those conventions. As the Court expressly held in Ambatielos, "It is not enough for the claimant government to establish a remote connection between the facts of the claim" and the treaty upon which jurisdiction was founded.⁸⁵ The claimant government must establish a reasonable connection

⁸⁴ See Anglo-Iranian Oil Co. (United Kingdom v. Iran), Judgment, I.C.J. Reports 1952, p. 93, at p. 103; Ambatielos (Greece v. United Kingdom), Preliminary Objections, Judgment, I.C.J. Reports 1952, p. 28, at p. 38; Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 65, at p. 71. As the Court said in the Peace Treaties case, "The consent of States, parties to a dispute, is the basis of the Court's jurisdiction in contentious cases." Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 65, at p. 71. In Border and Transborder Armed Action (Nicaragua v. Honduras), Jurisdiction and Admissibility, Judgment, the Court affirmed the essential nature of its responsibility to establish the consent of the parties to confer jurisdiction upon the Court, I.C.J. Reports 1988, p. 69, 76.

⁸⁵ Ambatielos, (Greece v. United Kingdom), Merits, Judgment, I.C.J. Reports 1953, p. 10, at p. 18. In that case, the question was whether the Court had jurisdiction under a 1926 Treaty of Commerce and Navigation between the United Kingdom and Greece to decide whether the United Kingdom was under an obligation to submit to arbitration a dispute between the two governments as to the validity of the Ambatielos claim in so far as the claim was based on an 1886 Treaty of Commerce and Navigation between the parties. The Court rejected the contention by the United Kingdom that before the Court could decide upon arbitration it was necessary for the Court to determine whether the claim was actually or genuinely based upon the 1886 Treaty, holding that to do so would be to substitute the Court impermissibly for the special commission of arbitration established under the 1886 Treaty. Ibid., pp. 16-17. In the unique circumstances of that case, the Court concluded that it must determine whether the arguments were "sufficiently plausible" to establish a connection between the claim and the 1886 Treaty. Ibid., p. 18. Before concluding that it had the jurisdiction to refer the dispute to the special commission, the Court analyzed the particular claim to determine if it came within the scope of the 1886 Treaty. Ibid., pp. 16, 18. For the purposes of that case, the Court concluded that its function was limited to determining simply whether the arguments were of a sufficiently plausible character to warrant a conclusion that the claim at issue was based on the treaty. Ibid., p. 18. A few years later, in a case involving a contract dispute between UNESCO and four former employees, the Court was asked to address a similar question of interpretation regarding the relationship of the contract claims to the provisions of the Statute of the Administrative Tribunal of the International Labour Organization. In that case, the Court concluded that "It is necessary that the complaint should indicate some genuine relationship between the complaint and the provisions invoked" and characterized the issue as "whether the terms and the provisions invoked appear to have a substantial and not merely an artificial connection with the refusal to renew the contracts." Judgments of the Administrative Tribunal of the ILO upon Complaints Made Against UNESCO, Advisory Opinion, I.C.J. Reports 1956, p. 77, at p. 89.

between the treaty and the claims submitted to the Court.⁸⁶

2.10 For the purposes of disposing of the United States' objection, the Court may rely on a reasonable interpretation of the 1955 Treaty in relation to the facts as described in documents of the United Nations or other international organizations, supplemented as necessary and appropriate by the submissions of the Parties.⁸⁷ In accordance with paragraph 6 of Article 79, the Court may and, in the view of the United States, should uphold the objection of the United States without proceeding to the merits of this case.

⁸⁶ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 392, at pp. 427-429. In that case, the United States objected that a treaty of Friendship, Commerce and Navigation relied upon by Nicaragua to establish jurisdiction in those proceedings was irrelevant to the subject matter of Nicaragua's claims before the Court and, therefore, provided no basis for such jurisdiction. Although the Court concluded that the treaty provided a basis for jurisdiction, it did so on the basis of an analysis of Nicaragua's claims in light of the circumstances in which Nicaragua brought its Application to the Court and the facts asserted by Nicaragua. A similar analysis of Iran's claims in light of the circumstances in which Iran brought its Application to the Court and the facts asserted by Iran demonstrates that the 1955 Treaty does not provide jurisdiction in these proceedings.

⁸⁷ To the extent that a factual issue relating to the events of 19 October 1987 and 18 April 1988 arises incidentally to the disposition of these objections, that issue can be resolved on the basis of United Nations documents, such as the reports submitted by the Secretary-General relating to attacks on neutral shipping in the Persian Gulf or information publicly and widely available. To the extent necessary and appropriate, this information can also be supplemented by pleadings of the Parties.

PART III

THE 1955 TREATY PROVIDES NO BASIS FOR JURISDICTION IN THIS CASE

3.01 Although Iran seeks to characterize this case as one involving violations of the 1955 Treaty, it is clear from its Application and Memorial that Iran is attempting to use the Treaty in order to bring before the Court claims that the United States violated provisions of the United Nations Charter and principles of customary international law relating to the use of force by one state against another. As Iran is well aware, the Court has no jurisdiction to hear such complaints against the United States. Iran's efforts to recast the 1955 Treaty, addressing purely commercial and consular matters as addressing the fundamental issues of war and peace fly in the face of the terms of the 1955 Treaty and its history as well as the jurisprudence of the Court.

CHAPTER I

IRAN'S ALLEGATIONS OF VIOLATIONS BY THE UNITED STATES OF THE UNITED NATIONS CHARTER AND GENERAL INTERNATIONAL LAW ARE NOT WITHIN THE COURT'S JURISDICTION

3.02 The specific events upon which Iran relies in its Application of 2 November 1992, and Memorial of 8 June 1993, to establish jurisdiction of the Court under the 1955 Treaty are the destruction of the oil platform at Rashadat (Rostam) in October of 1987 and the oil platforms at Nasr (Sirri) and Salman (Sassan) in April of 1988.

3.03 After the destruction of the Rashadat (Rostam) platform, by letter of 21 October 1987 to the Security Council, Iran characterized the attack by the United States as an "act of aggression" which "represents an illegal resort to force against the sovereignty and territorial integrity" of Iran. It went on to refer to "the series of aggressive acts" that the United States "has carried out in the past month" against Iran and "its aggression against Iranian patrol boats." Without expressly having requested action, Iran chided the Security Council for its silence in the face of the "aggressive intentions" of the United States. Finally, Iran declared that "it will continue to take the necessary and effective measures under Article 51 of the Charter in order to defend its territorial integrity and sovereign rights against American policy of aggression," and that "the United States and its clients will have to bear full responsibility for the consequences of a fire they initially set."⁸⁸

3.04 Iran's reaction six months later to the second set of events upon which it relies confirms and clarifies Iran's objections to U.S. actions as violations of the Charter. In its letter

⁸⁸ Letter Dated 20 October 1987 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, 21 October 1987, UN Security Council Doc. S/19224, Exhibit 39.

to the Secretary-General of 18 April 1988, after reiterating its charges that the United States had committed "acts of aggression against the territorial integrity of [Iran]," Iran asserts that "it is expected that international organizations and Your Excellency condemn this American act of aggression which contravenes the Charter of the United Nations."⁸⁹

3.05 Neither the Secretary-General nor the Security Council or any other international organization took any action on the basis of those communications. To the contrary, the international community condemned Iran's unlawful attacks against innocent neutral shipping in the Persian Gulf.⁹⁰

3.06 At no time during these events or during the four years following them did Iran assert any claim that the actions of the United States violated the 1955 Treaty, or initiate any discussion regarding these events and possible compensation. The failure to raise these matters during this long period becomes even more surprising in view of the case Iran filed against the United States in this Court in May 1989 in connection with the aerial incident of 3 July 1988. One of Iran's principal assertions in that case is that the United States had been engaged for some time preceding that incident in a course of aggressive action against Iran. In making that assertion, Iran relies upon actions the United States had taken to protect its merchant vessels engaged in innocent activity in the Gulf.⁹¹

⁸⁹ Letter Dated 18 April 1988 from the Acting Permanent Representative of the Islamic Republic of Iran to the United Nations Addressed to the Secretary-General, 18 April 1988, UN Security Council Doc. S/19796, Exhibit 40.

⁹⁰ See footnote 76, supra.

⁹¹ See, e.g., Case Concerning the Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America), Memorial of the Islamic Republic of Iran, pp. 25-26, 29-31, 209, 230, 234-235, Exhibit 41. See also Case Concerning the Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America), Observations of Iran on US Preliminary Objections, pp. 34, 42.

3.07 Yet, even after Iran belatedly introduced the argument in July 1990 that the 1955 Treaty provided an added basis for the Court's jurisdiction in that case, Iran remained silent regarding the destruction of the three platforms for almost another two years. It was not until July of 1992 that Iran for the first time asserted any violation by the United States of the 1955 Treaty in connection with these events.

3.08 While there existed many channels that Iran might have used to raise this matter with the United States, the existence of one channel in particular makes the failure of Iran to raise the matter especially egregious. During the entire four-year period between the occurrence of the events at issue and the time Iran raised this matter with the United States, the United States and Iran were in continuous contact regarding the resolution of other legal disputes between them, particularly through their representatives at the Iran/United States Claims Tribunal in The Hague. Indeed, it was in connection with one of those discussions, in July 1992, that Iran first belatedly raised this claim under the 1955 Treaty.⁹²

3.09 In its Memorial, Iran asserts that the United States has "violated fundamental principles of international law" in a number of respects unrelated to the 1955 Treaty upon which it relies to establish the Court's jurisdiction and requests the Court to make findings based upon those violations, without even a pretense of establishing the jurisdiction of the Court to entertain such claims.⁹³ Iran has not asserted that the jurisdiction of this Court arises under Article 36(2) of the Statute of the Court, nor pursuant to the compromissory clauses of any convention other

⁹² Iranian Memorial, para. 2.18.

⁹³ Id., para. 3.

than the 1955 Treaty. In its Memorial, however, Iran makes various assertions that the United States has violated the United Nations Charter, rules of customary international law regarding the use of force, neutrality, sovereignty, non-intervention, and the Algiers Accords.⁹⁴

3.10 The United States denies that its actions have violated any of these conventions, principles, or rules of customary international law. In any event, this Court does not have jurisdiction to determine whether the United States has violated the United Nations Charter, rules of customary international law or the Algiers Accords, and must accordingly disregard these allegations.⁹⁵

3.11 In this regard, it is important to note that in the Nicaragua case, the Court considered Nicaraguan allegations that the United States violated principles of general international law, but did not do so under the comparable FCN treaty with Nicaragua. Rather, the Court considered these allegations in connection with the general acceptance of the Court's jurisdiction by the United States pursuant to the declaration it filed under Article 36(2) of the Statute of the Court.⁹⁶ The Court limited its consideration of the FCN treaty to alleged violations of the specific terms of that treaty (see discussion in Chapter II below). In the present proceeding, there is no claim that the Court has jurisdiction under Article 36(2) of the statute of

⁹⁴ Id., pp. 32-33, 78-79.

