

AERIAL INCIDENT OF 27 JULY 1955
(ISRAEL *v.* BULGARIA; UNITED STATES OF AMERICA
v. BULGARIA; UNITED KINGDOM *v.* BULGARIA)

INCIDENT AÉRIEN DU 27 JUILLET 1955
(ISRAËL *c.* BULGARIE; ÉTATS-UNIS D'AMÉRIQUE
c. BULGARIE; ROYAUME-UNI *c.* BULGARIE)

(USA *c.* Bulgarie)

**2. APPLICATION INSTITUTING PROCEEDINGS ON
BEHALF OF THE GOVERNMENT OF THE UNITED STATES
OF AMERICA ¹**

October 24, 1957.

Sir:

1. This is a written application, in accordance with the Statute and Rules of the Court, submitted by the Government of the United States of America instituting proceedings against the Government of Bulgaria on account of certain internationally wrongful acts committed on July 27, 1955, by fighter aircraft of the Bulgarian Government within the air space of Bulgaria against American nationals proceeding as passengers in an international civil Constellation aircraft No. 4X-AKC belonging to El Al Israel Airlines, Ltd.

The subject of the dispute and a succinct statement of the facts and grounds upon which the claim of the Government of the United States of America is based are adequately set forth in an exchange of correspondence between the two governments through the intermediation of the Government of Switzerland, copies of which are attached to this application as annexes. It will be noted that while the Bulgarian Government, upon the occurrence of the incident described, admitted liability to the United States Government for injury to American nationals, and promised to pay the damages incurred and to prevent a recurrence of such incidents in the future as well as to punish the Bulgarian nationals who were responsible for the actions committed, the Bulgarian Government is now disclaiming all liability; it has instead merely proposed to make an arbitrary *ex gratia* per capita payment in Bulgarian currency to families of the American nationals who were killed as a result of the Bulgarian deeds.

2. The United States Government notes that the present dispute concerns matters of the character specified in Article 36 (2) of the Statute of the Court, including subdivisions (a) through (d). As will be seen from the annexes, the legal dispute of the United States Government with the Bulgarian Government involves, among other questions of international law, the scope and application of international obligations relating to the overflight of international civil aircraft; particularly, the duties of the government, and military defense authorities of the government, in whose

¹ See Part IV, *Correspondence*, Section B, No. 1.

**2. REQUÊTE INTRODUCTIVE D'INSTANCE AU NOM
DU GOUVERNEMENT DES ÉTATS-UNIS D'AMÉRIQUE ¹**

[Traduction du Greffe]

Le 24 octobre 1957.

Monsieur le Greffier,

1. Le présent document est une requête écrite par laquelle le Gouvernement des États-Unis d'Amérique introduit, conformément au Statut et au Règlement de la Cour, une instance contre le Gouvernement de Bulgarie à raison de certains actes répréhensibles sur le plan international commis le 27 juillet 1955 par l'aviation de chasse du Gouvernement bulgare à l'intérieur de l'espace aérien de la Bulgarie contre des ressortissants américains se trouvant en qualité de passagers à bord d'un avion civil international du type Constellation n° 4X-AKC appartenant à la « *El Al Israel Airlines Ltd.* ».

L'objet du différend et un exposé succinct des faits et des motifs sur lesquels se fonde la demande du Gouvernement des États-Unis d'Amérique ressortent clairement d'une correspondance échangée par les deux gouvernements par l'intermédiaire du Gouvernement de la Suisse, et dont copie est jointe en annexe à la présente requête. Il est à noter qu'à la suite de l'incident susmentionné, le Gouvernement bulgare s'était reconnu responsable à l'égard du Gouvernement des États-Unis du préjudice subi par des ressortissants américains et avait promis de payer les dommages encourus, d'empêcher le renouvellement de pareils incidents à l'avenir et de punir les ressortissants bulgares responsables des actes commis, mais qu'à présent le Gouvernement bulgare rejette toute responsabilité; il s'est borné à proposer à la place un paiement arbitraire *ex gratia* par tête, en monnaie bulgare, aux familles des ressortissants américains tués du fait de la Bulgarie.

