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COMMITTEE OF EXPERTS ESTABLISHED BY THE SECURITY COUNCIL
AT ITS 1506TH MEETING

SUMMARY RECORD OF THE NINTH MEETING (CLOSED)

Held at Headquarters, New York,
on Friday, 26 February 1971, at 10,50 a.m.

CONTENTS

Study of the question examined by the Security Council at its
1505th and 1506th meetings (continued)

Organization of work

Chairman:

Mr. FINGER

United States of America

STUDY OF THE QUESTION EXAMINED BY THE SECURITY COUNCIL AT ITS 1505TH AND 1506TH MEETINGS (continued)

The CHAIRMAN welcomed the new members of the Committee, the representatives of Argentina, Belgium, Italy, Japan and Somalia, and paid a tribute to the contribution made by the outgoing members, the representatives of Colombia, Finland, Nepal, Spain and Zambia.

The problem of exceptionally small States had first been raised by the Secretary-General in 1965 in the introduction to his annual report and had been dealt with further in his reports for 1967 and 1968. The Security Council had responded to the Secretary-General's concern by establishing the Committee of Experts, thereby recognizing that the emergence of small new States presented a problem for the United Nations and for those States themselves. Of the small independent States and Non-Self-Governing Territories which might in the near future seek to become associated with the United Nations, sixty-five had a population of less than 300,000; the fifty smallest, each having a population of less than 100,000, had an aggregate population of under 2.25 million, which was less than that of forty of the world's largest cities.

On attaining independence, a very small State which wished to be associated with the United Nations had only a limited choice: it could seek admission as a full voting Member, with all the concomitant burdens and obligations that status implied, or it could decide to remain outside the Organization. Some very small sovereign States had opted to remain outside the United Nations, thus depriving it of their potential contribution and limiting its ability to assist them in their economic and social development; others had joined the United Nations as full Members and had assumed all the relevant obligations and responsibilities, which had often imposed a disproportionately heavy burden on them.

It was encouraging to note that, since the Committee's last meeting, the Security Council had adopted a proposal by the French representative to reactivate its Committee on the Admission of New Members established under rule 59 of its provisional rules of procedure.

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(The Chairman)

The Committee of Experts now had two proposals before it: a working paper submitted by the United Kingdom representative (S/9836, annex II), which would permit a very small State voluntarily to limit its participation in the United Nations in exchange for being subject to only nominal assessments, and a proposal by the United States (S/9836, annex I), which would establish a category of associate Members who would enjoy the rights of full Members in the General Assembly, apart from the right to vote or hold office, and appropriate rights in the Security Council and the Economic and Social Council, but would be exempted from the obligation to pay assessments. Both proposals offered very small States a voluntary alternative to full membership, and all the members of the Committee who had commented on them had endorsed the principle of voluntary choice.

Although the Committee had decided not to submit conclusions and recommendations in its interim report (S/9836), it had held a preliminary exchange of views on the legal nature, applicability and implications of the proposals and suggestions made. During the debate many members had said that the Committee's work would be facilitated by an opinion by the Legal Counsel on the legal aspects of the proposals, which would in no way circumscribe any future decision it might take.

Mr. VAN USSEL (Belgium) observed that the many studies that had been undertaken on the problem of the so-called "mini-States" outside the United Nations had done little more than analyse the problem, and virtually all of them had refrained from proposing any solutions to it. It was therefore not surprising that the Committee itself had not yet come to any general conclusions on the subject. Nevertheless, it seemed that the Committee had reached agreement on several principles: first, that a solution to the problem should take account of the interests of both the United Nations and the very small States themselves; secondly, that such a solution should in no way obstruct the exercise by small Territories of their right to self-determination; and, thirdly, that small new States particularly needed the United Nations to protect their security and to promote their economic development and that the United Nations had a moral and political responsibility to the people of those Territories which it could not shirk. On the other hand, no clear-cut conclusion had yet been reached on the

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(Mr. Van Ussel, Belgium)

question of whether a distinction could or should be drawn between the right to independence and the right to full membership in the United Nations, although in practice three States, Switzerland, Western Samoa and Nauru, had already done so. In that connexion, he recalled that Articles 11 (2), 32, 35 (2) and 93 of the Charter gave non-member States the rights and guarantees they needed in order to turn to the principal organs of the Organization for the protection of their legitimate interests.

