

THE ANGLO-IRANIAN OIL PROBLEM

The Anglo-Iranian Problem involved, among many others, the League of Nations and later its successor, the United Nations. Indicating Iran's attempts at acquiring the most possible benefits from the main source of its economic life and British interests in maintaining the flow of oil under its operation for economic and strategic reasons. The Anglo-Iranian oil case, had all the ingredients of a nationalist attempt for self assertion, due to Iran's former association with big powers, while in appearance the question was referred to as an oil problem. The debate in the United Nations demonstrated British attempt to discuss the crisis, as a practical oil operation while Iran continuously referred to its right to assert national sovereignty and to injustices.

Both sides have discussed the Anglo-Iran oil problem but with differing dimensions. Dr. Mohammed Mossadegh debated it as a nationalist leader while Sir Gladwyn Jebb discussed it as an oil executive. United Nations efforts were useful but in view of the positions and the attitude of the parties a settlement could not be effected through U. N. instrumentalities.

Background

The history of modern Persia¹ is characterized by big power rivalry, particularly between Britain and Russia, with the latter maintaining an interest in obtaining a window at the warm waters of the Persian Gulf and the former attempting to preserve Iran as the buffer state between Russia and the sub-continent of India in pursuit of national interests. Both powers have interfered in Iran's internal affairs.

In 1907, in the midst of rising expansionist policies by Germany, an Anglo-Russian Accord was concluded² in which the country was divided into a Russian zone of influence, a British zone, and a third zone which constituted a neutral area. Again, following World War II, Iran served as a theater in the East-west cold war.

Iran's problems were further aggravated by increasing demands for political and economic changes which swept the Middle East, particularly after 1945. The background of this crisis began on May 29, 1901³ when Knox D'Arcy, a British financier with gold-mining interests in Australia, obtained an oil concession for a period of sixty years. This included all of Iran except the five northern provinces bordering Russia, i.e., Azerbaijan, Gilam, Mazanderan, Gorgan and Khorasan.⁴

The concession provided for an initial payment of 20,000 pounds⁵ and 20,000 in paid-up shares, plus 2,000 tommans⁶ annually in lieu of taxes, as well as a

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royalty of 16% of the annual net profit.⁷

Oil was discovered in 1908. A year later the Anglo-Iranian Oil Company was formed with an initial capital of two million pounds.⁸ It became the main supplier of oil to the British navy. In 1914 the British government, following a decision to replace coal with oil as a fuel for its navy, acquired a 53% interest in the company.⁹

With the rise of Reza Shah in 1921 to power in Iran, relations between the company and the government deteriorated, particularly in view of the fluctuating royalties provided to the Iranian treasury. In 1929 Iran received an income of 1,436,000 pounds; in 1930, 1,288,000 pounds; but in 1931 received only 307,000 pounds.¹⁰ As a result of the conflict which then ensued both Iran and the U. K. presented arguments similar to those made during the 1950's before the United Nations Security Council and the International Court of Justice. In both cases the courts and the councils of both world organizations considered the question.

On November 27, 1932 the company was informed that its concession was abrogated. Iran contended that the company never permitted the government to audit accounts, it concealed real profits, royalties on profits derived from operations outside Iran were never paid the company withheld payments for damages for which the government was not responsible, that the acquisition by the British government of shares was contrary to the provisions of the concession, the company had exercised economic pressure on the government, and had interfered in the internal affairs of the country. Moreover, during 1901—1932, Iran's share of oil royalties amounted to only 11 million pounds. If the company had paid up the normal taxes only, Iran's proceeds from this source only would have been doubled.¹¹

This annulment of the oil concession resulted in sharp exchanges between Iran and Britain. The latter considered the annulment inadmissible. Britain explained that there was no provision in the 1909 concession which would allow for the unilateral termination before expiry of its period. The concession provided for the settlement of disputes by arbitration. Iran's confiscatory action resulted in injuries to British nationals contrary to international law and hence an international wrong against the United Kingdom.

Oil exploitation in Iran was the result of seven years of prospecting, which involved heavy expenditures. The drop in royalties in 1931 was due to a heavy fall in trade, and profits were suffered by both the company and the government.

The company had provided for technical training of Iranians as well as for the reduction of foreign nationals. The company provided 22 million pounds in

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direct and indirect expenditures to Iran.¹²

In support of its threat to resort to force, Britain dispatched units of its naval forces to the Persian Gulf. This led the Iranian government to announce its intention of taking up the matter with the League of Nations. Britain, however, was interested in submitting the question to the Permanent Court of International Justice. Iran argued that the Court was not competent to deal with a question between a company and a government.

In December, 1933 Britain requested the Council of the League of Nations to consider the question under Article 15 of the Covenant, which was likely to lead to a rupture between the two states. The fact that the case was brought to the Council by the U. K. under article 15 indicates the seriousness of the situation. The Council considered the question in January, 1933 and after discussions, the disputants began negotiations with the help of Dr. Eduard Benès of Czechoslovakia, who acted as the League of Nations council rapporteur, a new concession was granted to the Company on April 29, 1933.¹⁴

As a small state, Iran benefited from its membership in the League. Although the new concession was criticized by Iranians and later abrogated in 1951, Britain might have extended its diplomatic pressure to military actions in pursuit of its national interest.

The new concession was concluded for a period of sixty years, provided for an increase in oil royalties and restricted the area of oil exploitation in southwest Iran to 100,000 square miles. A new royalty formula was concluded which provided Iran with four shillings per ton, with an increase in this rate in the event of sterling depreciation in terms of gold, plus 20% of any distribution made to ordinary stockholders in excess of 671,250 pounds. Iran guaranteed minimum income was 750,000 pounds. In lieu of taxes, Iran was also guaranteed an income of at least 225,000 pounds for the first fifteen years and not less than 300,000 pounds in the second fifteen years. On the expiration date in 1993, Iran would receive a sum of 20% of the difference between the general reserve on the date of expiration, and that on December 31, 1932. In view of re-calculation of royalties for 1931 and 1932 and the settlement of all claims, the company agreed to pay 3,864,000 pounds. At the end of the concession, the company's property in Iran would revert to the government.¹⁵

Article 15 of the new concession provided that the government had the right to appoint a delegate possessing the right to obtain from the company all information to which stockholders are entitled; to be present at meetings of the stockholders,

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the Board of Directors and committees convened to consider questions regarding relations between the government and the company; and to supervise the training of Persians in the oil industry in Great Britain. The company further agreed to the progressive reduction of employing non-Iranian nationals and to recruit Iranians with the requisites of training and competence.¹⁶

Factors Contributing to Nationalization

In 1941 Iran was occupied by Allied forces. The withdrawal of Soviet troops on May 9, 1946 was effected following a debate in the United Nations Security Council, and the conclusion of a USSR-Iran oil agreement providing for oil exploitation in northern Iran. On October 22, 1947, however, the Majlis refused ratification which evoked tension between the two states.¹⁷ At the same time, the Majlis requested the government to enter into negotiations with AIOC in order to "regain national rights."¹⁸

Moreover, during the war the Tudeha Party emerged as a well-organized and disciplined political instrument aimed at dislodging western connections with Iran, as well as at obliterating existing political and economic institutions in the country. Following World War II, nationalism throughout the Middle East acquired greater intensity. The rise of the intelligentsia, the increasing power of the middle class, and the awareness regarding more suitable conditions existing in other institutions created dissatisfaction and gave further impetus to movements for change. With the overthrow of the monarchy in Egypt in 1952 the problems of the Iranian throne were further aggravated.

The Majlis in Iran were considered representative of the rich and landowning class reflecting an "oligarchy of a thousand wealthy families,"¹⁹ incapable of effecting reforms necessitated by increasing demands from the population. The post-war economic system of Iran needed radical reforms due to unemployment and the high cost of living. It was estimated that over 80% of the population were engaged in agriculture, but about 60% of the landownership belonged to large proprietors and the wage,²⁰ and the state land amounted to about 10%. It was also revealed in 1949 by the statistical department of the Iranian seven-year plan Administration that a sample survey of 13,000 villages showed that 60% of the families owned no land, 25% owned 2.5 acres and about 10% possessed 2.5 to 7 acres.²¹ It was estimated that 9/10's of the Iranians were "never visibly beneficiaries from the country's oil royalties."²²

In an effort at reform, the government of Iran initiated in 1949 the Seven-Year Economic Development Project at an estimated expenditure of \$650,000,000.

