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DRAFT PAPER\*

Participation by Puerto Rico in United Nations  
Specialized Agencies

The Problem

The problem is to determine (a) the type of membership which the Commonwealth should seek in United Nations specialized agencies, (b) the United Nations specialized agency in which Puerto Rico should first seek to establish such membership, and (c) the initial steps to be taken by the Commonwealth Government to arrange for such membership.

Recommendation

It is recommended that:

1. The Commonwealth Government seek the establishment of a new type of membership, which might be termed "Associated State Membership" in United Nations Specialized Agencies, in preference to full membership or to associate membership--whether as presently defined or with references to "territories" deleted. Associated State Membership should be open to all governments which are associated on the basis of consent with an independent nation but which are not integrated into the political structure of such nation. They should have all the rights and obligations of Member States, with provision made for Associated State Members to be free to refrain from the exercise of those rights which would conflict with

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the terms of their compact with the respective independent nations with which they are freely associated. The application of an Associated State for this type of membership would be made on its behalf by the independent nation with which it is associated. The admission of Associated State Members should require the same vote as is required for admission of full members.

2. The first specialized agency in which the Commonwealth of Puerto Rico should seek, through the United States State Department, to establish this new type of membership and to join as an Associated State Member, should be the United Nations Food and Agriculture Organization. The FAO constitution now makes no provision for associate membership and could be amended to provide for both Associate and Associated State Membership by a two-thirds vote of the FAO Conference.

3. The Governor should, in presenting the proposal to the U. S. Department of State, indicate a readiness to reach an understanding with the Secretary of State or the President of the United States on the matters which Puerto Rico will be willing to refrain from exercising the rights of full members. For the reasons set forth in Appendix A, the Commonwealth Government should agree to refrain from:

- a. Discussion and vote on the following questions which are primarily political or constitutional in character:
  - (1) Admission of new members and of observers.
  - (2) Election of Director-General and of Conference officers.
  - (3) Elections of the FAO Council.

- (4) Amendment of the FAO constitution and rules.
  - (5) Conventions or agreements or other measures requiring ratification by Member nations.
  - (6) Technical resolutions or paragraphs thereof calling for action by Member Governments which the Puerto Rican Government does not have the power to implement (e.g. reduction of tariff barriers.)
- b. Membership in the FAO Council, Chairman or Vice-Chairman of the Conference, and Chairman or Vice-Chairman of the Committee-of-the-Whole or of the Commission which deals with constitutional and legal questions.

4. If the above recommendations are approved by the Governor, immediate steps should be taken to present the proposal to the United States Department of State, in view of the fact that the FAO Council is expected to make recommendations in June, 1955, on the subject of associate membership to the next session of the FAO Conference in 1955 and a Council Committee is now drafting the text of amendments for the Council's consideration.

#### Discussion

There are basically only three alternative courses which Puerto Rico can follow in seeking a dignified and effective form of representation in United Nations specialized agencies:

- a. Full membership.
- b. Associate membership, assuming that references to "territories" are deleted from the constitutions of specialized agencies which provide for this type of membership; and

c. A new type of membership especially designed for jurisdictions which are associated on the basis of mutual consent with an independent nation.

Full membership is attractive but would involve serious hazards. It is quite possible that an Act of Congress, approved by the President, would be required. Despite the large amount of good-will which exists in the Congress towards Puerto Rico, it would be difficult at present for many members to reconcile full membership for Puerto Rico in an international body with retention by Puerto Ricans of United States citizenship. Laws governing the conduct of United States citizens in relationship with foreign governments might have to be amended, but this is a legal matter which would require separate study. Furthermore, since some specialized agencies like FAO, the International Labor Organization (ILO) and the World Health Organization (WHO)--including the Pan American Sanitary Bureau--initiate treaties or conventions on subjects within their competence, it is difficult to see how the Commonwealth could genuinely exercise all the rights of a full member unless a far-reaching change occurred in its present status. It would appear that the Commonwealth should not at present seek full membership in such international bodies unless it is prepared to consider a fundamental change in its relationships with the United States.

