

THE PROBLEMS OF MICRO-STATES
IN INTERNATIONAL LAW

by

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ABSTRACT

The problems arising from the emergence of micro-States have recently received a great deal of attention in the international community. These problems can be seen to have two major aspects. One is the question of the future statehood of micro-States in the international community, the other is the potential problems resulting from their participation in international affairs.

The object of this paper is to point out the visible problems involved in the process of the participation of micro-States in international affairs in order that possible solutions can be proposed.

In investigating the historical background of these problems, we are aware that the continuing efforts of the United Nations on decolonization are the main stimuli to the birth of micro-States.

Historically, the League of Nations has faced the same problem as the United Nations over the question of the admission of small States. Although no definite criteria had been set out by the League of Nations for determining the admission of small States, it did prevent in due course the admissions of certain small States.

The increasing number of micro-States poses serious

problems to the United Nations. On the one hand, the question is whether the micro-States, most of which are hardly able to meet the admission requirements of the Charter, should be eligible for membership in the United Nations. In this respect, it has been suggested that a distinction should be made between "the right to independence and the question of full membership in the United Nations." On the other hand, the imbalance of the voting power and real power resulting from the rule of "one-State one-vote" will become more profound unless some solutions to the question of admission of micro-States in the United Nations can be worked out.

Finally, we reach the conclusions that, first of all, the Security Council and the General Assembly should set out criteria guiding the admission of new Members; secondly, certain special arrangements for the micro-States are needed so that micro-States can fully benefit from these arrangements without straining their resources and potential through assuming the full burdens of United Nations membership which they are not in a position to assume.

As to the future statehood of the small territories, there is a general awareness that total "independence" may not be desirable for all of them. On this point, several solutions shall be recommended in the last Chapter of this paper.

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I INTRODUCTION TO THE PROBLEMS AND THEIR HISTORICAL BACKGROUND

A Introduction to the Problems of Micro-States

Secretary General U Thant, in the Introduction to his annual report to the General Assembly for 1964-65, wrote that "a new problem was being raised by the recent phenomenon of the emergence of exceptionally small States."¹ Also in his annual report to the General Assembly for 1966-67, he re-defined the micro-States as "entities which are exceptionally small in area, population and human and economic resources, and which are now emerging as independent States."² Such was the case of the former Trust Territory of Nauru, which attained its independence on 31 January 1968 and has an area of only 8.25 square miles and an indigenous population of about 5,000. Besides, the potential smallest State is Pitcairn Island which is only 1.75 square miles in extent and has a population of around 90.³

The most crucial problem, as U Thant indicated, was that "their limited size and resources can pose a difficult problem as to the role they should try to play in international life."⁴ Under Article 4 of the Charter of the United Nations, new Members of the United Nations not only must subscribe to the purposes and ideals of the Organization and be peace-loving States which accept the obligations under the Charter; they must also be "willing and able" to carry out

their responsibilities as Members. In this respect, it seems obvious that most of the existing or potential micro-States would hardly be able to fulfil such a requirement. The fact is that the United Nations has been admitting any State as long as it claims to be an independent State and applies for admission. As it has been pointed out, "the step from independence to United Nations membership has been virtually automatic." ⁵ Such phenomenon is partly due to the conflicts between the big powers in seeking supporters in the Cold War. These emerging numerous micro-States are the best candidates for allies. The practice of admitting them indiscriminately is usually referred to as the approaching way to the principle of universality which seems more idealistic than realistic.

Furthermore, as indicated by U Thant in discussing the membership of these micro-States in the United Nations, "such membership may, on the one hand, impose obligations which are too onerous for the micro-States and, on the other, hand, may lead to a weakening of the United Nations itself." ⁶ In fact, one or two present Members have not been able to maintain a permanent mission at the United Nations Headquarters. ⁷

Micro-States not only cause problems for the United Nations; they have serious problems of their own. Most of them lack the capacity for economic and political viability, and should concentrate on developing their own economies before trying to participate in the world affairs. Before the

little landlocked African State of Swaziland was approved as the 125th Member of the United Nations on 24 September 1968, Lord Caradon of Britain, in presenting this country to the Security Council, described it as industrious and economical-⁸ly viable. But he had to admit that it was small and poor. Although "viability" may be a sufficient test of independent statehood, it is not necessarily competent enough to be a Member in a political organization like the United Nations, the Members of which must be "able" and willing to carry out the obligations under the Charter.

U Thant has indicated that "it is, of course, perfectly legitimate that even the smallest territories, through the exercise of their right to self-determination, shall attain independence as a result of the effective application of the General Assembly Resolution 1514 (XV) on the Granting of Independence to Colonial Countries and Peoples." But he further stated that "it appears desirable that a distinction be made between the right to independence and the question of full membership in the United Nations." He therefore suggested a 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 forms of association which would benefit both the micro-States and the United Nations.⁹

It has been suggested that for the time being micro-States might have membership only in specialized agencies of

the Organization, which would aid them in economic and social development even though they did not have full membership in the United Nations. One or two micro-States did follow this suggestion. Western Samoa, 1097 square miles in area with a population of 114,627, became independent on 1 January 1962; however, its leaders chose not to join the United Nations because the country could not afford it.¹⁰ Nevertheless, Western Samoa is a Member of the World Health Organization and of the Economic Commission for Asia and the Far East (ECAFE) in the United Nations family of organizations. These give it practical advantages more important to its people than the political right in the General Assembly about which U Thant has expressed doubts. Besides, the present existing smallest independent State, that is Nauru, has also decided not to seek membership in the United Nations because of its small size.¹¹

Another problem closely related to the membership of the micro-States in the United Nations is the voting problem under the rule of "one-State one-vote." This rule is primarily based on the so-called principle of sovereign equality. But in fact, this voting principle is not consistent with reality.

The chief problem under this principle is whether the United Nations can afford to run the risk of the system of "one-State one-vote" degenerating into a system of power without responsibility. It is believed that rights must be proportionate to the responsibilities involved. The financial

contribution to the United Nations authorized by the General Assembly has always been unequal. It would seem, therefore, unfair to give small States, which are incapable of making substantial contribution, a greater say in the running of the United Nations affairs than that of those who bear a greater part of the financial burden. And it has been said that the thinking of diplomats who favor some restriction on the powers of unusually small countries is that if a large number of them came into the position of controlling a majority in the General Assembly, it would encourage power politics. The great powers will be driven to ignoring the Assembly and settling world problems among themselves. This is the survival of the so called "hotel diplomacy." In response, a proposal for the reform of the present voting procedure has been suggested, such as a weighted voting system.

To conclude, the problems of micro-States in international law can be put into two categories: one is the problem inside the micro-States themselves, including the choice of their statehood and their domestic developments, while the other is the impact of these micro-States on the international community, including the participations of these micro-States in the international community. All of these problems will be discussed separately in the following chapters.

B The Historical Background of the Problems

In recent years the number of territories under ei-

ther the United Nations trusteeship or colonial rule have rapidly decreased. With few exceptions ¹² most of them, upon gaining their independence, have applied for membership in the United Nations and were admitted.

The territories that are still dependent are the numerous small sparsely populated, economically isolated territories in the Atlantic, Pacific and Indian Ocean and in the Caribbean. These territories have been approaching the threshold of self-government and independence, and have become the focus of attention only in recent years. These small territories are to give birth to the "micro-States" defined by the Secretary General in his annual report to the General Assembly for 1966-67.

The United Nations has done a great deal in stimulating the birth of these micro-States. Since its beginning it has encouraged and assisted the rising national consciousness of the peoples of dependent territories and their determination to achieve their independence.

The United Nations Charter contains three chapters specifically devoted to the dependent peoples.

Under Chapters XI, XII, and XIII, especially the latter two, the United Nations established a system of trusteeship for the international supervision of the administration of territories placed under the system through individual

agreements. The basic objective of the trusteeship system is to promote the political, economic and social advancement of the Trust Territories and their progressive development toward self-government or independence as may be appropriate to the particular circumstances of each territory and their people's freely expressed wishes. The responsibility for the operation of the system is entrusted, under the Charter, to the Trusteeship Council—one of the principal organs of the United Nations. In addition to the establishment of a trusteeship system, the Charter lays down the principle of international responsibility for the welfare and advancement of dependent peoples who have not yet attained a full measure of self-government. Under Chapter XI of the Charter, States Members of the United Nations which have assumed responsibilities for the administration of non-self-governing territories recognize the principle that the interests of the inhabitant of these territories are paramount and accept as a sacred trust the obligation to promote the well-being of the inhabitants. To this end, they undertake to develop self-government, to take due account of the political aspiration of the peoples, and to assist them in the development of their free political institutions. In summing up this significant factor of this Chapter, it is noted the colonial powers for the first time in history had voluntarily accepted, as an international obligation, the responsibility of administering the territories in accordance with the principles of the United Nations.

Although a large number of trust and other non-self-governing territories did attain their independence, there was growing concern among Members of the United Nations that the progress towards complete emancipation of the many countries and peoples still remaining under colonial status was too slow and should be accelerated.

At its 1960 session, following a historical debate in plenary session, the General Assembly, on 14 December, expressed its deep concern and desire for the speedy attainment of independence by the dependent territories in its Resolution 1514 (XV) entitled: Declaration on the Granting of Independence to Colonial Countries and Peoples. In this Declaration, the General Assembly expressed the conviction that the continued existence of colonialism prevented the development of international economic coöperation, impeded the social, cultural and economic development of dependent peoples and militated against the United Nations ideal of universal peace. The Declaration emphasized that "all peoples of these territories has the inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory; all peoples have the right to self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." And the Declaration went on to proclaim that "inadequacy of political, economic, social or educational pre-

paredness should never serve as a pretext for delaying independence; in Trust and Non-Self-Governing Territories or all other territories which had not yet attained independence, immediate steps should be taken to transfer all powers to the peoples without any distinction as to race, creed or color." 64 small dependent territories,¹³ including the only remaining Trust Territory of the Pacific Islands,¹⁴ come within the purview of this resolution.

In 1961, one year after the adoption of the Declaration, the Assembly reconsidered the extent to which it had been implemented. In a resolution adopted on 27 November, it noted "with regret" that, with few exceptions, the provisions of the Declaration had not been carried out and that armed action and repressive measures continued to be taken in certain areas with increasing ruthlessness "against dependent peoples, depriving them of their prerogative to exercise peacefully and freely their right to complete independence," and the Assembly called on all States administering Trust or Non-Self-Governing territories to "take action without further delay with a view to the faithful application and implementation of the Declaration."¹⁵ In a major provision of this resolution, the Assembly decided to establish a Seventeen-Member Special Committee to examine the application of the 1960 Declaration and to make recommendations on the progress and extent of its application.^{15a} Again, in 1962 the General

Assembly adopted a resolution which decided to increase the membership of the Special Committee from seventeen to twenty-four—known as the Committee of 24.¹⁶ The initial study of the Committee of 24 dealt with the larger dependent territories, such as Kenya and Guyana, and until recently the special concern about micro-States received only passing attention. In 1965 the General Assembly asked the Committee of 24¹⁷ "to pay particular attention to the small territories."

Under the high tide of national consciousness and under the repeated affirmations of the "inalienable right of these people to complete freedom and self-determination" by the United Nations, a number of territories have gained their independence, although the small territories gained the attention of the Special Committee of 24 only recently. The Committee is convinced that Resolution 1514 (XV), which states that "inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying inde-¹⁸pendence," is fully applicable to the small territories. Besides, the Committee is also aware that the formation of appropriate concrete measures for such full application is sometimes hampered by the lack of adequate information on the political, economic and social situation in these territories, or on the opinions, wishes and aspirations of the people. In Resolution 2105 (XX) of 20 December 1965, the General Assembly approved the Committee's desire to send visiting missions to

the small island territories. It also asked the Committee to devise specific recommendations on appropriate decolonization measures and to suggest time tables for independence.

