DIMINUTIVE STATES IN THE UNITED NATIONS *

By

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SINCE World War II, decolonisation has been so thorough that there now remain few dependent territories of any significant size. Nevertheless the momentum of colonial emancipation is far from spent: in the past few years a number of very small territories [1] have been granted independence, and more may be expected to attain it in the near future.[2] In consequence, considerable interest has been shown recently in the eligibility of such territories for membership in the international community,[3] and in that community's organised embodiment—the United Nations.[4]

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1 It is difficult to produce a satisfactory criterion of diminutiveness. For example, the population of Iceland is only 195,000, but she has a large territory (103,000 km²) and a high Gross National Product ($317m.); she is generally regarded as a normal State, and has been a member of the UN since 1946. On the other hand, another UN member, Singapore, though having a population of 2 million and a relatively high Gross National Product, has a territory smaller than the Isle of Man (581 km²). Even a combination of parameters involves a somewhat arbitrary choice of components and cut-off points. But, unless one is formulating conditions for admission to an organisation, it is unnecessary to work out a precise definition, and for present purposes it will be convenient to treat as diminutive those countries with a population of less than 1 million. *Cf.* UN Institute for Training and Research (UNITAR), *Status and Problems of Very Small States and Territories* (1969) (hereinafter cited as *Status and Problems*), pp. 22, 206–330. Blair, *The Ministate Dilemma* (revised ed., 1968), adopts the figure of 300,000 as a rough guide.

2 It is beyond the scope of this paper to consider the wisdom of granting independency to such territories. But in any event there are strong indications that the process will continue, regardless of its possible undesirability in particular cases—*e.g.* de Smith, *Microstates and Micronesia* (1970), pp. 35–52.

3 *Cf.* Blair, *The Ministate Dilemma*; UNITAR, *Status and Problems*; Fischer, "The Participation of Microstates in International Affairs" (1968) *Proceedings of the American Society of International Law* 164; American Bar Association, Section on International and Comparative Law, Committee on UN Affairs, Subcommittee on Constitutional Structures, "The future Relationship between Small States and the United Nations" (1968) 3 *International Lawyer* 58; Jenks, *The World beyond the Charter* (1969), pp. 50–51; de Smith, *Microstates and Micronesia.*

For earlier general studies of the legal status of diminutive States, *cf.* Farran,

4 For footnote, see p. 610.

The criteria for admission to the UN are laid down in Article 4 (1) of the Charter, which provides: "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 Organisation, are able and willing to carry out these obligations." [5] "Acceptance of Charter obligations" refers to the formalities of accession to the Charter, and, in practice, no difficulties have arisen in this sphere. During the first decade of the Organisation's life the criteria of political acceptability (love of peace and willingness to carry out Charter obligations) were used by each major bloc to justify its opposition to the admission of candidates belonging to the rival bloc, but after the "package-deal" admission of sixteen States in 1955,[6] objections to admission on political grounds became increasingly rare, and diminutive States have rarely met with them.

Accordingly, attention has been focused on the two remaining criteria for membership in the UN, *viz.* statehood and the ability to fulfil Charter obligations. In this paper it is proposed to consider: first, whether diminutive States really are "States" in the sense used in international law; secondly, whether they are able to fulfil the obligations of membership in the UN; thirdly, whether their participation is sufficiently valuable to them and to the Organisation to justify according them full membership; and, finally, what are the alternatives to full membership.

1. STATEHOOD

The term "State" has sometimes been used to describe territorial units with only a limited degree of independence, such as "protected States" and the component "states" of federations. When used without a qualifying adjective, however, the term generally denotes a full, or "sovereign," State, that is, one with a permanent population, defined territory, effective government, and independence.[7]

"The position of Diminutive States in International Law," in *Internationalrechtliche und Staatsrechtliche Abhandlungen: Festschrift für Walter Schätzel* (1960) (hereinafter cited as *Festschrift Schätzel*), p. 131; Vellas, "Les etats exigus en droit international public" (1954) 58 *Revue Générale de Droit International Public* 559.

[4] Although, legally speaking, admission to the UN is not the same as collective recognition as a member of the international community, politically it does amount to a form of communal legitimisation which newly independent States are usually anxious to obtain—*cf.* esp. Claude, "Collective Legitimisation as a Political Function of the UN" (1966) 20 *International Organisation* 367; Hoffman, "International Organization and the International System" (1970) 24 Int.Org. 389 at 396.

[5] The machinery of admission is laid down in para. 2 of Art. 4: "The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon a recommendation of the Security Council." *Cf.* Arts. 18 and 27 for the requisite majorities.

[6] For an account of this *cf.* Gross, "Progress towards Universality of Membership of the UN" (1956) 50 A.J.I.L. 791.

[7] *Cf. e.g.* Oppenheim, *International Law* (8th ed. 1955), Vol. I. pp. 118–119.

In general, the writers who have discussed territory as criteria of statehood have not stipulated a minimum size. Oppenheim, for example, expressly observes that the territory of the State can be very small, citing as examples the Vatican City, Monaco, San Marino, and Liechtenstein.[8] Moreover, although diminutive States often have such limited human and material resources that they find it difficult to establish and operate the full panoply of administrative machinery, the problem is seldom so serious as to negate the existence of an effective government.[9] Nor does the requirement of a permanent population normally constitute a problem; and again there seems to be general agreement that size is irrelevant.

It is clear, though, that if a particular diminutive territory does not satisfy these three criteria it cannot constitute a State. This, it is submitted, is the position of the Vatican City.

In the Lateran Treaty of 1929, Italy granted the Pope "full ownership, exclusive and absolute power, and sovereign jurisdiction over the Vatican" (population 1,000; area $\frac{1}{2}$ km^2). Italy's attitude to the Vatican's statehood is clearly not conclusive, because this would prejudice the rights of third States. And indeed, controversy rages as to the exact legal status of the City. One school of thought, which includes Oppenheim, Lauterpacht, Guggenheim and Verzijl among its members, maintains that it is a State, albeit a tiny one,[10] but other writers reject this interpretation, holding that the Vatican does not satisfy the criteria of statehood.[11] It is a nice question, but it is submitted that on balance the latter view is to be preferred.

For many centuries the Pope has been regarded as sovereign, but this status (analogous to, but not identical with, that of the State) attached to him by virtue of his position as Head of the Roman Catholic Church and incumbent of the Holy See, and not because he controlled territory; evidence of this is to be found in the fact that States regarded his sovereignty as unimpaired even when he had no

[8] *Ibid.* p. 415. *Cf.* Bastid, *Droit des gens: principes généraux* (1965) p. 44; Sereni, *Diritto Internazionale* (1956–65), Vol. II, 341–342; Labeyrie-Ménahem, *Des Institutions Spécialisées: problèmes juridiques et diplomatiques de l'administration internationale* (1953), p. 61.