2. Le Gouvernement des États-Unis constate que le présent différend porte sur des questions relevant des catégories énoncées au paragraphe 2 de l'article 36 du Statut de la Cour, comprenant les subdivisions a) à d). Comme le montrent les annexes, le différend d'ordre juridique qui sépare le Gouvernement des États-Unis du Gouvernement bulgare met en jeu, entre autres questions de droit international, la portée et l'exécution des obligations internationales relatives au survol d'un territoire par un avion civil international; notamment, les devoirs du gouvernement sur le territoire duquel

¹ Voir Quatrième Partie, *Correspondance*, Section B, n° 1.

territory the intrusion is alleged to have taken place, with respect to interception, identification signals between intercepting and intruding civil aircraft and the use of force as against passengers of intruding civil aircraft; together with issues of fact which, if resolved in favor of the United States Government, would prove breaches of international obligation by the Bulgarian Government; and the nature and extent of the reparations to be made by the Bulgarian Government to the United States Government for all these breaches.

The United States Government, in filing this application with the Court, submits to the Court's jurisdiction for the purposes of this case. The Bulgarian Government accepted the compulsory jurisdiction of this Court by virtue of the signature of its representative to the Protocol of Signature of the Statute of the Permanent Court of International Justice, and his acceptance was completely unconditional; acceptance became effective as to the jurisdiction of the International Court of Justice by virtue of Article 36 (5) of the Statute of the Court upon the date of admission of Bulgaria into the United Nations.

3. The claim of the Government of the United States of America is, briefly, that the Government of Bulgaria on July 27, 1955, wilfully and unlawfully caused fighter military aircraft to fire upon and destroy an El Al Israel Airlines Constellation aircraft No. 4X-AKC. This was accomplished while the aircraft was innocently overflying Bulgarian territory en route from Vienna to Tel Aviv. It had, apparently unbeknown to the crew, been driven slightly off its course, in Yugoslavia, by unpredicted strong local winds at high altitude in sudden turbulent weather and poor visibility. It was fired upon while attempting to return to its course and as it was about to leave Bulgaria. Among the effects of the attack was the killing of all the passengers and crew, including six American nationals, and the destruction of their property on board the aircraft. The American individuals had no part in the navigation or control of the aircraft but were merely passengers who had purchased international flight tickets and the aircraft was flown in accordance with standard international civil aviation procedures. While the United States Government does not deem the point material to the case, it adds that investigation has shown that the crew were not only engaged in innocent flight but were competent and careful.

The United States Government further points out that the Bulgarian Government's admission of liability to the United States Government, which it now has repudiated, was made before its election to membership in the United Nations.

l'intrusion est censée s'être produite, et des autorités militaires de ce gouvernement, en ce qui concerne l'interception, les signaux d'identification échangés entre l'avion qui intercepte et l'avion civil qui a commis l'intrusion et l'usage de la force contre les passagers dudit avion civil; ainsi que des questions de fait qui, si elles étaient réglées en faveur du Gouvernement des États-Unis, constitueraient de la part du Gouvernement bulgare des violations d'obligation internationale; enfin, le caractère et l'étendue des réparations auxquelles le Gouvernement bulgare serait tenu vis-à-vis du Gouvernement des États-Unis en raison de toutes ces infractions.

Le Gouvernement des États-Unis, en déposant la présente requête auprès de la Cour, déclare accepter sa juridiction aux fins de la présente espèce. Le Gouvernement bulgare a accepté la juridiction obligatoire de la Cour du fait de la signature apposée par son représentant au Protocole de signature concernant le Statut de la Cour permanente de Justice internationale, et sans assortir cette acceptation d'aucune condition; en vertu de l'article 36 (5) du Statut de la Cour, ladite acceptation a pris effet à l'égard de la juridiction de la Cour internationale de Justice à la date de l'admission de la Bulgarie aux Nations Unies.

3. La demande du Gouvernement des États-Unis d'Amérique porte, en bref, sur le fait que, le 27 juillet 1955, le Gouvernement bulgare a volontairement et illégalement fait attaquer et abattre, par son aviation militaire de chasse, un avion Constellation n° 4X-AKC de la *El Al Israel Airlines Ltd.* Le fait s'est produit alors que l'avion civil, se rendant de Vienne à Tel Aviv, effectuait un survol innocent du territoire bulgare. Apparemment à l'insu de son équipage, il avait été entraîné légèrement hors de sa route en Yougoslavie par des vents locaux violents imprévus à haute altitude et dans des conditions soudaines de mauvais temps et faible visibilité. Il a été attaqué alors qu'il cherchait à reprendre sa route et qu'il allait quitter la Bulgarie. Cette attaque a eu, entre autres, pour conséquence la mort de tous les passagers et membres de l'équipage, y compris six ressortissants américains, et la destruction de leurs biens à bord de l'avion. Les ressortissants américains ne participaient en rien à la navigation ou à la direction de l'avion, ils n'étaient que des passagers ayant acheté des billets internationaux de transport aérien et l'avion volait conformément aux règles normales de l'aviation civile internationale. Sans considérer ce point comme pertinent en l'espèce, le Gouvernement des États-Unis ajoute que l'enquête a montré non seulement que l'équipage exécutait un vol innocent, mais encore qu'il était compétent et prudent.

