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International Jurisprudence Concerning the Group or Unity Principle in Territorial Allocation

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Abstract

In the past one hundred years, a series of international cases have addressed the group or unity principle in the context of territorial allocation. This article provides an analysis of such jurisprudence, and concludes that this principle can act as a mediating principle to inform the interpretation and application of the primary rules relating to territorial acquisition, thus raising a presumption about the extent and scope of an established territorial title. By showing respect for the natural link between land territories that form an integral group or unity, this principle might provide an efficient and pragmatic approach to settling territorial disputes.

I. Introduction

1. Under the principle of "*la terre domine la mer*" or "the land dominates the sea", there is little doubt that a State cannot base its territorial claims to land areas merely on the fact that such land areas are located within its territorial sea, exclusive economic zone (EEZ) or continental shelf.[1] However, there is no ground for us to say absolutely that the geographical proximity or contiguity does not influence the allocation of territorial sovereignty at all. Scholarly discussions on the relationship between geographical proximity and territorial

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1 Brian Murphy, Dangerous Ground: The Spratly Islands and International Law, 1 Ocean and Coastal Law Journal (1995), 199-200.

sovereignty date back to 1884 when Jan Ferguson observed: "The occupation of any *terra firma* is taken to include the presumption of possession of its adjacent unoccupied islands."[2] In other words, when a State occupies a land adjacent to another unoccupied land, the adjacency can lead to a presumption that these land areas form a single group or physical unit that share the same legal destiny and are subject to the same sovereignty. In *Eritrea and Yemen*, Yemen has termed it "the principle of natural or geophysical unity", which is also called the group or unity principle in this article.[3]

2. In the past one hundred years, a series of international cases have addressed the group or unity principle in the context of territorial allocation. This paper provides an analysis of such jurisprudence. Part II maps all relevant international jurisprudence in chronological order. On this basis, Part III further analyzes the salient features of this principle. Part IV concludes the discussion by drawing attention to the practical implications of this principle on the settlement of territorial disputes. To avoid any doubt, the group or unity principle discussed in this article, which pertains to the acquisition of sovereignty over land territories, should be distinguished from the matter of enclosing a group of islands with a system of archipelagic or straight baselines for the assertion of maritime entitlements.[4]

II. International jurisprudence

II.A. The 1904 *Guiana Boundary* case

3. The 1904 *Guiana Boundary* case for the first time articulated the group or unity principle, which relates to the acquisition of land territories as a single group or physical unit. In that case, the arbitrator, Victor-Emmanuel III, King of Italy, held that "the effective possession of a part of a region" might "be held to confer a right to the acquisition of the sovereignty of the whole of a region which constituted a single organic whole".[5]

2 Jan Helenus Ferguson, Manual of International Law, for the Use of Navies, Colonies and Consulates (1884), 100.

3 Territorial Sovereignty and Scope of the Dispute (Eritrea and Yemen), RIAA Vol. XXII, Award of 9 October 1998, 314, para.460.

4 For an illustration of discussions about the latter, see The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China), Award of 12 July 2016, 236-237, paras.573-576.

5 The Guiana Boundary case (Brazil, Great Britain), RIAA Vol. XI, Award of 6 June 1904, 21.

4. Though in the end, that case does not apply this principle to the territory in dispute because of its failure to be deemed a single organic whole *de facto* owing to its size or physical configuration, a series of subsequent international jurisprudence, which will be discussed in turn below, has endorsed, to some extent, this group or unity principle.[6] These cases include the 1928 *Island of Palmas* case (arbitration), the 1933 *Eastern Greenland* case (PCIJ), the 1953 *Minquiers and Ecrehos* case (ICJ), the 1998 *Eritrea and Yemen* case (arbitration), the 2008 *Malaysia v. Singapore* case (ICJ) and the 2012 *Nicaragua v. Colombia* case (ICJ).

II.B.The 1928 *Island of Palmas* case

5. The arbitrator, Max Huber, stated in the 1928 *Island of Palmas* case that "in the exercise of territorial sovereignty there are necessarily gaps, intermittence in time and discontinuity in space". On this basis, he concluded that the group of adjacent islands was possible to be treated as in law a unity and that "the fate of the principal part may involve the rest".[7]

6. Though admitting the influence of the adjacency on territorial acquisition, Huber held that the group or unity principle was not admissible as a legal method of deciding questions on territorial sovereignty because it lacked precision and its application would lead to arbitrary results. This holding draws a clear distinction between the group or unity principle and modes of territorial acquisition such as discovery of *terra nullius*, *effectivités*, historic title and cession. As discussed below, several subsequent cases have endorsed and elaborated this distinction.

II.C. The 1933 *Eastern Greenland* case

7. The foregoing considerations in *Island of Palmas* certainly played some part, even if only implicitly, in the 1933 *Eastern Greenland* case. In the latter case, Norway argued that the fact that Denmark might have exercised sovereignty along the west coast of Greenland could not lead to the conclusion that the territorial sovereignty could be extended to Eastern Greenland.[8]

6 Ibid., 21-22.

7 The Island of Palmas case (Netherlands, USA), RIAA Vol. II, Award of 4 April 1928, 854-855.

8 Legal Status of Eastern Greenland (Denmark v. Norway), PCIJ, Series A/B, No.53 (1933), 30, 49.

The Permanent Court of International Justice (PCIJ) did not uphold Norway's claim.[9]