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It was then hoped that the United States and the International Bank for Reconstruction and Development would provide the necessary funds for its implementation. The refusal by the Bank to grant a loan of \$250 million and the limited aid provided by the United States caused disappointment.

In 1949 it was estimated that oil royalties would amount to \$45 million annually and that this could not provide the necessary capital for the development plan.²³ Failure to obtain aid for the Seven-Year plan and the need for capital to implement it evoked demands for an increase in oil royalties, as well as for the nationalization of the oil industry, particularly since Venezuela had already obtained the 50-50 profit-sharing formula.

Negotiations for a new concession with the Anglo-Iranian Oil Company were undertaken, and on July 17, 1949²⁴ a supplementary agreement was signed which provided an increase in royalties of 25 to 50 per cent. The company also guaranteed that the annual minimum payment would be 21 million pounds, except for periods when oil exports would cease as a result events beyond the company's control.²⁵

Iranian nationalists, however, were not satisfied, and the National Front under the leadership of Dr. Mohammed Mossadegh demanded nationalization. The British were not ready then to discuss a new formula until the Majlis made a final decision on the supplementary agreement.

Since the government of Ali Mansur was unable to obtain the Majlisi' approval for the agreement or to re-open negotiations with the company, it fell in January 1950. Ali Razmara became Prime Minister, and despite United States intervention, he again attempted to no avail to re-open negotiations. The dangers inherent in the developing crisis were not then recognized. The British Foreign Office declined to induce the company to change its position and "insisted that the company was a commercial enterprise, and the Iranians would ratify the Supplementary Agreement when their need of money was great enough."²⁶ In October 1950 the Supplementary Agreement was referred to the Majlis. The Special Oil Committee reported against ratification, and this was accepted by the Majlis in January 1951.

In the meantime, a new royalty formula providing for 50-50 profit-sharing was concluded between Saudi-Arabia and Aramco in December 1950; this furthered Iranian dissatisfaction with AIOC.

The company was then ready to re-open negotiations, but this change in attitude was swept by swift events leading to nationalization. The prospect of a settlement then seemed dim. Many Iranians had also expected approval from American sources

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in their nationalization effort.²⁷

Nationalization of the Oil Industry.

In February 1951 Dr. Mossadegh submitted a proposal for the nationalization of oil in Iran. Ali Razmara opposed this step. On March 7 he was assassinated. A week later the Majlis unanimously adopted the nationalization law, which was confirmed by the Senate on March 20. The law, which regulated the nationalization of oil in Iran, was promulgated on May 2.²⁸

On March 7 Hussein Ala was named Prime Minister, but mounting pressure led to his resignation on April 27. The next day, with hesitation, the Shah requested Dr. Mossadegh to form a new cabinet.

The act of the oil nationalization in Iran was the first of its kind in the Middle East and therefore caused considerable apprehension regarding the future of foreign investments in the area. The property of AIOC was then estimated by the United Kingdom at a value of \$1 billion.²⁹ The expanding oil industry in the area had necessitated large investments amounting to approximately \$2,440,000,000 during 1946-1955.³⁰ The increasing consumption of oil made the countries in Europe, outside the Soviet bloc, dependent upon oil imports from the Middle East. It was estimated that in 1955 80 per cent of the oil imports of member states of the Organization for European Economic Cooperation, i.e., Austria, Belgium, Denmark, France, West Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey, and the United Kingdom, came from this region.³¹

On the other hand, it was estimated that the dollar cost arose from the loss of Iranian oil to the sterling area economy, had been at a rate of \$40 million a month in 1951. This cost amounted to \$215 million in 1952, but it was foreseen that by 1953 the need for dollar purchases would be eliminated.³²

Aside from the economic and strategic factors, the nationalization of oil in Iran had political repercussions, as it affected the western position, particularly in view of demands which were then made in Egypt for the withdrawal of British forces from the Suez Canal Zone, as well as the termination of the Condominium arrangement over the Sudan. The issue became a highly sensitive matter. This was shown in the statement made by Dr. Mohammed Mossadegh before the Security Council:

Our actions are described as "insensate" and our people as "deluded." We have been "precipitate", "arbitrary", and have made life "intolerable." Our legislative process is described as one of "hustling". We are damned as "intransigent" and

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accused of presenting ultimatums. Our grievances are dismissed as "wild accusations". We are "ridiculous" and exhibit "base ingratitude". We are "intemperate", "exploiters" of our own people, and save our own necks by inflaming our people against foreigners. Our aims are "illusory" and our means of achieving them "suicidal". our case is presented as one of the lame leading the blind down a steep place in search of a will-o'-the-wisp. We are said to lack goodwill.³³

The act of nationalization became a symbol of economic and political independence, hence not a purely economic question. To the nationalists it represented a rebellion against what they considered foreign domination. Under these circumstances it was difficult to devise a formula which would take into account nationalists' aspirations as well as western strategic, economic, and political interests. only after the overthrow of the Mossadegh regime in 1953 was a settlement effected. In the meantime, continuous diplomatic exchanges were made between the United Kingdom and Iran, which involved other powers, particularly the United States, as well as the United Nations.

The Position of the Parties.³⁴

Dr. Mohammed Mossadegh recalled that in 1907 Britain and Tsarist Russia concluded an agreement for the division of the country into spheres of influence, but in 1921 the USSR nullified all Tsarist agreements with Iran. However, the United Kingdom in 1919 had attempted to impose a protectorate treaty, but Iran refused its ratification. In 1921, with British support, a dictatorship was established which came to an end in 1941.

The Concession of 1933 was forced on Iran, by which the company acquired a victory and brought on Iran the "shackles" of the D'Arcy Concession. This was granted by the dictatorial regime of Reza Shah, following the dispatch of British warships to the Persian Gulf. During this era there was no freedom of elections, speech, assembly, or press. Dr. Mossadegh informed the Security Council that he himself was put under police surveillance for fifteen years and was placed in a prison near the Afghanistan frontier.

The Majlis, which ratified the 1933 concession, was not representative of the people, and the elections which took place in 1932 were the result of direct governmental interference. Iran read before the Security Council various governmental instructions to local officials requesting interferences on behalf of governmental candidates. The annulment of the 1901 concession in 1930 had been laid down in advance by the company in order to obtain more favorable terms and to extend duration, of its operations, which would involve postponing the transfer of the

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company's establishments and installations in 1961 as was originally envisaged. A concession which was granted under such circumstances could not be valid.

Although the government of Iran concluded an agreement with the USSR in 1947 for the establishment of a joint company to exploit oil on a 50-50 division of profits, the Majlis rejected such an arrangement. Instead the government was charged "to conduct the necessary negotiations and take the requisite measures in all cases where Iran's rights to its natural resources, whether subterranean or otherwise, especially in the case of the oil resources of the southern part of the country, have been impaired: and to see that all national rights should be restored. The Government (was) further charged to report the results of such negotiations and measures to the Majlis."

The United Kingdom offered the supplemental agreement in 1948, but the profits provided were half the amount obtained by Saudi-Arabia as a result of its agreement with the Pacific-Western Oil Corporation.

As a result of an attempt to assassinate the king in February 1949, the government used the incident as a pretext to declare martial law and undertook repressive measures. Against this background, the supplemental agreement concluded in 1949 was negotiated. It was submitted to the Majlis, but was not approved. The idea of nationalization thus acquired a momentum which was accelerated by the attitude of the company. Nationalization was^o enacted, since political independence could not be enjoyed as long as AICO had a monopoly of Iran's main source of wealth.

Iran explained that according to the Oil Nationalization Law, 25 per cent of the proceeds were to be set aside in order to provide for compensation. Iran was willing to take the value of the company's share before nationalization or another method employed by other governments, including the United Kingdom, which was utilized in its nationalization schemes. Iran informed the world Court that the claim for compensation was inadmissible because the company had not exhausted local remedies.

The United Kingdom, however, refused to settle the question of compensation and continued to claim that Iran had no right to nationalize the oil industry. In order to hinder the efforts of the National Iranian Oil Company, the British staff were forbidden to work for Iran and since existing difficulties were not resolved, Iran was compelled to withdraw the residence permit of former employees and force their departure in order to facilitate arrangements for other replacements. Iran termed AIOC as "The Colonial Exploitation Company," which prevented auditing their

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accounts, even though large quantities of oil were sold to the British government.

