dispute between the United Kingdom and Albania, arising out of an incident on 22 October 1946 in the Straits of Corfu, in which two British ships were damaged by mines with resulting loss of life and injury to their crews,

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

**APPOINTMENT OF A GOVERNOR FOR THE FREE TERRITORY OF TRIESTE**

(a) Letter dated 13 June 1947 from the representative of the United Kingdom to the President of the Security Council (document S/374) 108

**INITIAL PROCEEDINGS**

By letter dated 13 June 1947 addressed to the President of the Security Council the representative of the United Kingdom requested the fixing of a date "during the coming week for the discussion by the Security Council of the question of the appointment of a governor of the Free Territory of Trieste", in accordance with Article 11, paragraph 7, of the Statute approved by the Council on 10 January 1947.

At the 143rd meeting on 20 June 1947, the Council included the question in the agenda. 109

The Council considered the question in private at its 144th, 155th, 203rd, 223rd, 233rd and 265th meetings between 20 June 1947 and 9 March 1948.

At the 265th meeting on 9 March 1948, the Council agreed to postpone consideration and to take up the question at the request of any member of the Council. 110

The Security Council resumed consideration of the question at its 411th, 412th, 422nd and 424th meetings between 17 February and 10 May 1949.

Decision of 10 May 1949 (424th meeting): Rejection of draft resolution submitted by the representative of the USSR

At the 411th meeting on 17 February 1949, the representative of the USSR submitted a draft resolution to appoint Colonel Fluckiger as Governor of the Free Territory of Trieste. 111

At the 424th meeting on 10 May 1949, the draft resolution submitted by the representative of the USSR was rejected, by 2 votes in favour, none against, with 9 abstentions. 112

**THE EGYPTIAN QUESTION**

**INITIAL PROCEEDINGS**

By letter dated 8 July 1947, 113 Egypt stated that British troops were maintained on Egyptian territory against the will of the people, contrary to the principle of sovereign equality of the Members of the United Nations and the General Assembly resolution 41 (1) of 14 December 1946. Egypt also complained that the United Kingdom had occupied the Sudan and had endeavoured to impair the unity of the Nile Valley. A dispute had consequently arisen between the two countries, the continuance of which was likely to endanger the maintenance of international peace and security. Attempts at reaching a fair settlement in conformity with Article 33 of the Charter had failed since the United Kingdom had striven to avail itself of the Anglo-Egyptian Treaty of 1936 "that cannot bind Egypt any longer, having outlived its purposes, besides being inconsistent with the Charter". Consequently, Egypt was bringing the dispute before the Council under Articles 35 and 37 of the Charter, and requested the Council to direct:

1. The total and immediate evacuation of British troops from Egypt, including the Sudan;

2. The termination of the present administrative régime in the Sudan.

At its 150th meeting on 17 July 1947, the Council included the question in the agenda.

The Council considered the Egyptian question at its 175th, 176th, 179th, 182nd, 189th, 193rd, 196th and 198th to 201st meetings between 5 August and 10 September 1947. 114

In his statements to the Council at the 175th and 179th meetings on 5 and 11 August, the representative of Egypt submitted that the actions of the United Kingdom had created a conflict between the Governments of Egypt and the United Kingdom, and a constant state of friction between the population and the occupying forces. With its repercussions beyond the frontiers of Egypt, the prevailing tension between the two countries was a potential threat to peace and security. He held that Egypt had not been a free agent in concluding the Treaty of 1936, which violated the principle of sovereign equality of the Members of the United Nations, and was an obstacle to Egypt's discharge of its obligations under the Charter to cooperate in suppressing aggression. It was a perpetual alliance, and such alliances were precluded by the Charter. In choosing to abide by the obligations of the Charter rather than by the obligations of the Treaty, Egypt was merely living up to her commitment under Article 103 of the Charter. He added that the Council was not called upon to adjudicate on the legal rights of the parties to the Treaty of 1936, nor to pronounce upon the Treaty, but to take account of the "bald political facts" with a view to the maintenance of international peace and security. 115

