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ISSUE ON BRUNEI *

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* This monograph is the first of a series on small Non-Self-Governing Territories in the Indian and Pacific Oceans.

ISSUE ON BRUNEI

I. BACKGROUND INFORMATION ON THE TERRITORY

Brunei is an oil-rich sultanate on the north-west coast of the island of Borneo, covering a total area of 2,226 square miles (5,765 square kilometres). It has a common border with Sarawak, one of the two eastern states of Malaysia, which also divides Brunei into two parts. The total population was estimated in 1975 at 147,000.

Brunei's jurisdiction extended to the whole island of Borneo at the time of the European arrival in the first quarter of the sixteenth century. However, its influence declined as a result of the colonial scramble in Borneo by the Dutch in the south and by the British in the north and by the end of the nineteenth century Brunei had been reduced to its present size.

Brunei became a British protected State following the signing of the Treaty of Friendship with Great Britain in 1888, supplemented by the Treaty of 1906 under which Brunei accepted the presence of a British Resident to "advise" on all matters except those concerning Malay customs and the moslem religion.

Under an Agreement signed in 1959 between Her Britannic Majesty and the Sultan of Brunei the British Resident was replaced by a British High Commissioner with functions substantially similar to those exercised by the Resident. The Sultan was to be consulted prior to the High Commissioner's appointment. 1/

The 1959 Agreement was amended in 1971 2/ to confine the powers of the British Government to control of Brunei's external affairs and to a consultative role in the defence and security of the Territory in the event of an external threat or attack. Situations "essentially" of an internal public order nature were henceforth to be a matter of concern only to the Sultan's public security forces. In situations not clearly falling into either category, the two governments must consult to determine to what extent the threat is externally organized or supported.

A batallion of Gurkhas is stationed in Brunei.

The Constitution which was promulgated by the Sultan in 1959 and amended by him in 1964, places large executive and legislative powers in the hands of the Sultan, who is also head of the Islamic faith. In the exercise of his executive authority the Sultan is assisted by a Chief Minister as well as by a Privy Council and a Council of Ministers. The British High Commissioner is a member of both advisory bodies.

1/ See note verbale dated 18 September 1972 from the Permanent Representative of the United Kingdom addressed to the Secretary-General, A/8827, annex II.

2/ Ibid, annex I.

The legislative power is vested in the Sultan and a Legislative Council composed, since 1965, of twenty-one members, six of whom are "ex-officio", five nominated by the Sultan and ten elected by and from among the membership of the four districts councils into which the Territory is divided. However, in 1970 when elections became due the Sultan decided to appoint the entire twenty-one members of the Legislative Council. The Council is presided over by a Speaker appointed by the Sultan from among the membership of the Council or from outside it. Subject to the assent of the Sultan, the Council may make laws for the peace, order and good government of the State, but may not proceed upon any bill, motion or petition concerning certain matters, particularly financial matters, without the prior approval of the Sultan. Furthermore if the Council fails to pass a given bill or motion the Sultan may declare such bill or motion adopted if he considers such action to be in the public interest. Since 1968 the budgetary estimates have been adopted under an emergency order. The Legislative Council did not meet between April 1969 and January 1973.

There are two recognized political parties in Brunei: the People's Independent Front of Brunei (BAKER from its Malay initials) formed in 1966 with the stated objectives of constitutional advance and independence and the People's National United Front (PERKARA), established in 1967 with the aim of strengthening the position of Brunei as a Sultanate. A third party, the People's Party of Brunei (PRB) formed in 1959, captured all the elected seats in the elections to the Territory's Legislative Council held in August 1962 but was banned in December of that year following a revolt, reportedly led by the PRB aimed at the establishment of a unitary state of Brunei, Sarawak and North Borneo. 3/ The State of Emergency imposed at that time has remained in force to this day. Twenty-eight members of the PRB were reportedly still being held in custody at the end of 1976. 4/ The PRB, the leadership of which is in Malaysia has appeared as a petitioner before the Special Committee and the Fourth Committee of the General Assembly.

When the Federation of Malaysia was being formed in 1963, talks were held between the Sultan and the Government of Malaya concerning the possible entry of Brunei into the Federation. Negotiations were eventually discontinued as a result of failure to agree on the terms for Brunei's entry, an outcome, apparently not unconnected, with the Sultan's reluctance to share Brunei's oil revenues amongst the other members of the Federation.

Brunei's economy is almost totally dependent on its rich petroleum resources which amount to 95% of the value of all its exports. Production, largely off-shore, was reckoned at 227,000 barrels a day in the third quarter of 1976. The exploitation of the oil is in the hands of the Brunei Shell Petroleum Company a subsidiary of Royal Dutch Shell. Brunei has also the biggest liquefied natural gas plant in the world and is the world's leading LNG exporter.

3/ See Official Records of the General Assembly, Nineteenth Session, annexes, document A/5800/Rev.1, chapter XXI. Sarawak and North Borneo (Sabah) became part of the Federation of Malaysia in 1963.

4/ Borneo Bulletin, 18 December 1976.