[9] *Cf.* UNITAR, *Status and Problems*, pp. 162–180.

[10] *Cf.* Ireland, "The State of the City of the Vatican" (1933) 27 A.J.I.L. 271; Kunz, "The Status of the Holy See in International Law" (1952) 46 A.J.I.L. 308; Ehler, "The Recent Concordats" (1961) 104 *Recueil des Cours* III, 1; Oppenheim, *International Law*, Vol. I, pp. 254–255; Guggenheim, *Traité de droit international public* (1953–54), Vol. I, pp. 220–221; Verzijl, *International Law in Historical Perspective* (1969), Vol. II, p. 300; Farran, *Festschrift Schätzel*, p. 131 at pp. 138–140.

[11] *Cf.* Pearce Higgins, "The State of the City of the Vatican" (1929) 10 B.Y.I.L. 214; Siotto-Pintor, "Les sujets du droit international autres que les Etats" (1932) III, 41 *Recueil des Cours* 251; Vellas (1954) 58 *Revue Générale de Droit International Public* 559 at 568; Brownlie, *Principles of Public International Law* (1966), p. 59.

territory at all. In this respect, his position can be compared to that of the Grand Commander of the Sovereign Order of Malta.[12] The special status of the Vatican City is probably best regarded as a means of ensuring that the Pope can freely exercise his spiritual functions, and in this respect is loosely analogous to that of the headquarters of international organisations.

In two respects it may be doubted whether the territorial entity, the Vatican City, meets the traditional criteria of statehood. In the first place, it can hardly be said to have a permanent population capable of maintaining and reproducing itself. Apart from a few lay officials and their families, the population consists entirely of celibate clergy and nuns; moreover, Vatican nationality attaches to them only for the—usually limited—time during which they are seconded to the Holy See. Secondly, the various "governmental" functions conducted in the Vatican are not, for the most part, exercised in relation to, or for the benefit of, the City itself. But even if the Vatican cannot then be classed as a State, it is not its exiguity that is the cause.[13, 14]

[12] *Cf.* Bernardini, "Ordine di Malta e diritto internazionale" (1967) 50 *Rivista di Diritto Internazionale* 497; Breycha-Vauthier and Potulicki, "The Order of St. John in International Law: a Forerunner of the Red Cross" (1954) 48 A.J.I.L. 554; Cansacchi, "Le emissione Postale dell Ordine di Malta e delle Organizzazioni Internazionali" (1968), *Diritto Internazionale* III, 22; Farran, "The Sovereign Order of Malta in International Law" (1954), 3 I.C.L.Q. 217; For the special observer status of the Order in WHO, *cf.* Vignes, "Organisation Mondiale de la Santé: questions juridiques" (1963) 9 *Annuaire français de Droit International* 627.

[13] It is sometimes suggested that the Vatican's membership or observer status in various international organisations is evidence of its statehood. However, a closer examination reveals matters to be otherwise. The Vatican did, it is true, become a member of the International Telecommunication Union and Universal Postal Union in 1929, but at the time the organisations were "open unions" in which true statehood was not required. (The Papal States were a member of the International Telegraph Union—one of the International Telecommunication Union's predecessors—from 1868 until their extinction). As a member of these Specialised Agencies, it was automatically invited to the 1956 Conference on the Statute of the IAEA as the "Vatican City State": however, though it signed the Statute under that name, it ratified in the name of the Holy See, which is not a territorial entity. Moreover, in 1960 the Agency was informed that the member wished in future to be referred to as "The Holy See"—a request with which it complied, IAEA, INFCIRC/42/Rev. 4 (Sept. 18, 1967), p. 5. Furthermore, in all the organisations to which the Pope has sent observers, permanent or otherwise—the UN, ILO, UNESCO, ICAO, WHO and FAO—the mission has been accredited in the name of the Holy See, not the Vatican City. Indeed, when San Marino, trying to obtain observer status in FAO, invoked the precedent of the granting of this status to the Holy See, the Conference observed that this privilege had been accorded "because of the special circumstances characterising the Holy See, and had no relation to the territorial extent of the Vatican City. . . ." (Report of the 6th Sess. of Conference (1951), pp. 139–40, 183–84). So it would appear that the practice of the organisations, far from supporting the view that the Vatican City is a State, tends, if anything, to suggest that it is not. Nor is the fact that it is invited to participate in

[14] For footnote, see p. 613.

Nevertheless, it remains true to say that, apart from this very special case, diminutive States satisfy the first three criteria of statehood. However, doubt has been cast by Rosalyn Higgins upon the ability of diminutive States to satisfy the fourth criterion—independence.[15] Observing that no diminutive State had yet been admitted to the UN, as opposed to the Specialised Agencies, she suggested that lack of size and resources compels these " States " to alienate enough of their independence to disqualify them from " comprehensive participation " (that is, full membership of the UN), though they might still be eligible for " limited participation " (for example, full membership in Specialised Agencies). For a number of reasons it is submitted that this generalisation is untenable.

In the first place, it is not strictly true that no diminutive State had become a member of the UN by the time Dr. Higgins' book was published in 1963, unless the concept of " diminutiveness " is given a very narrow interpretation. Luxembourg (population 335,000) was an original member; Iceland (population 195,000) had been admitted in 1946; Congo (Brazzaville) (population 830,000); Cyprus (population 603,000) and Gabon (population 468,000) in 1960; and Trinidad and Tobago (population 823,000) in 1962. Since then, Kuwait (population 491,000) has been admitted in 1963; Malta (population 317,000) in 1964; The Gambia (population 336,000) and the Maldive Islands (population 101,000—the smallest member in terms of size, with an area of 298 km^2) in 1965; Guyana (population 662,000), Botswana (population 580,000), Lesotho (population 865,000) and Barbados (population 245,000) in 1966; Mauritius (population 780,000), Swaziland (population 390,000) and Equatorial Guinea (population 272,000) in 1968; Fiji (population 476,000) in 1970; and Bhutan (population 750,000); Qatar (population 100,000), Bahrain (population 236,000), Oman (population 565,000), and the Union of Arab Emirates (population 130,000) in 1971. Most of

diplomatic conferences and treaties sponsored by the UN evidence of its statehood, because all full members of Specialised Agencies are invited as a matter of course. The case is clearly *sui generis*.

