

opinion the matter should "be referred to some higher competent authority such as the Security Council or the International Court of Justice".

There were many protests from governments against the regulations, which for practical purposes restricted the free use of the Canal to those of their ships which did not carry cargo to Israel; but Egypt did not alter its policy. The issue was therefore submitted by Israel to the Security Council a second time in July 1951. The specific complaint on this occasion was that certain types of cargo destined for Israel were still liable to confiscation at Suez Canal ports, while ships which had called at Israeli ports were placed on an Egyptian blacklist and were denied water, food, supplies and services on arrival at Suez Canal ports. Crews were not permitted shore leave. The result was that few ships using the Canal would touch at Israeli ports and much of the trade Israel would otherwise be enjoying was thus cut off. Most serious, however, from the point of view of Israel, was the fact that oil tankers bound for Israel could not use the Suez Canal.

The arguments put forward by the representatives of Israel and Egypt before the Security Council were summarized as follows in the *Annual Report of the Secretary-General on the Work of the Organization, 1 July 1951—30 June 1952*: "During the general discussion, the representative of Israel pointed out that, in its resolution of 11 August 1949, the Security Council had requested the signatory governments to observe the Armistice Agreements and had reminded them that those agreements 'include firm pledges against any further acts of hostility between the parties'. That resolution had been considered by its sponsors to mark the end both of restrictions on the sale and purchase of arms and of restrictions on the free movement of shipping. The records of the Council and contemporary exchanges of letters proved that those two things were contingent. The Security Council's very decision to restore freedom of sale and purchase of armaments to all governments in the area could not be reconciled with the view that a state of war continued to exist. The representative of Israel considered that the Council was obliged by the Charter to act for the 'suppression of acts of aggression', no matter by what instrumentality they were committed. Israel was not in a state of war with Egypt and denied that Egypt had the right to be at war with Israel. The right of ships to traverse the high seas and international highways was a cornerstone of the law of nations. He drew attention to the economic damage caused by the blockade and emphasized that, if the

Security Council acquiesced in its continuation, a fatal doubt would spread throughout the region concerning the impartial maintenance of the Armistice Agreement. The questions before the Council could not be decided on the basis of the traditional pre-Charter law. The issue was whether, after the signature of the Charter and after the Egyptian-Israel Armistice Agreement had been in force for two and a half years, a Member State could ask the Security Council to respect its unilateral exercise of belligerent rights. Article 51 of the Charter allowed a nation to undertake action in self-defence on two conditions only, both of which were absent in that case.

"In reply, the representative of Egypt considered that, under article X, paragraphs 4 and 8, of the Armistice Agreement, the Special Committee's decision of 12 June 1951 was final. The *obiter dicta* of the Chief of Staff were not connected with his official duties and did not properly belong in the records of the Security Council. The representative of Egypt submitted that article I, paragraph 2, and article II, paragraph 2, of the Armistice Agreement were not innovations but were based on precedents and on generally accepted doctrine regarding armistices. The precedents and the writings of well-known jurists established that the rights of the parties under an armistice agreement also included the right of blockade, the right to capture neutral vessels attempting to break the blockade, and the right to seize contraband of war. He argued that Egypt was exercising only a fraction of its rights under the armistice. The existence of a state of war between Egypt and Israel was pointed out by the Armistice Agreement and while it continued Egypt had no other choice than to exercise its right of self-preservation. He then referred to certain attitudes of Israel which were blocking the road to peace in the Middle East and which were responsible for the Egyptian measures about which Israel had complained. Hardly any arguments had been advanced during the debate in the Council to substantiate the claim that Egypt had violated the Suez Canal Convention. The complaint of Israel was not receivable, since the powers and duties of the Security Council were limited and should be strictly regulated by the fundamental principles and purposes laid down in Chapter I of the Charter. Article 1, paragraph 1, of the Charter required that the adjustment or settlement of international disputes should be 'in conformity with the principles of justice and international law'. However, the joint draft resolution was mainly based on the termination or the denial