Associate membership is the second alternative. Among the international technical bodies in which Puerto Rico has an immediate interest (WHO, ILO, FAO, UNESCO and the Economic Commission for Latin America), provisions for associate membership are contained in the constitutions

of WHO (including the Pan American Sanitary Organization), UNESCO and ECLA. It is apparent from the legislative history of these provisions that they were designed to enable non-self-governing territories which are self-governing in the matter dealt with by the respective international bodies, to have at least a voice in these bodies. The language of the provisions, generally speaking, is similar to that in the WHO constitution which follows:

"Territories or groups of territories which are not responsible for the conduct of their international relations may be admitted as Associate Members by the Health Assembly upon application made on behalf of such territory or groups of territories by the Member or other authority having responsibility for their international relations."

Associate Members of WHO participate without vote in the Health Assembly and its main Committees but have full rights of participation in technical committees. UNESCO and ECLA have similar provisions but voting rights are not granted to Associate Members. Of the above organizations, only WHO actually has associate members. Two of these (Morocco and Tunisia) are non-self-governing territories under Article 73 (e) of the United Nations Charter. The only other associate member in WHO is Southern Rhodesia. Although Southern Rhodesia is not regarded as a non-self-governing territory, the fact remains that the stigma of colonial status is still attached to "associate membership", and the rights assigned thereto. Under the circumstances, it is doubtful that Puerto Rico would derive enduring satisfaction from "associate membership" in any of these organizations.

The ILO Constitution makes no provision for associate membership, but at the ILO Conference in May 1954, a resolution was adopted to invite on the recommendation of the responsible member state "non-metropolitan territories" which are politically and economically advanced to participate by means of tripartite observer delegations in sessions of the ILO General Conference with the rights and status accorded to observers under the Standing Orders of the Conference. Both the Gold Coast and Nigeria have, on recommendation of the United Kingdom Government, been invited by the Governing Board of the ILO to attend the 38th Conference Session in 1955. Both the Gold Coast and Nigeria are now regarded as non-self-governing territories for purposes of Article 73 (e) of the UN Charter, although the Gold Coast is almost an independent nation and Nigeria is self-governing in almost all internal matters. Once these territories become independent, they will doubtless be admitted upon request as full members of the ILO. Thus, ILO's arrangement for participation of "non-metropolitan territories" in its work, as in its use of this term in ILO conventions, is clearly identified with "non-self-governing territories" and is therefore unsuitable for Puerto Rico.

The United Nations Food and Agriculture Organization is the only one of the above-mentioned organizations which has not yet made formal provision for participation in its work by other than independent states or governments like Byellorussia SSR which, though not independent, are members of the United Nations. Cambodia, Laos, and Vietnam became members of FAO after France stopped transmitting information on them under Article 73 (e) of the Charter. Despite the fact that France controls

the foreign and defense affairs of these areas, the United States and many other governments have recognized them as independent states.

At the Seventh FAO Conference in December 1953, India proposed amending the FAO Constitution to provide for associate membership in FAO for non-self-governing territories. The proposal was on the lines of the WHO and UNESCO provision for associate membership but it included a paragraph requiring that the representatives of associate members shall be chosen from the native population. The Conference agreed to the principle of associate membership but due to the complications involved in drafting the necessary amendments to constitutional documents of FAO and because of disagreement by some Members with the paragraph on selection of representatives, action was deferred. The Conference asked the FAO Council to study the Indian proposal and to submit to the next session of the Conference in 1955 a report thereon embodying draft amendments.

The FAO appears to offer the best starting point for establishing a form of membership for Puerto Rico in international technical bodies which is dignified and effective and consistent with its existing relationship with the United States. The FAO functions in a field of primary interest to Puerto Rico. The Commonwealth can derive significant benefits from participation in the organization and can also make an important contribution. The annual contribution of Puerto Rico to the FAO would (on the basis of the 1953 level for Ecuador and the Dominican Republic which have approximately the same population as Puerto Rico) be only 0.05 percent of the total budget or \$2,590. Most important, however, is the fact

that FAO has no provision at present for participation in its work either by non-self-governing territories or by associated states such as Puerto Rico, Surinam and the Netherlands Antilles. The matter is under active study and final action will be taken on it a year from now.

