

is to include that bank as an underwriter especially when an issue is not in particular demand.

Chairman DEBEVOISE thanked all the participants and the session adjourned at 12:15 p.m.

PANEL: THE PARTICIPATION OF MINISTATES IN INTERNATIONAL AFFAIRS

The session convened at 9:15 a.m. in the Crystal Room of the Washington-Hilton Hotel. Dr. Francis O. Wilcox of the Johns Hopkins School of Advanced International Studies presiding.

Dr. WILCOX opened the meeting by observing that the world is witnessing a profuse atomization of the international community. He said the process poses problems to what extent the abolition of second class citizenship carries over to the international community, of what rights, what obligations, what trappings of sovereignty ministates should have.

Mr. WILCOX then introduced the first speaker, Mr. Jacques Rapoport, Principal Research Officer, United Nations Institute for Training and Research.

THE PARTICIPATION OF MINISTATES IN INTERNATIONAL
AFFAIRS

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In the past few years, there has been much discussion about "ministates" (also referred to as "microstates," "diminutive states" and "lilliputian states") and the rôle they should, or should not, play in international affairs.

This is a new subject of interest. In the past, very small states more than once played a leading rôle in world affairs. For example, the Republic of Venice was a world power in the 15th century, with a population under 150,000. It was also considered quite normal to let small and insignificant states participate in world conferences. For example, at the Congress of Vienna in 1814-1815, all the States of Europe which had participated in the war had the right to send plenipotentiaries, which meant that innumerable minor powers were represented, including scores of independent German and Italian ministates.

Well-established small European states have existed for a long time, without arousing any special controversy: Luxembourg, Iceland, Monaco, Liechtenstein, San Marino, *et cetera*. Some of them, such as Luxembourg were members of the League of Nations and are members of the United Nations; others are members of some of the specialized agencies or parties to the Statute of the International Court of Justice.

It is the recent attainment of independence by a number of small colonies, and the anticipation of many more to follow, which has given rise

to some uneasiness at the idea of all these small new states becoming members of international organizations and wanting to play a rôle in international affairs. The classical question is: Is Pitcairn Island, with its 92 inhabitants going to be a Member of the United Nations, and possibly of the Security Council? Is it going to have a say and cast its vote on the crisis in the Middle East or, conceivably, the war in Vietnam?

It is therefore relevant to give a brief background on the problem of decolonization and the United Nations. It is well known that since its inception the Organization has been increasingly active in this field. The Charter, in its Chapters XI, XII and XIII spells out the basic objectives concerning dependent territories, and a machinery was developed to scrutinize developments in non-self-governing territories and to operate the Trusteeship System. In 1960 the movement was accelerated by the adoption of General Assembly Resolution 1514 (XV) of 15 December 1960 entitled "Declaration on the granting of independence to colonial countries and peoples," which became the Gospel of decolonization. The first three operative paragraphs of this resolution read as follows:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

In the course of the last few years, most of the large colonial areas have become independent (with the exception of Southern Africa: Mozambique, Angola, Southern Rhodesia, and South West Africa). What is left of the dependent world is a number of small territories, which are now one after another emerging out of their colonial status.

The United Nations is vigorously prodding the colonial powers to emancipate their remaining dependent territories. It may seem somewhat contradictory that on the one hand the United Nations is promoting independence for small territories, and on the other expressing concern about the multiplication of minimembers in the Organization. This does not mean, however, that the Organization is unrealistic. It recognizes that the emancipation of very small territories presents special problems, requiring special attention¹; it acknowledges that in addition to independence, other options exist, and General Assembly Resolution 1541 (XV) of 15 December 1960 spells out some of them: free association or integration with an independent state, provided certain safeguards are complied with.²

More recent resolutions of the General Assembly, many of which relate

¹ Doc. A/6700 (Pt. I), par. 323.