⁹⁵ In Application of the Convention on the Prevention and Punishment of the Crime of Genocide [Bosnia and Herzgovina v. Federal Republic of Yugoslavia (Serbia and Montenegro)], Order of 13 September 1993, the Court rejected an effort by a claimant to rely upon customary and conventional international laws of war where the claimant invoked an instrument which did not by its terms confer jurisdiction over that subject on the Court.

⁹⁶ Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 97, para. 182, pp. 135-136, paras. 270-272; Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1986, p. 424, para. 73.

the Court and the Court's consideration of Iranian claims is, therefore, limited to alleged violations of the terms of the 1955 Treaty.

3.12 Iran apparently did not contemplate that the 1955 Treaty had any relation to the events at issue in these proceedings, even for a long time after it had belatedly asserted that the Treaty was relevant to the aerial incident of 3 July 1988. Nonetheless, having failed to obtain condemnation of the United States in the Security Council, Iran seeks through this action to recast the complaints it made to the Security Council that the United States violated general international law as violations of the 1955 Treaty. However, neither the 1955 Treaty nor the jurisprudence of the Court support such a callous manipulation of the Treaty or the Court.

CHAPTER II

THE 1955 TREATY IS WHOLLY IRRELEVANT TO THE DISPUTE THAT IS THE SUBJECT OF IRAN'S APPLICATION

3.13 Iran's claims relate exclusively to the events of 19 October 1987 and 18 April 1988.

The 1955 Treaty is wholly irrelevant to those events. As this Court held in Ambatielos, "It is not enough for the claimant Government to establish a remote connection between the facts of the claim and the Treaty" upon whose compromissory clause it relies.⁹⁷ Iran must establish a reasonable connection between the 1955 Treaty and its claim against the United States relating to the events of 19 October 1987 and 18 April 1988. Iran has failed to do so.

3.14 The 1955 Treaty is concerned with the commercial interests of the nationals of the two countries in the territories of the other party and with certain consular matters, not with the consequences of events such as those with which this case is concerned, involving hostile encounters between armed forces of the two Parties in the context of an ongoing armed conflict.

3.15 The Treaty is one of a series of what were commonly referred to as "Friendship, Commerce and Navigation" or "FCN" treaties entered into by the United States following World War II. Those treaties contain provisions covering such subjects as entry and sojourn, personal freedoms, property rights, rights with respect to business activities, taxation, exchange regulation, and other matters affecting the status and activities of citizens and enterprises of one country within the territories of the other.⁹⁸ The purpose of the treaties is to provide protection for the

⁹⁷ Ambatielos (Greece v. United Kingdom), Merits, Judgment, I.C.J. Reports 1953, p. 10. at p. 18.

⁹⁸ Treaty with Belgium: Message from the President of the United States, S. Exec. Doc. J, 87th Cong., 1st Sess., p. 2 (1961), Exhibit 42; Treaty with Viet Nam: Message from the President of the United States, S. Exec. Doc. L, 87th Cong., 1st Sess., p. 2 (1961), Exhibit 43; Commercial Treaties with Belgium and Viet Nam, S. Exec. Rep. No. 9, 87th Cong., 1st Sess., p. 1 (1961), Exhibit 44; Treaties of Friendship, Commerce, and Navigation with Israel, Ethiopia, Italy, Denmark, Greece, Finland, Germany,

property and interests of American citizens and companies in the territory of the other party and to assure fair and nondiscriminatory treatment with respect to engaging in commercial, industrial and financial activities in those countries, in return for like assurances for the nationals of those other parties in the territory of the United States.⁹⁹ There is simply no relationship between these wholly commercial and consular provisions of the Treaty and Iran's Application and Memorial, which focus exclusively on allegations of unlawful uses of armed force.

3.16 Iran asserts that the United States attacks on the oil platforms at Rashadat (Rostam), Nasr (Sirri) and Salman (Sassan) directly violate Articles I, IV(1) and X(1) of the 1955 Treaty.¹⁰⁰ Even a cursory review of these articles of the 1955 Treaty shows that they have no reasonable connection to the incidents of 19 October 1987 and 18 April 1988.

Section 1. Article I Does Not Create Legal Obligations Different from Other FCNs.

3.17 Article I provides that "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran." Iran asserts that Article I creates

and Japan: Hearing before the Subcommittee of the Senate Committee on Foreign Relations, 83d Cong., 1st Sess., pp. 2-3 (1953), Exhibit 45; Treaty of Amity, Economic Relations, and Consular Rights with the Sultan of Muscat and Oman and Dependencies: Message from the President of the United States, S. Exec. Doc. A, 86th Cong., 1st Sess., p. 2 (1959), Exhibit 46; Commercial Treaties with Iran, Nicaragua, and The Netherlands, S. Exec. Doc. 9, 84th Cong., 2d Sess., p. 1 (1956), Exhibit 47; Treaty of Amity, Economic Relations, and Consular Rights with the Sultan of Muscat and Oman and Dependencies: Message from the President of the United States, S. Exec. Doc. No. 1 86th Cong. 1st Sess. (1959), Exhibit 51; Treaty of Friendship, Commerce, and Navigation with China S. Exec. Rep. No.8, 80th Cong. 2d Sess. (1948), Exhibit 56. See also Herman Walker, "Modern Treaties of Friendship, Commerce, and Navigation," 42 Minnesota Law Review, pp. 805-809 (1958), Exhibit 48.

⁹⁹ Ibid.

¹⁰⁰ See, e.g., Iranian Application, pp. 5-6 and Iranian Memorial, paras. 3.02, 3.48, 3.59, 3.69.

legal obligations relating not only to the maintenance of "firm and enduring peace", but also "sincere friendship", that go beyond the specific obligations set out in the remainder of the Treaty. Indeed, Iran construes this Article as creating a "precise" obligation to comply with general principles of international law relating to the use of force between States and, more generally, to friendly relations - even if some of those principles had not been clearly articulated or widely recognized when the Parties entered into the 1955 Treaty.

3.18 In making these arguments, Iran seeks to transform the 1955 Treaty from one that is purely commercial and consular into one that legally governs the overall relationship between the two States, involving not only fundamental questions of use of force relating to the security of the State, but the entire scope of their general relations as well. Thus, Iran goes so far as to assert that "the general attitude adopted by the United States towards the war" between Iraq and Iran "flagrantly violated the United States' obligations under the terms of Article 1 of the Treaty and general international law."¹⁰¹

3.19 As the Judgment in the Nicaragua case suggests, Iran reads far too much into Article I. In that case, the Court was asked to address similar questions relating to the scope of the FCN treaty between the United States and Nicaragua. There Nicaragua asked the Court to rule that "a state which enters into a treaty of friendship binds itself ... to abstain from any act toward the other party which could be classified as an unfriendly act". The Court rejected this overreaching interpretation. It held that:

"There must be a distinction, even in the case of a treaty of friendship, between the broad category of unfriendly acts, and the narrower category of acts tending to defeat the object and purpose of the Treaty. That object and purpose is the

¹⁰¹ Iranian Memorial, paras. 3.30 and 3.48.

effective implementation of friendship in the specific fields provided for in the Treaty, not friendship in a vague general sense." ¹⁰²

3.20 Although the Court went on to find that certain activities in which the United States engaged violated the FCN with Nicaragua, it did so only after it satisfied itself both that the United States activities were directed against purely commercial activities protected by the FCN and that such activities were not necessary to protect the essential security interests of the United States.¹⁰³ Neither of those conditions exists in regard to the Application filed by Iran in this case.

3.21 Iran seeks to distinguish its 1955 Treaty from the one at issue in the Nicaragua case based on the slight differences in the language of the two treaties. Thus, while the Nicaraguan treaty refers to the goal of strengthening the bonds of peace and friendship in the Preamble, the 1955 Treaty addresses this subject in Article I. ¹⁰⁴ Iran suggests that this difference was intended

¹⁰² The Court noted in connection with this holding that the FCN in question, like the 1955 Treaty, specifically obligates the parties to accord sympathetic consideration to, and afford adequate opportunity for consultation regarding representations the other party may make respecting the operation of the treaty. Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 137. At no point during the four years following the events at issue here, or in the period leading up to the filing of its Application, did Iran identify the activities of the United States as matters affecting the operation of the Treaty. Notably, other questions relating to the operation of the Treaty were raised during this period, in connection with matters before the Iran/United States Claims Tribunal and the events of July 1988.

¹⁰³ Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, pp. 140-142.

¹⁰⁴ The preambular paragraph of the Nicaragua FCN reads:

The United States of America and the Republic of Nicaragua, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples, and being cognizant of the contributions which may be made towards these ends by arrangements encouraging mutually beneficial investments, promoting mutually advantageous commercial intercourse and otherwise establishing mutual rights and privileges, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of

to create "broader obligations in the field of peaceful and friendly relations" "in addition to the specific obligations frequent in this kind of treaty." ¹⁰⁵

3.22 The history relating to these treaties indicates that this difference in language was not intended or understood to create an obligation different from that already contained in other FCNs. As was explained with regard to a virtually identical Article in the FCN with Ethiopia:

"Such provisions though not included in the recent treaties of friendship, commerce, and navigation, are in keeping with the character of such instruments and serve to emphasize the essentially friendly character of the treaty." ¹⁰⁶

3.23 Invoking the provision in the Preamble relating to friendship, Nicaragua, like Iran, asserted that its FCN is "without doubt a treaty of friendship which imposes on the parties the obligation to conduct amicable relations with each other." ¹⁰⁷ Indeed, the Court was asked by Nicaragua to rule that "a state which enters into a friendship treaty binds itself, for so long as the Treaty is in force, to abstain from any act toward the other party which could be classified as an

national and most-favored-nation treatment unconditionally accorded...(Our emphasis.)

Treaty of Friendship, Commerce, and Navigation Between the United States of America and the Republic of Nicaragua, 9 U.S.T. 449, T.I.A.S. 4024, 367 U.N.T.S. 3 (entered into force May 24, 1958, terminated May 1, 1986), Exhibit 49.

Article I of the Iran FCN reads:

There shall be firm and enduring peace and sincere friendship between the United States of America and Iran.

8 U.S.T. 899, TIAS 3853, 284 U.N.T.S. 93, Exhibit 1.

¹⁰⁵ Iranian Memorial, para. 3.29.

¹⁰⁶ Treaty of Amity and Economic Relations with Ethiopia: Message from the President of the United States, S. Exec. Doc. F, 82d Cong., 2d Sess., p. 2 (1951), Exhibit 50.

¹⁰⁷ Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, pp. 136-137, para. 272.

unfriendly act." ¹⁰⁸

3.24 In distinguishing between the broad category of unfriendly acts and the narrow category of acts tending to defeat the object and purpose of the treaty in the Nicaragua case, the Court did not deal simply with that treaty, but addressed more generally "the case of a treaty of friendship".¹⁰⁹ In doing so, the Court looked to what the parties may have foreseen in the treaty.¹¹⁰ In regard to this question, the United States, like the Court, has viewed friendship treaties generally alike.