The Committee also had to decide on criteria for determining when a very small State became or ceased to be a "mini-State" and how the inherent disadvantages of such a position could be reconciled with the principle of the sovereign equality of States and with the five requisites for admission to full membership laid down in the Charter.

Before the Second World War, the League of Nations had faced a similar problem but had not succeeded in defining such criteria and had therefore avoided admitting very small States. After the war, seven specialized agencies of the United Nations family had established procedures for dealing with such cases - generally that of granting observer status or associate membership - but, with one exception, the United Nations could not follow those procedures because the agencies were concerned not with the problem of admitting very small States but rather with the problem of associating with their work Territories which had not yet assumed responsibility for the conduct of their own international relations. The exception was UNESCO, which was the only agency to have been directly concerned with the question of very small States. When the Principality of Monaco had applied for Admission to UNESCO, the General Conference had concluded that it could not lay down in advance a general policy on the admission of small States and that every case had to be decided on its own merits, taking into account, first, the legal status of the State in question and its ability to take part in an international organization and, secondly, the contribution which it could make to the implementation of the organization's programme. While that solution might not be fully adequate for the purposes of the United Nations, it did imply that the latter was in duty bound to consider each individual case in the light of criteria similar to those laid down in Article 4 of the Charter.

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(Mr. Van Ussel, Belgium)

The Committee's main difficulty was to decide whether Article 4 could, in an automatic and satisfactory manner, reconcile the interests of a small political entity which wished to take part in the work of the United Nations but not necessarily to become a full Member with the interests of the United Nations itself in preventing any serious imbalance in the composition of its membership. The two proposals made in the Committee's interim report (S/9836) seemed at first glance to protect the interests of the Organization and to enable the mini-States to benefit from its work without having to assume the obligations of full membership. Nevertheless, the legal questions they raised were so important that the Committee must secure an advisory opinion from the Legal Counsel, particularly since, if either proposal necessitated an amendment to the Charter, the dimensions of the whole problem would be radically altered. In that connexion, he noted that both FAO and UNESCO had had to amend their constitutions.

Recalling that some small independent political entities had waived membership in the United Nations, he suggested that a study should be made of the relationship between them and the United Nations and wondered whether they could not be asked whether that relationship was satisfactory and, if not, how it could be improved.

Mr. MIGLIUOLO (Italy) said that his Government, to which all the relevant documentation had been forwarded, was now considering the complex problem of the very small States in all its aspects. Although he could not as yet make a final statement of its position, he wished to make two preliminary observations.

First, the Italian Government felt that, in the over-all action taken by the United Nations to facilitate the attainment of independence by dependent Territories, the Organization should encourage those Territories to take the greatest possible interest in its work so that on attaining independence each of them would be prepared to respect the principles of the Charter. At the same time the Organization should ensure that all new independent States were able to benefit from every type of assistance provided by the United Nations, especially in the economic and social fields. Secondly, in furthering the first aim, the United Nations should ensure that, in questions involving the admission of new Members, adequate attention was given not only to the Charter injunction that an

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(Mr. Migliuolo, Italy)

applicant State should be able and willing to carry out the obligations of the Charter but also to its ability to make an adequate contribution to the life of the United Nations. The importance of that consideration was shown by the fact that over the past few years some new Members had experienced great difficulty in taking part in the full range of United Nations activities. For those reasons, his delegation felt that the time had come for rule 59 of the provisional rules of procedure of the Security Council to be strictly applied and it accordingly welcomed the reactivation of the Council's Committee on the Admission of New Members.