Under the encouragements and efforts of the United Nations, some of the small territories have gained their independence, and the rest of these territories will, beyond doubt, attain the status of self-government or full independence in the near future.

The problems involved in the future of these small territories pose several questions in the international law. Will full independence be the best form for all the small territories? Should a full membership in the United Nations be granted to them, if they do apply so? Or should some special arrangements be the alternatives? Or should an equal vote be given to the small States even if they are not able to contribute as much as the powerful States? All these questions will be fully discussed in the following chapters.

II THE POSITION OF SMALL STATES IN THE LEAGUE OF NATIONS

A The Admission of Small States to the League of Nations and the Principle of Universality in the League of Nations

(1) The Admission of Small States to the League of Nations

During the early history of the League of Nations, there were several States that were also very small in population, territory and resources, such as the Principality of Liechtenstein, the Republic of San Marino and the Principality of Monaco and Andorra.¹ Although some of them did apply for membership to the League, they were not admitted for a variety of reasons.

Before the first Assembly of the League, the States mentioned above, except Andorra, had asked for admission to the League of Nations.

On 15 July 1920, the Swiss Minister in London asked for the admission of the Principality of Liechtenstein to the League of Nations.² And on 20 September 1921, the Committee No. V, after careful study of the Liechtenstein's application, made a unfavorable recommendation to the General Assembly. It read as follows: "[t]he Committee is of the opinion that the application of Liechtenstein can not be granted, as this State does not appear in a position to carry out all the international obligations imposed by the Covenant," and the

Committee went on to recommend that a special arrangement be worked out in order to "attach to the League of Nations Sovereign States which, by reason of their small size, could not be admitted as ordinary Members." ³ On 20 December 1920 the Secretariat informed the government of the Principality of Liechtenstein that the Assembly, after having considered its request for admission, was of the opinion that the application could not be granted and at the same time brought this recommendation to its notice. ⁴

As to the applications for admission by the Republic of San Marino and the Principality of Monaco, they were somewhat different from the case of Liechtenstein. On 25 April 1919 the Chargé d' Affaires of the Republic of San Marino submitted a request with this purpose to the President of the Peace Conference. ⁵ The Secretary General on 24 August 1920 asked the government of the Republic of San Marino for certain information, but no reply to this request was received by the Secretariat during the session of the First Assembly, and the League therefore did not deal with the question.

As far as the Principality of Monaco is concerned, on 6 April 1920 the Secretary of State of the Principality of Monaco submitted a request to the same effect to the President of the Council of the League of Nations, ⁶ but this application for admission was withdrawn by a letter dated 22 October 1920. ⁷

Under Article 1 (2) of the Covenant of the League of Nations concerning the application of membership, it was provided that "any fully self-governing State, Dominion or colony not named in the Annex... may become a Member of the League if its admission is agreed to by two-thirds of the Assembly provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments." In interpreting this Article, it is desirable to take the view that the admission of new Members to the League of Nations, a world political organization, and their assumption of the rights and duties thereby incurred are necessarily based on "the will and capacity" of these applicants, and shall not be blinded under the principle of universality.⁸ By saying this, it is, of course, by no means to exclude States which are small in population, territory and resources and are not able to fulfil their international obligations effectively, from the international community. The Sub-Committee in considering the question whether it would be possible to attach States of this kind to the League of Nations, held the opinion that with a view to its development, the League of Nations should be able, as soon as possible, to embrace all States which, while fulfilling the conditions required by Article 1 of the Covenant, desire to associate themselves with it. And it further in-

indicated that although of narrow application, this principle applied equally to States of very small size, each State constituting a legal entity whose susceptibilities are deserving of consideration. However, in the opinion of the Sub-Committee the principle of universality of membership was only an ideal and could not be applied at random. It decided that the only problem that existed and needed to be solved was that of the form which should be given to these small States' participation. Thus, although the recommendation of 17 December 1920 excluded, a priori, the possibility of regarding these small States as ordinary Members, the Sub-Committee did propose several methods for attaining the aim of full coöperation between the States irrespective of being a Member or not.

Besides, it was suggested by the Committee No. V that although these small States could not be admitted at that time, these decisions should not prevent the Assembly in the future from taking once again these requests into consideration. That is to say, the nations concerned could renew their application for admission when the reasons against admitting them had disappeared. The problems of the small States, as indicated by the Committee No. V, could only be solved by time and, as soon as their problems were solved, they were most likely to be admitted. At the same time, they could also avail themselves of the technical organizations of

the League of Nations.

In conclusion, under the practice of the League of Nations, although no rule had been strictly laid down that States, which were too small in territory or had too few inhabitants, should be excluded from the League of Nations, it did take the view that before granting admission to the small States, full consideration should be paid to the ability of the applicant small States to carry out the international obligations imposed by the Covenant.⁹

(2) The Principle of Universality under the League of Nations

To apply the principle of universality as a basis for membership was deliberately rejected by the League of Nations in 1920.¹⁰

A draft proposal incorporating the idea of universality of membership into the Covenant had been first officially raised by the Delegate of Argentina.¹¹ It stated that "all Sovereign States recognized by the Community of Nations be admitted to join the League of Nations in such a manner that, if they do not become a Member of the League of Nations this can only be the result of a voluntary decision on their part." In other words, by this proposal a sovereign State, regardless of its willingness or capacity to carry out the international obligations imposed by the Covenant, would automatically become a Member of the League of Nations, unless an expressed

rejection was made by that State.¹² The Argentine proposal was primarily based on the consideration that "the strength of the League of Nations depends on its including the greatest possible numbers of States; the fewer the States outside it, the greater will be the number of the Members pledged to carry out its provisions and to perform the duties which it imposes." In his point of view, "the non-admission of a number of States might lead to dangerous antagonisms, be the cause of the formation of a League of Nations outside the League, in rivalry to it, and be a constant source of danger¹³ to the peace of the world."

Since the Argentine proposal was far away from the actual political situation in those days, it was rejected by the Assembly of the League.¹⁴

B The Special Arrangements for Small States in the League of Nations

The Problems of the small States in the League called for a consideration of the question of some special arrangements to be made for them. In declining to admit Liechtenstein as a Member of the League and in believing that the true object of the League would be more easily attained if all States were not excluded, the First Assembly of the League expressed the wish that some special arrangements be made, to a certain limit, to attach to the League of Nations

certain States, which by reason of their small size, could not be admitted to the League.¹⁵

Following the wish of the Assembly, the Committee on Amendments to the Covenant presented three alternative methods of attachment:¹⁶

- (a) to recognize for such small States a right of full representation without a vote; or
- (b) to allow their representation by another State already a Member of the League; or
- (c) to have recourse to a system of participation limited exclusively to cases in which the special interests of such small States were involved.

As far as the first method was concerned, it implied the right to take part and to speak in the Assembly on all subjects and to participate, as Members of Committees and Sub-Committees, in all the work, but without the right to share in its decisions. But, by believing that "the duration of debates might be prolonged by the intervention of Members who, in reality, had no concern with the subject under discussion,"¹⁷ the Sub-Committee therefore recommended the rejection of this method and proposed the other two,¹⁸ namely,

- (a) admission to membership with full privi-

leges to be exercised only where their special interests are involved; or
(b) representation by some other State which was already a member of the League.

Concerning Method (a), in the Second Assembly, it was considered that to adopt this method would put the small States in a very inferior and undignified position while such small States were, at the same time, apt to be extraordinarily sensitive and suspicious. ¹⁹ It was also held that there would be inherent difficulties in defining what were matters of "special interests," while the League ought ²⁰ to concern itself only with matters of general interest. As to Method (b), it was also argued that it would create a new class of Members of the League of Nations. Furthermore, this method would also place the small States in "a position of inferiority, under a sort of more or less temporary protectorate." ²¹ Besides, the representing States might have in the Assembly some interests that would be in opposition to those of the States which they represented.

To sum up, in addition to the fact that there were disagreements among the Member States in adopting these methods, it became quite evident that both methods were in conflict with Article 1 (2) of the Covenant, and that the adoption of either would make an amendment necessary. Since at that time no small States had submitted such a request to

the Assembly, and on the other hand, some States which were not Members of the League had then taken part in Conference in the League, the Second Assembly therefore finally considered and approved the report of the First Committee which suggested that "experience should be awaited before any definite conditions were laid down."²²

III THE PROBLEMS OF MICRO-STATES IN THE UNITED NATIONS

A The Reasons of Micro-States in Seeking Membership

In spite of the heavy burdens imposed upon the Member States by the present Charter, micro-States, with few exceptions, have been still eager to obtain the membership in the United Nations. The reasons for this are as follows:

(1) The emphasis of the Charter on coöperation in the solution of economic and social problems has attracted the micro-States to the United Nations. It has been well known that the United Nations and its Specialized Agencies are the most effective and appropriate means by which international coöperation can be efficiently carried out. Actually the greatest achievement of the United Nations and its greatest advancement over previous coöperative efforts have been in calling attention to the special needs of the underdeveloped areas, in stimulating programs of assistance, and in organizing programs such as the Expanding Program of Technical Assistance which have placed at the disposal of the underdeveloped countries various forms of technical aid without the political conditions that are sometimes attached by the donor States and without the risks that weaker countries have run in accepting aid from more advanced and stronger countries. Also, United Nations aid to underdeveloped countries has been given not only through technical assistance programs but through

loans by the World Bank and by assistance from the International Finance Corporation and, the International Development Association. As far as the economic and social field is concerned, the United Nations and its Specialized Agencies are engaged in meeting needs that have existed for a long time, and which exist even to a greater degree under the modern technological society. In order to meet these needs, the United Nations and its Specialized Agencies are indispensable. Perhaps even more important is the fact that the peoples of these underdeveloped places are no longer willing to accept the condition of hunger and pestilence which in the past have been their fate. They demand assistance in improving their fate but not on unequal terms. Since all the micro-States are underdeveloped and backward, and they are also just emerging from the status of colonial or trustee territories and gaining independence, there is all the more reason for them to avail themselves of the facilities of the United Nations. Besides, as most micro-States owe their very independence to the continued emphasis which the United Nations has placed on the obligation of the administering Members to develop self-government within them, the United Nations has been treated by these newly independent micro-States as "fostermother." In this respect, a natural adherence arises among them to the United Nations.

(2) From a psychological point of view, membership in the United Nations is coveted. It has been referred to as a

"mark of sovereignty."² To be a Member of the United Nations³ is also a symbol of their stable prestige in world politics. The United Nations has made it possible for these micro-States to have a foreign policy, and it enables them to play a role in the world politics out of all proportion to their population, economic or military strength. Therefore, the failure of these micro-States, upon their independence, to gain admission to the United Nations might be thought, by these micro-States, to give doubts on their independence and sovereignty.

(3) The reasons stated above are the internal factors that stimulate the micro-States to seek membership in the United Nations. But as we know, the big powers have by themselves, due to the conflicts out of the Cold War, enhanced the role and power of the micro-States. In waging the Cold War, the rival powers, in order to bid against each other, are doing their best to please the newly independent small States. Besides, as under the present practice of the Charter, each State irrespective of its population or contributions has the equal voting power, these micro-States are surely in "a strong bargaining position."⁴ Since these micro-States form a more or less "reliable pool of support" for the rival powers in the Cold War,⁵ the rival powers welcome the micro-States to join their bloc.

In conclusion, since we have found out the reasons the micro-States have been eager to seek membership in the

United Nations, we should work out a plan which would meet the needs of such States, but would not impose upon them the heavy obligation attached to the full membership in the United Nations.