[14] While on the subject of *sui generis cases*, this is a convenient point at which to note that it is generally agreed that Andorra (pop. 16,000, area 452 km^2) is not a state. This is not, however, due to its small size, but to the fact that its status is a survival from an era antedating the rise of the modern State system—it is a feudal dependency, which since 1278 has been under the authority of two co-princes, the Bishop of Urgel (in Spain) and the Count of Foix (now represented by the President of France). *Cf.* Rousseau, " Les Vallées d'Andorre: une survivance féodale dans le monde contemporain," in *Symbolae Verzijl*, (1958). p. 337; Anon., " La principauté d'Andorre et son statut international," (1957) 10 *Chronique de politique internationale* (Brussels) 385; Farran, *Festschrift Schätzel*, p. 131 at pp. 135–138; Oppenheim, *International Law*, Vol. I pp. 193–194. Andorra has not sought admission to the UN or the Specialised Agencies.

[15] *Development of International Law through the Political Organs of the United Nations* (1963), pp. 34–35.

these States were admitted without opposition, and in the isolated instances where the country's independence was questioned by some members, this was unconnected with its size. Some diminutive members of the UN undoubtedly have very close ties with larger States, but these ties do not amount to legal dependence, and it should not be forgotten that even medium to large size States can be satellites of others.

Secondly, the fact that there are a small number of diminutive States which belong to Specialised Agencies but not to the UN cannot be explained on the basis of a variable concept of statehood, a theory propounded by Dr. Higgins to explain differences in membership between the UN and the Agencies [16] and adopted by Bowett [17] and O'Connell.[18] Space does not permit a detailed exposition of the present writer's many criticisms of the theory; suffice it to say here that not only is it *a priori* unlikely that the same concept—statehood—should be used in different senses by the same actors (the diplomatic representatives of States) in similar *fora* (intergovernmental organisations) for the same purposes (participation), but it is also a fact that the instances cited in support of the theory can, without exception, be better explained on other grounds, such as the presence of the veto in the UN and its absence in the Specialised Agencies.[19] It is particularly unjustifiable to try to support the theory by reference to the fact that a handful of diminutive States have joined Specialised Agencies but not the UN, for the simple reason that none of them has ever tried to join the latter. To what extent these non-members of the UN are independent States can only be ascertained by reference to the facts of each case.

Liechtenstein (population 19,000; area 157 km²) is something of a borderline case. A member State of the German Holy Roman Empire, she was allowed to remain intact by Napoleon, and her sovereignty was recognised by the Congress of Vienna. She remained independent when the German Confederation broke up in 1866, and was again recognised in the Treaty of St Germain. She has her own laws, has participated in various diplomatic conferences, is party to several bilateral and multilateral treaties, and issues her own passports, and maintains a legation in Berne. On the other hand, she has entrusted a number of important functions to Switzerland. In 1920 she concluded a convention whereby Switzerland would administer her postal, telegraphic and telephonic services, and in

[16] *Ibid.* Part I.
[17] *Law of International Institutions* (2nd ed., 1970), pp. 344–345.
[18] *International Law*, (2nd ed., 1970), Vol. I, pp. 285–289.
[19] *Cf.* this writer's doctoral thesis on "The acquisition of Membership in Selected International Organisations" (n.p. Oxford University, 1971) Chap. 5.

1921 the two entered into a customs union, though this may be denounced at any time. In her diplomatic relations outside Berne, she is represented by Switzerland, but this seems to be simply a case of agency except where economic matters are concerned. These limitations certainly impair Liechtenstein's freedom of action, but the general opinion is that she is a sovereign State.[20] This fact was expressly recognised by the League of Nations,[21] and impliedly by the United Nations when it admitted her to the Statute of the International Court of Justice.[22] It is perhaps significant that the Court did not dispute Liechtenstein's capacity to appear as plaintiff in the *Nottebohm* case.[23] In 1962 Liechtenstein was admitted to the UPU without opposition,[24] in 1963 to the ITU [25] and in 1968 to the IAEA.[26]

The sovereignty of Monaco (population 23,000; area 1·5 km²) is more restricted. Her independence was expressly recognised by her neighbour, France, in 1861 and 1918; she has her own laws, diplomatic representation in several posts, consular representation in many more, and is party to a number of bilateral and multilateral treaties. However, certain of her government officials are appointed by France, and the Prime Minister is chosen from a list of three French nominees. Monaco has agreed to act in complete conformity with the political, naval, military and economic interests of France, and agreements with foreign States require the prior agreement of the latter. Moreover, a fiscal convention of 1963 in a sense identifies Monégasque with French territory by imposing French tax laws upon Monaco. Finally, in the unlikely event of the princely line failing through the absence of an heir direct or adoptive, the Principality would become an autonomous protectorate of France.

[20] *Cf.* Kohn, "The Sovereignty of Liechtenstein," (1967) 61 A.J.I.L. 547; Farran, *Festschrift Schätzel*, p. 131 at pp. 140–141; Guggenheim, *Traité de droit international public*, Vol. I, p. 176 n. 3.

[21] *Cf. infra*, p. 618.

[22] UN S.C.O.R, 4th yr. (1949), No. 35, 432nd mtg., pp. 1–6; G.A.O.R., 4th Sess., 4th Cttee., 174th mtg., pp. 214–215; *ibid.* Plen., 262nd mtg., p. 439. The Soviet contention that Liechtenstein was not a State was rejected by the other members of the Security Council's Committee of Experts—Doc. S/1342 (June 23, 1949).

[23] [1953] I.C.J. Rep. 111 (Preliminary Objections); *ibid.* 1955, p. 4 (2nd Phase). It is very possible, though, that the Court is not entitled to question the statehood of those admitted to its Statute.

[24] UPU Circ. 54/1962. Previously Liechtenstein, where postal services were administered by Switzerland, had merely been within the "jurisdiction of the Union." Similarly, she is deemed to be included in the Swiss membership of ICAO by virtue of the liberal interpretation of Art. 2 of the Chicago Convention, which provides that, for the purposes of the Convention, the territory of a State shall include territory "under the sovereignty, suzerainty, protection or mandate of any State"—*cf.* Cheng, *Law of International Air Transport*, (1962), p. 608, n. 31.

[25] Without opposition—Notfn. No. 913 (April 16, 1963), pp. 1–3.

[26] Doc. G.C. (XII)/RES/231 (Sept. 24, 1968).

These are serious restrictions, but distinguished commentators have nonetheless come to the conclusion that Monaco remains a sovereign State.[27] This seems to be the view of international organisations as well. The Council of the League of Nations admitted her to the Statute of the Permanent Court of International Justice. She has been a member of the ITU since 1910, and, as party to the Madrid Convention of 1932, was able to remain a member when the Union's membership provisions were revised in 1947. In that year she applied for admission to UNESCO, and though some doubts were expressed as to the potential value of her contribution to the Organisation's work, it was generally agreed that she was a sovereign State, albeit *sui generis*, and she was admitted.[28] Similarly, misgivings about admitting her to the WHO were directed to the value of her contribution, not to her statehood, and she was in fact accepted, albeit with the reservation that this was not to constitute a precedent.[29] In 1955 she was admitted to the UPU [30] and has had permanent observer status at UN Headquarters since 1956.