The conclusion of deals with the British navy and air force was made at unreasonable rates, and information regarding such transactions was withheld. Iran believed that the accounts had been falsified since she was not able to obtain authoritative financial statements from the company or to examine its accounts, thus the figures were fragmentary. Although royalties under the 1933 arrangement increased to 20 per cent of the profit, the subsidiary and associated companies paid only a part of the profit in dividends to the parent company, and thus Iran's share was correspondingly reduced.

According to the company's accounts, net profits for 1948 amounted to £61 million. However, Iran received only £9 million, while Britain received £28 million in taxes. Britain contended that in 1949 shareholders were paid £7.1 million but this represented only 30 per cent of the dividends, which was the maximum amount that could be paid under the British tax system. In this same year £23 million were paid as income tax to the British government, and a larger sum was credited to the general reserves account. The AIOC's 1949 balance sheet shows that, while £62 million in profit was made and £28 million were paid as income tax to the British government, taxes paid to the Iranian government amounted to only £1,400,000. This was less than 2 per cent of the company's profits, while the income tax paid in 1933 amounted to 4 per cent of the total receipts. Furthermore, the company derived in 1950 a profit which amounted to \$500-550 million, although Iran received \$45 million in royalties. After this payment, the company's profits for 1950 amounted to more than £114 million, as cited by the British representative before the Security Council. This was the equivalent of the total amount paid to Iran in royalties in the course of a half-century of oil exploitation by the former company.

Iran estimated that the company's total gains amounted to \$5 billion, but the company paid only a small sum per ton of petroleum in lieu of taxes. Had the government received taxes, the amount of £12 million would have been paid in 1947 instead of the £765 thousands received. The figure for 1948 should have been £17 million instead of £1.3 million; and in 1949, £19 million instead of £2.1 million. This represented a loss of nearly £44 million in three years, while in the same period the United Kingdom's treasury collected £65 million.

In 1948 £28 million was collected by the United Kingdom as profit taxes. Had the D'Arcy concession still been in force, Iran's income from this source would have amounted to £21 million. Considering that the former company was

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not liable to custom dues, the loss from this source to Iran amounted to more than the royalties received. During 1947-1949 this would have amounted to £28 million on exports, and £6 on imports. Iran noted that the total income received amounted to 15.6 per cent of the Iranian national budget in 1948 and 14.9 per cent in 1949, but the profits obtained by the company amounted to more than twice the amount of the total budget. Contributions to the national income amounted to 10 per cent, but the revenues of the company corresponded to 30 per cent of this income.

Oil is a main source of national wealth in Iran, but it has been exploited by a foreign company. During its fifty years of operation, some 315,000,000 tons were produced, of which Iran received only 110,000,000 pounds. In sum, as a result of their dealing with AIOC, Iranians have received less than 10 per cent of the total receipts of the company. Iran could not finance its Seven-Year Development Program on the basis of the royalties received.

Iran recalled the review made by the United Nations Secretariat concerning economic conditions in the Middle East during 1949-1950 in which it stated that the "impact of the oil operations of Middle Eastern producing countries is mainly indirect, and the benefits derived by them are limited. Also there is, therefore, a striking contrast between the huge potential wealth represented by the oil reserves of the Middle East and the current benefits so far derived by the countries to which the reserves belong."³⁶

Should this situation continue, Iranians would remain in a state of poverty. Thus it became necessary to nationalize this vital resource in order to raise the standard of living by implementing development projects through oil revenues. Therefore Dr. Mossadegh pleaded:

"Our country, with an area of 1.6 million square kilometres, contains only 18 million persons, who are victims of all manner of natural obstacles and of hardships without number.

These fellow-countrymen of mine lack the bare necessities of existence. Their standard of living is probably one of the lowest in the world

Our greatest natural asset is oil. This should be the source of work and of food for the population of Iran. Its exploitation should properly be our national industry, and the revenue from it should go to improve our conditions of life. As at present organized, however, the petroleum industry has contributed practically nothing to the well-being of the people or to the technical progress or industrial development of my country. The evidence for that statement is that, after fifty years of exploitation by a foreign company, we still have not enough Iranian tech-

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nicians and must call in foreign experts.”

Despite the low cost of production, the price of oil sold in Iran under the 1933 Concession was based upon the Gulf of Mexico prices, less 10 per cent; and the government of Iran was granted a reduction of 25 per cent. Although oil resources in Iran are the richest, the Iranian people pay four to five times more than the original cost.

Moreover, the company had interfered in internal politics. It could be compared to the former East India Company. In support of this allegation documents were presented to the Security Council, which had been found in the information office of the company in Tehran.

Instead of adopting a plan designed to reduce the number of the foreign staff, according to the terms of the 1933 concession, their number was increased from 1,800 in 1933 to 4,200 in 1948.

Health services provided for Iranian employees were inadequate. Contract workers were treated by the company hospital in Abadan against payments. The houses built by the company were mostly inhabited by the British staff.

Iran stated that, according to this report, in 1949 “about 90% of all salaried staff had been given accommodations in company houses. On the other hand, out of 31,875 wage earners only 5,298—or 16.6%—were in company house.” The report added that “the great majority of the oil workers, however, live in the older over-crowded sections of the municipal districts where more often than not an entire family, or three or four bachelors occupy a single room. Rents are high, and an attempt made by the government to fix a ceiling to rents in relation to the statutory minimum wage has utterly failed.....Another group of workers lives in mud houses or huts made of all sorts of materials, or in the 300 tents which the company put up in 1949 as an emergency measure to accommodate homeless workers.”³⁸

Housing in the oil fields was better since 62.5 per cent of the foreign staff and 36 per cent of the Iranian wage earners were accommodated in company housing. In explaining the difficulties attending settlement, Iran noted that negotiations were undertaken as a result of the good offices of the United States. The United Kingdom accepted the principle of nationalization but on August 4, 1951, made a proposal contrary to the Nationalization Law. She proposed to transfer assets and establishment of the AIOC to the National Iranian Oil Company, which would in turn transfer it to a third party to be formed by the former company. This proposal was a revival of the former company but in a new guise, contrary to the formula accepted by both parties as a basis for negotiation. Nonetheless, Iran submitted a counter-proposal but it was unacceptable to Britain who, in turn,

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broke off negotiations.

On October 17, 1951, Iran informed the Security Council of its desire to negotiate the question on the following basis:

1. Examination of the claims and counter-claims in order to provide compensation according to the laws of any country on the same matter, which the company considers more advantageous to its interests.

2. Iran was willing to enter into long-term arrangements in order to provide Britain with the same amount of oil previously supplied at prevailing world prices. Half of the payments resulting from such sale could be kept by the United Kingdom in order to redeem claims by the AIOC. Former customers would also be assured purchases at international prices, of quantities previously imported.

3. Iran was interested in concluding contracts with foreign technicians, with all rights and benefits previously enjoyed.

4. In order to insure the steady flow of oil, previous administrative and technical regulations would be retained except those which conflict with the Nationalization Law.

5. The exploitation and refining organization would be headed by a foreign technical manager under the supervision of the Board of Directors of the National Iranian Oil Company.

6. The delivery of oil by NIOC to agencies appointed by AIOC for transportation.

Iran made it very clear that it considered the act of nationalization a derivative of sovereign rights which could neither be abridged nor interfered with by any power or international body. A private agreement could not prevent the exercise of national sovereignty. Article 1, paragraph 2³⁹ enshrined the principles of equal rights and self-determination, while Article 2, paragraph 7⁴⁰ forbade the United Nations from intervening in domestic matters. Thus members of the United Nations are not required to submit such questions for settlement under the charter.

Iran informed the Security Council that the assertion of a potential threat to international peace and security inherent in the situation should be considered in the light of the fact that Iran is a small country with a budget of \$250 million, lacks heavy industry, Its army and air force are intended to maintain internal order, and its naval units are intended for coastal patrol. The danger to peace came from Britain's efforts to intimidate Iran by the dispatch of military units to the vicinity of Iran.

The International Court of Justice, it was argued, also lacked jurisdiction.

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The Court's jurisdiction depends on the declaration signed by Iran on October 2, 1930, and ratified on September 9, 1932, according to Article 36 of the Court's Statute which substituted Article 15, Paragraph 8 of the Covenant. This declaration limited the Court's jurisdiction to disputes arising following ratification of the declaration. Moreover, the 1933 Concession was not concluded between states. It was not registered with the League of Nations according to Article 18 of the Covenant.⁴³ This was a private arrangement with a company and conferred no right to the United Kingdom, who was not a party to it.