B The Impact of Membership of Micro-States on the United Nations

(1) The Admission of Micro-States to the United Nations and the Principle of Universality

As indicated above,⁶ the admission of new Members to the United Nations has become, in the recent years, almost automatic. This explosion of membership in the United Nations has caused the Organization to become unwieldy and unbalanced. The questions now before us are whether the principle of universality in relation to membership has been incorporated into the present Charter, and whether the micro-States, which are hardly able to meet the admission requirement under the Charter, are qualified to be a Member of the United Nations.

As far as the first problem is concerned, there are two approaches towards the problem of recruiting members to a World Organization. One starts from the viewpoint that the strength of any such organization depends on the degree of its including the greatest possible number of States; the fewer the States outside it, the greater will be the numbers pledged to carry out its decisions and to perform the duties which it imposes. This leads to the doctrine of universality i.e., the

adherence to the organization of all communities that pass the tests of independent statehood. There is another side to this doctrine; it implies that membership in the organization will be automatic and no application is required. ⁷ The second approach is started from a different point of view. It indicates that, as a rule, the strength of a public international organization depends not on its including the greatest possible number of States, but on its including the greatest possible number of like-minded States, such as can be trusted to work together harmoniously and efficiently. This principle is usually referred as the principle of selectivity.

It cannot be gainsaid that each of these two principle has its own merits, and the choice between them must depend on the function of the particular organization in question. Where the function obviously makes efficiency dependent on universal membership, the principle of selectivity has little chance to be recommended. For example, the world will be ill served by a health organization which does not guarantee that the highest possible level of health reached its destination regardless of the historical record, political background and the economic condition of the State in the world. Similarly the same consideration applies to most organizations of a technical character. This consideration, however, ceases to be dominant when an organization shoulders responsibilities mainly of a political nature.

At the birth of the League of Nations, the question whether the principle of universality should be adopted was considered at length and with care. This principle, as discussed in the foregoing chapter, was rejected in the League of Nations.

In the practice of the United Nations, the principle of universality took place in two stages. In the Dumbarton Oaks, a proposal in a chapter named "Membership" consisted of a single paragraph "i. Membership of the Organization should be open to all peace-loving States." If we read it in isolation, it seemed to walk in the direction of universality. But, of course, it has to be read in conjunction with another rule which authorized the General Assembly to admit new Members to the Organization upon the recommendation of the Security Council. These two rules read together were equivalent to adopting a principle of selectivity even more severe than the one that the League had practiced. For membership in the League, it was sufficient for a candidate to pass a favorable resolution in the Assembly; while in the United Nations the Security Council, in addition, has to confer its approval first.

At the San Francisco Conference proposals aiming at immediate universality of membership, similar to those proposed in the day of the League of Nations, were put forward by several Latin American States. The Uruguay delegation demanded that "all communities should be members of the Organization and that

their participation be obligatory, that is to say that it would not be left to the choice of any nation whether to become a member of the Organization or to withdraw from it." ⁹ But Costa Rica, while accepting the principle of universality as a goal, recognized that it might not at present be a "possible reality." For the future it did approve that "[o]nly in this premise would it be possible to build the community of all nations having its own structure and means of making the transgressions of its members subject to the rules accepted by all." ¹⁰ But most of the States refused to accept this premise as desirable for either the present or the future. It seemed to them that an act of admission required a certain degree of coöperation on both sides. France maintained that conditions of membership should be laid down which would "ensure a community of political principles and an ideal shared in common among those who were already members and any new Member of the Organization." ¹¹ And more important was that both France and the Netherlands insisted that admission should be limited to those States which by their "institution" and by their "international behaviour" had already given proof of "their willingness and ability" to ¹² carry out their international obligations.

The outcome of the debate was to recognize that universality was "an ideal toward which it was proper to aim." ¹³ Actually, the San Francisco Conference went even

far beyond a mere refusal to incorporate immediately the principle of universality of membership. It was strongly emphasized by the report of Committee I/2 that "the organization would exercise its discretionary power with respect to the admission of new Members.... To declare oneself 'peace-loving' does not suffice to acquire membership in the Organization."¹⁴ According to its report, new Members would be admitted only if they are "recognized" as peace-loving and upon examination by the Organization are judged "able and ready"¹⁵ to carry out those obligations.

Article 4 of the present Charter is a result of these debates. But the words of the Article are rather obscure. Under it;

(a) membership in the United Nations is open to all other peace-loving States which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

(b) the admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Thus, four qualifications for membership to the United Nations can be deduced from the first paragraph of Article 4; these are:

- (i) statehood;
- (ii) be peace-loving;
- (iii) acceptance of the obligations contained
in the present Charter;
- (iv) ability and willingness to carry out
these obligations.

Under these analyses, the first and the fourth qualifications are of immediate concern with regards to the application of micro-States for admission to the United Nations. In discussing the statehood of micro-States, the question before us will be whether the limitations upon size, population and resources of a State will somewhat impair its true independence. Generally speaking, the only limitation upon size, population and resources will not affect the true independence of a State, although some publicists took the view that a State must possess a certain minimum size of territory and population. Evidence has shown that the International Court of Justice had not merely admitted Liechtenstein, which had been rejected by the League of Nations on ground of its inability to carry out its obligation by reason of its small size, to its Statute—an admission which is only open to States and which was made by an over all majority in the General Assembly, but several times referred to it as a State and treated it as such in the Nottebohm case. San Marino, which has less population than that of Liechtenstein, is also a party to the Statute of the Court.

To sum up, the mere limitation upon size, population and resources cannot be a ground for denying the statehood of a State. But, of course, in maintaining this view one does not necessarily imply that a State of exceptionally small size or population has any right to join an international organization. An international organization may reject its application not on the ground of small size or population alone, but on the undeniable fact of its physical and financial inability to carry out the obligations of membership. As U Thant has pointed out, "a distinction should be made between the right to independence and the question of full membership."²¹

Since most of the newly independent micro-States are very small in size, population and resources, they are hardly able to fulfil the obligations imposed by the Charter.²² In terms of political experience, they "were still not mature enough to deal with their own matter,"²³ let alone to join the United Nations to participate in international affairs. Besides, under the present structure of the United Nations, to grant membership to the micro-States might do hardship to both the micro-States²⁴ and the United Nations itself.²⁵ As U Thant argued, United Nations membership might "impose obligations which are too onerous for the micro-States and also may lead to a weakening of the United Nations."²⁶

In ascertaining the facts concerning the admission

of micro-States to the United Nations, we are aware that the United Nations has nothing comparable to the League of Nations' "Questionnaire" to guide the Security Council's Committee on the Admission of New Members,²⁷ nor does the General Assembly undertake any investigation of qualifications of the applicant States. In this respect, we would suggest that definite criteria should be applied before making decisions on the case of granting memberships. This is also what U Thant has urged, saying 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...."²⁸

In conclusion, since we are aware that the "road to universality" in the United Nations would merely open "the road to futility, and finally oblivion,"²⁹ We would suggest that before micro-States seek membership in the United Nations, they should care more about their internal developments both political and economic, and that the United Nations should take more care in admitting new States to membership, perhaps admitting them only for a "trial period."³⁰

(2) The Rule of One-State One-Vote and the Principle of Sovereign Equality in the United Nations

Along with the problems arising from the increasing memberships of micro-States in the United Nations is the basic problem of the voting system in the General Assembly.

According to Article 2 of the present Charter, "(t)he Organization is based on the principle of the sovereign equality of all its Members." And under this premise the General Assembly, as we were told, is a real "town meeting of the world," within which each Member State is equal with any other State in so far as each Member has one vote, regardless of size, population or its political strength.³¹ No State, large or small, enjoys any privileges or advantages in casting its vote. No State has a veto. This is the so-called rule of "one-State one-vote." Under this rule, a micro-State has the same vote as one of the big powers. Its vote is therefore out of all proportion with its weight in the real world of politics.

In this respect, one can easily image the fact that the United Nations is getting more and more unmanageable and the capacity of the organization has also been reduced.³² Furthermore, this situation will deteriorate if no reform is established, since a great number of potential micro-States are marching through the threshold of the post-war independence movement and may eventually be the Members of the United Nations.

Thus, the questions before us are: Is the rule of "one-state one-vote" consistent with the realities of the contemporary international community? Can the international community afford to run the risk of the rule of "one-state one vote" converting the United Nations into a system domina-

ted by irresponsible Members?

To the first question, theoretically speaking the background of adopting the rule of "one-state one-vote" has rather been based on the principle of workability than on that of sovereign equality. The adoption of the rule of "one-State one-vote" in the General Assembly was justified by the belief that, apart from recognizing special privileges in the Security Council for the Big Five, the General Assembly was primarily a forum of discussion and debate. ³³ But it is evident that the situation of the General Assembly of the 1940's hardly resembles that of the 1960's. One crucial example of the increasing power of the General Assembly was shown by the adoption of the Uniting for Peace Resolution of 1950 in response to the Korea War. In this Resolution it was intended that a paralyzed Council could not be allowed to stand in the way of the General Assembly if the latter was able and willing to deal with the matters in issue. This Resolution signified really a remarkable departure from the original spirit of the Charter which never contemplated the use of armed force by recommendation of the General Assembly.

Even the practice of complete equality of vote in the nineteenth century has also been evaded by some different alternatives; otherwise the role of some international organization could never be carried out. ³⁴ In effect, the principle of sovereign equality as proclaimed in the present

Charter will convey only that all States are equal before the law or, say deserve the equal protection of law. This is just as described by Professor Westlake that "the equality of sovereign States is merely independence under a different nature."³⁵ From the equality before law it follows that each independent State, no matter how small in size, population and resources, is guaranteed by international law the freedom from foreign control without its consent. Another thing which follows is that, in the international judicial proceedings between the big and small powers, the Organization shall treat them impartially irrespective of their weight in the real world politics. With these concepts in mind, it would seem totally wrong to insist on further equality among nations which are actually unequal in the real world.³⁶

The inequality among States shows clearly in the General Assembly where there are now seated representatives of 126 Member States.³⁷ Among these only 12 States have a population of 40 million or more.³⁸ Not less than 59 States have a population of 5 million or below; 17 of these have even a population of less than 1 million. While on the other hand, China, India and the Soviet Union have more than half the total population of the United Nations. As far as the population is concerned, it is obvious that it would tend to diminish the authority of the General Assembly's

decisions "if the total population of States voting in favor³⁹
of them are far less than that of minority voting against."
According to the statistical estimate, in the General
Assembly there are 64 States, which represent only a little
over 5 per centage of the total population of all the Members⁴⁰
while their combined vote will represent an absolute majority.
Of these 64 States, 43 are so small that they represent only
more than 3 per centage of the United Nations population, yet
their combined votes can prevent an affirmative decision on⁴¹
any of these issues which a two-thirds majority is required.
Besides, 86 of the smaller States with a combined population
representing only 10 per centage of the total can easily pass⁴²
a two-thirds majority of votes on any issue.

As far as the annual contribution by each Member
State to the organization is concerned, this discrepancy
exists too. The United States alone pays more than 31 per
centage per annum which is more than 775 times the minimum
dues of 0.04 per centage paid by each of the 45 small States⁴³
in the United Nations. From this aspect, it is quite
possible that the General Assembly's majorities are composed
of States whose aggregate contribution is less than that of
the minorities. This is just the situation that "the rich⁴⁴
pay all the taxes and the poor pass all the laws."

This inequality also exists when territory is con-
sidered. For example, the total area of the U.S.S.R. is more

than 751,75 times the size of the Maldivé Islands which is for the time being, the smallest Member State in the United Nations.

