

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)¹⁸⁸

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.¹⁸⁹

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.¹⁹⁰

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.¹⁹¹

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.¹⁹²

THE EGYPTIAN QUESTION

INITIAL PROCEEDINGS

By letter dated 8 July 1947,¹⁹³ 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 (I)

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 159th 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 1947.¹⁹⁴

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.¹⁹⁵

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-

¹⁸⁸ 143rd meeting: p. 1043.

¹⁸⁹ 143rd meeting: p. 1052.

¹⁹⁰ 265th meeting: p. 65.

¹⁹¹ S/1260, 411th meeting: pp. 14-15.

¹⁹² 424th meeting: p. 10.

¹⁹³ S/410, 159th meeting: pp. 1343-1345.

¹⁹⁴ For statements regarding recourse to Article 33, see chapter X, Case 4.

¹⁹⁵ 175th meeting: pp. 1746, 1753-1757; 179th meeting: pp. 1861-1863, 1866-1868, 1873.

tenance of British troops in Egypt and the Sudan was not contrary to the General Assembly resolution 41 (I) 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.¹⁹⁶

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 resolution¹⁹⁸ 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 amendment¹⁹⁹ 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.

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.²⁰⁰ 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.²⁰¹

The representative of China introduced, at the 189th meeting and at the 198th meeting, two amendments²⁰² to the Brazilian draft resolution, which were both accepted by the representative of Brazil.²⁰³

At the 198th meeting on 28 August, the Belgian amendment was rejected by 4 votes in favour, none against and 6 abstentions.²⁰⁴ The Australian amendment was rejected by 2 votes in favour, none against and 8 abstentions.²⁰⁵ The Brazilian draft resolution, as revised, was rejected by 6 votes in favour, 1 against and 3 abstentions.²⁰⁶

¹⁹⁶ 176th meeting: pp. 1768, 1773-1782, 1784; 179th meeting: pp. 1891-1893, 1896, 1897; 182nd meeting: pp. 1954-1956.

¹⁹⁷ 182nd meeting: p. 1965; 196th meeting: pp. 2237, 2249; 189th meeting: p. 2109.

¹⁹⁸ S/507, 189th meeting: pp. 2108-2109.

¹⁹⁹ S/507/Add.1, 189th meeting: p. 2115. For related discussion in connexion with Article 36 (3), see chapter X, Case 24.

²⁰⁰ S/516, 193rd meeting: p. 2169.

²⁰¹ 197th meeting: pp. 2247, 2254.

²⁰² S/507/Add.1, 189th meeting: p. 2112; 198th meeting: p. 2301.

²⁰³ 196th meeting: p. 2234; 198th meeting: p. 2301.

²⁰⁴ 198th meeting: pp. 2302-2303.

²⁰⁵ 198th meeting: p. 2303.

²⁰⁶ 198th meeting: pp. 2304-2305.

Decision of 29 August 1947 (200th meeting): Rejection of draft resolution submitted by the representative of Colombia

At the 198th meeting on 28 August 1947, the representative of Colombia submitted a draft resolution to call for the resumption of direct negotiations, to define the objectives of the negotiations and to provide for the Council to be kept informed of their progress.²⁰⁷

At the 200th meeting on 29 August, the Colombian draft resolution was voted on in parts and rejected.²⁰⁸

Decision of 10 September 1947 (201st meeting): Rejection of draft resolution submitted by the representative of China

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 1948.²⁰⁹

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.²¹⁰

The Egyptian question was retained on the list of matters of which the Security Council is seized.²¹¹

THE INDONESIAN QUESTION (II)

INITIAL PROCEEDINGS

By letter dated 30 July 1947,²¹² 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 Linggadjati Agreement which the two Governments had signed on 25 March 1947.

By letter dated 30 July 1947,²¹³ 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.²¹⁴

The Council considered the Indonesian question (II) at 69 meetings held between 31 July and 13 December 1949: 171st, 172nd, 173rd, 178th, 181st, 184th, 185th, 187th, 192nd-195th, 206th-211th, 213th-219th, 222nd, 224th-225th, 247th-249th, 251st-252nd, 256th, 259th, 316th, 322nd-323rd, 326th, 328th-329th, 341st-342nd,

²⁰⁷ S/530, 198th meeting: p. 2305.

²⁰⁸ 200th meeting: pp. 2338-2340.

²⁰⁹ S/547, 201st meeting: p. 2344.

²¹⁰ 201st meeting: p. 2362.

²¹¹ 201st meeting: p. 2363. For discussion regarding retention on the agenda, see chapter II, Case 59.

²¹² S/449, O.R., 2nd year, Suppl. No. 16, annex 40.

²¹³ S/447, O.R., 2nd year, Suppl. No. 16, annex 41.

²¹⁴ 171st meeting: p. 1617. On inclusion in the agenda, see chapter II, Cases 20 and 31.