Britain invoked treaties and agreements which were either concluded prior to the ratification of the Iranian declaration accepting the optional clause under Article 36 of the Court's statute, or have no relation to its claim. In reply to Britain's request to the Court, Iran, on June 29, 1951, rejected the British petition; she explained that its case was based on the "greed and selfishness of an English company against a peace-loving and weak oriental nation" in beyond the jurisdiction of the Court, in view of the following:

1. The Concession of 1933 was concluded with a private company, the United Kingdom not being a party to it and therefore subject to Iran's domestic laws, and the fact that Britain is a shareholder does not change the status of the company. Hence, no controversy exists with the United Kingdom. This is a matter with a company and according to paragraph 1 of Article 34 of the statute "only states may be parties before the Court."

2. The declaration made by Iran in 1932 excluded questions which might have bearing on its sovereignty. The Nationalization Act is an exercise of Iran's sovereign rights. Britain itself has used this right in nationalizing its industries. The exercise of sovereignty is not subject to complaint and thus it follows that the request for interim measures should be rejected.

3. According to Article 2, paragraph 7 of the United Nations Charter the United Nations cannot interfere in matters pertaining to domestic jurisdiction. Hence the question is not subject to procedures of settlement specified in the Charter.

4. According to Article 36 of the Court statute⁴⁵ the jurisdiction of the Court can only extend to cases referred to it by the parties provided for in the United Nations Charter or in treaties in force.

5. The request for interim measures can only be made if rights are endangered, but in this case every effort is being exerted to maintain the flow of oil to customers. Foreign experts were encouraged to remain in the position they held

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under the former company, but their collective resignation was intended to paralyze the industry.

6. Article 2 of the Nationalization Law made it incumbent upon the government to deposit 25 per cent of oil income with a view to compensating the former company.

The United Kingdom considered that Iran's attitude had been "entirely negative" and old "imagined wrongs" were reiterated. Iran's allegations were a distortion of the truth. AICO provided as generous terms as prevailed in the Middle East and had been ready to revise royalty arrangements in order to meet changing circumstances. On October 29, 1944, Prime Minister Mossadegh, then a member of the Majlis Commented on the 1933 concession as follows:

"Finally both the Persian Government and the Company came away from the League of Nations contented and victorious. The Company were victorious because they had secured an extension of thirty-two years to the concessions and the Persian Government were victorious because they had annulled the D'Arcy Concession."

Britain is interested in establishing a new world based upon cooperation between the developed and less developed countries. This was proven by its relinquishing of power over India and Pakistan. In fact, the word "exploitation" can more properly be described to Iranians who realized that reforms are due and hence seek to divert attention of the masses against foreigners.

AICO has provided 5th's of Iran's foreign exchange. The revenues provided made it possible to embark upon the seven-year development program. In 1949, for example Iran received a total of £29.6 million, but this amount could have been increased to about £39 million had the supplemental agreements been ratified. Those revenues should be compared to the £7.1 million distributed as interest to shareholders.

In 1949 AIOC had offered the 50-50 profit-sharing formula, but this was rejected. By its own actions, Iran led to the closing down of a great oil enterprise.....of great benefit to the free world and to the Iranian people. Unless a negotiated settlement is made the Iranian economy, as well as its administrative machinery, will be paralyzed. A settlement can be found if based upon cooperation and partnership and if practical realities were recognized.

The company's social services command admiration and could serve as a model for relations between foreign enterprises and the less developed countries. The company raised the standard of living among Iranians and built roads and bridges. The allegations made against the company are "irresponsible statements." The Prime Minister of Iran never visited the Abadan area. The company built 20,000

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houses for its employees during 1934-1950.

Excluding unskilled workers, Iranian employees have been increased by six-fold, and those facts were attested to by the report published by the International Labour Office in 1950 on labor conditions in the oil industry in Iran.

True there was an increase in the number of the foreign staff, but the number of Iranians employed also increased during 1932-1948 from 14,000 to 70,000. This was necessary because of the increase in oil production from 7 million tons to 27 million tons annually. Of the company's staff of 9,100 in 1951, of the highest grades among the 75,000 employees there were 5,500 Iranians and only 3,600 non-Iranians. Among the 119 senior staff there were 30 Iranians. The appointment of unqualified Iranians to highly technical positions would have impaired efficiency. However, when competent Iranians are available, more will be employed.

The allegations of company interference in internal affairs were denied. If the company had an influence, nationalization would not have been possible. The documents presented to the Security Council on this subject did not prove improper activities by AIOC. The United Kingdom was ready to provide safeguards to dissipate apprehensions regarding this question. Britain accepted the principles of nationalization but must ensure technical efficiency for production and distribution. Iran ignored such practical considerations.

The nationalization of foreign property is governed by international law. Iran had expressed willingness to discuss compensation but could not provide effective, adequate and prompt payment since it had neither the revenues nor the oil to sell nor was it able to operate the industry without outside help.

In reply to the Act of Nationalization, the Anglo Iranian Oil Company recalled Articles 1 and 21 of the 1933 Concession. Iran cannot unilaterally abrogate the Concession. According to Articles 22 and 26 it requested arbitration on May 8, 1951, but this was not accepted. Moreover, the dispute also relates to violation of treaty obligations, which transformed the problem into an international question, where in the question of domestic jurisdiction cannot be invoked. The United Kingdom claimed the following:

1. Iran should agree to arbitrate the dispute as provided in the 1933 concession.
2. The Oil Nationalization Act was a unilateral annulment or an alteration contrary to the 1933 Concession and in doing so, Iran had committed a wrong against a British national.

3. In rejecting arbitration, Iran had denied or had attempted to deny to the company a legal remedy provided in the 1933 concession and thus was responsible.

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for a denial of justice against a British national.

4. Accordingly, Iran had treated the Anglo-Iranian Oil Company as a British subject, not in accordance with international law, and hence committed an international wrong against Britain which constituted a breach of customary international law as well as treaty obligations.

In its application of May, 1951 to the World Court, the United Kingdom submitted that the Court had jurisdiction to determine the dispute as it was covered by the Iranian declaration deposited with the Secretariat of the League on September 19, 1932, in which Iran accepted the Jurisdiction of the Permanent Court of International Justice according to Article 36, paragraph 2 of the Statute of the Court. Moreover, the exceptions made in the Iranian declaration were not applicable in the dispute.

Iran is bound to submit to the jurisdiction of the International Court in this case because she is a member of the United Nations and according to Paragraph 1 of Article 1 of the United Nations Charter, members undertook "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of disputes or situations which might lead to a breach of the peace." Paragraph 3 of Article 36 states: "Legal disputes should, as a general rule, be referred by the parties to the International Court of Justice."

The United Kingdom added that Iran had accepted treaties and conventions binding her to treat British nationals in accordance with international law and to accord them treatment of the most favored nations. Those treaties and conventions are as follows:

The Treaty concluded between the United Kingdom and Iran on March 4, 1957; the commercial convention concluded on February 9, 1903; the exchange of notes of May 10, 1928; the treaty of friendship and establishment concluded at Tehran between Persia and Egypt on November 28, 1928; the establishment convention concluded at Tehran between Persia and Belgimm on May 9, 1929; the establishment convention concluded at Tehran between Persia and Czechoslovakia on October 29, 1930; the treaty of friendship, establishment and commerce concluded at Tehran between Persia and Denmark on February 20, 1934; the establishment convention concluded between Persia and Switzerland at Berne on April 25, 1934; the establishment convention concluded at Tehran between Persia and Germany on February 17, 1929; the establishment Convention concluded at Tehran between Persia and Turkey on March 14, 1937; the exchange of notes between Persia and the United States constituting a modus vivendi regarding friendly and commercial relations

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dated May 14, 1928; the exchange of notes between Persia and the Netherlands constituting a modus vivendi regarding friendship and commerce dated June 20, 1928; and the exchange of notes between Persia and Italy constituting a modus vivendi in matters of commerce and jurisdiction dated June 25, 1928.