The competent organs of his Government were, in particular, scrutinizing the legal aspects of the various solutions proposed in the light of the views expressed in the Committee. In view of the complexity of the legal problems involved, his delegation supported the proposal that the Legal Counsel should be asked for an advisory opinion. His Government would consider any possible solution which, while faithfully respecting the Charter, would reconcile the interest of the Organization in having as many countries as possible associated with its work with its interest in ensuring that any new Member would be able and willing to carry out the obligations imposed upon it by the Charter.

Mr. OGISO (Japan) expressed his delegation's appreciation of the various efforts that had been made to clarify the implications of the problem of the very small States. The documents before the Committee showed that considerable progress had been made inasmuch as the Committee had passed from a general recognition of the problem to the stage of trying to solve it.

The problem of the very small States was important, complex and difficult, and some time would be required to find a solution. His delegation felt that such States must be able to enjoy the same rights as Member States, especially with respect to their national security and economic and social development. However, the present Charter afforded the newly independent mini-States no institutional guarantees, other than full membership, which placed upon them financial burdens that often proved to be beyond their means. The "all or nothing" nature of the present system was the essence of the problem. Accordingly, some initiative should

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to be taken to try to fill the existing institutional gap. The establishment of a special category of membership, with limited rights and obligations, had certain legal implications which should be elucidated by the Legal Counsel in an advisory opinion. In his delegation's view, the possibility of amending the Charter in order to give the small States suitable status in the United Nations should not be ruled out.

Mr. LA GUARDIA (Argentina) said that his delegation attached the greatest importance to the issue of micro-States but would not be able to make a substantive statement until the following meeting.

Mr. FARAH (Somalia) said that his delegation was not yet in a position to make a detailed statement on the substance of the issue before the Committee but would do so at the following meeting. He would like to know whether the views of the Committee of Twenty-Four had been sought. Since that body had for many years maintained close contact with various small Territories, it seemed to him that a paper prepared by the Committee of Twenty-Four should be a basic part of the documentation of the Committee of Experts.

The proposals put forward so far reflected a nineteenth-century type of mentality favouring weighted memberships. States should not be penalized for their poverty but should have the right to vote in the Organization. Although he appreciated the difficulties involved in such a procedure, some means should be worked out which would not preclude the small States from taking part in decisions.

The CHAIRMAN observed that the Committee of Twenty-Four dealt with Territories in the phases prior to the attainment of independence, whereas the Committee of Experts was dealing with States which were already independent. However, the Committee of Experts might wish to consider the Somali representative's suggestion that the views of the Committee of Twenty-Four should be sought.

(The Chairman)

With regard to that representative's remark to the effect that the proposals reflected a nineteenth-century mentality, it was his understanding that they provided for a voluntary relationship; therefore, it could not be said that any State which chose to enter into such a relationship was being penalized. There seemed to be more of a penalty involved under the current arrangement, since States had no choice other than full membership or none at all.

Mr. JAMIESON (United Kingdom) said that the proposal which had been submitted by his delegation (S/9836, annex II) had been drawn up in the light of three basic considerations:

In the first place, looking at the question from the point of view of the micro-States themselves, membership in the United Nations was desirable in that it helped small States to establish an international personality, provided them with development assistance and, in particular, provided United Nations support for the defence of their territorial integrity and independence. On the other hand, membership also imposed very heavy financial burdens, not only because of the contribution which all Members had to make but also because of the cost of maintaining a mission at Headquarters. His delegation's proposal called for some relief from that burden.