Le Gouvernement des États-Unis souligne en outre que la reconnaissance par le Gouvernement bulgare de sa responsabilité à l'égard du Gouvernement des États-Unis, reconnaissance qu'il a maintenant rétractée, avait été faite avant son admission comme Membre des Nations Unies.

For these breaches of international obligation, the United States Government had demanded and demands monetary and other reparation from the Bulgarian Government; the monetary reparation demanded consists of \$257,875.00.

In further pleadings herein, the United States Government will more fully set forth the issues of fact and the issues of law for the purpose of hearing and decision by the Court in accordance with the Statute and Rules of the Court. It will request that the Court find that the Bulgarian Government is liable to the United States Government for the damage caused; that the Court award damages in favor of the United States Government against the Bulgarian Government in the sum of \$257,875.00, with interest, and such other reparation and redress as the Court may deem to be fit and proper; and that the Court make all other necessary orders and awards, including an award of costs, to effectuate its determinations.

4. The undersigned has been appointed by the Government of the United States of America as its agent for the purpose of this application and all proceedings thereon.

Very truly yours,

(Signed) Loftus E. BECKER,
The Legal Adviser
of the Department of State.

Pour ces violations d'obligation internationale, le Gouvernement des États-Unis a réclamé et réclame des réparations pécuniaires et autres de la part du Gouvernement bulgare; les réparations pécuniaires demandées se montent à \$ 257.875.—.

Dans les pièces ultérieures de la procédure, le Gouvernement des États-Unis exposera plus complètement les points de fait et de droit aux fins d'examen et de décision par la Cour, conformément au Statut et au Règlement. Il demandera à la Cour de dire que le Gouvernement bulgare est responsable à l'égard du Gouvernement des États-Unis du préjudice causé; d'accorder au Gouvernement bulgare se montant à \$ 257.875.—, plus les intérêts, ainsi que les autres réparations et remèdes que la Cour pourra juger convenables et appropriés; et de rendre toutes autres ordonnances et sentences, y compris une sentence relative aux frais de procédure, qui seraient nécessaires pour donner effet à ce qu'elle décidera.

4. Le soussigné a été désigné par le Gouvernement des États-Unis d'Amérique comme son agent aux fins de la présente requête et de toute la procédure y relative.

Veillez agréer, etc.

(Signé) Loftus E. BECKER,
Conseiller juridique
du Département d'État.

**Annexes to the Application of the Government of the
United States of America**

Annex I

**AIDE MEMOIRE DELIVERED THROUGH THE SWISS
LEGATION TO THE BULGARIAN GOVERNMENT ON
BEHALF OF THE UNITED STATES ON AUGUST 2, 1955**

The United States Government protests emphatically against the brutal action of Bulgarian military personnel on July 27, 1955, in firing upon a commercial aircraft of the El Al Israel Airlines, which was lawfully engaged as an international carrier. This attack, which resulted in the destruction of the aircraft and the death of all personnel aboard, including several United States citizens, constitutes a grave violation of accepted principles of international law. The Bulgarian Government has acknowledged responsibility for this action.

The United States Government demands that the Bulgarian Government (1) take all appropriate measures to prevent a recurrence of incidents of this nature and inform the United States Government concerning these measures; (2) punish all persons responsible for this incident; and (3) provide prompt and adequate compensation to the United States Government for the families of the United States citizens killed in this attack.

*Annex 2*NOTE FROM THE BULGARIAN GOVERNMENT TO THE
UNITED STATES GOVERNMENT OF AUGUST 4, 1955

Ministry
of Foreign Affairs.
No. 42803.

English Text.

The Ministry of Foreign Affairs of the Peoples' Republic of Bulgaria presents its compliments to the Legation of Switzerland at Sofia and, in reply to its aide-memoire of August 2, 1955, and in compliance with the instructions of its Government, has the honor to request the Legation to be good enough to transmit the following to the Government of the United States of America:

The investigation carried out by the special governmental commission has irrefutably determined the following:

On July 27, 1955, at 7:10 local time the aircraft of the Israeli Airline El-Al entered Bulgarian air space in the area of the town of Trn without any warning. After having penetrated a distance of 40 kilometers, the aircraft overflew the towns of Breznik, Radomir, Stanke Dimitrov, Blagoevgrad, and continued on its course in a southerly direction. It flew over Bulgarian territory for approximately 200 kilometers.