The United Kingdom requested the Court to declare that Iran is under duty to arbitrate the dispute and to carry any award as a result of such arbitration. Alternatively, the Court was requested to declare that implementation of the Oil Nationalization Law is contrary to international law for which Iran would be internationally responsible, and that by denying to the Anglo-Iranian Oil Company legal remedy according to Article 22 of the 1933 Concession, Iran had committed a denial of justice contrary to international law.

The Court was requested to adjudge that Iran should give satisfaction and indemnity and to determine their manner.

In support of its request for interim measures, Britain explained that should the Court decide in favor of its claim, it would not be possible to execute the judgment as a result of the damages which would incur as damages done by Iran. Britain noted the loss of skilled personnel, interference with management, consequences of disrupting an integrated enterprise, danger in closing and reopening oil operations and loss of markets. The United Kingdom outlined measures undertaken by the Iranian government, as well as inflammatory statements, broad-casts and articles considered prejudicial to final settlement.⁴⁸

Efforts at a Settlement outside the United Nations.

The United Kingdom requested arbitration of the dispute, but this was rejected by Iran. Instead, the company was requested to collaborate in the implementation of the Nationalization Law. However, AIOC and Iran agreed to negotiate the question. Discussions took place during June 1951, but to no avail. Britain then requested the International Court of Justice "for the indication of interim measures of protection."

The United States had taken an intense interest in the events taking place in Iran. On July 9, President Truman urged Iran to consider the Court's "suggestion" of July 5, and offered to send W. Averill Harriman to discuss the situation. On July 16 Iran agreed to receive Mr. Harriman, who then began discussions with the parties, which resulted in talks between the disputants during August, but were without result.

On September 6 Britain declared that negotiations were broken off, and apparently it was then decided that the fall of the Mossadegh government was the prerequisite of a settlement of the oil dispute especially in view of the deteriorating

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economic and political conditions in the country.

On September 12 Iran submitted a proposal for settlement and declared that if a satisfactory conclusion was not reached within fifteen days, the residence permit of the British staff in Iran's southern oil field would be cancelled.⁴⁹ Britain considered the proposal unacceptable as a basis for negotiation and hence, Mossadegh announced that the British staff should leave on September 27 when Iranian troops seized the Abadan refinery. Britain then grouped military units at the head of the British Gulf, and requested the Security Council to consider the question. In the meantime, matters reverted to the World Court. On May 26, 1951 the United Kingdom submitted an application to the International Court of Justice instituting proceedings against the Iranian government.

Following the failure of negotiations between AIOC and Iran in June, Britain requested the Court on June 22 for "the indication of interim measures of protection" according to Article 41⁵⁰ of the Statute and 61 of the Rules of the Court. On June 25 the President of the Court, acting upon the request for provisional measures, cabled Iran's Prime Minister requesting that instructions be given to avoid measures which might render implementation of future Court's decisions in the case difficult or impossible, or might aggravate the situation.⁵²

The Court opened hearings on Britain's application on June 30, but the Iranian government did not participate. On July 5 the Court ordered provisional measures taken according to Article 41⁵³ and Article 48⁵⁴ of the Statute, as well as Article 61 of its Rules.

The Court noted that in instituting proceeding, the United Kingdom was exercising the right of diplomatic protection. Since the complaint was one of an alleged violation of international law and a denial of justice according to the Court statute and its rules, the Court is empowered to entertain the request for interim measure without prejudice to the question of jurisdiction of the court to deal with the merits of the question.

In view of the existing state of affairs, the Court ordered both governments to ensure that no action was taken which might 1) prejudice the rights of the other party; 2) aggravate or extend the dispute; 3) hinder the industrial operation of AIOC as were carried out before May 1, 1951; and 4) the company's operations should continue under the management constituted prior to the enactment of the Nationalization Law, but there should be established by agreement between both governments a Board of Supervision composed of two members appointed by each party and a fifth member chosen by agreement of both or by the President of the

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Court. This Board will ensure that oil operations are carried out according to the provisional measures, audit financial receipts, ensure that proceeds are paid into an account at banks selected by the Board with an understanding that such banks would dispose of the funds according to the decisions of the Court or in agreement with the parties.⁵⁵

Pursuant to Article 41, paragraph 2 of the Court statute, the Court's order was transmitted to the Security Council on July 11.⁵⁶ On July 6 the United Kingdom announced its acceptance of the Court's order. But, on July 9 Iran informed the Secretary-General of the United Nations of its withdrawal of the declaration, recognizing as compulsory the jurisdiction of the Court,⁵⁷ and on July 16 informed the United Nations that it did not recognize as valid the Court's order of July 5. The United Kingdom therefore requested the Security Council to take up the matter. Consideration by the Security Council.

Although Britain obtained a favorable decision from the Court regarding the interim measures and despite its dispatch of armed units to the Persian Gulf area, a settlement was still not in sight. Therefore, on September 28, she requested the Security Council to consider its "complaint of failure by the Iranian government to comply with the provisional measures" as indicated by the Court,⁵⁸ requesting that the Council be called for a meeting on October 1 in view of Iran's expulsion order to the British staff effective on October 4.

The Council began its deliberations on October 1 (559 Mtg.) but on the same day the evacuation of the British staff was completed without incident. The same meeting proceeded to consider adoption of its Agenda, and Article 2, paragraph 7 of the Charter regarding domestic jurisdiction was again invoked. The complaint by the United Kingdom was included on the Agenda⁵⁹ by a vote of nine to two.⁶⁰ Therefore, according to Rule 37 of the Council's provisional rules and Article 32 of the Charter,⁶¹ the representative of Iran was invited to participate in the debate without the right to vote. He requested adjournment of the debate for a period of ten days⁶² as Prime Minister Mossadegh was expected to present his government's position on the question⁶³ before the Security Council. The United Kingdom preferred an earlier meeting. The meeting was postponed until October 11, but it was left to the discretion of the President to call an earlier meeting.⁶⁴

The debate in the Security Council was reopened on October 15 (560 Mtg.). Dr. Mossadegh then represented his country in the Council. Discussion of the item continued during October 16 (561 Mtg.), October 17 (562-563 Mtgs.) and October 19 (565 Mtg.).

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Britain's request was accompanied by a draft resolution⁶⁵ in which the Council was requested to declare that Iranian actions would cause damages to oil production and endanger life and property, that the expulsion of the remaining staff was contrary to the interim measures, to express its concern at the threat to international peace and security that might be inherent in this situation, to call upon Iran to act according to the provisional measures and in particular, to permit the residence of staff at Abadan affected by the expulsion order and inform the Security Council of steps taken to implement the resolution.

In support of its position, the United Kingdom informed the Council that the interim measures which the Court gave on July 5 indicated that the case was not purely of domestic jurisdiction. It was also clear that under Article 93⁶⁶ of the Charter, all Members are parties to the Statute and according to Article 94⁶⁷ each Member agreed to comply with the decisions of the Court in a case to which it was a party. The Council was therefore under duty to uphold its obligations. It follows, then, that the Court's findings give rise to international obligations under the Charter and it is the right and the duty of the Security Council to uphold, and by virtue of Article 94, paragraph 2, the Council has the right to deal with the question.

Moreover, in view of the potential threat to peace inherent in this situation, the Council, under Article 35 of the Charter was justified to consider urgently the dispute. By its actions, the government of Iran was flouting the Court's decision and imposing its own will in this matter. One of the basic principles of the United Nations Charter was to establish conditions under which justice and respect for obligations could be maintained. In issuing the arbitrary expulsion order to the AIOC staff, Iran was creating an inflammatory situation.

Sir Gladwyn Jebb recalled before the Security Council that in the past such situations were settled by force and some would suggest that the United Kingdom should again resort to force in the interest of the world community. However, since the United Kingdom based its policy on the United Nations Charter, the question was referred to the Security Council.

On October 13 the United Kingdom proposed a revised draft resolution⁶⁸ which was submitted in view of the changed situation since the question was submitted to the Council. This was due to the departure from Iran of the remainder of the company's staff. As the provisional measures indicated by the Court were, to an extent, being overtaken by events, the new draft called for settlement by negotiation according to international law, with differences to be settled according to the principles of the provisional measures and the establishment of an interim

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arrangement which would enable the flow of oil to be resumed. The Council was asked to pronounce that the matter was not within the domestic concern of Iran. The United Kingdom appealed to Iran before the Security Council to concentrate on constructive proposals.