3.25 During the ratification process relating to the four FCNs that contain provisions such as that found in Article I of the 1955 Treaty, the provision was not viewed as making any substantive change from the traditional FCNs. For example, in regard to the FCN with Oman and Muscat, after pointing out that this FCN is an abridged version of the traditional FCN, the U.S. Senate was informed: "In both form and substance, however, it adheres to the general pattern of the standard treaty of friendship, commerce and navigation."¹¹¹ Moreover, although substantive differences between that FCN and the standard treaty were discussed during consideration by the Senate of that treaty, the addition of a new Article I was not identified as a substantive difference.¹¹² The same is true with respect to the other FCNs. ¹¹³

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Treaty of Amity, Economic Relations, and Consular Rights with the Sultan of Muscat and Oman and Dependencies: Message from the President of the United States, S. Exec. Doc. A, 86th Cong., 1st Sess., Appendix I, p. 1 (1959), Exhibit 46.

¹¹² Ibid.

3.26 The understanding that the movement of language from the Preamble to Article I did not result in any substantive difference on this subject from the traditional FCN is further supported by an internal unclassified study of the standard draft treaty of friendship, commerce and navigation that was prepared by the Department of State in 1962. That study analyzed all of the FCN treaties of the United States from 1946 to that date article by article and paragraph by paragraph, including the four that contained the provision found in Article I of the 1955 Treaty.¹¹⁴ The Study included tables for each treaty comparing its provisions against the provisions of the standard draft and providing brief summaries of the principal variations between the individual treaty and the standard draft. The standard draft dealt with the subject of friendly and peaceful relations in the preamble, as in the Nicaragua treaty.

3.27 The Study confirms that the introduction of new Article I was not understood to reflect any change in the legal obligations of the parties. The Study explains that the summaries of variations discuss only those variations with a measure of substantive effect.¹¹⁵ Notably, in regard to each of the four FCNs containing a provision such as Article I of the 1955 Treaty, the summary of variations omitted any reference to the new provision, although the change is

¹¹³ Commercial Treaties with Iran, Nicaragua, and the Netherlands, S. Exec. Rep. No. 9, 84th Cong., 2d Sess., pp. 7-8 (1956), Exhibit 47; A Treaty of Friendship, Commerce, and Navigation between the United States of America and the Republic of China: Hearing before a Subcommittee of the Senate Committee on Foreign Relations, 80th Cong., 2d Sess., pp. 34-35 (1948), Exhibit 52. While noting the new provision, the report on the FCN with Ethiopia indicates that the FCN does not differ significantly in this respect from other FCNs. Treaty of Amity and Economic Relations with Ethiopia: Message from the President of the United States, S. Exec. Doc. F, 82d Cong., 2d Sess., p. 2 (1951), Exhibit 50.

¹¹⁴ C. Sullivan, DEPARTMENT OF STATE. TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION. STANDARD DRAFT. (ANALYSIS AND BACKGROUND), pp. 336, 369-73 (1962), Exhibit 53.

¹¹⁵ Id., at 336.

carefully noted in the comparison table.¹¹⁶

3.28 It is difficult to believe that Iran construed the 1955 Treaty as regulating the general relations of the parties, much less the right of the parties in such fundamental matters as the use of force. It is clear that the FCN Treaty was not introduced as some sort of substitute for or supplement to the rules of armed conflict and the use of force contained in the UN Charter, the laws of war and general international law, as Iran suggests. There was no conceivable need for such a substitute in a commercial treaty since these general rules already were applicable to the two parties. There is also no suggestion whatsoever in the history of the Treaty that it was so designed.¹¹⁷

3.29 Indeed, Iran rejected such a construction in another context. In a pleading objecting to the continuing operation of the Treaty in connection with claims before the Iran-U.S. Claims Tribunal established by the Algiers Accords, Iran asserted:

"The situation which existed (and which included the sending of a U.S. military expedition into Iranian territory, as well as the seizure of Iranian assets) was not one which could be said to be regulated by the terms of the 1955 Treaty of Amity. The situation was unforeseen by that Treaty and cannot be regulated by it." (Emphasis added).¹¹⁸

¹¹⁶ Id., at 336, 369-73.

¹¹⁷ Commercial Treaties with Iran, Nicaragua, and the Netherlands, S. Exec. Rep. No. 9, 84th Cong., 2d Sess. (1956), Exhibit 47; C. Sullivan, DEPARTMENT OF STATE. TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION. STANDARD DRAFT. (ANALYSIS AND BACKGROUND), pp. 336, 369-73 (1962), Exhibit 53. There is nothing in the Treaty that one would find essential if these matters were intended to be covered: for example; no affirmation of the right of self-defense; no reference to the authority of the Security Council or regional bodies to authorize enforcement actions by Member states; no reference to the rights of states to take action within their internal waters, territorial seas or adjacent waters to enforce their laws or deal with security threats; no provisions for permissible and impermissible uses of naval mines, rights of visit and search; carriage of contraband, legitimate military targets, and the like.

¹¹⁸ Amoco International Financial Corp. v. The Islamic Republic of Iran, et. al., Defense and Counterclaim of the Islamic Republic of Iran et. al., Case No. 56, Iran-United States Claims Tribunal, 24 May 1984, pp. 28-30, Exhibit 54. In this case, the parties had entered into a series of agreements

It follows from this assertion by Iran that the situation that existed at the time of the events of October 1987 and April 1988 occurred was also not one foreseen by the Treaty and cannot be regulated by it.

Section 2. Article IV(1) Addresses the Protections That the United States Owes to the Nationals of Iran in the Territory of the United States

Article IV(1) provides:

"Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws."

3.30 Article IV(1) deals with the treatment by one party of nationals and companies of the other party that come within its territory for commercial or private purposes. It is designed to preclude host State actions that would impair ownership and managerial control, and to permit the vindication of contractual rights of such nationals and companies. This article must be read in the context of other Articles of the Treaty, which provide for the rights of nationals and companies of one Party to enter and remain in the territory of the other Party for the purpose of conducting commercial activities. As the U.S. Senate was informed in regard to these provisions

establishing a joint venture to produce and market natural gas and related products. Claimant argued that Iran had deprived it of its 50% property interest in the business. Among other thing, the parties disputed the applicable international standards for expropriation. Iran argued that the Treaty was no longer operative. The Tribunal held that the Treaty was in force, at least at the time of the expropriation. See Amoco International Finance Corp. v. Iran, Award 310-56-3, 15 Iran-United States Claims Tribunal Reports, pp. 189, 214-219 (1987), Exhibit 55.

during the process of ratifying the Iranian FCN:

Articles II, IV, V and VI spell out the rights of nationals and companies of one party in the territory of the other with respect to juridical status, access to courts, protection of property, pursuit of permissible enterprises, acquisition and sale of property, protection of inventions, trademarks, and trade names, and equal or most favored nation treatment regarding taxes, fees, or charges. (Emphasis added).¹¹⁹

3.31 Article IV cannot be read as a wholesale warranty by each Party to avoid all injury to the nationals and companies of the other Party regardless of location of those nationals and companies and regardless of whether the injury relates to commercial activities addressed in the Treaty. The events of October 1987 and April 1988 do not implicate actions by the United States against the nationals or companies of Iran in the territory of the United States, which is the focus of Article IV.

3.32 In this respect, it is important to note that Nicaragua, in its case against the United States before this Court, unsuccessfully sought to apply the comparable provision of its FCN with the United States in a similar manner. Nicaragua suggested that the requirement for "equitable treatment" precluded the United States from killing, wounding or kidnapping citizens of Nicaragua. The Court expressly declined to accept Nicaragua's assertion that the provision for "equitable treatment" creates an obligation on the part of the United States in regard to Nicaraguan citizens in Nicaragua, but concluded it did not need to take a decision on this claim because Nicaragua had failed to satisfy the Court that the United States was responsible for the actions in question.

3.33 The terms of the 1955 Treaty demonstrate that this provision, like the comparable

¹¹⁹ Commercial Treaties with Iran, Nicaragua, and The Netherlands, S. Exec. Rep. No. 9, 84th Cong., 2d Sess., p. 9 (1956), Exhibit 47.

provision found in other FCNs, was intended to address the actions of one party within its territory against the nationals of the other party.¹²⁰ Iran has not alleged that there has been discriminatory treatment against Iranian nationals or companies in the United States. Thus Article IV(1) has no reasonable connection to the incidents of 19 October 1987 and 18 April 1988.

Section 3. Article X(1) Was Intended to Promote Freedom of Navigation and Commerce - Not Obstruct It

3.34 Article X(1) provides that "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation." Iran's claim as stated in both the Application and its Memorial does not involve commerce "between the territories of" the United States and Iran.¹²¹ Furthermore, Iran's claim does not in any fashion allege a course of action on the part of the United States to hinder the freedom of maritime commerce. Quite to the contrary, all of the actions by the United States were taken to advance freedom of navigation, consistent with the views expressed by the Security Council in Resolution 552. This is to be

¹²⁰ Supra, para 3.15. The Court has stated that

"The very purpose of a treaty of amity . . . is to promote friendly relations between two countries concerned, and between their peoples, more especially by mutual undertakings to ensure the protection and security of their nationals in each other's territory."

U.S. Diplomatic and Consular Staff (United States of America v. Islamic Republic of Iran), I.C.J. Reports 1980, pp. 3, 28, para. 54 (emphasis added).

¹²¹ As the U.S. Senate was informed during the process of ratifying the 1955 Treaty, Article X

. . . details the rights of vessels flying the flag of either party in the ports of the other and in general provides national treatment and most-favored-nation treatment, except for coast wise, inland, and fishing traffic.

Commercial Treaties with Iran, Nicaragua, and The Netherlands, S. Exec. Doc. No. 9, 84th Cong. 2d Sess., p. 3 (1956), Exhibit 47.

contrasted with the claims presented in Nicaragua, in which the Court found that the mining of Nicaraguan ports by the United States directly interfered with activities protected by the comparable provision of that FCN.¹²²

3.35 In this instance, it is Iran's actions, rather than any actions of the United States, which most closely resemble the acts upon which the Court found jurisdiction in the Nicaragua case. Specifically, it is Iran -- not the United States -- which attacked vessels attempting to engage in innocent shipping; it is Iran -- not the United States -- which mined sea lanes for the purpose of preventing peaceful maritime transit.

Section 4. Article XX Confirms that the 1955 Treaty Is Not Intended to Address Questions Relating to the Use of Force by the Parties During Armed Conflict.

3.36 Any doubts as to the applicability of the 1955 Treaty to Iran's claims is dispelled by Article XX of the Treaty, paragraph (1), which provides:

"1. The present Treaty shall not preclude the application of measures:

* * * *

(d) necessary ... to protect its [a party's] essential security interests."

3.37 The intended relationship of this provision to the jurisdiction of the Court was expressly addressed during the process of obtaining ratification of other friendship treaties with the identical provision. Thus, in connection with the ratification of the treaty with China the Department of State submitted to the United States Senate a memorandum on the dispute settlement clause that addressed the scope of the compromissory clause providing for the

¹²² Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 139.

submission of disputes under that treaty to this Court. That Memorandum provides:

"The compromissory clause . . . is limited to questions of interpretation or application of this treaty; i.e., it is a special not a general compromissory clause.