South of the town of Stanke Dimitrov the aircraft was intercepted by two Bulgarian fighter planes which received orders to force it to land at a Bulgarian airport.

The fighter planes warned the aircraft, in accordance with international regulations, to land. In spite of this, it did not obey but continued to fly in a southerly direction in an attempt to escape across the Bulgarian-Greek frontier.

In these circumstances, the two fighter planes of the Bulgarian anti-aircraft defense of this area, astonished by the behavior of the aircraft, opened fire, as a result of which it caught fire shortly thereafter and crashed in the area of the town of Petric.

Adopting the conclusions of the special governmental commission responsible for the investigation of the case, the Bulgarian Government admits that the causes of the unfortunate accident suffered by the El-Al aircraft may be summarized as follows:

1. The aircraft departed from its route, violated the frontier of the Bulgarian State and without any warning penetrated deeply into the interior of Bulgarian air space. Equipped with the most modern aerial navigating instruments, it could not have failed to be aware of the fact that it had violated Bulgarian air space. Even after having been warned, it did not obey but continued to fly towards the south in the direction of the Bulgarian-Greek frontier;

2. The Bulgarian anti-aircraft defense units manifested a certain haste and did not take all the steps required to force the aircraft to obey and to land.

3. The Bulgarian Government likewise considers it necessary to point out the fact that over a period of many years, not respecting the sovereignty of the Peoples' Republic of Bulgaria, certain elements have allowed themselves systematically to violate the Bulgarian frontier. During recent years numerous illegal flights over the Bulgarian frontier by aircraft of undetermined nationality have been noted in Bulgaria. During these illegal flights, diversionists have been parachuted into Bulgarian territory, equipped with arms, radios and other equipment. The Government of the Peoples' Republic of Bulgaria has protested on several occasions to the Secretariat of the United Nations Organization, but unfortunately without result. All this created an atmosphere of tension which required steps to be taken to safeguard the security of the State. It was in such an atmosphere of tension that the unfortunate accident to the Israeli plane became possible.

The Bulgarian Government and people express once again their profound regret for this great disaster which has caused the death of completely innocent people. The Bulgarian Government ardently desires that such incidents should never happen again. It will cause to be identified and punished those guilty of causing the catastrophe to the Israeli plane and will take all the necessary steps to insure that such catastrophes are not repeated on Bulgarian territory.

The Bulgarian Government sympathizes deeply with the relatives of the victims and is prepared to assume responsibility for compensation due to their families, as well as its share of compensation for material damage incurred.

Legation of Switzerland.

Sofia, August 4, 1955.

*Annex 3*NOTE DELIVERED IN SOFIA THROUGH THE LEGATION
OF SWITZERLAND TO THE BULGARIAN GOVERNMENT
ON AUGUST 22, 1956

Reference is made to the exchange of communications between the Legation of Switzerland at Sofia on behalf of the Government of the United States and the Ministry of Foreign Affairs of the People's Republic of Bulgaria concerning the shooting down of the El Al Israel Airlines commercial plane (4X-AKC) by Bulgarian military aircraft on July 27, 1955, which resulted in the destruction of the commercial plane and the death of all personnel aboard, including several United States citizens.

In a note dated August 4, 1955, delivered by the Ministry of Foreign Affairs to the Swiss Legation at Sofia, the Bulgarian Government expressed its regret for the incident; gave assurances that it would identify and punish all persons responsible for the shooting down of the commercial plane of El Al Israel Airlines on July 27, 1955, and take all necessary steps to prevent similar occurrences on Bulgarian territory; and assumed responsibility to provide compensation to families of the United States citizens who lost their lives in the disaster.

The Government of the United States notes the expression of regret of the Bulgarian Government, and requests to be informed of the measures taken by the Bulgarian Government to identify and punish those persons responsible for the incident, as well as the measures taken to prevent a recurrence of incidents of this character.

With respect to the matter of compensation for families of United States citizens killed as a consequence of the incident, the United States Government has found after careful investigation that the pecuniary losses and damages suffered by United States citizens totals \$257,875.00. The total amount of \$257,875.00, which the United States Government is prepared to accept as indemnification for such losses and damages is itemized in the annex to the present note.