The representative of the United Kingdom replied at the 176th, 179th and 182nd meetings on 5, 11 and 13 August, that no proof had been offered that international peace and security had been under any threat, unless the Egyptian Government contemplated creating it. Since both the Egyptian demands concerned the Treaty of 1936, the "one real issue" before the Council was the legal issue of the validity of the Treaty. He observed that the argument based on the doctrine of rebus sic stantibus was lacking in legal validity, that the Treaty had been freely concluded, that it was in no way inconsistent with the Charter, that the question of sovereignty was not involved, and that the main-
tendency of British troops in Egypt and the Sudan was not contrary to the General Assembly resolution 41 (1) of 14 December 1946. He denied that the United Kingdom had adopted a policy designed to sever the Sudan from Egypt. He concluded that the Charter had provided that international disputes should be settled in accordance with international law and justice and, therefore, the Security Council was not entitled to override treaty rights. Mindful of the principle of pacta sunt servanda, the Security Council should find that the Egyptian Government had failed to make a case and should remove the matter from the agenda.204

The representative of Poland, Syria and USSR expressed the view that a dispute existed within the meaning of the Charter.197

**Decision of 28 August 1947 (198th meeting): Rejection of draft resolution submitted by the representative of Brazil**

At the 189th meeting on 20 August 1947, the representative of Brazil submitted a draft resolution205 to recommend to the parties to resume direct negotiations and, in the event of their failure, to seek a solution by other peaceful means of their own choice; and to keep the Council informed of the progress of the negotiations. The representative of Belgium submitted an amendment206 to the Brazilian draft resolution to specify among the peaceful means available to the disputants reference of disputes concerning the validity of the Treaty of 1936 to the International Court of Justice.207

At the 193rd meeting on 22 August 1947, the representative of Australia proposed an amendment that, in so far as the negotiations affected the future of the Sudan, they should include consultation with the Sudanese.208 The Australian amendment was supported by the representative of the United Kingdom. The representative of Egypt opposed it and stated that the relations between the peoples inhabiting the two parts of the Nile Valley were an internal domestic matter which would not be discussed with the United Kingdom.209

The representative of China introduced, at the 189th meeting and at the 198th meeting, two amendments210 to the Brazilian draft resolution, which were both accepted by the representative of Brazil.211

At the 198th meeting on 28 August 1947, the Belgian amendment was rejected by 4 votes in favour, none against and 6 abstentions.212 The Australian amendment was rejected by 2 votes in favour, none against and 8 abstentions. The Brazilian draft resolution, as revised, was rejected by 6 votes in favour, 1 against and 3 abstentions.213

At the 201st meeting on 10 September 1947, the representative of China submitted a draft resolution to recommend the resumption of negotiations and the submission of a report to the Council in the first instance not later than 1 January 1948.214

At the same meeting, the Chinese draft resolution was rejected by 2 votes in favour, none against, 8 abstentions and 1 member not participating in the vote.215

The Egyptian question was retained on the list of matters of which the Security Council is seized.216

**THE INDONESIAN QUESTION (II)**

**INITIAL PROCEEDINGS**

By letter dated 30 July 1947,217 Australia drew the attention of the Security Council to the hostilities in progress in Java and Sumatra between armed forces of the Netherlands and of the Republic of Indonesia, which in its view constituted a breach of the peace under Article 39. Australia proposed, as a provisional measure under Article 40, that the Council call upon the two Governments, without prejudice to their respective rights, claims or positions, to cease hostilities forthwith and to commence arbitration in accordance with Article XVII of the Linggadjiati Agreement which the two Governments had signed on 25 March 1947.

By letter dated 30 July 1947,218 India drew the Council's attention to the Indonesian situation under Article 35, and requested the Council to take the necessary measures provided by the Charter to put an end to the situation.

At its 171st meeting on 31 July 1947, the Council included the question on its agenda.219


The Council, in its 207th meeting, took note of the situation. The Government of the Netherlands, in its 213th meeting, referred the matter to Special Committee II. For its report, see chapter II, Case 60.

The Council, in its 270th meeting, considered the report of Special Committee II. The Security Council, in its 303rd meeting, took note of the report of Special Committee II. The Council, in its 349th meeting, took note of the report of Special Committee II. The Council, in its 351st meeting, took note of the report of Special Committee II. For its report, see chapter II, Case 60.