² Gen. Ass. Res. 1541 (XV) of 15 Dec. 1960, Princ. VI. In Princ. VII, VIII, and IX the Resolution spells out conditions and guarantees for Princ. VI to apply.

to small territories, may have given the impression that independence was the only way out of colonialism acceptable to the United Nations. This is not exactly so, although it is correct to state that from a United Nations point of view the right to self-determination is inalienable and that the possibility of opting for independence is preminent. In other words, self-determination must be exercised without strings attached; at the time the people choose their new status, they have to be potentially independent, their choice must be unrestricted, and they may choose independence if they prefer, however small and poor their territory may be. In certain instances, however, the U.N. Committee on Decolonization expressed the view that it should be possible for certain small territories to unite with others in the area, to form an economically and administratively viable state, and expressed regret that no effective steps had been taken to bring about a federation.³

The two major concerns of the United Nations are that the choice would be *free*; and that the choice should be *informed*.

On the verification of freedom of choice, the United Nations has on many occasions, particularly with regard to Trust Territories, supervised directly elections or plebiscites, by means of a United Nations Commissioner and a staff of international observers. In two instances only (Togoland under French administration, and Ruanda-Urundi) has the operation resulted in full independence and membership in the United Nations; in one case (Western Samoa) the result was full independence without membership in the United Nations; in two instances integration in another country (Togoland under British administration with Ghana; and the Northern part of the Cameroons under British administration with Nigeria); in one instance federative arrangements (Southern part of the Cameroons under British administration with Cameroon); and in one case a self-governing régime short of independence (Cook Islands).

The results were each time fully debated in the United Nations but in none of these cases did the Organization question their validity, even if they did not entail complete independence and membership in the United Nations.

In other instances, the United Nations has attempted to ascertain *post facto*, but on the spot, the validity of elections bearing on the termination of a colonial régime in a small territory; this was done before Sarawak and Sabah (North Borneo) joined the Federation of Malaysia, rather than become independent ministates.

In the past, the United Nations has even given its blessing to the termination of the colonial status of small territories by examining the facts *post facto* and in New York only: in 1953 when it recognized that the people of the Commonwealth of Puerto Rico had achieved a new constitutional status and had effectively exercised their right to self-determination⁴; in 1954, when it accepted that Greenland had become an integral

³ A/6700/Add. 14 (Part II), par. 1033 p. 131. (Document)

⁴ Gen. Ass. Res. 748 (VIII) of 27 Nov. 1953.

part of the Kingdom of Denmark⁵; in 1955 when it accepted the new federal status of the Netherlands Antilles and Surinam in the Kingdom of the Netherlands;⁶ and in 1959 when it accepted that the people of Alaska and of Hawaii had exercised their right of self-determination and joined the United States as equal States of the Union.⁷ In these resolutions, the General Assembly congratulated the people of the non-self-governing territories in question and the colonial authority for these acts of self-determination and decolonization.

Some might say that this would not have been possible after 1960 because the anti-colonial atmosphere in the Organization has become more pronounced and the expanded membership has resulted in a more uncompromising majority. They cite as a proof the fact that attempts have recently been made to reopen the question of Puerto Rico. It may well be that from now on the United Nations will no longer give its blessing to an act of self-determination short of accession to full independence, without having been a party or a witness *in loco* to the exercise of this right. But there is nothing to show that a majority would not go along with forms of decolonization other than attainment of full independence if it is satisfied that this is really the clearly expressed wish of the population.

If the United Nations has not endorsed the recent change of status of six British small islands in the Caribbean, which are now States in association with the United Kingdom and no longer colonies, it is probably because the United Kingdom has apposed any visit by the United Nations, and because the United Nations has not been adequately associated in the ascertainment of the wishes of the islanders. The U.N. Decolonization Committee stated however, that it considers these constitutional developments as representing a certain degree of advancement in the political field.⁸

The second concern of the United Nations (the first one being the freedom of choice) is that the choice made by the population of small territories should be an informed one, and that the people should be aware of the options open to them. This is, of course, much more difficult to implement, and the Organization has devised so far no procedures to facilitate the enlightenment of the peoples of small territories concerning these options when they emerge from colonial status and are choosing a new régime. In most cases the colonial powers have shown little willingness to let the United Nations discuss the options with the peoples of their dependent territories. It should, however, not be impossible to associate the United Nations with the metropolitan power in this respect.