The United States Government requests that the claims made herein receive prompt consideration by the Bulgarian Government and that compensation be made at an early date. The United States Government further requests that payment be made in United States dollar exchange in the form of a dollar check to the order of the Secretary of State of the United States.

Enclosure:

Annex.

Annex

The total sum of \$257,875.00, representing pecuniary losses and damages suffered by United States citizens in consequence of the incident of July 27, 1955, is calculated as follows:

Claim No. 1

Name of decedent:	RACHEL AVRAM
Names of claimants:	(1) Mendel Avram, widower (2) Morrell Avram, son (3) Liliana Avram, daughter
Pecuniary loss:	\$55,000.00
Loss of personal effects:	3,200.00
Total:	\$58,200.00

Claim No. 2

Name of decedent:	ORA COHEN
Name of claimant:	Daniel B. Cohen, widower
Pecuniary loss:	\$25,000.00
Loss of personal effects:	2,475.00
Total:	\$27,475.00

Claim No. 3

Name of decedent:	ANNA HAHN
Names of claimants:	(1) Hugo Hahn, widower (2) Miriam Cohn, daughter (3) Hannah Biberstein, daughter
Pecuniary loss:	\$30,000.00
Loss of personal effects:	—
Total:	\$30,000.00

Claim No. 4

Names of decedents:	(1) MARY KATZ (2) ANNE KATZ
Names of claimants:	(1) Paul Katz, widower and father of Anne (2) Leo Katz, son and brother of Anne
Pecuniary loss:	\$45,000.00
Loss of personal effects:	3,000.00
Total:	\$48,000.00

Claim No. 5

Name of decedent:	AVRAAM M. MANN
Names of claimants:	(1) Gitel Korn, sister (2) Shandel Hoffman, sister
Pecuniary loss:	\$20,000.00
Loss of personal effects:	—
Total:	\$20,000.00

Claim No. 6

Names of decedents:	(1) ANNA SACKS
	(2) RENÉ SACKS
	(3) DEBORA SACKS
Names of claimants:	(1) Max Sacks, widower and father of René and Debora
	(2) Naomi Sacks, daughter and sister of René and Debora
Pecuniary loss:	\$70,000.00
Loss of personal effects:	3,000.00
Incidental expenses:	1,200.00
Total:	\$74,200.00

Annex 4

SWISS COMMUNICATION OF BULGARIAN STATEMENT TO
UNITED STATES GOVERNMENT OF AUGUST 8, 1957

Federal Political
Department

Referring to the notes exchanged concerning the catastrophe of the aircraft of the "El Al Israel Airline", the Federal Political Department has the honor to inform the Embassy of the United States of America that Mr. Luben Anghelov, Second Vice-Minister of Foreign Affairs of Bulgaria, has invited the Swiss Chargé d'Affaires at Sofia for an interview to make a statement on this subject.

Mr. Anghelov stated that the Bulgarian Government, as the latter has always repeated, is not responsible for this catastrophe. The responsibility lies with the Israeli company. However, wishing to make a gesture with regard to the families of the victims, the Bulgarian authorities have decided to grant to each of them and to deposit in their favor at the National Bank of Bulgaria the amount of 56,000 levas. This sum would be transferable and convertible in currency. It seems that an identical proposal was submitted to the diplomatic representatives of Austria, Great Britain and Israel.

The Political Department would appreciate learning from the Embassy the position of the American authorities in regard to the statement of Mr. Anghelov.

The Department takes this opportunity to renew to the Embassy the assurance of its high consideration.

To the Embassy of the United States of America,

Bern, August 8, 1957.

Annex 5

NOTE DELIVERED TO BULGARIAN GOVERNMENT
THROUGH THE SWISS LEGATION ON OCTOBER 11, 1957

The United States Government has examined the statement of the Second Vice-Minister of Foreign Affairs of Bulgaria to the Swiss Chargé d'Affaires at Sofia of approximately August 8, 1957, with respect to the position of the Bulgarian Government concerning the payment of damages to the United States Government for the death of American nationals and the loss of their property resulting from the firing of Bulgarian military personnel upon a civil airliner of the El Al Israel Airlines on July 27, 1955. As reported to the United States Government, the Vice-Minister of Foreign Affairs stated that the Bulgarian Government is not responsible for the destruction of the airliner and the death of its crew and passengers and other damage; but that the Bulgarian authorities have decided to make an *ex gratia* payment to each of the families of the American victims by transferable Bulgarian currency amounting to 56,000 levas.