If the sovereignty of Monaco is somewhat questionable, the same cannot be said of the third European diminutive State, San Marino (population 18,000; area 61 km²).[31] She has her own laws, the right to conduct her own foreign relations, has concluded treaties with several countries, maintains legations and consulates in various capitals, issues her own passports, and even declared war on Germany in 1944, contrary to the wishes of Italy, of which she is an enclave. It is true that in a treaty of 1897 Italy assured San Marino of her "protective friendship," but this appears to have been simply a pledge to protect her territorial integrity and political independence. Italy has, on a number of occasions, officially declared that San Marino is sovereign.

San Marino was a member of the International Radio-Telegraphic Union (ITU's predecessor) between 1906 and 1932, but then ceased to participate, leaving arrears of contributions. Accordingly, she was not invited to the Atlantic City Telecommunication Conference in 1947.[32] She applied to rejoin the Union in 1949 but, although

27 *E.g.*, Gallois, *Le régime international de la Principauté de Monaco*, pp. 50–82; Farran, *Festschrift Schätzel*, p. 131 at pp. 144–145; Oppenheim, *International Law*, vol. I, p. 193 n. 5; Verzijl, *International Law in Historical Perspective*, vol. II, pp. 459–461.

28 UN, E.S.C. O.R., 6th Sess., 125th and 129th mtgs., pp. 24–26, 53–55; UNESCO, G.C.O.R., 3rd Sess. (1948), I, pp. 156–157, 362–365.

29 Proceedings of 1st World Health Ass., O.R. WHO 13, pp. 76, 276–277.

30 UPU Circ. 196/1955.

31 *Cf.* Sottile, "L'organisation juridique et politique de la Republique de St. Marin et sa situation internationale." (1923) 1 *Revue de droit international, de sciences diplomatiques, politiques et sociales* 5; Farran, *Festschrift Schätzel*, p. 131 at pp. 142–143; Oppenheim, *International Law* vol. I, p. 194 n. 1; Verzijl, *International Law in Historical Perspective*, vol. II, pp. 461–462.

32 Atlantic City Telecommunications Conf., 1947, Docs. 2TR, 9TR.

no member actually opposed her admission, the application failed to obtain the necessary two-thirds majority.[33] She has been a member of the UPU since 1915. The Second World Health Assembly rejected her application for admission to the WHO, but this was mainly due to the fact that San Marino refused to withdraw a reservation requiring the Organisation to fix a (very low) ceiling for her contributions to the budget.[34] She has sent observers to conferences of the WHO, UNESCO and ICAO and maintains a permanent observer mission at the UN European Office in Geneva.[35] In 1953 the UN Security Council and General Assembly decided, in the face of Soviet bloc opposition, that San Marino was a sovereign State and should be admitted to the Statute of the ICJ.[36]

The independence of two countries in the South Pacific—Western Samoa (population 130,000; area 2,842 km²) and Nauru (population 6,000—only half of whom are Nauruan; area 21 km²) has in a sense been certified by the UN General Assembly, which, in 1961 and 1967 respectively, terminated the trusteeship agreements to which they had been subject.[37] The Assembly went so far as to express a wish that Western Samoa be admitted to the UN, should she so desire, but so far she has been unwilling to incur the expense involved in UN membership. She was admitted to the WHO without debate in 1962,[38] and to the International Monetary Fund in 1972.[39] Nauru was admitted to the UPU and ITU in 1969.[40] Tonga (population 75,000; area 699 km²) became independent on June 4, 1970, but so far has not sought admission to the UN, nor, it would seem, to the Specialised Agencies. The conclusion would seem to be that, though certain of these States may possibly not be fully sovereign, this is not true of all of them, and it is certainly not true of the many diminutive States which have joined the UN.

[33] ITU Notfn. No. 583 (Sept. 1, 1949), pp. 3–4.

[34] Proceedings of 2nd World Health Ass. (O.R. WHO 21), pp. 54, 312, 315. In the previous year, San Marino had been obliged to withdraw an application submitted out of time—Proc. of 1st World Health Ass. (O.R. WHO 13), p. 341.

[35] When she applied to FAO for observer status in 1951, the Conference decided to postpone a decision until the following session, and that meanwhile the Director-General should investigate the means of associating countries like San Marino with the work of the Organisation—Rep. of 6th sess. of Conf., pp. 139–140, 183–184. However, San Marino did not press her application, which was allowed to lapse.

[36] S.C.O.R., 8th yr., 645th mtg., pp. 2–4; G.A.O.R., 8th Sess., Plen., 471st mtg., p. 456.

[37] G.A. res. 1626 (XVI) of Oct. 18, 1961, and G.A. res. 2347 (XXII) of Dec. 19, 1967, respectively.

[38] Proceedings of 15th World Health Ass. (O.R. WHO 118), p. 8.

[39] (1972) 24 *International Financial News Survey*, 4.

[40] ITU, Notfn. No. 1016, (March 10, 1969), p. 1; UPU, Circ. 69/1969.

2. ABILITY TO FULFIL THE OBLIGATIONS OF MEMBERSHIP

Having established that diminutiveness does not necessarily result in very small countries being unable to meet the criteria of statehood, it is necessary to examine whether such States are materially in a position to fulfil the obligations of membership. This question is logically distinct from the question whether the benefit which such States derive from membership, and the contribution that they can be expected to make to the Organisation's work, make it worthwhile admitting them—a matter which will be examined in the next section.

Before investigating the ability of diminutive States to meet their obligations as members of the UN, it will be instructive to consider the practice of that Organisation's predecessor, the League of Nations. The obligations contained in the League Covenant were not light. In particular, members undertook to protect each other from aggression (Article 10) and to apply sanctions against aggressors in certain circumstances (Article 16).[41] At the Paris Peace Conference, France raised the question of enabling Monaco to become an original member of the League, but Clemenceau himself brushed the suggestion aside.[42] It would appear, moreover, that that part of the so-called Viviani Questionnaire [43] requesting information on the size and population of applicants was specifically aimed at excluding diminutive States.[44] Nevertheless, when the First Assembly of the League met, it was presented with applications from San Marino, Iceland, Luxembourg, Monaco and Liechtenstein.[45]

The main problem with respect to Luxembourg, which was considered first, was a reservation concerning neutrality; once this was withdrawn, the Plenary unanimously voted to admit her, brushing aside the doubts expressed by some members of the Fifth Committee with respect to her small size.[46]

The next day, however, the Fifth Committee agreed with its subcommittee that:

> There can be no doubt that juridically the Principality of Liechtenstein is a sovereign state, but by reason of her limited area, small population and her geographical position, she has chosen to depute to others some of the attributes of sovereignty. For instance, she has contracted with other Powers for the control of her customs, the administration of her Posts, Telegraph and Telephone Services, for the diplomatic representation of her subjects in foreign countries other than Switzerland and Austria, for final decision in certain judicial cases. Liechtenstein has

41 The dilutions which these obligations eventually suffered had not begun when the question of the admission of the diminutive States came up for consideration.
42 Miller, *The Drafting of the Covenant* (1928) Vol. I, pp. 483–487, 497; Vol. II, pp. 717–718.
43 League of Nations, Records of 1st Assembly, Mtgs. of Cttees. II, p. 159.
44 *Cf.* Graham, *The League of Nations and the Recognition of States* (1933), p. 22.
45 (1920) July-Aug. *League of Nations Official Journal*, 264–267, 300.
46 1st Ass. (1920), Plen., pp. 585–586, 610.