* * * *

"Furthermore, certain important subjects, notably immigration, traffic in military supplies, and the "essential interests of the country in time of national emergency", are specifically excepted from the purview of the treaty. In view of the above, it is difficult to conceive how Article XXVIII could result in this Government's being impleaded in a matter in which it might be embarrassed."¹²³

A similar memorandum was later submitted to the Senate in regard to FCN treaties with Belgium and Viet Nam. That memorandum points out:

"a number of the features which in its view make this provision satisfactory . . . These include the fact that the provision is limited to differences arising immediately from the specific treaty concerned, that such treaties deal with familiar subject matter and are thoroughly documented in the records of the negotiation, that an established body of interpretation already exists for much of the subject matter of such treaties, and that such purely domestic matters as immigration policy and military security are placed outside the scope of such treaties by specific exceptions."¹²⁴

This history demonstrates that the 1955 Treaty was not intended to reach matters relating to the essential security interests of the parties.

3.38 As the Court held in the Nicaragua case, the Court cannot entertain a claim under the 1955 Treaty unless it is first satisfied that the conduct complained of does not constitute "measures . . . necessary to protect" the essential security interests of the United States. ¹²⁵

¹²³ A Treaty of Friendship, Commerce, and Navigation Between the United States of America and the Republic of China: Hearing before a Subcommittee of the Senate Committee on Foreign Relations, 80th Cong. 2d Sess., pp. 29-30 (1948), Exhibit 52.

¹²⁴ Commercial Treaties with Belgium and Viet Nam, S. Exec. Rep. No. 9, 87th Cong., 1st Sess., pp. 7-8 (1961), Exhibit 44.

¹²⁵ Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 136, para. 272.

3.39 The Court held that this provision did not, in the specific circumstances of the Nicaragua case, remove the dispute in that case as to the scope of the treaty from the Court's jurisdiction.¹²⁶ The factual situation in that case, however, was far different from the case now before the Court.

3.40 In the Nicaragua case, the Court held that U.S. national security interests were not threatened by the insurgent attacks against El Salvador that had formed the basis of the U.S. claim to have acted in self-defense. In contrast, Iranian attacks on U.S. and other neutral vessels in the Persian Gulf clearly threatened U.S. national security interests. In the current case, the United States invokes the comparable article in the 1955 Treaty for the purpose of supporting its argument that Articles I, IV and X of the 1955 Treaty relied upon by Iran were never intended to address the use of force issues presented by Iran's claims in connection with the events of October 1987 and April 1988. The United States maintains that, in the circumstances of this case, the Court is authorized to dispose of Iran's Application under Article 79 paragraph 6 of the Rules of Court even if this requires addressing questions of law or fact that may touch upon the merits.

3.41 The measures taken by the United States against Iranian oil platforms on 17 October 1987 and 18 April 1988 were taken in the exercise of the inherent right of self-defense recognized under Article 51 of the United Nations Charter. They were taken by United States military forces in the face of armed attacks by Iranian military forces against U.S. and other vessels engaged in innocent activities in the Persian Gulf and against facilities being used to support such armed attacks. As the Court stated in the Nicaragua case in regard to the provision

¹²⁶ Ibid, p., 116, para. 222.

of the FCN relating to protection of essential security interests:

"The Court does not believe that this provision ... can apply to the eventuality of the right of individual or collective self-defence."¹²⁷

The Court further stated: "It is difficult to deny that self-defense against an armed attack corresponds to measures necessary to protect essential security interests."¹²⁸ Consequently, the Court is presented with exactly the type of situation the 1955 Treaty does not cover.

3.42 In conclusion, Iran's claims relating to the events of 19 October 1987 and 18 April 1988 cannot sustain the jurisdiction of the Tribunal under the 1955 Treaty, because they are wholly irrelevant to the subject matter contemplated by the Treaty.

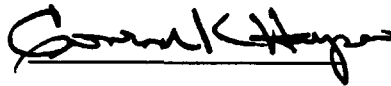
¹²⁷ Ibid, pp. 116-117, para. 223.

¹²⁸ Article XXI(d) of the Nicaragua FCN has been described by the Senate Foreign Relations Committee as containing "the usual exceptions relating . . . to measures for collective or individual self-defense." Article XX(d) of the Iran FCN is virtually identical. Commercial Treaties with Iran, Nicaragua, and the Netherlands, S. Exec. Rep. No. 9, 84th Cong. 2d. Sess., p. 4 (1956), Exhibit 47.

SUBMISSION

The United States of America requests that the Court uphold the objection of the United States to the jurisdiction of the Court and decline to entertain the case.

16 December 1993

A handwritten signature in black ink, appearing to read "Conrad K. Harper", written over a horizontal line.

Conrad K. Harper
Agent of the United States
of America

:

TABLE OF ILLUSTRATIONS

1. Map 1, Location of Incidents in the Persian Gulf 1987-1988 following page 14
2. Map 2, Distance from Al Faw Peninsula to SS Sea Isle City . . . following page 19

TABLE OF EXHIBITS

Pursuant to Article 50 of the Rules of Court, the United States has also deposited several documents in the Registry in connection with these Preliminary Objections. The documents so deposited are noted below.

1. Treaty of Amity, Economic Relations, and Consular Rights of 1955 between the United States and Iran, 8 U.S.T. 899, TIAS 3853, 284 U.N.T.S. 93.
2. C. Joyner, "The Geography and Geopolitics of the Persian Gulf", in THE PERSIAN GULF WAR: Lessons for Strategy, Law and Diplomacy, p. 4 (C. Joyner editor, 1990) and B. Boczek, "Law of Maritime Warfare and Neutrality in the Gulf War", in THE PERSIAN GULF WAR: Lessons for Strategy, Law and Diplomacy, p. 173, at pp. 179, 185 (C. Joyner editor, 1990).
3. U.S. Dep't of State, "U.S. Policy in the Persian Gulf", U.S. Department of State Special Report No. 166, p. 3 (July 1987).
4. "Situation between Iran and Iraq", 34 YEARBOOK OF THE UNITED NATIONS 1980, pp. 312-319 (1983).
5. T. Schiller, "The Gulf War and Shipping: Recent Developments", in VIOLENCE AT SEA: A review of terrorism, acts of war and piracy, and countermeasures to prevent terrorism, p. 109, at pp. 114-118 (B. Parritt editor, 1986).
6. Sreedhar and Kaul, TANKER WAR: Aspect of Iran-Iran War 1980-88, pp. 1, 87-134 (1989).
7. Statement of the United States in the U.N. Security Council, May 30, 1984", Department of State Bulletin, pp. 73-74 (August 1984).
8. Letter from Iranian Foreign Minister Vellayati to the U.N. Secretary-General, 23 July 1987 quoted in part in 33 Keesing's Record of World Events, pp. 35597-35598 (Dec. 1987).
9. The Iran-Iraq War (1980-1988) and The Law of Naval Warfare (A. de Guttry and N. Ronziti, editors), pp. 30, 44-45, 285-286, 292, 331, 370, 414, 445, 448-449 (1993).
10. U.S. Navy, COMIDEASTFOR List of Iranian Ship Attacks Against Neutral Shipping in the Persian Gulf between 1984 and 1988.
11. A. Cordesman and A. Wagner, 2 The Lessons of Modern War: The Iran-Iraq War, pp. 103, 128, 213, 230-231, 273-274, 281, 283, 285, 290-291, 298-300, 304-306, 311-316, 318-319, 325-326, 328-332, 334-335, 338, 341, 345, 363, 365-366, 368, 375-376, 393, 409, 544-546, 559, 562-565, 579, 589-590 (1990).

12. F. Wiswall, "Neutrality, the Rights of Shipping and the Use of Force in the Persian Gulf", 31 Virginia Journal of International Law, pp. 619-620, 626, 628-629 (1991).

13. Resolution 479, United Nations Security Council (2248th meeting, 28 September 1980), reprinted in United Nations Document S/INF/36, p. 23.

Resolution 514, United Nations Security Council (2383rd meeting, 12 July 1982), United Nations Document S/RES/514.

Resolution 522, United Nations Security Council (2399th meeting, 4 October 1982), United Nations Document S/RES/522.

Resolution 540, United Nations Security Council (2493rd meeting, 31 October 1983), United Nations Document S/RES/540.

Resolution 552, United Nations Security Council (2546th meeting, 1 June 1984), United Nations Document S/RES/552.

Resolution 582, United Nations Security Council (2666th meeting, 24 February 1986), reprinted in United Nations Document S/RES/582.

Resolution 588 United Nations Security Council (2713th meeting, 8 October 1986), reprinted in United Nations Document S/INF/42, p. 13.

Resolution 598, United Nations Security Council (2750th meeting, 20 July 1987), United Nations Document S/RES/598.

14. Report of the Secretary-General in Pursuance of Security Council Resolution 552 (1984), United Nations Document S/16877 (with addenda).

Letter dated 1 September 1987 from the Permanent Representative to the United Nations of Kuwait addressed to the Secretary-General, U.N. Doc. S/19091 (1 September 1987).

Letter dated 22 September 1987 from the Permanent Representative of the United Kingdom to the United Nations addressed to the President of the Security Council, U.N. Doc. S/19147 (22 September 1987).

Letter dated 16 October 1987 from the Permanent Representative of Kuwait to the United Nations addressed to the Secretary-General, U.N. Doc. S/19215 (16 October 1987).

15. Newspaper articles, 1981-1988 (in chronological order).

16. Letter dated 9 October 1987 from the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, United Nations Document S/19194.
17. Letter dated 10 October 1987 from President Reagan to the President Pro Tempore of the Senate and the Speaker of the House, *Weekly Compilation of Presidential Documents* (1987).
18. "U.S. Message to Iran, Apr. 18, 1988", *Department of State Bulletin*, p. 36 (June 1988),
19. M. Palmer, *Guardians of the Gulf*, pp. 133, 139 (1992).
20. Letter dated 22 September 1987 from the Acting Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, United Nations Document S/19149.
21. Letter dated 24 September 1987 from President Reagan to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, Book II, *Public Papers of the Presidents of the United States, Ronald Reagan (1987)*, pp. 1074-1075 (1989).
22. "Caught in the Act: The U.S. Nails Iran Laying Mines in the Gulf", *Time*, 5 October 1987, pp. 20, 22.
23. R. O'Rourke, "Gulf Ops", *Naval Review Proceedings*, p. 44, 50, n. 3 (1989).
24. Convention Relative to the Laying of Automatic Submarine Contact Mines (Hague, VIII), October 18, 1907, 36 Stat. 2332; TS 541, 1 Bevans 669.
25. Letter dated 19 April 1988 from President Reagan to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, Book I, *Public Papers of the Presidents of the United States, Ronald Reagan (1988)*, pp. 477-478 (1990).
26. Letter dated 18 April 1988 from the Acting Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, United Nations Document S/19791.
27. Letter dated 19 October 1987 from the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, United Nations Document S/19219.
28. Letter dated 15 October 1987 from the Permanent Representative of the United States of America to the United Nations Addressed to the Secretary-General, United Nations Document S/19210.

