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COMMITTEE ON CONTRIBUTIONS
Thirtieth session
New York

ASSESSMENT OF NON-MEMBER STATES

1. Under General Assembly resolution 2291 (XXII) of 8 December 1967, as amended, Member States were called upon to contribute towards the 1968, 1969 and 1970 reports of:

(i) The International Court of Justice:

Liechtenstein
San Marino
Switzerland

(ii) The International Central of Narcotic Drugs:

Federal Republic of Germany
Liechtenstein
Monaco
Republic of Korea
Republic of Viet-Nam
San Marino
Switzerland

(iii) The Economic Commission for Asia and the Far East:

Republic of Korea
Republic of Viet-Nam

(iv) The Economic Commission for Europe:

Federal Republic of Germany

(v) The United Nations Conference on Trade and Development:

Federal Republic of Germany
Holy See
Liechtenstein
Monaco
Republic of Korea
Republic of Viet-Nam
San Marino
Switzerland

2. Under General Assembly resolution 2472 (XXIII) of 19 December 1968, the following non-member States were called upon to contribute towards the 1969 and 1970 expenses of the United Nations Industrial Development Organization:

- Federal Republic of Germany
- Holy See
- Liechtenstein
- Monaco
- Republic of Korea
- Republic of Viet-Nam
- San Marino
- Switzerland
- Western Samoa

3. UNIDO was established under General Assembly resolution 2152 (XXI), and the annex to that resolution lists the States eligible for membership in UNIDO. The non-member States that, under resolution 2472 (XXIII), were called upon to contribute towards the 1969 and 1970 expenses of UNIDO were those included in the annex to resolution 2152 (XXI).

4. San Marino and Western Samoa have informed the Secretary-General that they do not consider themselves under obligation to contribute to UNIDO. On the advice of the Office of Legal Affairs, the text of which is attached, the Secretary-General will inform the two Governments that he has taken note of their communications to the effect that they do not participate in UNIDO and that, in accordance with their wishes, he will take the necessary steps to have their names removed from the list annexed to resolution 2152 (XXI).

5. The Committee on Contributions may therefore consider it appropriate to omit San Marino and Western Samoa from the list of non-members that should be called upon to contribute to the expenses of UNIDO.

6. In resolution 2291 (XXII) San Marino is listed as one of the non-member States that should be called upon to contribute to the expenses of International Control of Narcotic Drugs. It has been included in all such resolutions since 1950 when the Secretary-General was directed under resolution 455 (V) to seek payment of contributions by non-member States signatories of the 1953 Convention to expenses relating to the Control of Narcotic Drugs. San Marino has never agreed to pay the assessments established annually under the relevant General Assembly resolutions. The following opinion by the Legal Council was given in a memorandum of 15 November 1967 with regard to San Marino's obligations to contribute:

"I have reviewed the matter in the light of your report and conclude that the views set out in my memorandum of 21 August 1957 should apply. That memorandum stated that San Marino is covered in its capacity of observer at the Conventions of 19 February 1925 and 18 June 1931, to which it is a party, but not provide for an obligation to contribute. The 1925 Conference adopted a resolution, incorporated in its Final Act, which envisages contributions by non-members of the League of Nations, but the resolution did not have binding force and San Marino, which did not sign the Final Act, has not accepted it. In resolution 455(V) the General Assembly recorded its view that non-members of the United Nations should contribute their fair share of the expenses in question, but that resolution does not constitute a legal obligation for San Marino.

"The Single Convention on Narcotic Drugs, 1953, in article 6 (para 3) provides for contributions from non-members of the United Nations. San Marino, however, has not yet become a party to the Single Convention, has not signed it, and did not participate in the 1953 Conference. That country is therefore not bound by the obligation provided in the Single Convention."

7. The Secretary-General therefore considers that San Marino should no longer be included in the list of non-member States that should be called upon to contribute to the expenses of International Control of Narcotic Drugs.

Rates of Assessment

8. The rates at which non-member States are called upon to contribute to the United Nations activities in which they participate for the years 1968, 1969 and 1970 under resolution 2291 (XXII) of 8 December 1967 are as follows:

<u>Non-member States</u>	<u>Per cent</u>
Federal Republic of Germany	7.01
Holy See	0.04
Liechtenstein	0.04
Monaco	0.04
Republic of Korea	0.12
Republic of Viet-Nam	0.07
San Marino	0.04
Switzerland	0.85

9. In arriving at the above percentage rates, the Committee, as stated in its report,^{1/} "applied the same principles as for the establishment of the percentage of Member States. The same allowance for low per capita income was used, and the rates were computed by relating the adjusted income of each country to the average per capita income of those Member States that are not subject to 'ceiling' provisions on 'per capita ceiling' provisions." The rates recommended by the Committee are subject to approval by the General Assembly after consultation with the Government concerned.