> no army. For the above reasons we are of the opinion that the Principality of Liechtenstein could not discharge all the international obligations which would be imposed on her by the Covenant.[47]

The Plenary accepted this recommendation, and rejected the application, by twenty-eight votes to one (Switzerland),[48] though, as will be seen in the next section, it was prepared to consider means short of admission whereby such States could be associated with the League's work. The decision discouraged the other three States from proceeding with their applications, and no further action was taken on them.

The obligations of members of the UN are rather less onerous. Many provisions of the Charter—such as Article 2 (4)—are simply rules of "good behaviour," and do not present a greater problem for diminutive States than for their larger brethren. Virtually the only onerous obligation in the whole Charter is that contained in Article 17 (2)—the obligation to contribute to the Organisation's budget. In 1970 the minimum contribution was $55.126.[49] This is a heavy burden for poor countries, and it has deterred some diminutive States from applying to join, though others, like Kuwait, can easily afford it. However, it is clearly up to each State to decide for itself whether it can afford to join, and the UN has not presumed to reject an application on the grounds that the candidate could not meet the financial obligations of membership.

It has, however, been suggested that diminutive States are unable to fulfil the obligations of membership in the UN because they cannot meet the obligation to participate in sanctions.[50] Some support for this view is found in the action of the United States Department of State in dealing with an enquiry from the Pope, shortly after the Dumbarton Oaks meeting in 1944, as to the proposed terms of admission for small States. "The Department of State decided not to encourage the idea of membership for political units 'too small to be able to undertake the responsibilities, such as participation to measures of force to preserve or restore peace,' that would be incumbent on all members of the United Nations."[51] However, while it may be that diminutive States are unable to make a worthwhile contribution to sanctions—a question which relates to

[47] *Ibid.* p. 667.

[48] *Ibid.* pp. 643, 652.

[49] *Cf.* G.A. res. 2654 (XXV) of Dec. 4, 1970 and 2729 (XXV) of Dec. 16, 1970.

[50] *Cf.* Farran, *Festschrift Schätzel*, p. 131 at pp. 146–147; Quadri, *Diritto Internazionale pubblico* (1963), p. 359.

[51] Russell and Muther, *History of the UN Charter* (1958), p. 509. It should, however, be observed that in the case of the Vatican there was the further obstacle of its permanently neutral status—*cf.* Socini, *L'appartenenza all'ONU* (1951), p. 87 n. 63.

the advisability of admitting them—it would seem that they are in general able to fulfil their minimum obligations under the Charter.

In particular, although some diminutive States do not possess armed forces, it is generally accepted that on a true construction of Article 43 (1) of the Charter such members would be fulfilling their duty if they provided only "assistance and facilities, including rights of passage," and not armed contingents as well.[52] The fact that Iceland has no armed forces did not produce any objection to her admission in 1946. So far as non-military sanctions are concerned, participation would seem in most cases to be within the power of diminutive States, because the duty is essentially a negative one of refraining from economic and diplomatic relations, and so on, with the State which is the object of sanctions.

Two possible limitations on a diminutive State's ability to participate in sanctions both relate to the fact that some, though not all, diminutive States have, by reason of their lack of human or material resources, been obliged to enter into a special relationship with another, larger State.

First, the diminutive State's economic and political dependence may prevent it from taking sanctions against the larger State: it is, for example, inconceivable that Monaco could participate in sanctions against France. However, this is a difficulty which confronts many "normal" States: Zambia, for example, has been unable to break all economic ties with Southern Rhodesia. Moreover, this difficulty has been foreseen in the Charter; Article 49 provides that members "shall join in affording mutual assistance in carrying out measures decided upon by the Security Council," and Article 50 gives States confronted with special economic problems as a result of carrying out preventive or enforcement measures the right to consult with the Security Council with regard to a solution of the problems. Though there is no guarantee that such States will receive assistance, as Zambia discovered to her cost,[53] the machinery does at least exist. In any case, the possibility of a diminutive State finding itself obliged

[52] *Cf.* the Report of the Military Staff Committee of the Security Council on "General Principles Governing the Organisation of the Armed Forces Made Available to the Security Council by Member Nations of the UN" (S/336, April 30, 1947), Arts. 13 and 14: these guidelines provide that no member should be urged to increase the strength of its armed forces or to create a special contingent thereof in order to make a contribution under Arts. 43–45 of the Charter, and that contributions of members, other than permanent members of the Security Council, need not necessarily take the form of armed forces. There is also the possibility that the members are entitled to evade their obligations by simply refraining from concluding the appropriate agreements with the Security Council, under Art. 43 *cf. e.g.*, Switzerland, Federal Council, *Switzerland and the United Nations*, Report of the Federal Council to the Federal Assembly, June 16, 1969 (trans.), p. 104.

[53] *Cf.* UN Doc. S/8786/Add.2 (Oct. 10, 1968), p. 4.

to participate in sanctions against the one State with which it has a special relationship is so remote that it may be justifiable to ignore it, particularly in view of the fact that the Organisation, in admitting permanently neutral Austria, has shown itself prepared to ignore a country's alleged inability to participate in sanctions against anyone at all.[54]

The second apparent limitation on a few diminutive States' ability to participate in sanctions stems from the fact that their diplomatic relations, or foreign relations generally, are in the hands of other States, so that they may be unable to participate in sanctions for reasons beyond their control. It is submitted, however, that this is not a real problem. In the first place, the powers so delegated are normally revocable; where they are not, the diminutive "State" is probably not sufficiently sovereign to qualify for membership anyway. Secondly, if the "patron" State is a member of the UN—which is true of all cases except that of Liechtenstein—the patron will be in breach of Article 2 (5) of the Charter if it obstructs its client's participation in sanctions.

Accordingly, it would seem that, in general, diminutive States are able to fulfil the obligations of membership in the UN. This the UN has tacitly accepted by according membership to 23 such States. In none of these cases was it objected that the country's lack of size made it ineligible for admission. The other six diminutive States have simply not applied for admission.