Dr. Mohammed Mossadegh requested the Council not to interfere in the internal affairs of his country; otherwise the people of Iran would lose confidence among his people and would fail in its obligation as a guardian of world peace. The Court's interim measures were invalid since it lacked jurisdiction in the matter. The Court's action was not a decision; rather, it was an indication and even if valid, was not binding. The United Kingdom is misleading the Council in approving invalid results. The provisional measures were not a final judgment and thus, Article 94 of the Charter is not applicable. The interim measures were notified to the Council in order to further cooperation between United Nations organs and cannot be construed to confer powers on the Security Council. Britain, in requesting the Council to express concern at a threat to the peace, resulted from the non-existence of a dispute. The only dispute which exists relates to United Kingdom threats to force and interference in Iran's domestic affairs.

Iran requested the Council to refrain from adopting any recommendations. Iran is willing to resume negotiations broken off during August 1951, but objected to the United Kingdom's revised draft resolution as this was intended to transform a domestic question into an international one by the conduct of negotiations within the framework of the invalid interim measures indicated by the Court. Therefore Iran opposed adoption of any draft resolution by the Council.

As usual, following the conclusion of the general debate on an item, attention will then be given by the Council to the draft resolutions proposed. The basis of the discussion was then turned to the United Kingdom's draft resolution submitted on October 12. On October 16, India and Yugoslavia submitted amendments to this draft.⁶⁰ Those amendments would have deleted references in the preamble regarding the "maintenance of international peace and security as well as to upholding the decisions of the Court." The amendment would have characterized the dispute as one the continuance of which was likely to threaten the maintenance of international peace and security, and would have recommended to the parties a resumption of negotiations in order to resolve differences in accordance with the purposes and principles of the United Nations Charter and to avoid action which would aggravate the situation or prejudice the position of the parties. However, On October 16 China suggested additional changes, deleting words which would have

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characterized the problem as a threat to international peace and would have substituted the word "call" for the resumption of negotiations by the word "advises."

On October 17 the United Kingdom, in view of the amendments proposed, submitted a second revised draft resolution⁷² which would have incorporated the India-Yugoslavia amendment but not the suggestions made by China.⁷³ On the same day Ecuador submitted a draft resolution which, without characterizing the dispute or referring to the interim measures adopted by the Court, would have advised without deciding on the question of competence, the parties to reopen negotiations with a view towards an attempt at settlement.⁷⁴

The representative of Iran requested the Council to declare itself incompetent to consider the question by virtue of Article 2, paragraph 7. The Council, however, never proceeded to consider systematically, challenges to its competence but such questions would be decided within the framework of including the item on the Agenda, discussion on the question as well as the resolution which might be adopted.

After it became obvious that the Council would again be deadlocked, France on October 19 moved to adjourn the debate until the Court had ruled on its own competence. This motion was accepted by the Council on the same day. In the meantime, however, further efforts at a settlement outside the United Nations were made.

Following conclusion of the debates in the Security Council, Mohammed Mossadeh undertook discussion from October 20 to November 13 with United States officials in Washington regarding the oil question, but without results. Another international organization attempted a settlement. A mission of the International Bank for Reconstruction and Development arrived in Tehran on December 23 and a second mission arrived on February 11, 1952. However, in March IBRD abandoned its efforts at settlement. In the meantime, the United States informed Iran that a loan could not be justified and urged an oil settlement.⁷⁷ Up to then, therefore, efforts of the United Nations and the World Bank, as well as other approaches, did not bring about a settlement. Nonetheless, another main organ of the United Nations had before it a United Kingdom application instituting action against Iran. Attention then reverted to proceedings at The Hague.

Final Decision by the Court.

In June 1952 the Court deliberated on the Anglo-Iranian case. By virtue of Article 31, paragraph 2, of the Statute, the Court included upon the bench on an ad hoc basis an Iranian judge.⁷⁸ Since Sir Arnold McNair of the United Kingdom was then President of the Court, he therefore relinquished his post to the

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Vice-President, according to Article 13 paragraph 1⁷⁹ of the Rules of the Court. The Court noted that in view of the urgent nature of the United Kingdom's request for interim measures, they had, on July 5, 1951, indicated such measures but this decision in "no way prejudices the question of the jurisdiction of the Court." In order to deal with the merits of the case, the Court derives its jurisdiction from the rules laid down in Article 36 of the Statute. In the present case, the jurisdiction of the Court depended upon the declaration made by the parties on condition of reciprocity. Since the Iranian declaration was more limiting in scope, the Court based itself on this declaration. The Court noted that Iran appears to have shown a particular degree of caution in drafting its declaration. In 1927 Iran denounced treaties relating to the regime of capitulations. In 1930 it considered all capitulatory treaties invalid. Hence the Court assumed that in accepting the compulsory jurisdiction of the Court, Iran desired to be excluded from that jurisdiction disputes which might arise in connection with the capitulatory treaties, and the declaration was drafted accordingly.

Therefore, the Court concluded that by virtue of its declaration, Iran excluded from the jurisdiction of the Court disputes relating to treaties and conventions accepted by it before ratification of the declaration.

The Court found that the United Kingdom was not entitled to invoke the most-favoured clause contained in treaties concluded before ratification of the Iranian declaration, and that it cannot rely upon treaties concluded with a third party.

In determining whether the 1933 Concession had a double character, the Court decided that it was a contract between a government and a foreign corporation. The United Kingdom, in submitting the dispute of 1931 to the League of Nations, was only exercising its right of protection on behalf a British national, hence the 1933 settlement did not result in the conclusion of any treaty or convention between the United Kingdom and Iran.

Therefore, the Court concluded on June 22⁸⁰ that the dispute presented by the United Kingdom was not one which resulted from the application of treaties and convention accepted by Iran subsequent to the declaration ratified by Iran on September 19, 1932. Accordingly, the Court decided that it had no jurisdiction to deal with the case. Hence its order of July 5, 1951, in which it indicated provisional measures had lapsed.⁸¹

The Court's pronouncement on the question, as well as the Security Council's consideration, did not provide an end to the crisis. In fact, the situation deteriorated. Settlement was finally effected in 1953, but in the meantime other methods were utilized.

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Other Approaches.

In August 1952 a joint proposal was submitted by Prime Minister Churchill and President Truman. Iran submitted a counterproposal but the exchanges were to no avail.

In the meantime, the oil industry came to a standstill due to Iran's difficulties in obtaining services of technicians, marketing and transportation facilities. The Anglo-Iranian Oil Company announced that it considered unlawful the acquisition of oil by buyers. Deals of a limited nature which were made by independent corporations with Iran were contested in the courts of Aden, Japan, and Italy. Although these litigations were successful only in Aden, they were harmful to Iranian interests.

Morover, Iran was not able to find tankers necessary for delivering oil to consumers. Oil tankers were mostly controlled by the world's six or seven largest oil companies.⁸² In order to substitute for Iranian oil, production in Saudi-Arabia, Iraq, Kuwait, and Qatar was increased. With the stoppage of the oil, Iran's economic difficulties increased.

Furthermore, the United Kingdom cancelled the convertibility facilities granted to the Iranian sterling balances and placed a ban on exportation of certain goods. Iran retorted by closing foreign cultural institutions, expelled British missionaries, curtailed privileges enjoyed by the British Bank of Iran, and in January 1952 ordered the closing of British consulates outside Tehran. In October 1952 diplomatic relations between Britain and Iran were severed.

During the crisis Iranians, due to their country's close proximity to the USSR and in view of its important position in the cold war, were hopeful of United States assistance in rescuing Iran from an economic breakdown,⁸³ which could be accomplished by United States sale of Iranian oil, or financial assistance. However, Washington was unable to jeopardize its own investments in the Middle East and, in consideration of British interest, was not prepared to provide Iran with such assistance. Still the United States maintained contact with Tehran by providing only limited financial assistance. United States economic aid to Iran in 1951 amounted to \$1.46 million, but in 1952 \$23.4 million was granted.⁸⁴

In March 1952, President Truman informed Prime Minister Mossadegh that Iran's request for a loan could not be justified before the United States Senate since Iran was able to obtain adequate revenue from its oil industry as well as the possibility of effecting a practical settlement consistent with the legitimate interest of both the United Kingdom and Iran.⁸⁵

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In June 1953, President Eisenhower announced that United States aid could not be provided to Iran unless a settlement of the oil dispute was effected or referred to an international body.⁸⁶

Mossadegh's internal support came from heterogeneous political groups, i.e., the Iran party, bazaar merchants, religious, groups, students, socialists, and communists. By 1952, signs of disagreement emerged and on July 16, 1952, Mossadegh resigned. The Shah then asked qvam al-Saltaneh to form a new Cabinet. However, because of opposition he was forced to resign and Dr. Mossadegh returned to power on July 22. On August 15, 1953, Mossadegh was dismissed by the Shah, and General Zahedi was appointed Prime Minister. Mossadegh refused, and the Shah fled with his Queen (at that time Saraya) , first to Baghdad and later to Rome. However, two days later, elements of the population, together with army units, put an end to Mossadegh's regime. The internal, as well as the external, planning for Mossadegh's overthrow has not yet become fully known.⁸⁷

Settlement.