29. Letter dated 20 October 1987 from President Reagan to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, Book II, Public Papers of the Presidents of the United States, Ronald Reagan (1987), p. 1212 (1989).
30. N. Friedman, "Strike/Surface Warfare", The Naval Institute Guide to World Naval Weapons Systems, pp. 47, 75-76, 79 (1989).
31. "Jane's Weapon Systems", Shipborne Weapons, p. 75 (1985-86).
32. H. Pawlisch, "A. Operation Praying Mantis", in M. Palmer, On Course to Desert Storm: The United States Navy and the Persian Gulf, p. 142 (1992).
33. B. Langston and D. Bringle, "Operation Praying Mantis: The Air view", U.S. Naval Institute Proceedings, p. 56 (May 1989) and J. Perkins, "Operation Praying Mantis: The Surface View", *id.* p. 68.
34. S. Rosenne, The Law and Practice of the International Court, p. 580 (2d. 1985).
35. Report of the Sixth Committee, UNGA (25th sess., Dec. 1970), U.N. Doc. A/8238.
36. Report of the Sixth Committee, UNGA (26th sess., Dec. 1971), U.N. Doc. A/8568.
37. E. Jimenez de Arechaga, "The Amendments to the Rules of Procedure of the International Court of Justice," 67 American Journal of International Law, pp. 1, 11, and 13 (1973).
38. G. Guyomar, Commentaire du Reglement de la Cour Internationale de Justice - Interpretation et Pratique, p. 371 (1972).
39. Letter Dated 20 October 1987 from the Permanent Representative of the Islamic Republic of Iran to the United Nations Addressed to the Secretary-General, 21 October 1987, UN Security Council Doc. S/19224.
40. Letter Dated 18 April 1988 from the Acting Permanent Representative of the Islamic Republic of Iran to the United Nations Addressed to the Secretary-General, 18 April 1988, UN Security Council Doc. S/19796.
41. Iran v. United States (Case Concerning the Aerial Incident of 3 July 1988), Memorial of the Islamic Republic of Iran, pp. 25-26, 29-31, 209, 230, 234-235.
42. Treaty with Belgium: Message from the President of the United States, S. Exec. Doc. J, 87th Cong., 1st Sess. (1961).
43. Treaty with Viet Nam: Message from the President of the United States, S. Exec. Doc. L, 87th Cong., 1st Sess. (1961).

44. Commercial Treaties with Belgium and Viet Nam, S. Exec. Rep. No. 9, 87th Cong. 1st Sess., (1961).
45. Treaties of Friendship, Commerce, and Navigation with Israel, Ethiopia, Italy, Denmark, Greece, Finland, Germany, and Japan: Hearing before the Subcommittee of the Senate Committee on Foreign Relations, 83d Cong. 1st Sess. (1953).
46. Treaty of Amity, Economic Relations, and Consular Rights with the Sultan of Muscat and Oman and Dependencies: Message from the President of the United States, S. Exec. Doc. A, 86th Cong., 1st Sess. (1959).
47. Commercial Treaties with Iran, Nicaragua, and The Netherlands, S. Exec. Doc. 9, 84th Cong. 2d Sess. (1956).
48. H. Walker, "Modern Treaties of Friendship, Commerce, and Navigation," 42 Minnesota Law Review, pp. 805-809 (1958).
49. Treaty of Friendship, Commerce, and Navigation Between the United States of America and the Republic of Nicaragua, 9 U.S.T. 449, T.I.A.S 4024, 367 U.N.T.S. 3 (Entered into Force May 24, 1958) (Terminated May 1, 1986).
50. Treaty of Amity and Economic Relations with Ethiopia: Message from the President of the United States, S. Exec. Doc. F, 82d Cong., 2d Sess. (1951).
51. Treaty of Amity, Economic Relations, and Consular Rights with the Sultan of Muscat and Oman and Dependencies: Message from the President of the United States, S. Exec. Doc. No. 1, 86th Cong., 1st Sess. (1959).
52. A Treaty of Friendship, Commerce, and Navigation Between the United States of America and the Republic of China: Hearing before a Subcommittee of the Senate Committee on Foreign Relations, 80th Cong., 2d Sess., p. 1, 29-31, 33-35 (1958).
53. C. Sullivan, Department of State. Treaty of Friendship, Commerce, and Navigation. Standard Draft. (Analysis and Background), pp. 336, 369-73 (1962). [A complete copy of this document has been deposited in the Registry.]
54. Amoco International Financial Corp. v. The Islamic Republic of Iran, et. al., Defense and Counterclaim of the Islamic Republic of Iran et. al., Case No. 56, Iran-United States Claims Tribunal, 24 May 1984, pp. 28-30. [A complete copy of this document has been deposited in the Registry.]
55. Amoco International Finance Corp v. Iran, Award 310-56-3, 15 Iran-United States Claims Tribunal Reports, pp. 189, 214-219 (1987).

56. Treaty of Friendship, Commerce, and Navigation with China, S. Exec. Rep. No. 8, 80th Cong., 2d Sess. (1948).
57. D. Hiro, "The Longest War", Routledge, p. 189-90 (1991).

ANNEX I

IRANIAN ATTACKS ON INNOCENT SHIPPING
DURING THE IRAN-IRAQ WAR

ANNEX 1

IRANIAN ATTACKS ON INNOCENT SHIPPING DURING THE IRAN-IRAQ WAR

A1.01 The information set forth below is based on publicly available sources, including information submitted to the Security Council and collected by the Secretary-General at the request of the Security Council. If needed, the United States is prepared to submit additional information to establish the facts asserted by the United States.

A1.02 In the Statement of Facts, the United States noted that the Government of Iran conducted extensive attacks against innocent shipping during the Iran-Iraq war. The ships attacked by Iran were navigating in international waters or third country territorial seas to and from ports of countries not involved in the hostilities between Iran and Iraq.¹ As far as the United States can determine, these ships were not stopped and searched by Iran to determine whether they were trading with Iraq or carrying contraband destined for Iraq notwithstanding the fact that Iran exercised that right against numerous other ships.² The following is a description

¹ The United Kingdom estimated between 800 and 1,000 merchant ships entered the Persian Gulf each month. "Current UK Policy Toward the Iran/Iraq War," Second Report of the Foreign Affairs Committee, reprinted in de Guttery & Ronzitti, *THE IRAN-IRAQ WAR (1980-1989) AND THE LAW OF NAVAL WARFARE* (1993), p. 291, Exhibit 9. Other estimates range between 2,400 and 3,000 ships transited through the Strait of Hormuz each month during the Tanker War. Sreedhar & Kaul, *TANKER WAR*, p. 1 (3,000); Joyner, "The Geography and Geopolitics of the Persian Gulf," in *THE PERSIAN GULF WAR: LESSONS FOR STRATEGY, LAW, AND DIPLOMACY* (C. Joyner, ed. 1990), p. 4, Exhibit 2.

² Iranian commanders claimed to have visited merchant ships transiting the Strait of Hormuz scores of times daily and hundreds of times each month. "Iranians Stop 2 Soviet Freighters Believed Carrying Cement for Iraq," *N.Y. Times*, 4 Sep. 1986, p. A1, Exhibit 15; "Iran Marines Board 14 Ships in Search for Iraq War Goods," *N.Y. Times*, 3 May 1987, sec. 1, p. 22, Exhibit 15. While no reliable data is available on the number of ships searched and cargo seized by Iran as contraband during the Tanker War (1981-1988), the Secretary-General reported, pursuant to Security Council Resolution 552, on attacks on innocent and neutral merchant ships by both sides in the Gulf War. His report lists 30 ships that were visited and searched by Iran between September 1985 and September 1986, and five in 1987. S/16877/Add.2 and 3, Exhibit 14. Another author identifies 27 ships visited and searched by Iranian forces between May 1985 and January 1986. Schiller, "The Gulf War and Shipping: Recent Developments," in *VIOLENCE AT SEA: A REVIEW OF TERRORISM, ACTS OF WAR AND PIRACY, AND*

of some of the Iranian attacks against shipping between early 1987 and extending into the summer of 1988.³ The reports of the Secretary-General pursuant to U.N. Security Council Resolution 552 of 1 June 1984 (Exhibit 14), and the histories in Exhibits 6 and 10, provide additional information relating to the hostile environment for innocent shipping in the Persian Gulf resulting from attacks by Iran during the period.⁴

COUNTERMEASURES TO PREVENT TERRORISM (B. Parritt. ed. 1986), pp. 114-118, Exhibit 5, using data compiled from Lloyd's List and Lloyd's Casualty Report). None of these ships are listed as having subsequently been attacked during the voyage in question. The United States has been unable to verify the statement in Exhibit 2 that occasionally, Iranian warships attacked merchant ships even after having stopped and visited them, and cleared them to continue on their voyage. Boczek, "The Law of Maritime Warfare and Neutrality in the Gulf War," in *THE PERSIAN GULF WAR: LESSONS FOR STRATEGY, LAW, AND DIPLOMACY*, p. 174, Exhibit 2.

³ Iran began attacking merchant ships in 1984. The General Council of British Shipping stated that Iran attacked 184 merchant ships between 1984 and 1 June 1988. GCBS Guidance Notes, p. 292, Exhibit 24. Another source indicates that in 1987 and 1988 alone, Iranian gunboats attacked 142 neutral ships, and a total of 282 merchant ships between 1984 and 1988 from more than 28 flag States. A. Cordesman & A. Wagner, 2 *THE LESSONS OF MODERN WAR: THE IRAN-IRAQ WAR*, pp. 365-366, 544-546 (1990), Exhibit 10. Sreedhar & Kaul, pp. 87-134, Exhibit 5, identify 176 Iranian attacks on ships between May 1984 and July 1988. A more recent compilation by the U.S. Navy, based on reports from Lloyd's of London, lists 198 attacks by Iran on merchant ships between May 1984 and August 1988, Exhibit 5.

⁴ The Secretary-General's report and six addenda identify 373 ships attacked by both sides between 1 June 1984 and 31 December 1987, Exhibit 14. Sreedhar & Kaul list 436 ships sunk or damaged between 25 October 1981 and 8 July 1988, Exhibit 6. Another source claims that during the Iran-Iraq War, some 536 ships were attacked by both sides, resulting in the actual or constructive loss of 102 ships, and the death of more than 345 crew. Wiswall, "Neutrality, the Rights of Shipping and the Use of Force in the Persian Gulf," 31 *Va. J. Int'l L.* 619, 628 (1991), Exhibit 12. Other sources give slightly different figures. See, for example, O'Rourke, "Gulf Ops", U.S. Naval Institute Proceedings/Naval Review 1989, May 1989, p. 43 (543 ships), Exhibit 23; and Sreedhar & Kaul, p. 1 (437 ships), Exhibit 6. The British General Council of Shipping claimed 407 merchant ships were attacked by both sides between 1984 and 1 June 1988, and that 471 seamen were killed during the tanker war between 1981 and June 1988. Exhibit 9, p. 292. Another source asserts that between 1984 and 1988 more than 320 persons were killed, wounded or became missing as a result of attacks by both sides on 353 ships from more than 31 flag States. About two-thirds of these ships were oil tankers or product tankers. Cordesman & Wagner, pp. 365-366, 544-546, Exhibit 11. The ships sunk and constructively lost as a result of attacks by both sides caused the loss of more than half the 2.4 million tons of allied shipping lost during World War II (Sreedhar & Kaul, p. 1, Exhibit 6) and more than the total of all merchant shipping lost in all other actions since World War II. Wiswall, 31 *Va. J. Int'l L.* 619, 620, Exhibit 12.