Secondly, the point of view of the Organization itself should be considered. It was in the interest of the United Nations to see to it that all States shared the ideals of the Charter and assumed certain very definite obligations. In that connexion, he wished to correct what he thought had been a slight misunderstanding on the part of the Belgian representative, who had stated that the effect of both proposals would be to allow the micro-States to enjoy the benefits of membership without assuming its obligations. That was not true of the United Kingdom proposal, inasmuch as any State which chose the type of membership it offered would still be bound by Article 25 of the Charter. However, a distinction must be made between the obligations by which States were bound under the Charter and the obligation which had been mentioned by the Italian representative, i.e. that of making a contribution to the work of the Organization. Some States were not in a position to make such a contribution; that situation did not entail any discrimination but was simply

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(Mr. Jamieson, United Kingdom)

a reality. His delegation's proposal merely recognized the facts, and that was why it provided for the State concerned to accept the obligations contained in the Charter of the United Nations and solemnly undertake to fulfil them, on the understanding, however, that its assessment would be at a nominal level.

The third principle upon which his delegation's proposals were based was that of the sovereign equality of States. There was no question of penalizing poor States, because the very purpose of the proposal was to offer an option that could be exercised voluntarily by sovereign States.

With regard to the Somali representative's suggestion that the views of the Committee of Twenty-Four should be sought, he felt that existing studies, such as one that had been made by the United Nations Institute for Training and Research, covered much the same ground as would be covered by any document prepared by the Committee of Twenty-Four, and more besides.

As to the question of the legal implications of the proposals now before the Committee, his delegation agreed with the suggestion that the Committee should seek the opinion of the Legal Counsel. This would not bind the Committee but would assist it in its work. His delegation would be at the disposal of the Legal Counsel to provide any necessary clarification of its proposal, and was also prepared to furnish such clarification to the Committee.

Mr. FARAH (Somalia) said that he had some difficulty in understanding how a State could be expected to abide by the decisions of the United Nations when it was precluded from participating in the making of those decisions. Under the proposals before the Committee, the micro-States would have all the obligations of Members but would be prevented, because they were poor, from participating in the decision-making process. It had been said that they would enjoy all privileges except that of voting and serving on various United Nations bodies. Did that mean that they would be able to participate in the general debate in the General Assembly and propose resolutions and amendments? Or would such participation lie outside their prerogatives?

The CHAIRMAN said it was his understanding that neither proposal would preclude participation in the proceedings of the General Assembly and the Security Council. Under either proposal, States joining the Organization would be in no

(The Chairman)

less favourable a position than the non-member States mentioned in Articles 31 and 32 of the Charter.

Mr. JAMIESON (United Kingdom) said that any State joining the Organization under his delegation's proposal would be a member of the General Assembly though it would not vote. Whether or not it wished to fill that seat or to maintain a mission at Headquarters would be for the State to decide. Moreover, it would still have the right to participate in Security Council debates as provided by Article 31 of the Charter.

The CHAIRMAN, speaking as the representative of the United States, pointed out that, under the United States proposal, Associate Members would enjoy the rights of a Member in the General Assembly except to vote or hold office.

Mr. FARAH (Somalia) observed that questions of membership were decided by the General Assembly. The Committee of Twenty-Four was an Assembly committee, and it should be invited to give its views and recommendations on the matter; it had closer contact with potential micro-States than any other United Nations body. Many of the relatively small States Members of the United Nations felt that the larger Member States were not always the most willing or able to carry out the obligations set forth in the Charter, notwithstanding the provisions of Article 4 (1). The Organization must take full advantage of the views and the dedication of the small States, which were often more willing than the large ones to carry out the obligations of the Charter and regarded membership in the United Nations as essential to their national security and independence.

The CHAIRMAN pointed out that there were many subjective opinions regarding the relationship between the size of a State and its willingness to comply with the Charter; it was to be hoped that the Committee would not have to deal with those issues.

There was also the matter of the actual physical presence of a State in the Organization. One Member State which had paid its contribution as a full Member was nevertheless unable to be represented in the General Assembly. Under existing circumstances, States had no choice but full membership or none at all; the effect of the proposals before the Committee was to widen the options open to them.