Income from non-member States contributions

10. Under the Financial Regulations of the United Nations, the annual contributions of non-member States are taken into account as miscellaneous income. In order to give the Committee an indication of the amounts involved, the 1968 expenses of the various activities to which the percentage rate of assessments for non-member States were applied are given below:

	<u>Actual expenses for 1968</u>	<u>Total of non- member States Contributions</u>
International Court of Justice	\$ 1,391,300	\$ 13,079
International Control of Narcotic Drugs	1,176,800	95,792
Economic Commission for Asia and the Far East	5,847,300	7,310
Economic Commission for Europe	5,415,100	579,599
United Nations Conference on Trade and Development	8,808,900	724,074

dated 29 April 1970

TEXT OF MEMORANDUM/FROM OFFICE OF LEGAL AFFAIRS CONCERNING
UNIDO ASSESSMENTS OF SAN MARINO AND WESTERN SAMOA UNDER
GENERAL ASSEMBLY RESOLUTION 2472 A (XXIII)

1. ...

2. As you recall, GA resolution 2472 A (XXIII), para. (f), calls upon the States listed thereunder (including San Marino and Western Samoa) "which are not Members of the United Nations but which participate in certain of its activities", to contribute towards the 1969 and 1970 expenses of the activities of UNIDO financed from the regular budget.

3. You may further recall that both countries have communicated to the Secretary General their unwillingness to contribute. (I attach copies for easy reference.)

4. The question is whether, in the light of the provisions of GA resolution 2472 A (XXIII) establishing UNIDO and GA resolution 2472 A (XXIII), there is any legal basis which would justify further efforts to collect the funds which have been assessed.

5. The annex to GA resolution 2152 (XXI) lists the States eligible for election to the UNIDO Board, i.e. Members of the United Nations, members of the specialized agencies or of the IAEA. A similar technique was adopted in the establishment of UNCTAD, with the following important exception — States such as San Marino and Western Samoa were invited * / to attend the United Nations Conference on Trade and Development held at Geneva in 1964 and thus were afforded, it might be said, the opportunity to express their view and intentions regarding membership. On the other hand, no such opportunity was presented to States such as San Marino and Western Samoa before or during the elaboration and adoption of the resolution which established UNIDO.

6. The language used in para. (f) of resolution 2472 A (XXIII) is that normally used in resolutions assessing contributors, i.e. the resolution justifies the assessment on the premise that the State "participates" in the activities of UNIDO. The term "participates" is not defined, and since this is really the essence of the problem I would like to turn to this question. It does not appear to us that any useful purpose would be served by asking the question of participation and assessment depend on whether (and more importantly to what extent) a given State receives the benefits of UNIDO assistance or takes part in any of UNIDO's programs. This could give rise to numerous difficulties since it would be impossible to apply uniform objective criteria to meet all the possible situations which might arise.

7. It would, I believe, be preferable to proceed according to the following principle: if a State (non-member of the United Nations but a member of a specialized agency of the IAEA) expresses a willingness to be eligible for election to the Board, then it will be deemed "participating" regardless of the benefits or assistance it receives from UNIDO operations. If the State indicates its desire not to be eligible for election to the Board, it would be deemed not to be "participating" and would not be assessed.

* / Western Samoa, although invited, did not attend, and although listed in the annex to Resolution 1995 (XIX), it has not been assessed.

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8. As regards the present question concerning San Marino and Western Samoa, I believe that the Secretary-General should reply that he has taken note of the (separate) communications regarding Western Samoa and San Marino to the effect that the parties concerned do not participate in the activities of UNRDO, adding that, in accordance with their wishes, he will take the necessary steps to have their names removed from the list annexed to resolution 2152 (XXI). Should either State subsequently advise the Secretary-General or UNRDO that they wished to participate, this request could be dealt with as appropriate. I.e. the Assembly or the Board would be requested to list the name of the State concerned in the Annex and the consequential financial assessment would then be made.