Section I. Iranian Small Boat Attacks Caused Extensive Damage to Merchant Vessels and the Deaths of Numerous Merchant Seamen.

A1.03 Iran's attacks were mainly directed toward the crew quarters or bridges of merchant vessels. For this purpose Iran used small high-speed twin-engine boats of Swedish manufacture, commonly called Boghammers. These patrol boats were typically equipped with machine guns, rocket launchers (including rocket-propelled grenades), and small arms. They were manned by members of the Islamic Revolutionary Guard Corps Navy (IRGC or Pasdaran). The IRGC used similarly armed Boston whale boats and other small craft.⁵ For example, throughout 1987 and in 1988 until the cessation of hostilities, Iranian military vessels conducted extensive, unprovoked attacks on ships of various nations, causing extensive damage and the deaths of numerous merchant seamen. Some of the more egregious attacks are described in the following paragraphs.

A1.04 On 26 February 1987, IRGC Navy patrol boats attacked a Chinese cargo vessel, the Wu Jiang, in international waters near the Rostam platform. The ship carried no cargo of military value. The patrol boats raked the crew quarters with small arms fire repeatedly for four hours, leaving four crewmen dead.⁶ Off the coast of the United Arab Emirates, on 11 March 1987, the Saudi-registered tanker Arabian Sea was attacked by missiles launched from IRGC Navy vessels, while on 27 March 1987, the Singapore-registered tanker Sedra-1 was attacked by what appeared to be an Iranian Navy frigate using a Seakiller missile; at least seven seamen were

⁵ Cordesman & Wagner, p. 285, Exhibit 11. Other attacks on merchant shipping were conducted by regular Islamic Republic of Iran Navy (IRIN) personnel from Iranian frigates or fighter aircraft.

⁶ S/16877/Add.5, p. 4, Exhibit 14; Sreedhar & Kaul, p. 115, Exhibit 6; Cordesman & Wagner, p. 341 n.2, Exhibit 11.

killed.⁷

A1.05 On 4 May 1987, an Iranian patrol boat severely damaged a Panamanian-flagged tanker, the Petrobulk Regent, that had left Kuwait carrying kerosene to India. One member of the tanker's crew was wounded in the attack in which seven missiles hit the ship.⁸ On 5 May 1987, the Japanese-registered Shuho Maru was attacked by an Iranian patrol boat; the next day the Soviet cargo ship Ivan Koroteyev was attacked with rockets and machine gun fire by Iranian patrol boats in the southern Persian Gulf, suffering severe damage.⁹ On 11 May 1987, Iranian patrol boats attacked the Kuwaiti-bound, Indian-registered product tanker B. R. Ambedkar off the coast of the United Arab Emirates.¹⁰ On 18 May 1987, Iranian Revolutionary Guard boats fired on the Liberian-registered supertanker Golar Robin en route to Kuwait with rocket-propelled grenades causing a fire in the living quarters.¹¹ On 22 May 1987, Iranian revolutionary guard units attacked and seriously damaged the small Qatar-registered tanker Rashidah northwest of Bahrain.¹²

A1.06 Iran attacked 8 ships between June and August 1987, including the following. On 27 and 29 June 1987 respectively, Iranian patrol boats attacked the Norwegian-registered supertanker Mia Margrethe, causing injuries to four persons, and the Kuwait-registered

⁷ Exhibit 14, S/16877/Add.5, p. 5; Sreedhar & Kaul, p. 116, Exhibit 6.

⁸ S/16877/Add.5, p.6, Exhibit 14; Sreedhar & Kaul, p. 117, Exhibit 6.

⁹ S/16877/Add.5, p. 6, Exhibit 14; Sreedhar & Kaul, p. 117, Exhibit 6.

¹⁰ S/16877/Add.5, p. 7, Exhibit 14; Sreedhar & Kaul, p. 117, Exhibit 6.

¹¹ S/16877/Add.5, p. 7, Exhibit 14; Sreedhar & Kaul, p. 118, Exhibit 6; Cordesman & Wagner, p. 290, Exhibit 11.

¹² S/16877/Add.5, p. 7, Exhibit 14; Sreedhar & Kaul, p.118, Exhibit 6; Cordesman & Wagner, p. 290, Exhibit 11.

containership Al Merqaab.¹³ On 9 and 13 July 1987 respectively, Iranian patrol boats attacked and damaged the Liberian-registered U.S.-owned supertanker Peconic and the French-registered containership Ville d'Anvers.¹⁴ By 3 August 1987, Iranian television and radio publicized that the Iranian Navy and IRGC Navy were conducting "Martyrdom Maneuvers", which involved training suicide squads to ram warships with explosive-laden speedboats, in a blatant attempt to intimidate the free passage of shipping through the Persian Gulf.¹⁵ On 18 August 1987, two Iranian patrol boats attacked the Liberian-registered chemical tanker Osco Sierra outside the Strait of Hormuz.¹⁶ On 31 August 1987 Iranian motor launches raked the Kuwaiti containership Jebel Ali with machine-gun fire and blasted two holes in its side with rocket propelled grenades.¹⁷

A1.07 Among the 13 ships Iran attacked in September 1987 were the following. On 2 September 1987, Iranian patrol boats attacked the Japanese-registered tanker Nisshin Maru with rocket-propelled grenades and the crew quarters of the Italian-registered containership Jolly Rubino with bazookas.¹⁸ On 9 September 1987, an Iranian Navy frigate raked the Cypriot-registered tanker Haven with rocket and machine gun fire.¹⁹ On 19 September 1987, an Iranian Navy

¹³ S/16877/Add.5, p. 8, Exhibit 14; Sreedhar & Kaul, p. 119, Exhibit 6.

¹⁴ S/16877/Add.5, p. 8, Exhibit 14; Sreedhar & Kaul, pp. 119-120, Exhibit 6.

¹⁵ "U.S. Plans to Send Elite Units to Gulf", Wash. Post, 5 Aug. 1987, p. A-1, Exhibit 14; "Iran Concludes Naval Exercises", Wash. Post, 8 Aug. 1987, p. A-13, Exhibit 14.

¹⁶ S/16877/Add.5, p. 9, Exhibit 14; Cordesman & Wagner, p. 306, Exhibit 11.

¹⁷ S/16877/Add.5, p. 10, Exhibit 14; S/19093, Exhibit 14; Sreedhar & Kaul, p. 120, Exhibit 6.

¹⁸ S/16877/Add.5, pp. 10-11, Exhibit 14.

¹⁹ Ibid., p. 11.

frigate attacked the Saudi-registered tanker Petroship B in the Strait of Hormuz.²⁰ On 21 September 1987 IRGC Navy small boats attacked the British-flag tanker Gentle Breeze and set it afire, killing a crewman.²¹

A1.08 Iran attacked 7 ships in October 1987, including the following. On 7 October 1987, an Iranian patrol boat machine-gunned the Saudi-registered loaded bunker vessel Raad Al-Bakry VIII.²² On 13 October 1987, Iranian patrol boats attacked the Liberian-registered tanker Atlantic Peace off Dubai.²³

A1.09 Iran attacked 9 ships in November 1987, including the following. On 6 November 1987, an Iranian Navy frigate carried out an attack on the U.S.-operated Panamanian-flagged 105,484-dwt tanker Grand Wisdom, sailing about 20 miles west of the main United Arab Emirates port of Jebel Ali.²⁴ Five days later, two IRGC Navy gun boats hit the Panama-registered Japanese tanker Liquid Bulk Explorer in the Strait of Hormuz.²⁵ On 15 and 16 November 1987, Iranian speedboats attacked three tankers, the U.S.-managed Liberian tanker Lucy near the Straits of Hormuz, the U.S.-owned ship Esso Freeport sailing under Bahamian flag,

²⁰ Ibid., p. 11. This vessel was attacked a second time on 12 Oct. 1987. Ibid., p. 14; Exhibit 6, Sreedhar & Kaul, p. 123.

²¹ S/16877/Add.5, p. 11, Exhibit 14. The UK strongly protested this to Iran. UN Doc. S/19147, Exhibit 14.

²² S/16877/Add.5, p. 13, Exhibit 14; Sreedhar & Kaul, p. 123, Exhibit 6; Cordesman & Wagner, p. 326, Exhibit 11.

²³ S/16877/Add.5, p. 14, Exhibit 14.

²⁴ Cordesman & Wagner, p. 334, Exhibit 11; S/16877/Add.5, p. 14, Exhibit 14; Sreedhar & Kaul, p. 124, Exhibit 6.

²⁵ Cordesman & Wagner, p. 335, Exhibit 11, S/16877/Add.5, p. 14, Exhibit 14; Sreedhar & Kaul, p. 124, Exhibit 6.

and the small Greek-owned tanker, the Filikon L.²⁶ On 23 November 1987, Iranian speedboats attacked the Romanian-registered cargo ship Fundulea, seriously injuring three crew members, and the Panamanian-registered container ship Uni-Master.²⁷ On 26 November 1987, an Iranian Navy frigate attacked the Kuwaiti cargo ship Umm al-Jathathel.²⁸

A1.10 Iran attacked 18 ships in December 1987, more than in any previous month, including the following. In early December 1987, Iranian patrol boats hit, set ablaze, and sank the Singapore-registered combination carrier Norman Atlantic, and attacked the Danish-registered products tanker Estelle Maersk, killing one of its crew and seriously injuring another crewmember.²⁹ On 18 December 1987, IRGC Navy small boats opened fire on the Liberian-registered supertanker Saudi Splendor off Dubai and the Norwegian-registered supertanker Happy Kari in the Strait of Hormuz.³⁰ On 23 December, an Iranian Navy frigate attacked and set ablaze the Norwegian-registered supertanker Berge Big.³¹ On 25 December 1987, a U.S. Navy helicopter rescued 11 seamen and a British Navy helicopter rescued nine seamen from a burning South Korean freighter, the Hyundai-7, after it had been attacked by Iranian small boats 25 miles north of Sharjah.³²

²⁶ Cordesman & Wagner, p. 335, Exhibit 11; S/16877/Add.5, p. 15, Exhibit 14; Sreedhar & Kaul, p. 125, Exhibit 6.

²⁷ S/16877/Add.5, p. 16, Exhibit 14; Sreedhar & Kaul, p. 125, Exhibit 6.

²⁸ Ibid.

²⁹ S/16877/Add.5, p. 16, Exhibit 14; Sreedhar & Kaul, p. 126, Exhibit 6.