Despite the Indian proposal at the FAO Conference in 1953, the FAO presents a virgin field for developing separate categories of membership, one for non-self-governing territories and the other for jurisdictions which, though not independent, are associated on the basis of consent with an independent nation. In contrast, Southern Rhodesia's membership in WHO would make more difficult the creation at present of such an Associated State Membership in WHO. Southern Rhodesia will some day become independent and be entitled to full membership. A separate type of membership is needed which would satisfy the special needs of Governments which regard their association with independent nations on a more permanent basis. Once this principle is established in the FAO constitution, it will be easier to get it established in the Constitutions of WHO and other international bodies.

Assuming that the provision for Associate Membership (i.e. non-self-governing territories) in the FAO constitution is similar to that in the WHO constitution, how should the rights of Associated State Members be defined? Two alternatives were considered:

1. To provide that the rights of Associate State Members shall be the same as full members with the exception that Associate State Members shall not be entitled to vote on certain types of questions to be specified,

such as those requiring a two-thirds vote. The FAO Constitution now provides that all decisions of the Conference shall be by a simple majority vote except that a two-thirds vote is required to make recommendations for national implementation, to submit conventions for national ratification, to admit new members, to discharge new functions assigned by governments or by agreement with other public international bodies, to amend the constitution and rules of procedure, and to recommend amendments involving new obligations--subject to ratification by two-thirds of the Members and binding only on those ratifying.

2. To provide that the rights of Associated State Members shall be the same as full members, with Associated State Members refraining from the exercise of those rights which would conflict with the compacts which they have with the respective independent nation with which they are freely associated. Under this alternative, it would be left to the Associated State Member and the nation with which it is associated to work out separately the rights of full members which the Associated State Member should exercise or those which it should not exercise. In the case of Puerto Rico, this could be done by an exchange of letters between the Governor of Puerto Rico and the Secretary of State or the President of the United States.

The latter formula (i.e. "2" above) is recommended because it is more flexible, more adaptive to the differing and changing circumstances of Associated States and to the different international organizations to which the formula for associated state membership might be applied. There

is set forth in Appendixes A and B an analysis of the actions taken at the Seventh FAO Conference and a recommended list of subjects which might serve as a basis for internal agreement between the Commonwealth and the Federal Governments as to the type of matters on which Puerto Rico should refrain from exercising the rights of full members.

It is believed that the proposal for Associated State Membership would win the support of the United States Department of State for the following reasons:

1. It would reflect credit on the United States (a) by re-emphasizing the distinction between the Commonwealth and previous non-self-governing status of Puerto Rico; and (b) for seeking to elevate Puerto Rico's role in international affairs in keeping with the Commonwealth's increased self-government.

2. It would provide a dignified and effective place in the world community for jurisdictions which are neither independent nations nor dependent territories. This would contribute to political stability generally. Most dependent territories are administered by western nations. Giving international recognition to a status short of independence would make it easier politically for local leaders, particularly in the smaller territories to consider free association as a legitimate alternative to independence.

3. It is reasonable to assume that the creation of a secure place for self-governing jurisdictions in the world community, would lessen the number of dependent territories which become

independent nations and seek full membership in international political bodies. There are now 60 members of the United Nations. There are also about 70 non-self-governing, including trust, territories. Hawaii and Alaska are among the few of these 70 territories which have any real prospect of complete integration into the political structure of the respective metropolitan power. Some either by themselves or through federation with other territories will have the requisite attributes for a stable independent state. Unless a secure place short of independence is made for the remainder, many will aspire to independence and failing to achieve it will be a constant source of irritation within the world community or, achieving it, will also make the task of international political organization more difficult. It is in the interests of world peace and organization to make respectable and, thereby encourage, permanent association on the basis of consent of many territories with the independent nations which are now responsible for their administration. As will be noted in the table below, 13 of the Members of the United Nations and 51 of the non-self-governing territories have a smaller population than that of Puerto Rico (2,200,000). The least populated Member is Iceland with slightly less than 150,000 people.

<u>Population</u>	<u>Number of UN Members</u>	<u>Number of Territories</u>
Less than 150,000	1	24
150,000 to 500,000	1	17
500,000 to 2,200,000	11	10
Over 2,200,000	<u>47</u>	<u>19</u>
	60	70

In addition to the 70 territories, there are many other jurisdictions such as Puerto Rico, Surinam, the Netherland Antilles, Malta, Southern Rhodesia, and protected states such as Tonga which are not included in the above. The people of all these communities should not, in their own interest and in the interests of world organization and stability, be compelled to seek independence in order to participate on terms of equality in international affairs to the extent of their self-governing powers.