The United States Government rejects this proposal by the Bulgarian Government and repeats the request made for payment of the sum of \$257,875.00 to the United States Government in the notes transmitted by the intermediation of the Swiss Government on August 22, 1956, and February 11, 1957.

The United States Government must express its astonishment at the reversal of policy and attitude, as well as at the failure of the Bulgarian Government to keep its word solemnly made to the United States Government and to the world at large following the unjustified destruction of the El Al aircraft and the killing of its innocent passengers and crew. While the Bulgarian Government now denies responsibility for the destruction of the aircraft, that has not been its position heretofore.

On August 3, 1955, the Bulgarian Government announced to the world a version of the facts of the destruction allegedly reached by a special Bulgarian Government commission set up to investigate the incident. It concluded that the "aircraft defense organs" of the Bulgarian Government did not take the necessary measures to call to the attention of the El Al aircraft that the Bulgarian authorities desired it to land. It stated: "The Bulgarian Government and the Bulgarian people once more express their deep regret for the misfortune of the innocent victims of the catastrophe." It said that the Bulgarian Government would identify and punish the persons responsible for the catastrophe and that it sympathized deeply with the relatives of the innocent victims of the catastrophe.

On August 4, 1955, the Bulgarian Government replied to the same effect to the United States Government's protest of August 2,

1955, delivered through the Federal Political Department of the Swiss Government. It said: "The Bulgarian anti-aircraft defense units manifested a certain haste and did not take all the steps required to force the aircraft to obey and to land." It repeated expressions of sorrow, and concluded: "The Bulgarian Government sympathizes deeply with the relatives of the victims and is prepared to assume responsibility for compensation due to their families as well as its share of compensation for material damage incurred."

The Bulgarian Government's special commission findings, as paraphrased by the Bulgarian Government, are indeed, the United States Government finds, an understatement of what actually occurred. The report of the Commission of Inquiry of the Israel Ministry of Communications and independent investigation conducted by the United States Government have disclosed other facts of which the Bulgarian Government could not be unaware, and which make the shooting by the Bulgarian fighter aircraft in the circumstances a flagrant violation of international law. If permitted to remain an uncondemned precedent, the action of the Bulgarian Government would encourage similar conduct toward innocent passengers and crew and legitimate civil aircraft by the Bulgarian and other governments. It is clear that the El Al aircraft which was shot down had, as a result of being caught in a severe local storm, been blown off its course in circumstances which could occur, particularly, to any aircraft of any international civil airlines lawfully engaged in carrying passengers in innocent international flight. Actually the distance of intrusion—40 kilometers—was insignificant. The account of the intrusion given by the Bulgarian Government itself shows that the pilot of the aircraft sought, after 40 kilometers of intrusion, to regain his original flight course, and had almost left the air space above Bulgaria and reached his original authorized flight course when the Bulgarian fighter planes shot the civil aircraft plane down. Moreover, the weather conditions were such that radio communications were undoubtedly impaired, and they could easily have confused any radio operator or pilot at the altitude and under the cloud and storm conditions in which the El Al aircraft was caught.

The consequent refusal of the Bulgarian Government to permit the Israel Inquiry Commission to conduct an investigation of the aircraft on the ground or to talk to witnesses on Bulgarian soil compounded the violation of international law and practice. It is doubtful, moreover, that the Bulgarian fighter aircraft either sought to lead or could have led the El Al Constellation to any kind of proper landing field in Bulgaria. At most, if the Bulgarian Government had any complaints about overflight, it should have resorted to the usual international practice of noting and identifying the aircraft and engaging in diplomatic communications with the Israel Government looking toward a non-repetition of the incident if possible.

There can be no question, therefore, as to the liability of the Bulgarian Government to the United States Government for all personal and material injuries to American nationals in the full amount requested.

The United States Government also notes that the Bulgarian Government publicly promised the United States Government and other governments that it would not only prevent the repetition of such an incident again but would identify and punish the malefactors. The Bulgarian Government has completely failed, so far as appears, to take any such action and has, in this respect too, violated its international commitments.

The United States Government cannot accept, in such a case of clear and admitted violations of international law, any conditions making payment a matter of grace or arbitrarily limited in amount without regard to actual damage inflicted and suffered.

The United States Government is also concerned with the principles of this matter, in as much as its nationals operate the largest international mileage and number of aircraft in international civil aviation, and large numbers of its nationals use the international civil aviation airlines of other countries. It must assume that every government, whether or not involved in the El Al incident, is concerned with a declaration of the reprehensibility of the conduct of the Bulgarian Government in the El Al Case and an assurance that such conduct will never be repeated.