

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.