In theory, micro-States may, if they wish, muster any decision in the General Assembly without assuming the corresponding responsibilities. In this circumstance, "it is not in accord with reason and common sense" that great and powerful States will agree to be bound in decisions of important matters passed by these small States. ⁴⁵

Actually, the Afro-Asian group is badly fragmented on nearly everything except colonial problems and the racial questions. On these issues their close voting strength is rather astonishing. For example, in 1961, the foreign minister of South Africa, Eric Louw, asserted in the course of his speech referring to his Government's racial policies before the General Assembly that South African blacks enjoyed a much higher living standard than many of the African States who attacked his government's racial policies. But this statement so infuriated the Africans that they passed an unprecedented motion of censure of the Government of South Africa, or its delegate, for the statement made in the General Assembly which, in their view, was offensive and erroneous. ⁴⁶

In order to gain a greater recognition of equality among the Members of the United Nations, in 1963 the power of the small States culminated in the unprecedented adoption by the General

Assembly of two amendments to the Charter increasing the number of seats of the Security Council and the Economic and Social Council.⁴⁷ Besides, the disproportionate voting strength of these Afro-Asian States have also shown in several resolution concerning decolonization in the General Assembly.⁴⁸

Yet it is also interesting to note that the membership of the African group has now reached 42 which is just one-third of the total United Nations memberships. Although their combined per centage scale of assessments to the United Nations only counts 2.67 and their total population counts 10.2 per centage of that of the United Nations, they may easily with the support of any one Member from the other group obstruct the adoption of any decision for which a two-thirds majority is required. More important is the fact that some small States are become aware of the dangers of this situation. A diplomatic official from a small State recently pointed out that the "one-State one-vote" system deluded the little countries into a "false sense of importance and undermines the effectiveness of the World Organization."⁴⁹ In his opinion, as a delegate from a small country, he would much prefer to have a voting system which more accurately represented the population and real influence of his country.

To sum up, viewed from the anomalous phenomenon relating to the voting strength of the small States, the rule of

"one-State one-vote" is open to some doubt. In this respect, several weighted voting methods for the reform of the present voting system of the General Assembly have been proposed by several government officials⁵⁰ and publicists.⁵¹

Among these proposed weighted voting systems, some proposed this system should exclusively based on the population factor; while others suggested it should relied on the assessment paid by each Member State. Although it will be highly democratic when a weighted voting system is based on population element, it could not reflect the real power solely by this consideration. For instance, so long as the population factor is the only criteria of allocating the votes in the General Assembly, India will have no less influence than the United States, while in actuality the former is far less influential than the latter. But an unacceptable result will also be revealed from adopting the criteria that the assessments paid by each State should be the only basis in distributing the votes in the General Assembly. In 1967 the Big Five contributed nearly 65 per centage of the total. Among them the United States alone contributed 31.91 per centage—more than twice the contribution of the Soviet Union, more than three times that of the United Kingdom, and more than five times that of France, six times that of China. Therefore, the United States alone could block any important issue in the General Assembly; and on the other hand, with support of the United Kingdom, France and China could command

a simple majority; and together with a small group of allies could also command a two-thirds majority. It is, therefore, evident that neither the Soviet bloc nor the small States in the Assembly would be expected to support such a reform the results of which would be unacceptable to them.

In conclusion, it seems fair to say that the distribution of votes in the General Assembly should be determined by objective criteria composed of the factors of both the population and financial contribution of each Member State.

C Proposed Special Arrangements for Micro-States in the United Nations

As mentioned above, the micro-States are expected to benefit more by restricting themselves to certain specialized agencies of the United Nations or other special arrangements than by assuming the obligations of full membership of the United Nations, which are too onerous for them to bear because of the lack of economic and human resources. ⁵²

Experience has shown that, other than full membership of the United Nations, several forms of association for non-Member States are available within the United Nations system, such as access to the International Court of Justice (ICJ) ⁵³ and membership in the relevant United Nations regional

economic commissions,⁵⁴ and the right to maintain a per-
manent observer mission at the United Nations Headquarters.⁵⁵
Membership in the specialized agencies also provides the
opportunity for access to the benefits provided by the United
Nations Development Programme and for invitations to United
Nations conferences. Besides, under the Charter a non-Member
may bring to the Security Council or the General Assembly
any dispute to which it is a party.⁵⁶ In addition to these
arrangements which are available, at the present time, to the
micro-States, a different form of association with the United
Nations has been proposed.⁵⁷ It is associate-membership
under which a micro-State might be admitted to the United
Nations formally, but their right restrict only to address
the Assembly without holding a vote. Of course, this would
involve the amendment of the Charter.

All of these special arrangements may mostly serve
the present need of the micro-States without imposing heavy
obligations on them. Thus, a discussion will be found in the
following statements concerning these arrangements in order
to see whether they are adequate to meet the needs of the
micro-States, and whether any other arrangements should be
devised.

To begin with, we are aware that some of the most
constructive efforts in the economic and social field are
performed by the specialized agencies of the United Nations.⁵⁸

In this respect, the micro-States would be well advised to join the specialized agencies which would offer them a great help in their economic and social development, the most urgent job facing them upon the starting of their new life. Some of the micro-States have chosen participation in the specialized agencies of the United Nations rather than full membership, such as Western Samoa, Liechtenstein, San Marino and Monaco.⁵⁹ Although they have not joined all the specialized agencies of the United Nations, they felt that the participation of certain institutions is sufficient for their present need. And equally important is the fact that, although the provisions of admission to membership in the specialized agencies vary from one to another, it is more easily obtainable than membership in the United Nations. Furthermore, some specialized agencies admit not only sovereign States but non-sovereign States too. This will be helpful to those small-territories that adopt a statehood short of full independence.

And other than full membership provided in the various specialized agencies, a form of associate-membership⁶¹ is also available to the small-territories. Under this institution, an associate member may participate in the activities of the organizations, but without a right to vote.

As far as the advantages of the participation of micro-States in the specialized agencies are concerned, we

may conclude as follows. Firstly, because of the fact that the functions of these specialized agencies all emphasize the promotion of social and economic development among the international community, the principle of universality is generally adopted, expressly or tacitly,⁶² in these organizations. Consequently, micro-States or small territories are more likely to gain membership in them than in the United Nations. Secondly, since the functions of these organizations are concentrated primarily on the promotion of economic and social development, the micro-States or small territories, most of which are economically and humanly non-viable, will surely benefit from them in advancing their economic and social development and they will do so without assuming the heavy obligations involved in United Nations membership. Besides, in participating in the specialized agencies, micro-States or small territories might also avail themselves of the opportunity for access to the benefits provided by the United Nations Development Program (UNDP) and for invitation to United Nations conferences.⁶³

In the United Nations' present practice the only existing intermediate arrangement between full or no membership is the status of "permanent observer" which has developed purely "on practice."⁶⁴ Generally speaking, permanent observer status is a device that allow a non-Member government to have its representatives stationed in the United

Nations Headquarters where international affairs are being discussed and where decisions are being made; and these representatives can do anything, subject to a certain limit,⁶⁵ that a Member's representative can do except speak and vote in official session.

Experience has shown certain advantages in maintaining a permanent observer mission at the United Nations Headquarters.⁶⁶ Secretary General U Thant has, therefore, suggested that micro-States should be permitted to establish permanent observer status at the United Nations Headquarters and at the United Nations Office at Geneva in order that these micro-States can be closely associated with the United Nations.⁶⁷ There are three advantages to the micro-States in maintaining permanent observer missions at the United Nations Office at Geneva.

Firstly, since most of the micro-States are newly independent States, it is obvious that they are not fully prepared to handle their foreign affairs. By maintaining a permanent observer mission at the United Nations Headquarters, the representatives of the micro-States will become more familiar with the functions of the United Nations and it will, therefore, be easier for them to carry out their policy effectively whether they will eventually be Members of the United Nations or not.⁶⁸

Secondly, by maintaining a permanent observer mission at the United Nations Headquarters, the micro-States may gain more advantages in the field of social and economic assistance. Although it is true that even without maintaining permanent observer missions at the United Nations Headquarters, micro-States can still benefit through the United Nations special programme and its specialized agencies. But it is equally true that through the close communication between the observer and the responsible officials within the United Nations Headquarters, the micro-States' need of obtaining assistance can attract the attention of the concerned organization earlier; thus, micro-States can get such assistance much more efficiently and effectively than the other non-Member State with no permanent observer either.

Finally, like participation in the other arrangements, micro-States in taking this status may enjoy certain privileges as mentioned above, without assuming the full burdens of the United Nations membership.

Since it has been proved by experience that the maintenance of permanent observer mission at the United Nations Headquarters does in fact benefit both the United Nations and the non-Member States, it would be desirable for the General Assembly to convene a study of the questions involved and to draw up a legal rule permitting non-Members, including of course micro-States, to take such step.

Apart from the existing institutions available to the micro-States, several proposals have been recommended for solving the problems of micro-States in the United Nations.

One of these proposals is the creation of associate membership in the United Nations. Although this kind of membership involves problems, it is still practical if the weighted voting system is politically impossible. As far as the term of "associate-membership" is concerned, it is not strange to the practice of international organizations.⁷⁰ But it is worth noting that such membership has, with one exception,⁷¹ existed only in non-political international organizations. Perhaps that is why the term of associate-membership signifies the absence of an independent statehood. Besides, under the practice of the institutions which provide such status, an associate member has no right to vote but can only participate in the activities of such institutions. In view of the characteristics of this membership, it seems unlikely to gain the support among the small States for the establishment of such membership in the United Nations, unless certain privileges be attached to it. Furthermore the creation of such an institution involves the amendment of the Charter, for which a two-thirds vote of the Members of the United Nations, including the concurring votes of the five permanent Members of the Security Council, is required.

Under these circumstances, two ideas will be recommended. One is that since the problems of micro-States are problems of the micro-States themselves rather than that of the United Nations, a voluntary associate membership should be encouraged among the micro-States. ⁷² In order to induce the micro-States to take such a step, the other recommendation is to offer a certain advantage to the micro-States which have take such membership. The guiding principle in defining the advantages of this status is to manage a balance between the rights and duties of participation of each State. In this respect, a reduction of or even an exemption from the assessment of the United Nations may be used. In practice, a number of meetings will be of no immediate interest to micro-Member-States and they will not wish to attend them. Nevertheless through their membership fees they will be paying part of the costs of these meetings. Therefore, another suggestion for the inducement of micro-States to take such a status is to limit such membership to certain organs depending on the needs of each State. In addition, a proposal has been made to establish a special service centre in the United Nations Headquarters in order to give adequate advice and information to the micro-States. ⁷³ Because it is believed that the participation in the various special arrangements are still a heavy burden to some micro-States, and a special service centre may give all the necessary assistance to the micro-States or small territories

without imposing any obligations on them.

In conclusion, it seems to us that each of these arrangements has its own merits and defects. And in deciding which arrangement is suitable for one specific micro-State does not necessarily make it suitable for another.

As for the specialized agencies, there is no doubt that they will be of aid both to the micro-States and the United Nations. Also, we would like to conclude that a full study and discussion should be made in order to legalize the status of observer which is also the best alternative to full membership. Besides, the United Nations should also make a study to see whether agreement is possible on the creation of an alternative form of association short of full membership, that is, associate membership.

IV THE PROBLEM OF STATEHOOD FOR MICRO-STATES

Apart from the impact of the micro-States on the international community, there are some problems arising from the decolonization of small territories. These are the problems concerning the future statehood of these small territories. Should full independence be advocated? Or something less than independence be the alternative? Before we can reach a conclusion on these problems, a scrutiny of the United Nations' attitude toward decolonization and the present practice of some small territories in choosing their statehood is required.