II. ACTION BY THE UNITED NATIONS

Following the conclusion of the 1971 Agreement, the British Government informed the Secretary-General 5/ that since the United Kingdom had surrendered all advisory functions in relation to the internal affairs of Brunei, the Territory had attained full internal self-government and, therefore, it would no longer be appropriate for the United Kingdom to transmit information on Brunei under Article 73(e) of the United Nations Charter. However, by its resolution 2978 (XXVII) of December 1972 the General Assembly reaffirmed that, in the absence of a decision by the Assembly itself that a Non-Self-Governing Territory had attained a full measure of self-government in terms of Chapter XI of the Charter, the Administering Power concerned should continue to transmit information under Article 73(e) with respect to that Territory. In 1973 the Special Committee adopted a consensus on Brunei which, "inter alia", recommended to the General Assembly that, inasmuch as Brunei had not yet attained independence, the provisions of General Assembly resolution 1514 (XV) were fully applicable to the Territory, and that the United Kingdom should be required to furnish the required information on Brunei, to participate in the relevant proceedings of the Special Committee and to receive in the Territory a United Nations Visiting Mission. 6/ The General Assembly approved the Special Committee's recommendation and reaffirmed the inalienable right of the people of Brunei to self-determination in conformity with resolution 1514 (XV). 7/

In view of Britain's refusal to agree to those recommendations, the General Assembly adopted in 1975, 1976 and 1977 virtually identical resolutions 8/ reaffirming the right of the people of Brunei to self-determination and independence and calling on the United Kingdom Government "to take all steps within its competence to facilitate expeditiously the holding of free and democratic elections by the appropriate Government authorities of Brunei, in consultation with and under the supervision of the United Nations" and further calling for the lifting of the ban on all political parties and for the return of all political exiles to Brunei so that they could participate freely and fully in the elections. 9/

5/ Note verbale of 18 September 1972 (A/8827).

6/ A/AC.109/SR.943.

7/ Resolution 3159 (XXVIII).

8/ Resolution 3424 (XXX), 31/56 and 32/27. For the text of the latter resolution see Annex I below.

9/ Resolution 32/27 of 28 November 1977 was adopted by a vote of 127 in favour, none against and 14 abstentions (Belgium, Canada, Denmark, France, Germany, Federal Republic of, Ireland, Israel, Italy, Luxembourg, Netherlands, Portugal, Sweden, United States of America and Zaire). The United Kingdom did not participate in the vote.

In reply, the British Government, while expressing itself ready to act as a channel of communication between the Special Committee and the Government of Brunei, has reiterated that Brunei was a sovereign state which had freely chosen to maintain a treaty relationship with the United Kingdom and that since the conclusion of the 1971 Agreement the United Kingdom had surrendered all advisory functions in relation to the internal affairs of Brunei. 10/

For his part the Sultan of Brunei, in the Speech from the Throne opening the 15th session of the Legislative Council in December 1977 declared that no country or organization had the right to interfere with the relationship between Brunei and Britain since Brunei was a sovereign nation and a self-governing State. 11/

10/ See exchange of letters in 1977 between the Chairman of the Special Committee and the Permanent Representative of the United Kingdom to the United Nations, document A/AC.109/547.

11/ Borneo Bulletin, 31 December 1977.

ANNEX I

GENERAL ASSEMBLY RESOLUTION 32/27 DATED 28 NOVEMBER 1977

The General Assembly,

Having considered the question of Brunei,

Having examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, a/

Recalling its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, as well as other relevant resolutions and decisions of the United Nations relating to the Territory, including in particular the consensus on the question adopted by the General Assembly on 13 December 1974, b/

Recalling also its resolutions 3424 (XXX) of 8 December 1975 and 31/56 of 1 December 1976,

1. Reaffirms the inalienable right of the people of Brunei to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples;
2. Approves the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to Brunei;
3. Notes once again that no progress has been achieved so far in the implementation of General Assembly resolutions 3424 (XXX) and 31/56;
4. Calls once more upon all parties concerned to work towards the early implementation of resolutions 3424 (XXX) and 31/56;
5. Calls again upon the Government of the United Kingdom of Great Britain and Northern Ireland, consistent with its responsibility as the administering Power, to take all steps within its competence to facilitate expeditiously the holding of free and democratic elections by the appropriate government authorities in Brunei, in consultation with and under the supervision of the United Nations, in accordance with the inalienable right of the people of Brunei to self-determination and independence, and further calls, prior to the elections, for the lifting of the ban on all political parties and for the return of all political exiles to Brunei so that they can participate freely and fully in the elections;
6. Notes that the administering Power has so far not participated in the Special Committee's consideration of the Territory;
7. Calls upon the administering Power, in conformity with the provisions of the relevant resolutions of the General Assembly, to extend full co-operation to the Special Committee;
8. Requests the Special Committee to continue to keep the situation in Brunei under review and to report thereon to the General Assembly at its thirty-third session.

a/ A/32/23/Add.4, chap. XV.

b/ Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 31 (A/9631), p. 117, item 23.

ANNEX II

MAP OF BRUNEI