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LETTER DATED 12 MARCH 1969 FROM THE SECRETARY OF STATE
FOR FOREIGN AFFAIRS OF THE REPUBLIC OF SAN MARINO TO THE
SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary of State for Foreign Affairs of the Republic of San Marino presents his compliments to the Secretary-General of the United Nations and, with reference to Note HI 311(2) of 6 March and General Assembly resolution 2372 A (XXIII) amended thereto, in accordance with which the Government of San Marino:

"... shall be called upon to contribute towards the 1969 and 1970 expenses of the activities of the United Nations Industrial Development Organization financed from the regular budget..."

at the rate of assessment of 0.4 per cent, has the honour to state the following:

The aforementioned General Assembly resolution is based on the assumption that San Marino and the other States mentioned in paragraph (f) participate in the activities of the United Nations Industrial Development Organization. This is apparent from paragraph 15 of the report of the Fifth Committee of the General Assembly (A/705) of 18 December 1968) which states that the representative of Brazil, in explaining the amendment in document A/C.5/153, said that:

"... it was designed to rectify a technical omission in the decision of the General Assembly in connection with the application of regulation 5-9 of the Financial Regulations of the United Nations, which provides for contributions of non-members to the United Nations activities in which they participate at rates to be determined by the General Assembly".

Contrary to what that representative subsequently stated, San Marino has never participated in the activities of the United Nations Industrial Development Organization, was not informed of its establishment, did not sign or accede to its Statute and consequently has no obligation of any kind towards it.

The Government of San Marino wishes to stress that San Marino pays its share of the expenses of United Nations bodies in which it participates and has accordingly regularly fulfilled, and continues to fulfil, its obligation to pay its annual assessments for the expenses of, for example, the International Court of Justice. It also points out that, should it become an established principle that States which are not members of a United Nations body are equally bound to pay a proportion of its expenses, the ultimate result will be that a State not a member of the United Nations will be called upon, contrary to every rule of law, to contribute to its expenses and bear its burdens without enjoying the corresponding advantages.

Moreover, the Government of San Marino points out that it was, in fact, the size of the probably financial contribution - unless the decision to apply to tiny States like San Marino the same rate of assessment of 0.4 per cent as to

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applied to States with a very different economic and financial potential, and a situation which prevented it from seeking to participate in United Nations bodies which it would otherwise have supported because of its humanitarian and century-old tradition of civilization.

For these reasons, and even though the Government is not aware of the exact provisions of regulation 5 of the Financial Regulations of the United Nations nor of those of rule 161 of the rules of procedure of the General Assembly which is referred to in the first line of paragraph (f) of General Assembly resolution 2477 A (XXIV) - and because it is quite out of the question for the State of San Marino to raise available an amount of the size requested for the United Nations Industrial Development Organization, the Government of San Marino declares that it does not consider itself bound by the resolution in question and will therefore not contribute to the capital of the United Nations Industrial Development Organization (UNIDO).

The Secretary of State for Foreign Affairs takes this opportunity to express to the United Nations Secretariat the assurances of his highest consideration.

LETTER DATED 12 JUNE 1969 FROM THE PERMANENT REPRESENTATIVE
OF NEW ZEALAND TO THE UNITED NATIONS TO THE SECRETARY-GENERAL
OF THE UNITED NATIONS

The Permanent Representative of New Zealand to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the Secretary-General's note No. FF. 101(2) of 6 March 1969 addressed to the Secretary to the Government of Western Samoa and, on behalf and at the request of the Western Samoan Government, wishes to draw the Secretary-General's attention to the view that has been formed by the Government of Western Samoa on the call for a contribution, assessed at the rate of 0.01 per cent of the General Assembly's budget appropriation towards the 1969 and 1970 expenses of the United Nations Industrial Development Organization.

The Permanent Representative has been asked to state that, since Western Samoa is not a member of the United Nations, has not stated a willingness to contribute towards the expenses of UNIDO and has not, in any event, taken advantage of the assistance offered under UNIDO auspices, it is felt by the Western Samoan Government that the contribution being asked of Western Samoa - estimated at some \$4,000 for each of the two years 1969 and 1970 - would impose a considerable strain on its finances and would represent an additional burden on a developing country with few funds to expend in support of international organizations.

In the light of the Western Samoan Government's reaction to the Secretary-General's request for a contribution from them to the expenses of UNIDO the Permanent Representative would be grateful to learn whether reconsideration can be given to the call that has been made on Western Samoa for funds in support of this Organization.

The Permanent Representative of New Zealand avails himself of this opportunity to refer to the Secretary-General of the United Nations the assurances of his highest consideration.