³⁰ S/16877/Add.5, pp. 17-18, Exhibit 14; Sreedhar & Kaul, p. 127, Exhibit 6.

³¹ S/16877/Add.5, p. 18, Exhibit 14; Sreedhar & Kaul 128, Exhibit 6.

³² "Lloyds Cited on Attack on S. Korean Ship", FBIS, 28 Dec. 1987, p. 27, Exhibit 15; S/16877/Add.5, p. 18, Exhibit 14; Sreedhar & Kaul, p. 128, Exhibit 6.

A1.11 Other nations were also forced to take steps to protect their shipping. After the 13 July 1987 attack by two Iranian small boats on the French container ship Ville d'Anvers, France broke diplomatic relations with Iran and announced on 29 July 1987 that the aircraft carrier Clemenceau and three support ships were being dispatched to the Gulf area.³³ After the 3 September 1987 attack on the Italian cargo ship Jolly Rubino, Italy announced that it would send ships to the Gulf to protect Italian merchantmen.³⁴ On 3 October 1987, Iran launched about 60 armed speedboats, apparently at the Saudi Arabian offshore oil field at Khafji. Saudi Arabia sent jets and warships to intercept these patrol boats and turn them back. No gunfire was exchanged.³⁵

Section II. Iranian Naval Mines Damaged Numerous Vessels and Prompted the Deployment of Minesweepers and Sea Lane Surveillance Forces to the Gulf.

A1.12 Iran also without notice laid mines in the international waters and international shipping channels of the Gulf to threaten and damage shipping.³⁶ Of the 16 ships reported to have struck mines in the Gulf, most were reported to have hit mines laid by Iran in 1987 and

³³ S/16877/Add.5, p. 8, Exhibit 14; Sreedhar & Kaul, p. 120, Exhibit 6; "French Ship is Attacked in Gulf, Raising Paris-Teheran Tensions", N.Y. Times, 14 Jul. 1987, p. A-6, Exhibit 15; "Mine-Hunter Helicopters Sent to Gulf", Wash. Post, 30 Jul. 1987, p. A-1, Exhibit 15.

³⁴ "Iran Fires Missile at Kuwait", Wash. Post, 5 Sep. 1987, p. A-1, Exhibit 15.

³⁵ "Saudis Turn Back Iranian Flotilla Near Oil Terminal", Wash. Post, 4 Oct. 1987, p. A-1, Exhibit 15.

³⁶ It has been reported that Iran had a wide range of surface and bottom and at least some timed or interval mines that became active after a fixed period of time or after several ships passed by. While the full range of Iran's mines asserts at that time are not known publicly, there was speculation they included contact, magnetic, acoustic, bow wave, pressure, and temperature mines, and possibly remote-controlled mines, some of which were large metal mines easily detected by sonar, while others were too small for easy detection, and others were nonmagnetic. Cordesman & Wagner, pp. 562-63, Exhibit 11.

1988.³⁷

A1.13 On 17 May 1987, a Soviet-registered tanker leased to Kuwait and under Soviet escort, the Marshal Chuykov, struck a mine laid by Iran in the deep water approaches to Kuwait's main oil terminal.³⁸ On 27 May 1987, the 275,000 dwt Liberian-flagged tanker Primrose struck an Iranian-laid mine off the Kuwaiti coast; on 9 June 1987, the Greek-flagged 275,00 dwt tanker Ethnic hit an Iranian mine near Kuwait; on 19 June, 1987, the 270,000 dwt Liberian-flag tanker Stena Explorer struck an Iranian laid mine.³⁹ On 24 July 1987, about 80 miles to the southeast of Kuwait, the Bridgeton, a Kuwait-owned U.S.-flagged 414,266 ton supertanker in ballast under U.S. military escort en route to Kuwait, hit an Iranian mine at 27°59'N 049°50'E, in international waters about 18 miles west of the Iranian naval guards base on Farsi island, causing extensive damage to the ship.⁴⁰ On 22 September 1987, before mine clearance operations began, the Panamanian-registered Marissa I survey ship sank after hitting a mine north of Bahrain; four of its seven crewmen were believed dead.⁴¹

A1.14 Consequently, the United States ordered U.S. Navy minesweeping helicopters to

³⁷ Sreedhar & Kaul, pp. 87-134, Exhibit 6, list 8 ships hitting mines between October 1981 and July 1988, 7 ships hitting mines laid by Iran (all between May 1987 and April 1988) and one ship hitting a mine laid by Iraq (1 Feb. 1984). The UN Secretary-General reported 10 ships hit mines between June 1984 and December 1987, but ascribed no responsibility for the mine-laying. S/16877 and Add.1-6 Exhibit 14.

³⁸ "Iraqi Missile Hits U.S. Navy Frigate in Persian Gulf", N.Y. Times, 18 May 1987, p. A-1, Exhibit 15; S/16877/Add.5, p. 7, Exhibit 14; Sreedhar & Kaul, p. 118, Exhibit 6.

³⁹ Sreedhar & Kaul 118, Exhibit 6; S/16877/Add.5, p. 7, Exhibit 14; Cordesman & Wagner, p. 345 n.42, Exhibit 11.

⁴⁰ "After the Blast, Journey Continues", N.Y. Times, 25 July 1987, p. 5, Exhibit 15; Cordesman & Wagner, pp. 298-299, 563-64, Exhibit 11; S/16877/Add.5, p. 9, Exhibit 14; Sreedhar & Kaul, p. 120, Exhibit 6.

⁴¹ S/16877/Add.5, p. 11, Exhibit 14; Sreedhar & Kaul 121, Exhibit 6.

the Gulf.⁴² Other nations dispatched mine hunting and sweeping units as well. On 11 August 1987, the United Kingdom and France announced that they would send seven mine hunting vessels to the Gulf.⁴³ In September, Belgium, the Netherlands, and Italy announced that they also would dispatch seven minesweepers to the Gulf.⁴⁴

A1.15 Unfortunately, despite these efforts, the mines laid throughout the Gulf continued to inflict extensive damage to innocent vessels. On 10 August 1987, after Iran had laid its fourth minefield, the U.S.-owned, Panama-registered tanker Texaco Caribbean struck a mine in the Gulf of Oman off Fujairah, Oman.⁴⁵ On 15 August 1987, the UAE-flag supply ship Anita sank after hitting a mine laid by Iran just outside the entrance to the Strait of Hormuz.⁴⁶

A1.16 At times Iran denied that it was the source of these mines. Nevertheless, in a Tehran radio dispatch of 20 August 1987, Iran admitted that it had mined the Gulf, purportedly to "protect" its coastline.⁴⁷ On 21 September 1987, U.S. helicopters identified Iran Ajr, an Iranian Navy logistics supply ship, laying mines at night near the Bahrain Bell in an international

⁴² "U.S. Acts to Bolster Gulf Mine Defenses on Several Fronts", Wall St. Journal, 4 Aug. 1987, p. 1, Exhibit 15; "8 U.S. Helicopters Arrive for Mission to Sweep the Gulf", N.Y. Times, 17 Aug. 1987, p. A-1, Exhibit 15; "U.S. Orders 8 Old Minesweepers to the Gulf", N.Y. Times, 20 Aug. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 299-300, Exhibit 11.

⁴³ "Europeans Send Mine Sweepers", Wash. Post, 12 Aug. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 304-305, Exhibit 11.

⁴⁴ "Dutch Sending 2 Ships to Hunt Mines in Gulf", N.Y. Times, 8 Sep. 1987, p. A-3, Exhibit 15; "Perez de Cuellar's Gulf Trip Ends in Apparent Failure", Wash. Post, 16 Sep. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 313-315, Exhibit 11.

⁴⁵ "Iran Says it Mines the Gulf", Wash. Post, 21 Aug. 1987, p. A-1, Exhibit 15; S/16877/Add.5, p. 9, Exhibit 14; Cordesman & Wagner, p. 304, Exhibit 11.

⁴⁶ S/16877/Add.5, p. 9, Exhibit 14; Sreedhar & Kaul 120, Exhibit 6.

⁴⁷ "Iran Says it Mines the Gulf", Wash. Post, 21 Aug. 1987, p. A-1, Exhibit 15; "Discovering Self-Interest", N.Y. Times, 23 Aug. 1987, sec.4, p. 22, col. 1, Exhibit 15.

shipping channel used regularly by U.S. ships in the central Persian Gulf.⁴⁸ The ship was incapacitated by the helicopters and then boarded by the U.S. Navy.⁴⁹ The Iran Ajr was manned by regular elements of the Iranian Navy.⁵⁰ Nine armed Iranian-made SADAF-02 contact mines ready for deployment in shipping channels were found on board the Iran Ajr.⁵¹ Charts aboard the Iran Ajr detailing the minelaying scheme helped the U.S. Navy to locate and disarm nine other mines, identical to those captured on the Iran Ajr, that the Iranian sailors had pushed into the sea earlier that night using a gangplank.⁵²

A1.17 On 13 April 1988, Iranian ships laid two new minefields in the convoy channel of the central Gulf, one near the Shah Allum Shoals, the other in the vicinity of the Rostam platform.⁵³ The next afternoon, at about 5:00 pm, the U.S. Navy guided missile frigate, USS

⁴⁸ S/19149, Exhibit 20; President's Letter to the President Pro Tempore of the Senate and the Speaker of the House, II PAPERS OF PRESIDENT REAGAN, 24 Sept. 1987, at 1074, Exhibit 21. The helicopter crews used infrared night-vision devices to identify the objects being placed in the water as mines. Time, 5 Oct. 1987, at 20, Exhibit 22. See also Cordesman & Wagner, pp. 318-319, Exhibit 11.

⁴⁹ The helicopters strafed the Iranian vessel until it stopped laying mines. When the helicopters returned forty minutes later and discovered that the minelaying had resumed, they attacked and disabled the ships. President's Letter of 24 Sept. 1987, Exhibit 21.

⁵⁰ President's Letter to Congress, 24 Sep. 1987, Exhibit 21.

⁵¹ Time, 5 Oct. 1987, at 22, Exhibit 22. Of the 31 crewmen assigned to that ship, three were killed; two were reported missing; and 26, including several wounded, were picked up by U.S. forces and taken to U.S. Navy ships for examination and medical treatment. Arrangements were made to transfer the 26 Iranian sailors to Omani authorities, in a operation supervised by the International Committee of the Red Cross. They were then repatriated to Iran. The U.S. Navy eventually scuttled the ship in deep waters off Bahrain. Ibid.

⁵² Time, 5 Oct. 1987, at 20, Exhibit 22; O'Rourke, "Gulf Ops," U.S. Naval Institute Proceedings/Naval Review 1989, 44, at 50 n.3, Exhibit 23, Iran originally claimed the ship was carrying food, UN Doc. S/19161, 29 Sep. 1987, Exhibit 9, then changed its story, saying that the ship, loaned to the Iranian Navy by its owner, the Islamic Republic of Iran Shipping Company, was ferrying military supplies from Bandar Abbas to Bushahr. D. Hiro, THE LONGEST WAR: THE IRAN-IRAQ MILITARY CONFLICT (1991), p. 189, Exhibit 57; Cordesman & Wagner, p. 319, Exhibit 11.