3. DESIRABILITY OF MEMBERSHIP

Given, then, that diminutive States are probably able to fulfil the obligations of membership, it is necessary to consider whether it is desirable that they should become full members.

The attractions for diminutive States of UN membership are substantial.[55] Whatever may be the strict legal position,[56] admission to the world political organisation does serve, politically, to endorse a State's independence and to enhance its prestige. It may possibly give it a greater measure of protection from larger States than that afforded to non-members, even though in theory the Charter's system of collective security is all-embracing. The UN is a convenient platform for the airing of grievances, and participation in a bloc may enable the diminutive State better to resist political pressure from more powerful States. Representation at UN Headquarters

[54] For a discussion of the compatibility of permanent neutrality with membership of the UN (including a critical review of the literature), *cf.* Mendelson, *op. cit.*, pp. 210–236.

[55] *Cf.* Blair, *The Ministate Dilemma*, pp. 59–60.

[56] *Cf. supra* n. 4.

enables members to maintain contact with representatives of the vast majority of States, thus facilitating a reduction in the number of overseas missions.[57] On the debit side, the costs are substantial: as already stated, the minimum annual contribution to the budget of the U.N. is currently about $55,000 *per annum*, and establishing and maintaining even a modest representation at UN meetings costs about the same again.[58] The expense is understood to have been a strong factor in deterring Nauru and Western Samoa from seeking admission. If diminutive States were guaranteed access to the UN and its lobbies, and, perhaps, some form of collective legitimisation by the Organisation, they might be willing to settle for something less than full membership in return for a substantial reduction or a waiver of contributions.

So far as the Organisation is concerned, it is clearly desirable to associate diminutive States in some way with its system for dealing with threats to international peace: conflicts involving small States may not be serious to begin with, but there is a danger of larger powers being drawn in. Moreover, as Jenks has observed,[59] if diminutive States are excluded from the organised international community they may become "havens of exemption for the lawless . . . or for over-mighty interests." [60]

On the other hand, the disadvantages for the UN in admitting these States have often been rehearsed. Most large territories are now independent, but if all of the 70-odd remaining dependent territories with populations of less than one million become independent and were admitted to the UN, their combined voting strength would constitute a "blocking third" in the General Assembly, even though their combined populations would amount to no more than that of one medium-sized normal State. (Indeed, there are some 50 diminutive territories whose combined populations amount to only 4·5 millions.[61]) In alliance with another group, such as the Afro-Asian bloc, they could easily dominate the Assembly: but though they could commit the Organisation to various sorts of action, including the undertaking of heavy financial or even military

[57] Membership in the UN is not, however, an essential precondition of participation in the UN Development Programme; membership of a Specialised Agency suffices.

[58] *Cf.* Blair, *The Ministate Dilemma*, pp. 26–27. It is worth bearing in mind, however, that this expenditure may be subsidised by another State, and that the greater the voting strength of the poor States, the more easily they can have the minimum contribution lowered to assist themselves, as recent experience has shown.

[59] *The World beyond the Charter* (1969) pp. 150–151.

[60] *E.g.*, it would be undesirable for a diminutive State to allow its territory to be used for "sanctions-busting."

[61] *Cf.* statement of U.S. representative in the Security Council; S/PV. 1505 (Aug. 27, 1969), p. 8.

responsibilities, their contribution to carrying out these decisions would necessarily be very small. The problem already exists,[62] but it would certainly be aggravated by an influx of diminutive States. Such an influx would also put a great strain on the UN's resources, in terms of seating capacity, documentation, duration of meetings, reimbursement of travel expenses of delegates, and so on.[63]

Consequently, it has been suggested in many quarters that the legitimate needs of diminutive States and of the United Nations would best be met if the former could be associated with the latter without being granted full membership. Various schemes have been canvassed, some of which hark back to the days of the League of Nations.

4. ALTERNATIVES TO FULL MEMBERSHIP

It will be recalled that when the First Assembly of the League rejected Liechtenstein's application in 1920, it decided to give further consideration to the possibility of devising some form of association for diminutive States.[64] Subcommittee 1 of Committee I reported in the following year that international co-operation, with a view to guaranteeing peace and security, would be best assured if even States of secondary importance were associated in some degree with the work of the League. Since full membership had been excluded, there were three other possibilities:

(a) " association," or full membership without the right to vote; or

(b) " representation " by some other state which was already a member; or

(c) " limited participation," whereby diminutive states would be able to enjoy all the privileges of membership, but the exercise of these privileges would be limited exclusively to cases in which their own interests were involved.[65]

None of these solutions found favour with the First Committee.[66] It was felt that " association " might result in diminutive States delivering lengthy speeches and drawing out meetings inordinately. " Representation " would create an inferior class of members, to which diminutive States would probably refuse to belong; it was also

[62] *E.g.*, Gen. Ass. res. 2248 (S-V) of May 19, 1967 (establishing the UN Council for South-West Africa) was passed by 85–2—30–5; the contributions to the UN budget of the 85 members who voted in favour was 19·02%; 2 against—0·6%; 30 abstaining—80·11%; 5 absent—0·2%: UNITAR, *Status and Problems*, p. 3, n. 2.

[63] *Cf.* Blair, *The Ministate Dilemma*, pp. 11–13.

[64] *Supra*, p. 619.

[65] 2nd Ass. (1921), Mtgs. of Cttees., I, pp. 131–134.

[66] *Ibid.* pp. 17–22.

pointed out that there might be political difficulties if such a State chose one neighbour to represent it rather than another. "Limited participation" was also considered to be an unsatisfactory solution, since it might be difficult to ascertain exactly which matters specially affected the interests of the diminutive State. It was also observed that all three solutions would entail amending the Covenant.

In view of the difficulty of laying down in advance conditions for the admission of diminutive States whose different situations might require different solutions, and in view of the possibility that such States could immediately be associated with the work of the League by being allowed to participate in conferences, treaties and the like, the Plenary decided "to await the results of experience of this collaboration."[67] No serious reassessment seems to have taken place, however, and in 1938, in a report to the Assembly on "The Application of the Principles of the Covenant," the idea of some form of association for diminutive States was again summarily rejected on the grounds that it would create more difficulties than it would solve.[68] It was, however, the League's consistent policy to invite the collaboration of all non-member States, including the diminutive States, in its work, particularly in the technical fields.[69]

"Representation" and "limited participation" are, it is submitted, unsuitable means of solving the United Nations' diminutive States problem.