The term ministate or microstate has been used rather loosely, meaning obviously a state which is very small. To these has been added the term miniterritory to denote a very tiny entity which is not yet independent but

⁵ Gen. Ass. Res. 849 (IX) of 22 Nov. 1954.

⁶ Gen. Ass. Res. 945 (X) of 15 Dec. 1955.

⁷ Gen. Ass. Res. 1469 (XIV) of 12 Dec. 1959.

⁸ Doc. A/6700/Add. 14, Part II, p. 133.

whose international status is likely to undergo changes. The closest we can find to a definition is a reference in the 1968 Annual Report of the Secretary-General of the United Nations⁹ to "entities which are exceptionally small in area, population and human and economic resources."

Among the elements enumerated in that definition, population seems to be the most obvious and important one. Fourteen Members of the United Nations have a population of less than one million inhabitants. Of these fourteen, only two (Luxembourg and Iceland) were independent states before 1960. The smallest United Nations Member in terms of population is the Maldive Islands with 101,000 inhabitants. There are about fifty non-self-governing territories, recognized as such by the United Nations, with a population under one million, two-thirds of which, mainly islands, have a population under 100,000.

Could these elements (population, area, economic indicators) be used either separately or in combination to determine what is and what is not a ministate? Is the definition to be used to determine the minimum size for a state to be independent and viable, or is it to determine the minimum level for admission to the United Nations or other international organizations? These two aims are not identical, and the Secretary-General has expressed the view that it is desirable "that a distinction be made between the right to independence and the question of full membership in the United Nations."¹⁰

For a general discussion on consequences of smallness, or of participation of small states in international affairs, a tidy definition of ministates may not be really necessary. However, it may become important if one wishes to establish general criteria for the admission of small states to the United Nations.

Concern for the United Nations as well as for the ministates was expressed twice by the Secretary-General of the United Nations in his annual reports.

In 1965, he stated:

A different aspect of the question of the extent of participation by countries in organized international activities is raised by the recent phenomenon of the emergence of exceptionally small new States. Their limited size and resources can pose a difficult problem as to the role they should try to play in international life. . . . I believe that the time has come when Member States may wish to examine more closely the criteria for the admission of new Members in the light of the long-term implications of present trends.¹¹

In 1967, he was even more explicit and stated:

I would suggest that it may be opportune for the competent organs to undertake a thorough and comprehensive study of the criteria for membership in the United Nations, with a view to laying down the necessary limitations on full membership while also defining other

⁹ Doc. A/6701/Add. 1, par. 163.

¹⁰ Doc. A/6701/Add. 1, par. 164.

¹¹ Doc. A/6001/Add. 1, p. 2.

forms of association which would benefit both the "Microstates" and the United Nations.¹²

The problem of defining criteria for admission to the United Nations with a view to establishing some minimum requirements of size was mentioned in the Security Council by the representative of the United States of America on the occasion of the admission of the Maldives Islands on 20 September 1965. He supported that admission, but stated:

Today many of the small emerging entities, however willing, probably do not have the human or economic resources at this stage to meet this second criterion (the ability to carry out the Charter obligations). We would therefore urge that Council Members and other United Nations Members give early and careful consideration to this problem in an effort to arrive at some agreed standards, some lower limits, to be applied in the case of future applicants, for United Nations Membership.

But he added:

We do not for a moment suggest the exclusion of small new States from the family of nations; on the contrary, we believe we must develop for them some accommodation that will permit their close association with the United Nations and its broad range of activities. This is another facet of the problem that we think demands early and careful consideration.¹³

France,¹⁴ while also supporting the application of the Maldives Islands, had suggested that in the future it might be advisable in dealing with admission of new Members, to revive the Committee on Membership, and Argentina¹⁵ made a remark to the same effect while supporting, in October 1966, the admission of Lesotho and Botswana.