As discussed above,¹ since its beginning the United Nations has always been active in the problem of decolonization. The high tide of decolonization was reached in 1960 when the General Assembly adopted the historical Resolution 1514 (XV) of 14 December 1960—the Declaration on the Granting of Independence to Colonial Countries and Peoples, which became the "Gospel of decolonization."² This resolution affirms that "[a]ll 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," and declares that "[i]mmediate steps shall be taken in Trust and Non-Self-Governing Territories or other territories which have not yet attained independence... in order to enable them to enjoy

complete independence and freedom." ³ More important was the Declaration's assertion that "inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence." ⁴ This declaration manifests the feeling that it goes beyond the Charter requirement of a "full measure of self-government" ⁵ in its call for "immediate and full independence."

Most of the relevant resolutions concerning decolonization adopted by the General Assembly in these few years still reaffirmed "the inalienable right of the people... to self-determination and independence." ⁶ But as in the last few years most of the large colonial territories have become independent, there appears to be an increasing awareness within the United Nations that total independence may not be the best alternative for the rest of the dependent territories most of which are exceptionally small and poor and which are now one after another emerging out of their colonial status. By passing several resolutions, the General Assembly recognizes that in case of some small territories, "special circumstances of geographic location and economic conditions" ⁷ should be taken into consideration.

In 1960 the General Assembly clarified its interpretation of "a full measure of self-government" by approving its Resolution 1541 (XV). ⁸ In this Resolution it elaborates twelve principles to guide Members in determining whe-

ther or not an obligation exists to transmit the information called for in Article 73e of the Charter of the United Nations.⁹ And in the List of Factors attached to this Resolution, "emergence as a sovereign independent State," "free association with an independent State," or "integration with an independent State"¹⁰ are viewed as meeting the Charter aim of "a full measure of self-government."¹¹

These developments express two definite and somewhat contradictory streams of thought on the approach of the United Nations' attitude toward the remaining non-self-governing territories, Resolution 1514 (XV) emphasizes the immediate termination of colonialism and granting of full independence, while Resolution 1541 (XV) proposes the free choice according to the population's will.

It is quite true to note that although the free expression of the population's will is fully recognized in the General Assembly, from a United Nations point of view the possibility of choosing independence is preëminent.¹² Some Members were even reluctant to see any result from self-determination that falls short of full independence.¹³ This kind of feeling appears specially in case of the dependent territories choosing associate status with a former administering colonial power. In their view this kind of association violates the very concept of self-determination which, they believe, calls for immediate and unequivocal decolonization.

The questions now posed before us are: which of the available alternatives will serve best the needs of the small States in relation to their future statehood? whether other alternatives are necessary for some small territories?

As far as the first question is concerned, the present available alternatives for the small territories are contained in General Assembly Resolution 1541 (XV);¹⁴ these are:

- (1) total independence of any power;
- (2) free association with an independent State; and
- (3) integration with an independent State.

One of the most interesting instances of independence through self-determination is the case of Western Samoa, which became an independent sovereign State on 1 January 1962.¹⁵ But in considering the limitation of its economic and political ability, it handed back to New Zealand, its former administering power, a certain power to act as its agent in matters of external affairs.

Under the Treaty of Friendship signed at Apia on 1 August 1962, the Government of New Zealand and the Government of Western Samoa have agreed that the two Government shall continue to work together "to promote the welfare

of the people of Western Samoa," and specially the Government of New Zealand shall take into consideration "sympathetically" the requests from the Government of Western Samoa for technical, administrative and other assistance. ¹⁶ More interesting is that the Government of New Zealand has agreed to provide assistance to the Government of Western Samoa in the conduct of its international relation. The Government of Western Samoa may use the New Zealand's overseas posts for handling its foreign affairs. Although Western Samoa continually makes use of New Zealand Embassies and High Commissions abroad to communicate between itself and other foreign governments, it is absolutely independent in formulating its own foreign policies. The Government of New Zealand has also agreed, on the request of the Government of Western Samoa, to undertake the representation on behalf of the Government of Western Samoa at any international conference and to undertake the diplomatic protection of Western Samoa in foreign countries and to perform consular functions on its behalf.

There seem no insoluble problems arising in the Western Samoa's case. On the one hand, it has sovereign status which may serve as the basis for its participation in international activity, and on the other hand, New Zealand deals separately with the external affairs of Western Samoa, which alone takes the responsibility.

A recent case of self-government through free asso-

ciation is the instance of the Cook Islands, which had been dependencies of New Zealand. It became a self-governing State in free association with New Zealand on 4 August 1965.

Under Section 5 of the Cook Islands Constitution Act of 1964, New Zealand is responsible for the discharge¹⁷ of external affairs and defense of the Cook Islands. But the Legislative Assembly of the Cook Islands has the power to enact laws "for the peace, order and good government of the Cook Islands" and these laws are of extra-territorial application.¹⁸ Most important is that under Section 41 of the Constitution Act, the Cook Islands has the power to repeal or to amend the Constitution.¹⁹ This implies that it may have the right to move to full independence by unilateral act.

In its Resolution 2064 (XX) on 16 December 1965 concerning the self-determination of the Cook Islands, the General Assembly noted that the people of the Cook Islands "have had control of their internal affairs and of their future," and considers that the obligation of New Zealand concerning the transmission of information in respect of the Cook Islands under Article 73e of the Charter "is no longer necessary."²⁰ The United Nations did not insist on independence for the Cook Islands, primarily because the United Nations observers supervised the referendum and its Constitution provided for full self-government with the

option of eventual independence. The United Nations, however, in its Resolution 2064 (XX), still reaffirms the right of the people of the Cook Islands to "full independence" under General Assembly Resolution 1514 (XV).²¹

To sum up, the United Nations was not opposed to association "provided that the arrangement was freely chosen by the indigenous people and that their act of choice was supervised by the United Nations,"²² and provided that the people of the territories retain the right to change their dependent status whenever they wish.²³

Speaking generally, for all practical purposes at the present time, the free association of the Cook Islands with New Zealand works well.

But this effect was not the same in the case of the six island territories of Antigua, St. Kitts-Nevis-Anguilla, Dominica, St. Lucia, St. Vincent and Grenada. These Caribbean territories became, at the beginning of 1967, "States in Association with Britain."²⁴ The constitutional status of these six Caribbean territories in association with Britain is set out in the West Indies Act of 1967.²⁵ Under this Act, each of the Associated States is fully self-governing in its internal affairs and leaves the responsibility for external affairs and defense with the necessary legislative and executive powers to discharge these functions

to the United Kingdom.

But to a certain degree the United Kingdom has a tighter control over these Associated States than New Zealand on the Cook Islands. Under the Act,²⁶ though the United Kingdom will not affect the internal affairs of these six States, it still retains the competence in matters relating to the problems, which "in the opinion of Her Majesty's Government in the United Kingdom" is a matter in respect to defence, either of an Associated State or of the United Kingdom or any of its territories, or to external affairs, nationality or citizenship, or relating to the succession to the Throne or the Royal Style and Titles. Besides, the United Kingdom possesses the competence relating to any power conferred on the Crown by the West Indies Act or under legislation of an Associated State.

Provisions for the termination of association and ensuing independence are also contained in the West Indies Act.²⁷ Although it provides that each of the States may pass a law to end its association with the United Kingdom and declare itself to be fully independent, a certain procedure is required before the termination may come into effect. In brief, it requires, after the third reading of the Bill providing for the termination of the association, the Bill must gain the support of not less than two-thirds of all the elected members of the legislature and a two-

thirds majority of the electors in a referendum before the termination of association could come into effect.

Within the United Nations, the attitude of the Committee of 24 towards this "association" was far less favorable than that towards the Cook Islands.²⁸ The Committee took the view that unless the populations are given an opportunity, under the auspices of a United Nations supervision, to choose freely among the available alternatives, the Organization cannot be assured that the wishes of the people have been fulfilled. The Committee also decided that Resolution 1514 (XV) continues to apply to these territories.

In short, the main difference between the case of the Cook Islands and that of the "Associated States" is that the Cook Islands enjoys complete power of law-making. Unlike the United Kingdom's power in the "Associated States," New Zealand has no overriding power to extend its law to the Cook Islands, unless it "has been requested and consented²⁹ to by the Government of the Cook Islands."

Viewed from these two cases, there is a feeling that in case of "association" the geographical, economic and communication relations between the associating and the associated State should be highly considered. This is also the reason why the contradictions between New Zealand and the Cook Islands are much fewer than those between the United

Kingdom and the Associated States.³⁰ However, onething³¹ worth noting in the case of association is that the status of the associated State is changeable and the people of the associated State may, according to the outlook of the United Nations, choose independence whenever they wish.

The last available alternative for "full measure of self-government" is "an integration with an independent State."³²

Up until now, there have been two instances of such "integration." The first one was the Trust territory of British Togoland, which had been administered as a part of the Gold Coast. On 15 December 1955, the General Assembly passed the Resolution 944 (IX), calling for a plebiscite under United Nations supervision to ascertain whether the people of the British Togoland desired union with an independent Gold Coast, or separation from the Gold Coast and continuation under trusteeship during the ultimate determination of their political future. On the basis of this plebiscite held in May 1956, this territory was united with the Gold Coast in the independent State of Ghana and ceased to be a Trust territory.³³

The other case of integration was the Northern part of the Cameroons under British Administration with Nigeria. Since each part of the territory had a different

history, development and political attitudes and loyalties, the General Assembly decided that a "separate plebiscite" under United Nations supervision should take place in the southern and northern parts of the Cameroons under United Kingdom administration.³⁴ As a result of the 12 February 1961 plebiscites, which faced the peoples in both parts of the territory with the choice of union with an independent Nigeria or with an independent Cameroon, the Northern Cameroons became a separate province of the Northern Region of Nigeria, the Southern Cameroons joined the Republic of Cameroun as a federal State.³⁵

To sum up, the alternative of "integration with an independent State" as shown in the above two cases is really a practicable way for inhabitants of the dependent territories to achieve independence.³⁶ In this respect, a form of federation will also have the same effect,³⁷ such as the case of the Southern Cameroons under British administration with Cameroun.³⁸ But, as we are aware, before an "integration" or a "federation" may take place, several factors must be considered, such as the geographical, racial and ethical links between the dependent territories and the independent State. Besides, the difference of political achievement between the States concerned should not be too great.³⁹ Thus, as many small territories are geographically isolated and politically less developed, it may be difficult for them

to form an integral part of an independent State.

In conclusion, I would suggest that, as far as these three alternatives are concerned, the best solution to the problem of the choice of future statehood of the small territories will be the way that was achieved by Western Samoa, which, as indicated above, upon independence requested New Zealand to act as its agent in matters of foreign affairs. Apart from the above alternative, I would recommend another two possible ways for the small territories to choose their future status. The first one is that it would be possible for the small territories within a certain area to link together to form a politically and economically viable State—either a unitary or federal State. The other one is that a small territory might choose association with the United Nations.⁴⁰ Under such an association, the United Nations could offer adequate facilities to meet its needs. In practice, the United Nations has set up a certain machinery⁴¹ to administer a territory which falls short of independence.

V CONCLUSION

From the foregoing discussions, the conclusion of this problem can therefore be drawn into two aspects.

(1) As far as the future statehood of the micro-States is concerned, we would suggest that the micro-States, upon their independence, should consider their own interest of maintaining some kinds of relationship with a politically and economically advanced State for a certain period. In this respect, they may concentrate on the development of their economic and political achievements without leaving them defenseless against the external pressure, such as in the case of Western Samoa. In case of the undesirability of adopting this suggestion, we would recommend that the United Nations should replace the former administering powers to provide enough facilities for the micro-States to have access to.