The reasons given by the First Committee of the League Assembly for rejecting the idea of representation of a diminutive State by a "normal" member of the Organisation are not entirely convincing. Normally, diminutive States would have no effective choice as to which State they asked to represent them, and at least some have already accepted a somewhat inferior status by delegating powers of diplomatic representation and the like to other States. However, "representation" is unsuitable for other reasons. If it entails the representing State simply taking account of the interests of the diminutive State in casting its own vote, then the system could not possibly be expected to work: the former is bound to put its own interests before those of the latter. If, on the other hand, it means allowing the diminutive State to vote by proxy, there are several reasons why this should not be permitted. The UN Secretariat has consistently opposed proxy voting generally, both on the grounds that

[67] *Ibid.* Plen., pp. 818–820.

[68] Report of the Special Committee set up to study the application of the Principles of the Covenant, *League of Nations Official Journal*, Spec. Supp. No. 180 (LN Doc. A.7.1938.VII), pp. 58–59.

[69] *Cf.* Memorandum by the Secretariat on Relations with Non-Member States—LN Doc. C.368.M.250.1937.VII.

it would contravene the provisions of the Charter [70] and the rules of procedure, and also because representatives are supposed to vote only after hearing a debate on a particular subject.[71] The Charter and the rules of procedure could, of course, be amended (though this could be difficult, both technically and politically), but the principle is a good one. Admittedly, delegations rarely change their vote because of what has been said in debate, but they may be able to evaluate problems and proposals better if they hear the discussion. More important, the parliamentary aspect of "parliamentary diplomacy," which does have some good features, would be gravely threatened once proxy voting were permitted for one group of members for the spread of the practice could not be contained. Finally, proxy voting might create an undesirable conflict of loyalties for representatives who have to act without instructions, as sometimes happens.

"Limited participation," in the sense of restricting full membership rights to situations where the diminutive State's own interests are involved, would also be unsatisfactory for a number of reasons. First, as the League Assembly's First Committee anticipated, it is very difficult to ascertain exactly when a State's interests are affected. In an increasingly interdependent world, and in an organisation whose activities are becoming more and more diverse, the diminutive State is likely to claim that its interests are involved in a great many issues. The experience of the Security Council in dealing with requests to participate in its proceedings under Article 31 of the Charter [72] reveals that, in practice, it is difficult to resist such claims; consequently the diminutive State might find itself exercising very much the same rights as the full members, whereas the object of the search for a suitable alternative status is precisely to avoid such a situation.

Before examining the third possibility considered by the League—"associate membership"—it will be convenient to deal with two other suggested solutions to the United Nations' diminutive States problem—observership, and joint or consolidated membership.

Permanent observer status at UN Headquarters is, as we have seen, already enjoyed by the Holy See and Monaco, while San

[70] Art. 9 (1) provides: "The General Assembly shall consist of all the Members of the United Nations," and Art. 18 (1) that "Each member of the General Assembly shall have one vote."

[71] *Cf.* UN Secretariat, letter of Sept. 1, 1965 and memorandum of Oct. 22, 1965, (1965) *UN Juridical Yearbook*, 223–224.

[72] "Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected"

Marino maintains an observer mission at the UN European Office. There have been suggestions that this privilege might be extended to all diminutive States,[73] but there are three arguments against this. First, the expense of maintaining an observer mission is approximately the same as that of maintaining a delegation; if the diminutive State is to go to such expense, it may legitimately feel that it is not getting its money's worth in receiving the somewhat limited rights which observership entails. Secondly, the status of observer is basically that of an outsider, whereas it is desirable to subject diminutive States to the régime of the Charter.[74] Thirdly, it may, perhaps, be preferable to reserve observer status for entities like portions of divided States and secessionist régimes (*e.g.*, Biafra) which cannot be acknowledged as independent States by the UN because of the unwillingness of large groups of members to recognise them, but whom it is desirable to associate in some way with the Organisation's activities.

A variant of the suggestion of observership is Fisher's idea of empowering a UN committee to hear representations from diminutive States in the same way as the Fourth Committee of the General Assembly now hears petitioners, and of establishing an office at UN Headquarters where information and advice could be dispensed to diminutive States, and their communications and officials received.[75] The idea has certain attractions; however, apart from the practical and procedural difficulties, it is submitted that there is a further reason for rejecting the proposal—it would involve the diminutive States accepting, not the second-class status of observership, but a third-class status, which as sovereign States they would almost certainly refuse to do.

Joint or group membership would, according to Mrs. Blair, "enable ministates, by sharing the work, to cover the full range of United Nations work while avoiding the expansion of members (and votes) that separate memberships [sic] would involve."[76] (It would also be cheaper, and involve less strain on UN facilities.) The author observes that at one time the European diminutive States considered the possibility of a joint application for membership, though nothing came of the idea. Apart from noting that a Charter amendment would be necessary, since the applicant for membership must be a

[73] *Cf.* Blair, *The Ministate Dilemma*, pp. 38–45.

[74] There are, admittedly, some facilities for non-member States to participate in the activities of the UN (*cf.* UNITAR, *Status and Problems*, pp. 141–144), but these are not really a suitable substitute.

[75] (1968) *Proceedings of the American Society of International Law* 164.

[76] *The Ministate Dilemma*, p. 59.

"State" (in the singular),[77] she does not develop this idea further. It is submitted that joint membership would not work. The interests of diminutive States, even in the same region, are often quite diverse and can ultimately lead to the disintegration of groupings, as the fate of the West Indies Federation and of St. Kitts-Nevis-Anguilla demonstrates. The diminutive States which make up the group member would soon fall out over the way in which their vote was to be cast. Nor could this difficulty be overcome by rotating the vote among the component States of the group: individual States would soon find to their dismay that on an issue which affected them closely the vote had passed to some other member of their group over whom they had no control, and whose own interest in the subject-matter might be negligible. There is, admittedly, a precedent for group membership in some of the Specialised Agencies. However, in those Agencies the groups are composed of *dependent* territories,[78] and that makes a difference: the State which is responsible for them is able to act as the final arbiter of conflicts of interest between the various members of the group,[79] whereas there can clearly be no such arbiter of the differences of sovereign States. Moreover, the activities of Specialised Agencies are restricted *ratione materiae*, which makes it easier to tailor the composition of the group in such a way as to ensure a certain community of interest; no such tailoring would be possible where the UN is concerned, for the potential scope of its activities is unlimited.

The only remaining possibility would seem to be "associate membership"—full membership without the right to vote. It will be recalled that the First Committee of the League Assembly rejected this solution, on the somewhat superficial ground that the associate members would deliver too-lengthy speeches.[80] Verbiage is certainly a problem for the UN, but it seems unfair to penalise diminutive States for the sins of all the members. Moreover, the prospect of a large influx of new members might even have the desirable effect of forcing the Organisation to take more drastic action to curtail the length of its meetings.

The need to do something about the diminutive States was first

[77] Art. 4 (1) of the Charter (which is the only provision specifically dealing with the qualifications of applicants for admission) expressly uses the singular "state," a point neglected in the American Bar Association discussion—(1968) 3 *Int. Lawyer*, 58 at 69–70.