⁵³ See Map 1.

Samuel B. Roberts, returning to Bahrain after completing the 25th convoy of 1988, in international waters at 26°23'N 052°18'E, 11 nautical miles west of Shah Allum shoal at about 56 miles east of Ra's Rakam, Qatar,⁵⁴ spotted three shiny five horned contact mines floating in the water 0.3 nautical miles in a line off its starboard bow, perpendicular to the ship's track. While attempting to back out of the minefield, the Roberts struck one of the sixteen newly-laid mines.⁵⁵ Ten U.S. sailors were injured, three seriously, and the ship was severely damaged.⁵⁶ The U.S. and other mine clearance forces recovered several of the mines; they were SADAF-02 mines, with Iranian serial numbers with the safeing device inactivated.⁵⁷ These mines were identical to those found in the Kuwaiti, Farsi and Khor Fakkan minefields and on the Iran Ajr.

⁵⁴ The charted water depth at this point is 62 meters or 32 fathoms.

⁵⁵ "Blast Damages U.S. Frigate in Gulf", N.Y. Times, 15 April 1988, p. A3, col. 1, Exhibit 15; Cordesman & Wagner, pp. 298, 375-376, Exhibit 11; Sreedhar & Kaul, p. 132, Exhibit 6. One author erroneously says the Roberts struck an Iraqi mine. Wiswall, 31 Va. J. Int'l L. p. 626 n.26, Exhibit 12.

⁵⁶ Cordesman & Wagner, p. 376, Exhibit 11.

⁵⁷ Ibid. The United States had previously recovered 44 mines in the Gulf, 16 in 1988; the most recent mine detection had been on 9 April 1988. All of these mines were encrusted with marine growth and showed signs of having broken away from their moorings. N.Y. Times, 15 April 1988, p. A3, Exhibit 15. Later Western ships found more than 13 newly laid mines. Western minesweeping effort in the Gulf found a total of 89 mines in 7 different minefields, two of which were in the lower Gulf and the rest strung out over the convoy routes. They included 79 Soviet M-08 mines and 10 Iranian-made Myam mines, which were smaller contact mines. In addition, the authors reported there were large numbers of floating mines. The total number of mines neutralized was 176, including 89 moored and 87 floating, and a total of 83 M-08s and 95 Myams. The authors note that the mines were often poorly moored and had no safety devices. Ibid., pp. 565 and 589 n.57.

Section III. In Addition to Small Boat Attacks and the Laying of Naval Mines, Iran Launched Silkworm Missiles Against Kuwaiti Shipping and Shore Facilities and Air-to-Surface Missiles against Innocent Merchant Shipping.

A1.18 Iran also attacked innocent shipping by surface-to-surface missiles. Iran occupied missile sites and launched Chinese-manufactured HY-2 Silkworm missiles from the Faw Peninsula to disrupt shipping of oil to and from neutral countries. On 4 September 1987, Iran fired a Silkworm missile from the Faw Peninsula toward Kuwait; the missile hit an uninhabited beach area two miles south of an oil loading terminal.⁵⁸ The same day Iran fired a second Silkworm missile that hit near Mina Abdullah, 30 miles to the south of Kuwait City. On 5 September Iran fired a third missile which hit near Failaka Island, 13 miles from Kuwait's northern coast.⁵⁹ On 15 October 1987, however, an Iranian Silkworm missile fired from the Faw Peninsula hit the U.S.-owned, Liberian-flagged oil tanker Sungari anchored off Kuwait's Mina al-Ahmadi port in Kuwaiti territorial waters. There were no casualties.⁶⁰ The next day another Iranian Silkworm missile hit the Sea Isle City, a Kuwait-owned, U.S.-registered tanker while proceeding to the oil loading terminal from the anchorage nine nm east of Mina al-Ahmadi, at 29°05'N 048° 17'E. Eighteen seamen, including the U.S. captain, were injured.⁶¹ On 22 October 1987, an Iranian Silkworm missile hit Kuwait's Sea Island terminal, a 2,500-foot-long pier, an

⁵⁸ "Iran Fires Missile at Kuwait", Wash. Post, 5 Sep. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 311-312, Exhibit 11.

⁵⁹ Cordesman & Wagner, p. 312, Exhibit 11.

⁶⁰ S/16877/Add.5, p. 14, Exhibit 14; S/19210, Exhibit 28; "Iran Hits U.S.-Owned Tanker", Wash. Post, 16 Oct. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 328-329, Exhibit 11.

⁶¹ S/16877/Add.5, p.14, Exhibit 14; S/19215, Exhibit 14; "UN Head Told of Attack", FBIS, 19 Oct. 1987, p. 17, Exhibit 15; Hiro, The Longest War, p. 190, Exhibit 57.

oil-loading facility 9 miles out in the Gulf from the Ahmadi oil complex, which was the only facility in water deep enough so Kuwait could easily load supertankers of up to 500,000 tons. No tankers were berthed at the terminal at the time of this attack.⁶²

A1.19 Iran denies firing the Silkworm missile which hit the Sea Isle City.⁶³ It asserts "the Sea Isle City was well-beyond the range of a Silkworm missile even if such missiles had been placed on Fao."⁶⁴ In this respect, Iran asserts that the Silkworm has a maximum effective range of only 85 km or 45.7 nautical miles (one nautical mile equals 1.852 km), while the distance from Iranian-held territory on the tip of Faw Peninsula to the ship was almost 110 km or 60 nautical miles. Nonetheless, Iran had publicly threatened to attack Kuwait with missiles.⁶⁵ Moreover, it does not explicitly deny possessing any Silkworm sites on the Faw Peninsula.⁶⁶ In fact, it possessed at least two sites and a storage facility located there from the time it captured the peninsula from Iraq in January 1986. And finally, the ship was located 50.8 nautical miles or 94 km (great circle distance) from the tower at the tip of the Faw Peninsula, at the outer limit of the missile's range.⁶⁷ See Map 2.

A1.20 Iran also inflicted considerable damage on innocent merchant shipping in the Gulf

⁶² "Silkworm Hits Kuwaiti Oil Terminal", Wash. Post, 23 Oct. 1987, p. A-1, Exhibit 15; Cordesman & Wagner, pp. 331-332, Exhibit 11.

⁶³ Iranian Memorial, paras. 1.105, 4.72 and 4.74, and Maps 4 and 5.

⁶⁴ Iranian Memorial, para. 4.72.

⁶⁵ On 25 July 1987, Tehran radio quoted Iranian President Ali Khomeini as threatening to fire missiles at Kuwait. Newport, R.I., Daily News, 4 Sep. 1987, p. 1, Exhibit 15.

⁶⁶ Iranian Memorial, para. 1.105.

⁶⁷ Iran possessed Chinese HY-2 Silkworm missiles which have a maximum range of 95 km (51 nm). N. Friedman, THE NAVAL INSTITUTE GUIDE TO WORLD NAVAL WEAPONS SYSTEMS (1989), p. 79, Exhibit 30; JANE'S WEAPON SYSTEMS 1985-86, p. 75, Exhibit 31.

with attacks by Iranian military aircraft, usually F-4 fighter aircraft using Maverick missiles and gravity bombs.⁶⁸ Maverick missiles can be launched from ranges of 0.5 to 13 nautical miles and are television guided. The launching aircraft must be able to keep visual track of the target, but does not have to scan its target with radar.⁶⁹ Most of the 71 Iranian attacks on shipping between May 1984 and October 1986 used these weapons. On 2 February 1988, two Iranian F-s once again attacked a merchant ship, the Liberian tanker Petrobulk Pilot in the southern Persian Gulf, this time with two Maverick missiles.⁷⁰

Section IV. Iranian Attacks on Innocent Shipping Continued throughout 1988.

A1.21 Iranian patrol boats attacked the Norwegian tanker Igloo Espoo on 15 January 1988, near the Strait of Hormuz.⁷¹ Agence France-Presse reported an Iranian attack on the Liberian-registered Atlantic Charisma and an attack on the Liberian-registered Rainbow, both on 15 January 1988.⁷² On 21 January, Iran attacked the Norwegian-owned Hafpel in the Strait of Hormuz and, the following day, set ablaze the Panamanian tanker Topaz. Iran asserted that its attack on the Hafpel was a mistake.⁷³ Iranian speed boats on 22 January 1988, attacked the

⁶⁸ Cordesman & Wagner, pp. 393, 409 n.90, 579 & 590 n.68, Exhibit 11.

⁶⁹ Friedman, pp. 47 & 75-76, Exhibit 30.

⁷⁰ Sreedhar & Kaul, p. 130, Exhibit 6; Cordesman & Wagner, p. 363, Exhibit 11; "Iran Tries Aerial Attack on Cargo Ship in Gulf", Christian Science Monitor, 3 Feb. 1988, Exhibit 15.

⁷¹ Sreedhar & Kaul, p. 128, Exhibit 6.

⁷² Ibid., p. 129.

⁷³ Ibid.

empty Danish-flagged Torm Rotna.⁷⁴ On 3 February 1988, Iranian speed boats hit and set ablaze a Norwegian freighter Petrobulk Ruler approximately ten nautical miles from the United Arab Emirates port of Al-Sharjah.⁷⁵ On 4 February 1988, an Iranian naval frigate attacked the Panamanian-registered Tavistock near Dubai.⁷⁶ On 6 February 1988, the U.S.-owned, Liberian-registered Diane was set ablaze in an attack by the same frigate off the coast of the United Arab Emirates.⁷⁷ On 9 February 1988, another Iranian frigate attacked the Liberian tanker Veronique.⁷⁸

A1.22 On 12 February, Iranian military units fired on U.S. helicopters on reconnaissance over a Kuwaiti convoy. On 7 March 1988, U.S. helicopters on reconnaissance flights came under machine-gun fire from an oil platform and several boats in the central Gulf.⁷⁹

A1.23 In March 1988, IRGC Navy patrol boats and an IRIN frigate attacked the Norwegian supertanker Berge Lord, Liberian ships Fumi and Iberian Reefer, and the Cyprus-flagged tanker Odyssey H in the Strait of Hormuz, as well as the Singaporean-registered ship Harglimt 12 miles off the Dubai coast (killing two crewmen), Liberia's Atlantic Peace near Sharjah, and the Norwegian-registered Neptune Subaru.⁸⁰

A1.24 Between May and July 1988, Iranian patrol boats in the Strait of Hormuz attacked

⁷⁴ Ibid.

⁷⁵ Ibid., p. 130.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Cordesman & Wagner, p. 368, Exhibit 11.

⁸⁰ Sreedhar & Kaul, p. 131, Exhibit 6.

the Japanese Ace Chem; the Liberian Mundagas Rio; the West German Dhaulagiri; the U.S.-owned, British-registered supertanker Esso Demetia, and the Norwegian-owned Berge Strand.⁸¹

⁸¹ Sreedhar & Kaul, pp. 133-134, Exhibit 6.