The recommended formula described in sub-paragraph 1 on page 8 might be opposed in the State Department on various grounds:

1. That it would lend strength to the principle of multiple voting by individual states.

Counter-argument: Encouraging dependent territories voluntarily to remain associated with independent nations, which in all cases are western nations, would tend to increase the strength of western civilization in the struggle between the East and West. There is already multiple voting in the United Nations and its specialized agencies by the Soviet Union, the Ukraine and Byelorussia and there is bloc voting which has much the same effect as multiple voting. Providing for Associated State membership would not open the door to additional votes by the individual republics which form the USSR. Each application would require the same two-thirds majority as required for full membership. If the Soviet Republics could now or in the future command such a majority, there would be nothing to stop them from gaining full membership.

2. That by increasing the number of relatively small areas which have separate voting right in international bodies, the weight of the vote of large nations would be even further diminished.

Counter-argument: The criteria for membership has already been established. Population and area do not appear to be among them. Rather than diluting the voting power of the United States and other western nations, Associated State Membership would tend to strengthen it. It would, furthermore, tend to reduce the number of states which might qualify for full membership in the future.

3. That such membership for Puerto Rico would require the specific approval of the Congress.

Counter-argument: It would not necessarily be a disadvantage to seek such approval, but the counter-argument to the contention that such approval is required follows:

(a) The constitution of FAO which was approved by the Congress would allow an amendment providing for Associated State Membership to be adopted by a two-thirds vote of the FAO Conference--without separate ratification by Member States.

(b) It is reasonable to assume that an application for Puerto Rico to become an associate member of WHO, under the provision for associate membership contained in the WHO Constitution which the Congress approved, would not require Congressional approval. Puerto Rico's participation in the West Indian Conference has not required separate approval by the Congress. If, in these instances, Congressional approval is not required, it is reasonable to argue that it

is not required in instances where Puerto Rico qualifies for a type of participation provided for in an amendment to a constitution which the Congress has approved.

(c) The President is responsible for the conduct of foreign relations and the question of whether Puerto Rico qualifies and should be allowed to participate in an international organization as an Associate Member or as an Associated State Member is a question for the President, not the Congress, to decide.

(d) So long as Puerto Rico's participation in an international organization is limited to the powers it enjoys under the terms of the compact which the Congress has approved, approval by the Congress of such participation is unnecessary. The Congress is not concerned with the manner in which Puerto Rico exercises its sovereign powers but only that it does not exceed them.

4. That the recommended formula would leave to Puerto Rico the decision in each case whether it should or should not exercise the rights of full members. This objection would be founded either on the belief that Puerto Rico would not adhere to the limitations contained in the suggested agreement between the President and the Governor or on the belief that it is not possible to anticipate the type of issues that will arise and to categorize them in such a way as to avoid risk in the use of discretion in specific cases.

Counter-argument: The closest and most enduring associations between peoples (e.g. the British Commonwealth of Nations) are founded upon faith in each other. Puerto Rico, as a matter of principle and with due regard

to its long-term interests would abide by the understandings reached and would consult with the head of the United States delegation when any question arose as to the proper exercise of its membership rights.

The recommended formula holds many advantages for Puerto Rico.

Inter alia, it would:

- a. Provide international recognition for the Commonwealth status.
- b. Avoid any identity of Puerto Rico with dependent territories.
- c. Provide dignified and effective international participation in fields in which Puerto Rico is self-governing and leaves open the door to enlargement of these fields.
- d. Provide a formula which can be applied with minor variations to various international bodies.
- e. Enable Puerto Rico to pioneer in the development of a proper international status for areas like Surinam, the Netherlands Antilles and other areas which in future decide to remain freely associated with an independent nation.

The only foreseeable disadvantage of the recommended formula is that it would contribute less toward Puerto Rico becoming recognized as a state of international law than would full membership. If this is regarded as a serious disadvantage, it means that the Commonwealth should perhaps postpone seeking membership in United Nations specialized agencies until it can achieve full membership without impairing its relationship with the United States.