In December 1967, the United States addressed a letter¹⁶ to the President of the Security Council, referring to the remarks on microstates made by the Secretary-General in his annual report, suggesting that the time may be appropriate for an examination of this question in terms of general principles and procedures and suggesting further that the Committee on Membership be revived and reconvened for that purpose.

This was four months ago. Since then, the Security Council, which had more urgent matters on its agenda, has taken no step to discuss the matter. It appears that no one in the Security Council is overly eager to discuss the issue. Some believe that rather than debate "general principles and procedures" for admission, on which it might be difficult to reach agreement at this stage, it is preferable to continue to examine each application individually on its own merits and on an *ad hoc* basis.

There is also a feeling that from a practical point of view the matter might be less urgent than it appears. First of all it is improbable that

¹² Doc. A/6701/Add. 1, par. 165.

¹³ Doc. S/PV. 1243, p. 31.

¹⁴ *Ibid.*, p. 26.

¹⁵ Doc. S/PV. 1306, p. 23.

¹⁶ Doc. S/8296.

the United Nations would now reject applications of states which are as large or larger than present Members of the Organization. I have mentioned earlier that the smallest Members of the Organization in terms of population is the Maldives Islands, with a population of 101,000, followed by Iceland with 195,000. It is therefore unlikely that any applicant with a population over 100,000 will be rejected on account of size only. Criteria on size might have been established ten years ago, but have become politically much more difficult to envisage now that the United Nations has 123 Members, many of which are quite small.

A second reason is that it may be expected that among the smaller mini-territories, many will opt for a status short of full independence, will leave their foreign relations in the hands of another state, and will therefore not apply for membership in the United Nations, or will federate or unite with other entities. Even among those which will attain complete and unfettered independence, many of the very small new states might follow the example of Western Samoa and Nauru, and not apply for membership in the United Nations. The argument continues that if, as seems likely, only a score of small new nations become Members, the functioning of the United Nations and the voting patterns will not be substantially affected.

It is interesting to note that the membership question should be looked at from two opposite, but complementary, angles. The negative aspect is to keep out of the general membership those small states which may be considered unable to carry out the obligations of the Charter because of their smallness. The positive aspect consists in finding, as stated by the Secretary-General, "new forms of association which would benefit both the microstates and the United Nations."

On the negative side, it may be possible to define a formula based on combined criteria of population, size, and economic factors, according to which states below a certain level would be considered as being unable to carry out their obligations under the Charter. I doubt whether this will happen. Or, taking up applications on an *ad hoc* basis, the United Nations could in some cases follow the precedent established by the League of Nations when it decided, in 1920, that it could not admit Liechtenstein, because "by reason of her limited area, small population, and geographical position, she had chosen to depute to others some of the attributes of sovereignty." But it is also doubtful at the present time that the United Nations will question the sovereignty of a state on the basis of smallness only. When Liechtenstein applied to become a party to the Statute of the International Court of Justice, in 1949, it was accepted.

This does not mean that a number of ideas and suggestions to limit membership have not been advanced in studies or debates outside of the United Nations. I am not referring here to proposals concerning the introduction of a weighted vote system in the United Nations, as this idea goes much beyond the problem of membership.

But as to the problem of the small states, the League of Nations had already envisaged solutions such as representation without vote; participa-

tion limited to cases in which special interests of small states are involved; or representation by another Member State. However, no action was taken on these proposals.

The idea of associated status has been discussed in recent years; it has been suggested to extend to the United Nations a system of participation without vote which exists already in the regional economic commissions of the United Nations and in such specialized agencies as WHO and FAO. This might, however, raise some very delicate political problems and even require a Charter amendment, depending on the scope of association. A feasibility study of association arrangements with the United Nations for small self-governing territories was proposed last year in the United Nations by the representative of Iran, Mr. M. Esfandiary, but no action was taken by the General Assembly on this proposal.