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(The Chairman)

He noted that a majority of the members of the Committee had, at one time or another, expressed the view that the Committee should seek an advisory opinion from the Legal Counsel regarding the nature and applicability of the proposals that had been submitted to date. It had been generally agreed that the legal opinion would be helpful but would not be binding on the Committee. As the representative of Japan had stated, if it was the view of the Legal Counsel that it would be necessary to amend the Charter, the problem would assume new dimensions and it would be most helpful to know what the legal implications were. He therefore recommended that the Committee should take the following decisions:

"The Legal Counsel is hereby requested to inform the Committee if, in his opinion, the proposal made by the United States (S/9836, annex I) and the suggestion made by the United Kingdom (S/9836, annex II) can be implemented within the framework of the Charter of the United Nations without requiring amendment thereof."

Speaking as the United States representative, he said that his delegation felt that such a request could be made to the Legal Counsel without prejudice to the Committee's right to call on him at a later date for a similar advisory opinion on other proposals which might be put forward in the future.

Mr. FARAH (Somalia) said that his delegation had no objection to the proposal that a legal opinion should be sought. Moreover, should a State be prepared to join the Organization voluntarily as an Associate Member, his delegation would have no objection, but such a State should also have the option of being elevated to full membership whenever it desired.

Mr. ISSRAELYAN (Union of Soviet Socialist Republics) said that his delegation had certain doubts regarding the Chairman's proposal to request an advisory opinion from the Legal Counsel and was not in a position to support it at the present stage. Of the five new members of the Committee who had spoken at the meeting, at least three had stated that their remarks were very preliminary and that they would not be able to speak on the substance of the issues until a future meeting. It was possible that more proposals would be forthcoming, and the Committee would then be able to resume full-scale debate. It would not be appropriate to seek a legal opinion until the views of all members were known to the Committee.

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(Mr. Issraelyan, USSR)

In addition, the representative of Somalia had submitted a new proposal calling for the Committee to seek the views of the Committee of Twenty-Four. The members of the Committee were well aware of the fact that the issue of micro-States was really a political rather than a legal problem. Population and geographical size could not be used as criteria to decide whether a State was a micro-State or not. The issue was far more complex and must be approached from the political standpoint. While he agreed with the Chairman that the Committee of Twenty-Four was dealing with Territories that were not yet independent, he felt certain the Chairman would agree with him and the Somali representative that the Committee of Twenty-Four was dealing with potential micro-States and knew their problems very well. He therefore felt that, before seeking a legal opinion, the Committee should address itself to the Committee of Twenty-Four.

He proposed that the Committee should refrain from taking any decision until it had heard the substantive views of the delegations of Argentina, Italy and Somalia and had fully discussed all new opinions and proposals as well as the proposals that were already before it. It could then decide whether to obtain a legal opinion and whether to seek the views of the Committee of Twenty-Four. If the representative of Somalia was agreeable, the Committee could take up his proposal at a future meeting. However, if the representative of Somalia pressed his proposal, the Soviet delegation would support it.

The CHAIRMAN said that there were now two proposals before the Committee. The first, a long-standing one, was to seek the opinion of the Legal Counsel on whether the United States and United Kingdom proposals contained in annexes I and II respectively of document S/9836 could be implemented without prior amendment of the Charter. That proposal was supported by most members of the Committee, including some of the new members. The second proposal, made by Somalia and endorsed by the Soviet Union, was that relevant information should be sought from competent United Nations bodies, particularly the Committee of Twenty-Four. Before taking any decision, it might be advisable to hear the views of those representatives who had not yet made substantive statements.

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Mr. LA GUARDIA (Argentina) said that he would make a substantive statement at the next meeting. His delegation was, however, in favour of obtaining the advisory opinion of the Legal Counsel.

Mr. de la GORCE (France) said that his delegation was unequivocally in favour of consulting the Legal Counsel. In connexion with the Somali proposal, however, he would like to reiterate a proposal made by his own delegation at the third meeting of the Committee on 22 October 1969. At that time, his delegation had suggested that, since most States applying for United Nations membership in the future would belong to the Third World, the Committee should acquaint itself with the opinions expressed within the regional groups of the African, Asian and Latin American countries. That task might be performed by the members of the Committee belonging to those groups.