(2) Since it has been indicated that mere size or population should not be the determinant elements for membership in the United Nations, we would not suggest permanent exclusion of the micro-States from the United Nations. But we would like to see that at the present moment, for the benefit of both the United Nations and the micro-States, the United Nations should work out a minimum

criteria to serve as a future guideline for determining the admission of the micro-States to the United Nations. On the other hand, in order to encourage the micro-States to avail themselves of the accessible facilities through the United Nations system without assuming the full-membership, the United Nations should provide enough technical assistance to meet the needs of the micro-States.

FOOTNOTES

CHAPTER I

- 1 U.N. Doc. 1A (A/6001/Add. 1).
- 2 U.N. Doc. 1A (A/6701/Add. 1).
- 3 It is believed that the smallest potential State will eventually get its independence. For references, see Arthen Hoppe, Pitcairn Island: The Ideal State, 7 War/Peace Rep. No. 4, at 6 (April 1967); Urban Whitaker, Mini-Membership for Mini-States, 7 War/Peace Rep. supra, at 3.
- 4 Note 1, supra.
- 5 Issues before the 21st General Assembly, International Conciliation, No. 559, 88 (September 1966). It is interesting to note that the General Assembly, in its Res. 1626 (XVI), expressed the hope that Western Samoa, on the attainment of independence, would be admitted to membership of the U.N. See Y.B.U.N. 497-98 (1961). Western Samoa, however, has decided not to join the U.N. by reason of its limited size.
- 6 Note 2, supra.
- 7 Gambia sends representatives to the General Assembly every year. The ambassador of Maldivé Islands to Washington serves concurrently as permanent representative to the U.N. See Appendix No. 2 (A letter dated 19 November 1968, from the Chinese Representative to the Trusteeship Council to the Author). For the advantages of the maintenance of permanent missions, at the U.N. Headquarters, see Sydney D. Bailey, The General Assembly of the U.N. 13-16 (Rev. ed. 1964).
- 8 New York Times, 15 September 1968, at 6.
- 9 Note 2, supra.
- 10 Western Samoa's decision not to join the U.N. on its independence was primarily based on the fact that the costs involved in effective representation in the U.N. Headquarters would be too much for its small country to carry. See Appendix No. 1 (A letter dated 19 November 1968 from the Acting Assistant Secretary to Government of Western Samoa to the Author).
- 11 On 6 December 1967, Head Chief of Nauru Hammer De Roburt in his address at the Fourth Committee of the

General Assembly said that "there is no reason on earth why we should not govern ourselves; but there is every reason why we should not ignore our small size in deciding upon our role in affairs of the wider world." And he concluded that he thought it would not be appropriate for Nauru to seek membership in the U.N. See 20 External Affairs (Canada) No. 7, 124 (March 1968); U.N. Monthly Chronicle, 100 (December 1967).

- 12 Among the newly independent small territories, only Western Samoa and Nauru have decided not to apply for membership in the U.N.
- 13 A list of territories, with which the Special Committee of 24 is concerned, is contained in Issues before the 21st General Assembly, International Conciliation, No. 559, at 86 (September 1966). But New Guinea, Nauru, Barbados, Basutoland, Bechuanaland, Mauritius and Swaziland and Equatorial Guinea have gained their independence; they are no longer under the purview of the Special Committee of 24.
- 14 Although the Trust Territory of the Pacific Islands is designated as a strategic area under Article 82 of the Charter, it is still under the study of the Special Committee of 24, and the words "or independence" appear also in the Trusteeship Agreement on the Pacific Islands. The U.S., the administering authority of these territories, originally opposed the idea of independence being inserted in the Agreement by reason of the unlikelihood that such independence "could possibly be achieved within any foreseeable future in this case." See 1 Oppenheim, international Law, 231 n. 1 (8th ed. Lauterpacht, 1955).
- 15 It is established under the General Assembly Resolution 1654 (XIV), on 27 November 1961. See Y.B.U.N. 56 (1961).
- 15a Prior to the establishment of the Special Committee to consider the implementation of the 1960s' Declaration, a number of committees established by the General Assembly had examined conditions in Non-Self-Governing Territories and had made recommendations on their development to the General Assembly, such as the Committee on Information from Non-Self-Governing Territories in 1949; the Special Committee on South West Africa established in 1961, the Special Committee on Portuguese Territories established in 1961. These Committees were dissolved upon the decisions of the General Assembly made in 1962, and their functions were transferred to the Special Committee of 24.

- 16 By General Assembly Resolution 1810 (XVII), on 17 November 1962, seven members were added in the Special Committee of 17. See Y.B.U.N. 65-66 (1962).
- 17 G.A. Res. 2105 (XX), 20 December 1965: See Y.B.U.N. 554-55 (1965).
- 18 See 18 International Organization, 122, 841 (1964).

CHAPTER II

- 1 Except the Valleys of Andorra, these three small States are considered as States in possession of complete sovereignty and independence, although they had, more or less, deputed some of their functions to other States. See C. D'Olivier Farran, The Position of Diminutive States in International Law, Internationalrechtliche und Staatsrechtliche Abhandlungen; Festschrift für Walter Schätzel zu seinem 70 Geburtstag, 131-48 (1960) (hereinafter cited as Farran); Oppenheim, supra at 193 nn. 1-5, at 194 n. 1, at 256 nn. 3-6; Manley O. Hudson, Membership in the League of Nations, 18 Am. J. Int'l L. 446-47 (1924). Cf. Charles G. Fenwick, International Law, 134 n. 27 (4th ed. 1965) (hereinafter cited as Fenwick).
- 2 League of Nations, Minutes of the First Committee, 138 (1921).
- 3 League of Nations, Records of the Second Assembly, Plenary Meetings, 686 (1921).
- 4 Ibid.
- 5 League of Nations, Minutes of the First Committee, 137 (1921).
- 6 Ibid.
- 7 It is believed that the withdrawal of Monaco and San Marino's application of admission to the League were primarily due to the League's refusal of admission to Liechtenstein. See Farran, supra at 147.
- 8 As indicated by the Representative of Czecho-Slovakia concerning the admission of small States, he said;

In the moral sphere, within the League of Nations, all small States were certainly on a completely equal footing, but in the practical policy ... we shall not only be obliged at every step, at every moment, to take a vote in order to obtain a majority, but we shall have to take into account, and to measure, not only moral worth, but also intellectual, economic, fi-

nancial, social and even territorial considerations, and attempt to bring them into harmony.... Under these circumstances, we thought that in the interests of the League, and in order not to discourage any of these States, but to show ourselves as favorable as possible towards them it was desirable not to admit them into the League which would then have to undertake full responsibility but to allow them to collaborate with the Members of the League in some of the Technical Organizations.

See League of Nations, Records of the First Assembly, Plenary Meetings, 564 (1920).

- 9 Actually, a procedure for admission of Members to the League was established in December 1920 during the First Assembly's session. The Committee No. V of the Assembly which was in charge of the problem of admission of new members into the League appointed three sub-committees composed of seven members each and prepared several questions in respect of each applicant which the sub-committees were charged to investigate. One of the five questions set out by the Assembly was concerning the application of small States into the League of Nations; that was under Questionnaire (c), "(w)hat were its size and its population?". For details see 2 League of Nations, Records of the First Assembly, Plenary Meetings, 158-59 (1920).
- 10 The cold reception and decision to postpone discussion on the Argentine amendment to the next session resulted in the withdrawal of the delegation of Argentina from the First Assembly in 1920.
- 11 For the text of the Draft Proposal, see League of Nations, Records of the Second Assembly, Plenary Meetings, Annex 13 to the 28th Meeting, 683 (1921).
- 12 The Representative of Switzerland indicated that "no one could deny that it was a fundamental principle that States wishing to enter the League ought clearly to express their request for admission." 1 League of Nations, Records of the First Assembly, Plenary Meetings, 568 (1920).
- 13 A few Representatives supported this viewpoint, such as the Representative of Persia who took the view that if certain

States were refused to the League of Nations, another organization might be found in America or Russia. See 1 League of Nations, Records of the First Assembly, Plenary Meetings, 567 (1920). To this point, the history has shown the contrary that what did lead to the portentous antagonisms and rival alliances was not the refusal of any membership to any State, but the withdrawal from the League of Nations of such States as Japan, Fascist Italy and Nazi Germany.

- 14 In the revised report, presented by Committee No. I on 30 September 1921, regarding the amendment to Article 1 of the Covenant, it reported:

The Argentine Republic was undoubtedly activated by the highest motives in proposing a clause which would unconditionally throw open the doors of the League to all States;... if actual moral and political conditions of the world were of a nature to support the ideal,... the difficulties of a purely legal value which could be raised against the new reading of Article 1 might be removed. But actual circumstance are, unhappily, still too far removed from that ideal, and the League of Nations... must rather be content to act as an efficient instrument in the progress of humanity towards the goal.

See 2 League of Nations, Minutes of the First Committee, 181-82 (1921). See also C. Howard-Ellis, The Origin Structure and Working of the League of Nations, 104 (1928).

- 15 See note 3, supra.
- 16 See League of Nations, Records of the Second Assembly, Plenary Meetings, 819, 687 (1921).
- 17 League of Nations, the Records of the Second Assembly, Plenary Meetings, 687 (1921). Cf. Farran, supra at 147.
- 18 2 League of Nations, Minutes of the First Committee, 132-33 (1921).
- 19 Ibid., 17-21

20 Ibid., 18, 20.

21 Ibid., 18-19.

22 League of Nations, Records of the Second Assembly,
Plenary Meetings, 687-88, 820 (1921).

CHAPTER III

- 1 Norman J. Padelford and Leland M. Goodrich, *The U.N. in the Balance*, 402 (1965).
- 2 Sydney D. Bailey, *The General Assembly of the U.N.* 253 (1960).
- 3 The U.N. former Secretary General Hammarskjöld has referred to the important role of the U.N. for the newly independent States during the period of the transition; he said:

The U.N. is now, or will be their Organization. The U.N. can give them a framework for their young national life which gives a deeper sense and a greater weight to independence.

Press conference, Note to Correspondents, No.2108 (4 February 1960).

- 4 See Amry Vandenbosch, *The Small States in International Politics and Organization*, 26 *J. Pol. No. 2*, 293-312 (May 1964).
- 5 See Urban Whitaker, *Mini-Membership for Mini-States*, 7 *War/Peace Rep. No. 4*, at 3 (1967).
- 6 Issues before the 21st General Assembly, *International Conciliation*, No. 559, 88 (September 1966).
- 7 See note 11 in Chapter II.
- 8 Compare League of Nations Covenant art. 1, para. 2 and the U.N. Charter art. 4, para. 2.
- 9 7 Documents of the United Nations Conference on International Organization, at 352 (hereinafter cited as UNCIO).
- 10 3 UNCIO, at 274.
- 11 Ibid., 377-78 .
- 12 Ibid., 383 .
- 13 7 UNCIO, at 326.

- 14 Ibid.
- 15 6 UNCIO, at 232.
- 16 See Farran, supra.
- 17 Ibid., 133 n. 12.
- 18 40 votes to 2, 2 abstentions (4th session, 262nd Meeting 1949). See also Walter S.G. Kohn, The Sovereignty of Liechtenstein, 61 Am. J. Int'l L. 547-57 (1967).
- 19 4 I. C. J. Rep. 20-24 (1955).
- 20 Since 9 December 1953 (8th Session, 471st Meeting).
- 21 U.N. Doc. 1A (A/6701/Add. 1).
- 22 In supporting the application for admission of the Maldive Islands to the U.N., the Representative of the U.S., however, stated that:

Today many of the small emerging entities, however willing probably do not have the human or economic resource at this stage to meet this second criteria (the ability to carry out the Charter obligations).

See U.N. Doc. S/PV/243, 31 (September 1965).