Under General Zahedi, negotiations were resumed. Since Iranians opposed the return of AIOC as the exclusive foreign concessionaire, an agreement was concluded on October 29, 1954, with an international oil consortium of eight companies for a period of twenty-five years.⁸⁸ This accord provided for extraction, refining by the consortium and marketing of Iranian oil on behalf of the National Iranian oil Company, acting as agency of the Iranian government. Profits were to be divided on a 50-50 basis, an arrangement prevailing in the Middle East. Iran agreed to pay AIOC £25 million as its share of compensation as a result of nationalization.

Conclusions.

The Anglo-Iranian oil problem was the result of various economic and political factors. The emergence of the National Front and the Tudeh party as well organized political instruments following world war II was due to depressed economic conditions among the masses and the desire for change. Lack of reforms altering basic economic institutions could only give impetus to opposition political parties in their attempt to change existing social, political, and economic institutions.

Iran's grievances against foreign powers were mirrored in the nationalization of AIOC. This act became Iran's symbol of economic and political independence; Dr. Mossadegh became the father of Nationalization. This act became Iran's banner of defiance to a big power, and the movement was considered as an instrument for reform.

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The question of nationalizing oil industries is a widely discussed topic in the Middle East. It has been advocated by many groups in the area; as a normal desire by the local inhabitants to control the main wealth in the countries concerned. Yet there are many practical considerations which should be taken into account, as the Anglo-Iranian oil problem well demonstrated.

An increase in oil royalties has taken place since 1951, and the enactment of the 50-50 profit-sharing formula had to an extent dissipated grievances and in turn attempts at nationalization. Oil income became the main source of national wealth for states in the area, hence consolidating mutual interests.

Oil-producing countries will maintain their attempts at increasing oil royalties. In this pursuit, the organization of oil-producing countries (OPEC)⁸⁹ was established on September 14, 1960, in order to coordinate petroleum policies and to devise plans for safeguarding their interests collectively. In case of difficulties between an oil enterprise and an oil-producing state, as was the case with the Anglo-Iranian Oil Company, the problem would acquire an international dimension since this affects an investment of considerable value as well as western political and strategic interests in the Middle East.

The International Court of Justice, however, made two decisions, i.e., on the interim measures and on the preliminary objections made by Iran. The beneficiaries of the United Nations and rule of the law in international relations are mainly the smaller states. Yet Iran refused implementation of the provisional measures. Although she had grievances, this policy could have adverse effects on long-term national interests of the smaller powers.

The Court's decision of July 22, 1952, regarding its competence to deal in this case provided a precedent for other possible future acts of nationalization. The Court can do nothing else, once it decided lack of jurisdiction. Member states provided the Court with the most limited role in the settlement of disputes. Legal approaches to pacific settlement are the most avoided by disputants except when can be utilized to further the national interest. Hence the International Court of Justice was allowed to consider disputes in minor situations.

Had the Anglo-Iranian oil problem arisen half a century ago, the United Kingdom might have resorted to the use of force on behalf of its national. In the 1950's, due in part to the existence of the United Nations, this was not possible. Instead, other methods of a non-military nature were pursued.

The question of nationalization is also linked to existing social, economic, and political conditions in the country concerned, as well as to the stability of its

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government. Oil operations could be carried out without due regard to any political regime. Depressed economic conditions, political grievances, and sudden changes could provide an impetus to movements for nationalization. As the area is committed to economic changes, the states concerned will consistently attempt to acquire higher royalties. This could serve as a basis for furthering mutual interests. Increasing oil royalties would constitute a determining factor in attempts at economic development. The question of nationalization, however, could not be ruled out but this is a matter regulated by international law.

This case also demonstrates the various diplomatic approaches utilized by the parties. Direct negotiations were carried out between the company and Iran; failing in this, then, negotiations were made between the United Kingdom and Iran. In the meantime, the United States became involved. Britain resorted to the dispatch of armed units to the Persian Gulf, and a successful effort was made to bring about the breakdown of the oil operation; economic pressure was exercised in order to supplement diplomatic maneuvering and hence augmenting the British position. The case was submitted to the World Court and when Iran refused to accept the interim measures, Britain utilized the Security Council as the forum for informing public opinion of this refusal and to demonstrate the seriousness of its position. In its final judgment on the case, the Court decision was a setback to the British position. Nonetheless, further diplomatic efforts were made, economic pressures, was exercised and when the internal situation became ripe, the father of nationalization was dismissed as prime minister.

The debates in the Security Council provided the parties with an opportunity to present their positions and shed further light on the problem. The efforts of the Council and of Secretary-General Trygve Lie were of no avail. The settlement of this question was beyond the authority of the Security Council and other organs of the United Nations. The General Assembly and the Security Council could invite, discuss, and may recommend procedures or methods for settlement. Such action does not impose legal obligations upon the parties concerned. The role of the Secretary-General in the settlement of disputes is limited to his ability in acquiring support from public opinion concerning particular cases. But again, world public opinion cannot always settle controversies. It can, however, at times, contribute towards alleviating tensions. Under the Charter, the Secretary-General is the Chief Administrative officer of the United Nations. He can do no more than what member states request him to undertake. Similarly the nations states created a machinery which can only act if so determined by UN. The realities of

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power politics are such that does not permit the creation of an instrument for deciding on, and enforcing decisions for settling disputes. Hence, traditional methods were utilized to effect settlement of the Anglo-Iranian oil problem.

United Nations organs are utilized by disputants in order to acquire public opinion support. Therefore, differing positions are presented. In doing so, members of the United Nations would rely on statements, reports, or the writing of what might be considered objective or neutral sources. This was true when the British representative referred before the Security Council to a report prepared by the International Labour Office in order to support the view that the social services provided by the company were good. However, Iran also referred to the same report in order to support the position that they were inadequate.

As a result of the various presentations which would be made before U. N. organs regarding a dispute or a situation, valuable information is presented, hence, the United Nations serves as an outstanding educational institution for students interested in international politics.

Despite U. N. limitations, its instrumentalities at times served to restrain parties hence contributing to alleviation of tension, providing new approaches which could create an atmosphere conducive to a settlement. Taking into account the nationalization of the Suez Canal Company in 1956, the United Nations will provide a forum for discussion and debate regarding future similar situations. The resulting diplomatic approaches could lead to behind the scenes negotiations, providing conciliators and the Secretary-General of the United Nations with opportunities to assist in the conclusion of temporary reprieves as well as cooling-off periods that can be considered as prerequisites for meaningful negotiations. In the Suez Canal case, Security Council deliberations in the initial stages led to the adoption with the agreement of the disputants of six requirements regarding future settlement of the problem.

The Anglo-Iranian oil case, also shows that basically internal Middle Eastern questions could engulf the Middle East as whole, inviting big power confrontations. There is also a pattern in the problems brought before the UN affecting the area. In this case, it is a dispute between a big power and a small state. Taking into account the above and the realities of world politics it can therefore be expected that similar cases would be considered by the United Nations.

NOTES

1. In 1935 the name "Iran" was adopted.
2. For text of the agreement, see J.C. Hurewitz, Diplomacy in the Near and

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Middle East. D. Van Nostrand Co. (Princeton: 1956), Vol I, pp. 265-267.