Mr. FARAH (Somalia) said that it was vital for the Committee to tap all possible sources of information so that it could take a sound decision. He urged that all documentation having a bearing on the question should be made available to the Committee and that all bodies which maintained a continuing association with micro-States - particularly the Committee of Twenty-Four, which maintained direct contact with the inhabitants of small Territories - should be asked to submit information to the Committee. The machinery for seeking such information should be set in motion immediately.

The CHAIRMAN said that, as he understood it, the general view was that decisions on the proposals before the Committee should be deferred until the next meeting.

Mr. KRASULIN (Union of Soviet Socialist Republics) recalled that his delegation had said earlier that it would prefer to have an opportunity to give the Somali proposal further consideration but would support it if it was pressed by the Somali representative.

Mr. JAMIESON (United Kingdom) said that he would have no objection to the Committee's seeking the opinion of the Legal Counsel immediately but would like more time to consider the Somali proposal.

Mr. VAN USSEL (Belgium) said that his delegation also wanted more time to consider the Somali proposal. In any case, it would be advisable to spell out clearly the type of advice expected from the Committee of Twenty-Four; it was not sufficient merely to suggest that the Committee should be consulted.

Mr. JOUEJATI (Syria) said that, as he understood it, the representative of Somalia was requesting that all relevant documentation on small Territories issued by United Nations bodies in general should be made available to the Committee. He suggested that the Secretariat should undertake the task of compiling an index of such documents.

Mr. FARAH (Somalia) noted that his proposal contained two points. The first suggestion was that all documents which threw light on the question, including those of the Committee of Twenty-Four, should be made available. The second suggestion was that information should be sought from the Committee of Twenty-Four, since it had extensive experience with small Territories - for example, Western Samoa - and also from the Trusteeship Council.

Mr. VAN USSEL (Belgium) recalled the suggestion that he had made in an earlier statement, when he had said that a study should be carried out on the de facto and de jure links existing between the United Nations and small independent political entities which were not members of the Organization. The study should ascertain whether those micro-States felt that their relations with the United Nations were satisfactory and served to promote their independence and economic development or whether they might be improved.

The CHAIRMAN suggested that the Somali and French proposals should be formulated more precisely before the Committee took a decision.

Mr. STRULAK (Poland) said that he did not consider the two proposals to be mutually exclusive; the one could supplement the other. The Somali proposal had considerable merit in view of the expertise possessed by the Committee of Twenty-Four. It would, however, be advisable to defer a decision until the next meeting.

Mr. de la GORCE (France) said that he fully agreed with the representative of Belgium that it would be most valuable for the Committee to familiarize itself with the experience of existing small States. It might also be helpful to consult small States on their experience and needs.

The CHAIRMAN, speaking as the representative of the United States, said that he endorsed the suggestion put forward by the representative of Belgium and supported by the representative of France. He was, however, in favour of seeking the views of the three regional groups, as had earlier been suggested by the French delegation. The experience acquired by France and the United Kingdom in helping many small Territories to attain independence might also be of value. He wondered whether the Secretariat could provide the list of documents which had been requested.

Mr. HERNDL (Secretary of the Committee) said that the Secretariat would endeavour to provide the Committee with a list of documents issued by the Committee of Twenty-Four and the Trusteeship Council, which might contain material relevant to the issues under consideration. He warned that some of the documents might be out of stock.

The CHAIRMAN, speaking as the representative of the United States, said that the question of cost should be borne in mind; he hoped that only those documents which were indispensable to the Committee's work would be made available.

ORGANIZATION OF WORK

Mr. FARAH (Somalia) suggested that the Committee should meet on a regular basis, at least once a month.

The CHAIRMAN, speaking as the representative of the United States, said that he endorsed that suggestion.

The meeting rose at 12.45 p.m.