[78] *Cf.* Mendelson, *op. cit.* Chap. 10.

[79] If, indeed, it considers their interests at all; it is by no means unknown for "parent" States to use the votes of their dependent territory groups in the WMO, ITU and UPU simply as additional votes to be cast in their own interest.

[80] *Supra*, p. 623.

mooted by the Secretary-General in 1965 [81]; in 1967 he returned to the question, and, pointing out that full membership for these States might be too onerous for them and might weaken the Organisation, he proposed that a study be made of the ways in which the availability of full membership might be limited, and a form of association devised which might benefit both the diminutive States and the UN.[82] The suggestion was taken up by the United States, which raised the matter with the Security Council.[83] When the Council met to consider the problem at its 1505th and 1506th meetings, on August 27 and 29, 1969,[84] the United States representative spoke in favour of creating for the diminutive States a form of associate membership, which, he suggested, did not require a formal amendment to the Charter. To this end he proposed inscribing the matter on the agenda of the Twenty-Fourth Session of the General Assembly and the establishment of a Security Council Committee of Experts.[85] Both the Soviet Union and the United Kingdom thought that reference to the General Assembly was premature, but it was agreed that a Security Council Committee should be set up, with the record of the discussion in the Council as its terms of reference.

On June 15, 1970 the Committee of Experts issued an Interim Report, indicating that it had so far had eight meetings, but was not yet able to reach any conclusions.[86] These and subsequent meetings have been held in closed session, but the report, otherwise uninformative, does set out the ideas of the United States and the United Kingdom.[87]

According to the United States proposal, associate members would enjoy all the rights of members of the General Assembly, except the right to vote or hold office; " appropriate rights " in the Security Council, when that body is taking action which affects them; " appropriate rights " in the Economic and Social Council and in the appropriate regional commissions and other bodies, upon the taking of the necessary action by that Council; and access to UN assistance in economic and social fields. In return, the associate members

81 Introduction to the Annual Report of the Secretary-General for 1964–65, G.A.O.R. 20th Sess., Supp. No. 1A, p. 2.

82 Introduction to the Annual Report of the Secretary-General for 1966–67, G.A.O.R. 22nd Sess., Supp. No. 1A, p. 20.

83 S/8296 (Dec. 13, 1967).

84 S/PV. 1505 and 1506.

85 The original American suggestion was for the reactivation of the Council's Committee on the Admission of New Members, which had ceased to be used after the admissions deadlock had been broken in the 1950s (S/8296). It is not clear why it was now proposed to set up a Special Committee of Experts instead: possibly it was thought advisable not to use a body with unhappy Cold War associations.

86 S/9836. So far, no further report has been published.

87 *Ibid.* Annexes I and II respectively.

would be subject to all the obligations of members, except the obligation to pay financial assessments, and would be required to declare their willingness to abide by these obligations. Admission would be effected by the same process as that by which full members are admitted.

The British proposal is simpler. The diminutive State would be admitted in exactly the same way as any other member, but in applying for membership it would voluntarily renounce the right to vote or to hold office. In return for this undertaking, it would be agreed that the member's contribution to the budget would be nominal. The effect would be similar to that of the American proposal, but it has several advantages over the latter.

The British solution avoids the appearance of creating an inferior class of members, an important point when one considers how sensitive newly-independent States are about their sovereignty. Because the renunciation of rights is voluntary, the creation of the status would not conflict with the principle of the sovereign equality of the members, which is enshrined in Article 2 (1) of the Charter. Moreover, because that provision would not be infringed and no new status formally created, a formal amendment to the Charter—a complicated business—would probably not be necessary. Admittedly, the United States also claims that its solution would not require a Charter amendment, but this is doubtful; it is worth recalling that, when, in 1951, UNESCO decided to create a class of associate members, it felt obliged to amend its Constitution.[88] The British proposal has the further advantage of avoiding the need for special criteria for associate membership, which must necessarily be somewhat arbitrary: each State would decide for itself which class of membership suited it best.

Whether either proposal will succeed is another matter. So far, the Soviet Union has been unwilling to commit herself one way or the other. Presumably she can see advantages in restricting the voting rights of a group of States, many of whom, by virtue of their weakness and their background, might be little more than the subservient clients of the colonial powers. On the other hand, she perhaps hopes that these States will in fact join the anti-colonial bloc and increase pressure on the West over, say, Southern Africa. Moreover, she is unwilling to alienate the "Third World" over this issue, and is apparently biding her time in order to see how that group responds to the proposals.

So far, the "Third World" does not seem to have entirely made up its mind. On the one hand, the more members admitted,

[88] UNESCO, General Conference, Res. 41.2—GC/Resolutions, p. 83.

the more the existing states' relative voting power is diminished; but on the other hand, their ideological commitment to full decolonisation is strong, and they are obviously glad to accept new recruits into their ranks. One of the strongest obstacles to the success of the Anglo-American proposals is the fear that this might be the "thin end of the wedge"—that once it is formally accepted that there is a disparity between voting power and responsibility, the existing members' powers may come under scrutiny. For the smallest members this is a very real fear, for it is hard to conceive what meaningful criterion of diminutiveness would not relegate a country the size of, say, the Maldive Islands (an existing member) to the lower class of associate members.[89] With every diminutive State that is admitted to full membership of the UN, the prospects of success for the Anglo-American initiative recede; it may be an indication of the way the wind is blowing that six such States have been admitted since the establishment of the Security Council Committee of Experts.

That it would be unfortunate if these proposals were to fail has been treated as self-evident by the majority of commentators. The underlying assumption seems to be that as diminutive States are evidently less important than their larger brethren, they ought to be treated differently. It is submitted that this assumption is open to question. If it is absurd that, say, Bahrain should have the same voting power as the United States,[90] is it not equally absurd that Upper Volta should, that Peru should, that, indeed, Great Britain should? Must not any drawing of lines here be arbitrary and invidious? The formal equality of States is the basis of the current international system, organised and unorganised: this being so, what justification is there for making exceptions in the case of the particularly small and weak? Of course, the gulf between real power and voting power in the General Assembly can, and often does, result in absurdities, but this is endemic to the whole Charter system: is that system to be scrapped, before anything better is found to replace it? The great and powerful have many opportunities today to display and exercise their greatness and power, in many arenas and in many ways. Perhaps it is not such a bad thing that there remains one place where, at least formally, even the weak and insignificant can have an equal say.

[89] For statistical data on possible criteria, *cf.* UNITAR, *Status and Problems*, pp. 22–45, 206–228.

[90] In the vital field of international peace and security, disparities of power are in fact reflected in the Charter, which accords the "Big Five" permanent membership and a veto in the Security Council, *cf.* Arts. 23 and 27.