3. For text of the concession, see ibid., pp. 249-251.
4. George Lenczowski, Oil and State in the Middle East. Cornell University Press (Ithaca: 1960), p. 64.
5. Since 1949 the pound sterling has been worth \$2.80; it was equivalent to \$4.00.
6. The tomman equals 100 rails, currently. The dollar is worth 75-76.5 rails.
7. Alan W. Ford, The Anglo-Iranian Oil Dispute of 1951-1952: A Study of the Role of Law in the Relations of States. University of California Press (Berkeley: 1954), p. 15.
8. Stephen H. Longrigg, Oil in the Middle East: Its Discovery and Development. Oxford University Press (London: 1955) p. 19.
9. Ford, p. 16.
10. Longrigg, p. 58.
11. Ford, p. 287; George Lenczowski, Russia and the West in Iran, 1918-1948: A Study in Big-Power Rivalry. Cornell University Press (Ithaca: 1949), p. 79.
12. League of Nations, Official Journal (February, 1933) pp. 2298-2305.
14. For text, see Hurewitz, Vol. II, pp. 188-196; Ford, pp. 233-247.
15. Lenczowski, Oil and State in the Middle East, pp. 67-68; Longrigg, pp. 59-60; Ford, p. 18.
16. Ford, pp. 233-247.
18. Longrigg, p. 159.
19. George Leuczowski, The Middle East In Wold Affairs, 3rd ed., Cornell University Press (Ithaca: 1962) p. 197.
20. Land held in trust for charitable and religious purposes.
21. Sir Reader Bullard (ed.) Royal Institute for International Affairs, The Middle East: A Political and Economic Survey (3rd ed.), Oxford University Press (London: 1958); Sunil Kanti Ghosh, The Anglo-Iranian Oil Dispute: A Study of Problems of Nationalization of Foreign Investments and Their Impact on International Law. Firmak L. Mukhopadhyay, (Calcutta: 1960) pp. 50, 53.
22. Longrigg, p. 172.
23. Lenczowski, Oil and State in the Middle East, p. 54.
24. For text, see Hurewitz, II, pp. 305-308.
25. Ibid., p. 307; Ford, p. 49; Longrigg, 160.
26. Henry Grady, "What Went Wrong in Iran?" "Saturday Evening Post," January 5, 1952, p. 58; quoted by Ford, p. 50.

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27. Longrigg, p. 163.
28. For text see Ford, pp. 268-269
29. UN.S.C./O.R./Sixth year/561 Mtg./p.6.
30. Lenczowski, Oil and State in the Middle East, p. 38.
31. Ibid., pp. 28-29.
32. Longrigg, pp. 170-171.
33. UN.S.C./O.R./Sixth year/563 Mtg./p. 12.
34. This discussion is based on statements made by Iran and the United Kingdom before the United Nations Security Council and the International Court of Justice (UN.S.C./O.R./Sixth year/559-565 Mtgs; I.C.J. Pleadings, Oral Arguments, Documents, Anglo-Iranian Oil Case (United Kingdom vs. Iran), judgment of July 22, 1952.
36. U.N. ST/ECA/9/Add. 2, pp. 25, 30.
38. I.L.O. "Labour Conditions in the Oil Industry" in Iran's Studies and Reports, no. 24, pp. 33, 34.
39. Article 1, paragraph 2 of the UN Charter reads: "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace....."
40. Article 2, paragraph 7 reads: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."
43. Article 18 of the Covenant of the League of Nations states: "Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered."
45. Article 36 of the Court Statute reads:
 1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.
 2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal

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disputes concerning:

- a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states. or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

48. I.C.J., Pleadings, Oral Arguments, Documents, Anglo-Iranian Oil Case, pp. 54-63.

49. Ford, pp. 120-121. For a chronology of these events, see Ibid, pp. 272-283.

50. Article 41 of the Court statute states:

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

52. United Nations, Department of Public Information, Year Book of The United Nations, 1951, p, 808.

53. Article 41 of the Court's Statute states:

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measure which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

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54. Article 48 of the Court's Statute States: "The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence."

55. Judges B. Winiarski (Poland) and A. H. Bardawi (Egypt) did not concur with the Court's order of July 5. The other judges were Sir Arnold McNair (United Kingdom) , J. G. Gurrero (Salvador) , A. Alvarez (Chile) , J. Basdevant (France) , G. H. Hackworth (U. S. A.) , M. Zoricic (Yugoslavia) , H. Klaestad (Norway) , J. E. Read (Canada) , H-su Mo (China) , Levi Carneiro (Brazil) , Sir Benegal Raw (India) , E. C. Armand-Ugon (Uruguay) , and S. A. Golunsky (US SR) , Members of the Courts, according to Articles 7-12 of the Statute, are elected by the United Nations General Assembly and Security Council for a period of nine years and are eligible for re-election.

56. U. N. Document S/2239.

57. U. N. Registry No. 46/04 (8) .

58. U. N. Document S/2357.

59. UN. S. C./O. R./P. V./Sixth year/559 Mtg./, p. 10.

60. In favor were Brazil, China, Ecuador, France, India, Netherlands, Turkey, United Kingdom and U. S. A. Against were the USSR and Yugoslavia.

61. Article 32 states: "Any Member of the United Nations which is not a member of the Security Council or any state which is not a member of the United Nation, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations."

62. UN. S. C./O. R./P. V./ Sixth year/559 Mtg./, p. 23.

63. U. N. Document S/2368.

64. UN. S. C./O. R./Sixth year/559 Mtg./, p. 30.

65. U. N. Document S/2358.

66. Article 93 of the charter reads:

1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the international Court of Justice on condition to be determined in each case by the General Assembly upon the recommendation of the Security Council.

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67. Article 94 of the UN Charter reads:

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

68. U. N. Document S/2358/Rev. 1.

70. U. N. Document S/2379.

71. UN. S. C./O. R./Sixth year/561 Mtg./, p. 19-21

72. U. N. Document S/2538/Rev. 2.

73. UN S. C./O. R./Sixth year/562 Mtg./, p. 3.

74. U. N. Document S/2380.

75. UN S. C./O.R/Sixth year/565 Mtg./, pp. 2-3.

76. Ibid., p. 2. Voting in favor were Brazil, China, Ecuador, France, India, Netherlands, Turkey, and the U. S. A. Against was USSR. Abstaining were United Kingdom and Yugoslavia.

77. Ford, p. 283.

78. Article 31, paragraph 2 reads: "If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such persons shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5."

79. Article 13, paragraph 1 states: "If the President is a national of one of the parties to a case before the Court, he will abstain from exercising his functions as President in respect of that case. The same rule applies to the Vice-President or to any member of the court who may be called on to act as President."

80. For text, see I. C. J. Report of Judgments, Advisory Opinions and Orders, Anglo-Iranian oil case, July 22, 1952.

81. Judges McNair, Basdevant, Winiarsky, Zoričić, Kalaestad, Badawi Pasha, Hsu-Mo, Levi Carneiro, Armand-Ugon, and M. Karim Sandjabi (ad hoc judge) were in favor but Judges Alvarez, Hackworth, Read, and Levi Carneiro dissented, and Judge McNair made an individual opinion.

82. Ford, p. 215; Lenczowski, The Middle East in World Affairs, p. 211.

83. Lenczowski, The Middle East in World Affairs, p. 212.

84. Ford, p. 159.

85. Ibid., p. 162.

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86. Europa Publications, The Middle East, 1963 (London; Europa Publications United, 1963) p. 105

87. For a discussion, see David Wise and Thomas B. Rose, The Invisible Government (New York; Random House, 1962) , pp.110-114,

88. The consortium is owned by the following interests

British-Dutch 54%

British Petroleum Company

(formerly Anglo-Iranian Oil Company) 40%

Royal Dutch-Shell Group 14%

French 6% Compagnie Française des Petroles 6%

American 40% Standard Oil Co. (N. J.) 7%

Standard Oil Co. (Cal.) 7%

Socony Mobil Oil Co. 7%

The Texas Company 7%

Gulf Oil Corporation 7%

Iricon Agency, Ltd.☆ 5%

☆This agency is owend by nine American oil companies in the following proportions: Richfield Oil Corp., 1.25%; American Independent Oil Co., 0.833%; and Standard Oil Co. (Ohio) , Getty Oil Co., Singal Oil and Gas Co., The Atlantic Refining Co., Hancock Oil Co., Tide Water Associated Oil Co., and San Jacinto Petroleum Corp., 0.417% each (Lenczowski, Oil and State in the Middle East, p. 10. For text of agreement, see Hurewitz, vol. II, pp. 348-383.

89. For text of agreement, see U. N. Treaty Series, vol. 443, p. 247. Members of OPEX are Iran, Iraq, Kuwait, Saudi-Arabia, Venezuela, Qatar, Indonesia, and Libya.