- 23 Arthur I. Washow, Populism and Peace Keeping at the U.N., 5 War/Peace Rep. No. 5, at 8 (May 1965).
- 24 E.g., to the micro-States the minimum dues of 0.04 per centage of the U.N. total assessment amounts to about U.S. \$40,000 per annum. This may be nothing for a big power, but it is undeniably a heavy burden to a micro-State. See Appendix No. 1.
- 25 Apart from the serious problems involved in the voting procedure which have caused the General Assembly to become a powerless forum, there are also physical problems to the U.N. due to the expansion of membership, such as the need of expansion of seats in the Hall for the new States. See New York Times, 24 November 1968, at 26.
- 26 U.N. Doc. 1A (A/6701/Add. 1).

- 27 See note 9 in Chapter II.
- 28 Note 26, supra. Subsequent to the statement of the Secretary General, a letter dated 13 December 1967 was sent from the Representative of the U.S. to the Security Council to consult the Members about the possibility of reconvening the Committee on Admission of New Members, to provide assistance and advice to the Council relating to the question of micro-States. See U.N. Doc. S/8296 and S/8316 (December 1967). Besides, during the discussion preceding the Security Council vote on the admission of the Maldives Islands, which has a population of less than 100,000, the permanent Representative of France supported the application, but suggested that the Security Council might reactivate its Committee on Membership to examine membership applications and to report its conclusions to the Council, and urged that the functions of the Committee "must be put to good use henceforth if we do not wish to risk seeing the effectiveness of the Organization diminished in the future. See U.N. Doc. S/PV/1243, 12-13 (September 1965). But, these suggestions have not been officially discussed within the U.N. This is perhaps due to the difficulties of defining criteria in examining the applications of micro-States and to the fact that such a discussion might displease the micro-States which are somewhat a "reliable pool of support" to the big powers.
- 29 See Alan W. de Russett, Reflections of the Expanding Membership of the U.N., International Relations, 401-15 (April 1968).
- 30 See Carlos P. Romulo, The U.N. Today, 1 Philippine Int'l L.J. 531 (1962).
- 31 See U.N. Charter art. 18, para. 1.
- 32 The former U.N. Secretary General D. Hammarskjöld pointed out in his 1958-59 annual report that:
- Before a political evaluation is possible of the results of the Assembly's votes, further analysis of... the composition of majorities and minorities is required.
- See U.N. GAOR Supp. 1, U.N. Doc. A/4132 (1959).
- 33 See Wellington Koo, Jr., Voting Procedures in International Political Organizations, 6, 257 (1947).

- 34 See D. W. Bowett, *The Law of International Institutions*, 311 (1963).
- 35 I Westlake, *Chapters on the Principles of International Law*, 321 (2nd ed. 1910).
- 36 Prof. J. Lorimer indicated that:

All States equally entitled to be recognized as States, on the simple ground that they are States; but all States are not entitled to be recognized as equal States.... Any attempt to depart from this principle... leads not to the vindication but to violation of equality before the law.

See Arnold D. McNair, Equality in International Law, 26 Mich. L. Rev. 135 (1927).

- 37 Equatorial Guinea, a small State in Africa, became the 126th Member of the U.N. on 12 November 1968.
- 38 The Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic are treated as part of the Union of Soviet Socialist Republic.
- 39 See Roderick C. Ogley, Voting and Politics in General Assembly, *International Relations*, 156-67 (April 1961).
- 40 U.N. Charter art. 18, para. 3.
- 41 U.N. Charter art. 18, para. 2.
- 42 Ibid.
- 43 For details regarding the percentage scale of assessments for the U.N. budget and net contributions payable by each Member States for 1967, see Y.B.U.N. 956 (1966).
- 44 J. F. Dulles, *War or Peace*, at 3 (1950).
- 45 See a proposal made by A. Cranston, G. Clark, and others for Weighted Voting in the General Assembly of the U.N., contained in Sohn, Cases and Materials on World Law, 339 (1950).
- 46 Originally, the representative of Liberia moved that the

entire statement be deleted from the records of the General Assembly. In his viewpoint, the speech made by Eric Louw was an insult to the African people. But in response to opposition of a number of delegations, the representative of Liberia agreed to withdraw this motion but proposed the motion of censure of South Africa. This proposal was adopted by The General Assembly on 11 October 1961, at meeting 1034, by roll-call vote of 67 to 1, with 20 abstentions and 9 did not participate in the voting. For details see Y.B.U.N. 109-10, 113 (1961).

- 47 Although the General Assembly adopted the amendments by overwhelming majorities far exceeding the two-thirds requirement, it is interesting to note that several permanent Members were either against or abstaining. See Y.B.U.N. 87-88 (1963).
- 48 Such as the General Assembly Resolution 2105 (XX), adopted on 20 December 1965, and the Resolution 2113 (XX) adopted on 21 December 1965. See Y.B.U.N. 554-55, 113 (1965).
- 49 Ahmed Baba Miské, who was formerly permanent representative of Mauritania to the U.N., wrote an article entitled Sovereign States Are Not Equal. See 7 War/Peace Rep. No. 4, at 5-7 (April 1967).
- 50 A U.S. official said that "the one-state one-vote principle is mad." See New York Times, October 3 1968, at C. 16. Besides, the French delegate also expressed reservations about the continued validity of the principle of State equality. See 18 U.N. GAOR, 67 (1963).
- 51 For details about the proposals made on weighted voting or weighted representation in a world assembly, see Grenville Clark and Louis B. Sohn, World Peace Through World Law, xix-xxii (3rd. ed. enlarged; Cambridge, Mass., Harv. Univ. Press, 1966); John Foster Dulles, War or Peace, 191-94 (N.Y.: Macmillan, 1950); Catherine Senf Manno, Selective Weighted Voting in the UN General Assembly, 20 International Organization, 37-62 (1966).
- 52 It is believed that, apart from the obligation of contributing a reasonable share to the Organization, there are some other ones if U.N. membership is to be meaningful. Such as the maintenance of a permanent mission at the U.N. Headquarters. See Elizabeth Brown's comments on The Participation of Ministates in International Affairs, Am. Soc'y Int'l L. Proceedings, 179-80 (April

1968); see also note 7 in Chapter I.

- 53 Non-U.N. Members who desire a permanent association with the Court, may, under Article 93 (2) of the Statute, become parties to the Statute on conditions to be determined in each case by the General Assembly on the recommendation of the Security Council. Under this provision, Switzerland became party to the Statute in 1948, Liechtenstein in 1950 and San Marino in 1953.
- 54 The establishment of the regional economic commissions is one of the principal devices employed by the Economic and Social Council (ECOSOC) to help further economic coöperation. These commissions comprise the Economic Commissions for Europe (ECE), for Asia and the Far East (ECAFE), for Latin America (ECLA) and for Africa (ECA), which are in each case composed of representatives of States, not necessarily Members of the U.N., situated in the areas mentioned together with some big powers. Equatoria Guinea and Mauritius, before they were admitted to the U.N. on 12 November 1968 and 24 April 1968 respectively, were elected as associate Members of ECA for 1968, and so were Western Samoa as Member of ECAFE and British Honduras as associate Member of ECLA. See 22 International Organization, No. 3, 694-95 (Summer 1968).
- 55 The first permanent observer mission was established by Switzerland in 1946, and five others presently maintaining such mission are: the Republic of Korea (1949), the Federal Republic of Germany (1952), the Republic of Vietnam (1952), Monaco (1956) and the Holy See (1964). These States are listed in the last section of the "Blue Book" published by the U.N. Secretariat, named Permanent Missions to the U.N., under the heading of Non-Member States Maintaining Permanent Observers' Office at Headquarters, at 44 (1968).
- 56 See U.N. Charter art. 35.
- 57 See Issues before 23rd General Assembly, International Conciliation, 83-84 (September 1968), Issues before 21st General Assembly, International Conciliation, note 4, at 88 (September 1966).
- 58 According to the U.N. Charter art. 63, ECOSOC is envisaged as an organ coördinating the activities of the specialized agencies. Special agreement concluded with ECOSOC brought the specialized agencies into direct relationship with the U.N. Up until now, agreements with 15 Specialized Agencies have come into force, 6 dealing with economic and financial problems: Bank, IMF, IFC,

- IDA (the Bretton Woods Organizations), and FAO and GATT; 3 dealing with social and cultural problems: ILO, UNESCO and WHO; 6 dealing with scientific and technical problems: ICAO, UPU, ITO, WMO, IMCO and IAEA. For details see U.N. Press Release SA/312/Rev. 6 (15 March 1968).
- 59 Liechtenstein is a Member of UPU and ITU; Monaco is a Member of IAEA, UNESCO, WHO, UPU and ITU; San Marino is a Member of UPU, and Western Samoa is a Member of WHO.
- 60 E.g., Article 5 and Article 6 of the Convention of the UPU and Article 19 of the ITU Convention have accorded the membership to "group of territories."
- 61 Five of the fifteen Specialized Agencies have such institution; these are UNESCO, FAO, WHO, ITU and IMCO. For the time being, except ITU, FAO has 3 associate members: Bahrain, Mauritius, Qatar; UNESCO has 4 associate members: Bahrain, Mauritius, British Eastern Caribbean Group and Qatar; WHO has 3 associate members: Qatar, Mauritius, and Southern Rhodesia; IMCO has only one associate member, that is Hong Kong. For details concerning the member chart of these Specialized Agencies, see U.N. Press Release SA/219 (15 March 1968).
- 62 E.g., Article 3 of the WHO Constitution specifically declares that membership in the WHO "shall be open to all States." In 1952, the UNESCO Conference adopted a resolution affirming the principle of universality. See UNESCO, Report to the U.N., 165 (1952-53); Oppenheim, supra, at 988.
- 63 The UNDP, which is supported by voluntary contributions, is an operation involving the U.N. itself and 14 other organizations. For details about the program of UNDP, see U.N. Background Note No. 63/Add. 1 (30 August 1968).
- 64 See U.N. Doc. 1A (A/6701/Add. 1).
- 65 E.g., the limitation on the distribution of communication in the form of documents; the difficulty of obtaining, in certain situations, the politically significant information and some personal and technical restrictions upon the observers. However, these handicaps are not so big they they would make the observer's function ineffective. See A. Glenn Mower, Jr., Observer Countries: Quasi-Members of the United Nations, 20 International Organization, No. 1 266-83 (1965).

66 See note 53, supra.

67 Note 11, supra.

68 Secretary General U Thant, in his annual report for 1964-65, said:

Non-Member States were encouraged to maintain observers at the U.N. Headquarters so that they may have the opportunity to sense the currents and cross-currents of world opinion.

20 U.N. GAOR, Supp. 1A, at 20 (1965).

69 Among the five States which maintain permanent observer missions at the U.N. Headquarters, Holy See and Monaco each was required to contribute only 0.04 % of the total assessment of the U.N. annual budget; the Republic of Korea was required to pay 0.12 % and the Republic of Vietnam 0.07 %. The Federal Republic of Germany, which was always among the highest contributors to special U.N. Programmes, was required to contribute 7.01 %. For the contributions of other non-Member States, which participated in the U.N. activities, see U.N. Doc. A/C. 5/L. at 953 (15 November 1968).

70 Note 8, supra.

71 This institution was also provided in the Council of Europe which is, in some respect, a political unity of Europe. See Bowett, supra note 3, at 142.

72 See Urban Whitaker, supra, at 4.

73 See Roger Fisher, The Participation of Microstates in International Affairs, Am. Soc'y Int'l L. Proceedings, 64-68 (April 1968).