The Secretary-General has observed that even without Charter amendment there are various forms of association already available for non-Members: access to the International Court of Justice, membership in the regional economic commissions; access to the benefits provided by the United Nations Development Programme through membership in one or more specialized agencies; possibilities of establishing a permanent observer mission at the United Nations Headquarters or in Geneva.¹⁷

In addition, the Charter specifies that a non-Member may bring to the attention of the Security Council or the General Assembly any dispute to which it is a party.

But there seems to be agreement that these limited possibilities cannot satisfy entirely the needs and wishes of the emerging ministates.

The ministates are looking first of all for a sense of security. They cannot afford a military establishment, and do not contemplate having one, which, generally speaking, distinguishes them from larger small states. They can and do sometimes get assurances from a protector country, for example the former colonial power, and may even accept a foreign military base on their territory. However, in most cases, it is likely that ministates would be happier to receive an international guarantee from the United Nations. It could be envisaged that ministates without military links with other countries might be considered, if they so wish, as coming under a protective umbrella of the United Nations, whether they are Members of the Organization or not.

But more generally the ministate which feels isolated from the rest of the world wants to belong to the world community, wishes to be enabled to present its case to the world community if its special interests are at stake, or whenever it has a contribution to make. It also wants to benefit from international cooperation, not merely to have access to conventional activities in international cooperation, but also a feeling that there is a place to turn to in case of difficulty. It may want advice or assistance about possible changes in its status or in its international relations; it may want some form of moral or material support in cases where the emergent ministate is reluctant to rely too heavily on the former colonial power.

¹⁷ A/6701/Add. 1, par. 166.

Even if one leaves aside any novel form of assistance, it is not realistic to believe that the majority of ministates, remote, isolated and poor as they are, can grasp the intricate international machinery and the complex activities of the family of international organizations without some guidance and help to start with. Most of them cannot afford to open an adequately staffed observer's office in New York or Geneva. The presence in their area of a Regional Resident Representative of the United Nations Development Programme is of limited help, but cannot cover the entire field of information which should be made accessible to them. Therefore the association with the United Nations of a non-Member minstate is often either meaningless or at least very inadequate, unless further thought were given to establishing special U. N. services for ministates. This idea was touched upon by some delegations at the last session of the General Assembly; it is mentioned in a recently published study,¹⁸ and it was referred to on various occasions by Professor Fisher. This seems to me to be a very constructive idea, full of potentialities. Basically it is suggested that a small unit be established in the permanent United Nations Secretariat, whose responsibility it would be to service non-Member ministates. It should become a channel of communications and information about international affairs, and should be able to advise ministates facing a specific problem whether, when, and how assistance can be obtained, or whether, when, and how the minstate can participate in the discussion of a specific question. This no doubt would represent a new form of assistance not available under present norms of international aid. These services should also be made available, if requested, to miniterritories which are not yet independent, but on the verge of self-determination. This is not the time and place to elaborate on this suggestion. If a resolution of the General Assembly authorizing such services on an experimental basis can be obtained, it would be relatively easy to implement. If such a system worked well, it is probable that the urge for ministates to apply for full membership would be greatly diminished and this might even tempt small Member States, which felt the burden of membership on their financial and human resources, to consider withdrawing from the Organization and exchanging their full membership for these special service benefits.

Flexibility and imagination in the operation of such a scheme could result in a series of practices which might later on be formalized in an officially recognized and meaningful associate status for small states. This would give substance and meaning to the legitimate wish of the ministates as eloquently advocated by the Prime Minister of Lesotho in the General Assembly last September not only to benefit from international cooperation but also "to make a specific and vital contribution in the field of international relations."

The CHAIRMAN thanked Mr. Rapoport and called on the next speaker, Professor Roger Fisher of Harvard Law School.

¹⁸ P. W. Blair, *The Ministate Dilemma*, 63-66 (Carnegie End. for Int. Peace. Occasional Paper No. 6, October 1967).