- 1 See Chapter I above.
- 2 Jacques G. Rapoport, The Participation of Ministates in International Affairs, Am. Soc'y Int'l L. Proceedings, 156 (April 1968).
- 3 For text of Res. 1514 (XV), see Y.B.U.N. 49 (1960). The adoption of this resolution is also an evidence of the uncompromising majority of the African and the Asian groups in the General Assembly.
- 4 U.N. Charter art. 73.
- 5 Note 3, supra.
- 6 E.g., G.A. Res. 2105 (XX), 20 December 1965; 2189 (XXI), 13 December 1966 and 2348 (XXII), 19 December 1967.
- 7 G.A. Res. 2357 (XXII), 19 December 1967; U.N. Doc. 1A (A/6700/Add. 1).
- 8 For text of Res. 1541 (XV), see Y.B.U.N. 509-10 (1960). This Resolution is based on the G.A. Res. 742 (VIII) adopted on 27 November 1953.
- 9 For the text of the Twelve Principles, see the List of Factors annexed to the Res. 1541 (XV).
- 10 Principle VI.
- 11 U.N. Charter art. 73.
- 12 See Rapoport, supra, at 157.
- 13 See U.N. Doc. 1A (A/6000/Add. 6); U.N. Doc. A/AC. 109/SR. 491, at 5; and U.N. Doc. A/AC. 109/SR. 492, at 7.
- 14 Note 10, supra.
- 15 G.A. Res. 1626 (XVI), see Y.B.U.N. 497-98 (1961).
- 16 453 United Nations Treaty Series (U.N.T.S.), 4-6 (1963).
- 17 1 New Zealand Statutes, No. 69, at 458 (1964).
- 18 Section 39 respecting the "power to make laws," ibid., at 474.

- 19 Ibid., at 474.
- 20 For text of Res. 2064 (XX), see Y.B.U.N. 574 (1965).
- 21 Ibid.
- 22 U.N. Doc. A/AC. 109/SR. 490, at 12.
- 23 Note 19, supra.
- 24 Section 1 of the West Indies Act 1967, see note 25, infra.
- 25 For text of the West Indies Act 1967, see 47 Halsbury's Statutes of England, at 499 (2nd ed. 1967).
- 26 Ibid., section 2, 7.
- 27 Ibid., section 10, 11, and Schedule 2.
- 28 1 U.N.L. Rep. No. 7, at 31 (1 March 1967).
- 29 See section 46 of the Cook Islands Constitution, 1 New Zealand Statutes, No. 69, 477-78 (1964); cf. same section of the Cook Islands Constitution Amendment 1965, 1 New Zealand Statutes, No. 2, 65 (1965).
- 30 See Margaret Broderick, Associated Statehood—A New Form of Decolonization, 17 Int'l & Comp. L.Q. Part 2, 368-403 (1968).
Little Anguilla, the small Caribbean island with a population of 6,000 inhabitants and an area of 45 square miles, represented such a problem. In May 1967—following immediately after the association of the six Caribbean territories with Britain—this little country revolted from the domination of St. Kitts, and subsequently declared itself a republic. Britain has then refused to give formal recognition to this new government or to disturb the constitutional arrangements under which the associated State of St. Kitts-Nevis-Anguilla was formed. But unable to persuade the Anguillans to accept the authority of the unpopular St. Kitts Government run by Prime Minister Robert Bradshaw, Britain bought time by setting up an interim period of a year beginning last January. After almost two years of turmoil and protest, this little island and Britain made an agreement on 31 March 1969 concerning the future status of Anguilla. In the agreement, the British expresses that "it is no part of our purpose to put them (the Anguillans) under an administration under which they do not want to live." Definite provisions for leading the island to full self-government was contained in the agreements. See New York Times, 17 November 1968, at 13; The Province, 1 April 1969, at 3.

- 31 See note 28, supra.
- 32 See note 8, supra.
- 33 Under the Ghana Independence Act, from midnight 5/6 March 1957, the territories formerly comprised in the Gold Coast became the independent State of Ghana. Under the same Act, the union of the British Togoland with the independent State of Ghana took place from the same time and date. See G.A. Res. 1044 (XI), Y.B.U.N. 370-71 (1956).
- 34 The northern part was administered as an integral part of Nigeria's Northern Region, whereas the southern part was set up as a separate regional unit with considerable powers of self-government within the Federation of Nigeria. See G.A. Res. 1350 (XIII), Y.B.U.N. 368 (1959).
- 35 See G.A. Res. 1608 (XV), Y.B.U.N. 494 (1961).
- 36 See Y.B.U.N. 370 (1956).
- 37 See U.N. Doc. 1A (A/6700/Add. 14) (part II), at 131.
- 38 See note 35, supra.
- 39 See note 9, supra.
- 40 Professor Roger Fisher, the Legal Adviser to the Provisional Government of Anguilla, on 24 August 1967 told the Sub-Committee IV of the Committee 24 that Anguilla's second choice, after statehood within the British Commonwealth, would be independence with the U.N., which would set a precedent for other territories seeking independence but "too small to support themselves". See 2 U.N. L. Rep. No. 1, at 1 (1967); see also Issue before the 23rd General Assembly, International Conciliation, note 13 at 85 (September 1968).
- 41 In view of the failure of South Africa to fulfil its obligation towards the Mandated Territory of South West Africa, the U.N. passed a resolution known as Resolution 2145 (XXI) and decided to keep the Territory under its own administration. Under this Resolution, the U.N. established an Ad Hoc Committee to recommend practical means by which the Territory should be administered so as to enable the people of South West Africa to achieve self-determination and independence. This machinery was, however, frustrated by the South Africa. See Y.B.U.N. 595-607 (1966).

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The Province, 3 October 1968, at 18.

APPENDIX

Please address all correspondence to
the Secretary to the Government



Government of Western Samoa

PRIME MINISTER'S DEPARTMENT

APIA — — — — — WESTERN SAMOA

13 May, 1969.

Mr Cheung Ven Chen,
Faculty of Law,
University of British Columbia,
Vancouver 8, B.C.,
CANADA.

Dear Sir,

Thank you for your letter of 25 February 1969 seeking agreement to the use of correspondence between us as part of your thesis.

I am happy to say that there is no objection to this course. I would however like to make two small amendments to my letter to you of 19 November 1968. The first is the word "current" in line 8 of para (1). This should be "recurrent". The second is to the first sentence of para (2), lines 2 and 3. This sentence should read "under the Treaty of Friendship signed in 1962 the Government of New Zealand has agreed that (new word) on the request of the Government of Western Samoa, it (new word) will make available....."

If it is at all possible, I should be pleased if you could let me have a copy of your thesis for my personal reading.

Yours faithfully,

(Karenita L. Enari)
for: SECRETARY TO GOVERNMENT

2. 14/1/69
E. 21/1/69
OUR REF.
(Please quote in your reply)

YOUR REF.:

TELEGRAMS: MALO. APIA

Please address all correspondence to
the Secretary to the Government



GOVERNMENT OF WESTERN SAMOA

PRIME MINISTER'S DEPARTMENT

APIA

WESTERN SAMOA

OUR REF.: S.: E 31/1/1
(Please quote in your reply)
YOUR REF.:

19 November, 1968.

Dear Sir,

I have received your letter of 14 November 1968 posing several questions concerning Western Samoa's foreign policies. You will appreciate that we have not yet taken a firm decision on many of the questions you pose. With that background in mind, my replies to your individual questions are as follows:

- (1) Western Samoa's decision not to join the United Nations on Independence was based primarily on the costs involved in effective representation in New York. The outlay, in financial as well as manpower terms, would be too much for our small country to carry. The second part of your question concerning economic development seems to be rather wide for it to be answered in this letter. Suffice it to say that our annual budget - including both current expenditure and development - totalled only \$5.6 million in 1967 and \$5.3 million 1968 (the Samoan \$ is the equivalent of 10/- sterling before devaluation). You will note from that that ours is not the kind of economy that is able to support widespread representation abroad at the same time as domestic development.

- (2) Under the Treaty of Friendship signed in 1962 the Government of New Zealand has agreed, on the request of the Government of Western Samoa, to make available its facilities, particularly in regard to its overseas posts, for use by the Government of Western Samoa. Although we ourselves formulate our foreign policies, for lack of Embassies and High Commissions abroad, it is not always possible to effect quick communication with other diplomatic commissions and foreign governments. To this end we continually make use of New Zealand Embassies and High Commissions to forward communications between ourselves and these foreign governments. In circumstances where we find a need for information on any particular problem, we have frequently sought the assistance of the New Zealand Department of External Affairs and its missions abroad in obtaining this information.

As to the third part of your question Western Samoa does frequently send delegations abroad to attend international meetings.

- (3) Western Samoa is a member of the World Health Organization and of the ECAFE only in the United Nations family of organisations. In view of the high cost involved, not only in contributions but as well in representation in membership of the United Nations agencies it is felt that this membership is sufficient for our purposes at present.
- (4) No decision has yet been taken on this question although of course you will appreciate that once we are in a happier financial condition the major obstacle for us to United Nations membership is removed.

..... I trust.....

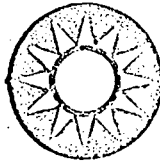
I trust this is of value to you and take this opportunity to wish you success in your project.

Yours faithfully,

(Karanita L. ~~Emari~~)

ACTING ASSISTANT SECRETARY TO GOVERNMENT

Mr Charng Ven Chen,
Faculty of Law,
University of B.C.,
Vancouver 7, B.C.,
CANADA.



PERMANENT MISSION OF THE REPUBLIC OF CHINA TO THE UNITED NATIONS

November 19, 1968

Mr. Charng Ven Chen
Faculty of Law
University of B.C.
Vancouver 8, B.C., Canada

Dear Mr. Chen:

I have your interesting letter of 11 November regarding "Micro-States."

Nauru became independent early in 1968. It was known even before its independence that Nauru would not seek membership in the United Nations. It is a rich island with only 3,000 citizens, plus some 2,000 migrant workers from other islands and Hong Kong. Nauru is associated with the British Commonwealth in some form. Australia assists Nauru in the latter's external relations.

I do think that Micro-States do constitute a problem. The U.N. Security Council has not officially discussed this problem. Eventually, it may have to establish some standards in terms of population, land, resources, etc.

I understand that some specialized agencies, such as UNESCO, FAO and ILO (I believe), have arrangements for associate membership. It might be interesting to study them. Perhaps the U.N. should have similar arrangements.

I remember vaguely that in 1920 the League of Nations did not admit the following Micro-States as members: The Principality of Liechtenstein, Andora, Monaco, and San Maring, because these countries were too small and were not considered to be able to carry out the obligations of the League.

I hope you will make a thorough study of the problem of Micro-States and you may very well make a contribution to international law.

This is a personal letter. What I have said does not necessarily represent the view of our Government.

With best wishes,

Yours sincerely,

Ljn Mousheng



3/85/1

NEW ZEALAND MISSION
TO THE UNITED NATIONS

8 November 1968

Dear Sir,

Thank you for your letter of 25 October seeking information about certain aspects of Western Samoa's relationship with the United Nations.

I should first of all clarify an apparent misunderstanding in your letter. New Zealand is not "in charge" of the foreign affairs of Western Samoa. Since 1962, Western Samoa has been an independent state with full control of its own foreign policy.

New Zealand's role in this field is limited to assisting Western Samoa, at its request, in the execution of its foreign relations. Such assistance is frequently sought and given, both by the agencies of the New Zealand Government in Wellington and by New Zealand's missions abroad; but policy decisions are exclusively a matter for the Samoan Government itself.

It would therefore not be appropriate for us to comment on the questions you have posed. The information you require should rather be sought direct from the Western Samoan Government and I suggest that you should write to the Secretary to the Government, Apia, Western Samoa.

Yours faithfully,

(N.V. Farrell)
Acting Permanent Representative

Mr Charng Ven Chen,
Faculty of Law,
University of British Columbia,
Vancouver 8, B.C.,
CANADA.