8. Humphrey Waldock observed that the PCIJ's rejection was not *merely* because of Eastern Greenland "being a continuation of other territory possessed by Denmark", nor Greenland being "a geographical unity" as an island.[10] Viewing the geographical unity of Greenland as an important fact in assessing the limits of Denmark's State activity, Waldock was of the view that "[t]he Court held Denmark to have *actually* displayed state authority in regard to the whole of Greenland, slight though the impact of that authority might have been in the contested part of the island".[11] In Gerald Fitzmaurice's opinion, the word "actually" used by Waldock meant that "contiguity did not confer upon Denmark a merely *constructive* or notional possession: the possession was actual, but presumed".[12] (Emphasis in the original.) Moreover, by using the word "presumed", Fitzmaurice meant that contiguity or proximity produced a presumed result that Denmark's display of State activities was related to the territory as a whole, and that the onus was on Norway to rebut this presumption.[13] Put differently, contiguity or proximity could raise a presumption of intent and ability to control the outlying areas or to treat both the occupied and outlying areas as a single group or physical unit for territorial acquisition.

II.D. The 1953 *Minquiers and Ecrehos* case

9. The 1953 *Minquiers and Ecrehos* case is another example of the implicit application of the group or unity principle. Fitzmaurice commented that the judgment of this case made it gradually apparent that "the disputed groups [Minquiers and Ecrehos] were part of an entity (the Channel Islands) over which *as a whole* English sovereignty had indisputably (and undisputedly) existed for centuries".[14] (Emphasis in the original.)

9 Ibid., 73.

10 Humphrey Waldock, Disputed Sovereignty in the Falkland Islands Dependencies, 25 BYBIL (1948), 343-344.

11 Ibid., 344 (emphasis added).

12 Gerald Fitzmaurice, Law and Procedure of the International Court of Justice, 1951-4: Points of Substantive Law, Part II, 32 BYBIL (1955-56), 74.

13 Ibid., 74.

14 Ibid., 75.

10. As Judge Levi Carneiro stated in his individual opinion, "the Minquiers and the Ecrehos are closer to Jersey than the mainland. They must be regarded as attached to Jersey rather than to the mainland. They must be included in the archipelago. These islets were, and continue to be, part of its 'natural unity'. It is for this reason that they remained English as the archipelago itself."[15] Judge Levi Carneiro further concluded that it would seem inconceivable that "England, having an important interest in the Channel Islands and full domination over the sea, and possessing all the principal islands, should not, without some special reason, have conquered and retained the Minquiers and Ecrehos".[16]

11. Fitzmaurice viewed Judge Levi Carneiro's above statement as a clear illustration of the principle that "sovereignty, once shown to exist in respect of an entity or a natural unity *as a whole*, may be deemed, *in the absence of any evidence to the contrary*, to extend to all parts of that entity or unity".[17] (Emphasis in the original.)

II.E. The 1998 *Eritrea and Yemen* case

12. Another case of relevance is the 1998 *Eritrea and Yemen* case. In that case, Yemen claimed that its territorial sovereignty over the Hanish Group should encompass the entire island chain, including the Mohabbakahs and the Haycocks, based on what it called "the principle of natural or geophysical unity".[18] The tribunal commented on this principle, stating:

> the authorities speak of "entity" or "natural unity" in terms of a presumption or of probability and moreover couple it with proximity, contiguity, continuity, and such notions, well known in international law as not in themselves creative of title, but rather of a possibility or presumption for extending to the area in question an existing title already established in another, but proximate or contiguous, part of the same "unity".[19]

15 Minquiers and Ecrehos (France v. United Kingdom), Individual Opinion of Judge Levi Carneiro, ICJ Reports 1953, 102, para.14.

16 Ibid., 102, para.15.

17 Gerald Fitzmaurice, above n.12, 75.

18 Territorial Sovereignty and Scope of the Dispute (Eritrea and Yemen), above n.3, 314, para.460.

19 Ibid., 315, para.462.

13. The tribunal agreed that the group or unity principle applied to both islands and the mainland. The tribunal held that there was a "twofold possible application" in this case, whether as Yemen would assert, it might be "applied to cause governmental display on one island of a group to extend in its juridical effect to another island or islands in the same group", or following the same logic, "the mainland coasts should be considered to continue to some islands or islets off that coast which were naturally 'proximate' to the coast or 'appurtenant' to it".[20]

14. The tribunal underlined that in either of the two scenarios, "these notions of unity and the like are never in themselves roots of title, but rather may in certain circumstances raise a presumption about the extent and scope of a title otherwise established".[21] In other words, the group or unity principle should not be regarded as the roots of a title but instead serve as a presumption about the extent and scope of an established title and might be rebutted by other fully established evidence to the contrary.

15. In particular, Eritrea and Yemen disputed the territorial sovereignty over the Mohabbakah Islands, which consisted of the following four small islands:

> They are Sayal Islet, which is no more than 6 nautical miles from the nearest point on the Eritrean mainland coast, Harbi Islet and Flat Islet; all three of these are within twelve nautical miles of the mainland coast. Finally, there is High Islet, which is less than one nautical mile outside the twelve-mile limit from the mainland coast, and about five nautical miles from the nearest Haycock islands, namely South West Haycock.[22]

16. Eritrea argued for the so-called "leapfrogging method", which relied on the undoubted rule that the territorial sea extended to 12 nautical miles (M) not just from the mainland coast but also from the baseline of islands, to claim that any islands within a 12 M belt of the territorial sea should be deemed under the same sovereignty as the mainland or island nearby.[23] Accordingly, Eritrea claimed that an entire chain or group of islands should be placed under one State's sovereignty provided that no gap existed between the islands of more than 12 M measured from their respective baselines.[24]

20 Ibid., 315, para.463.
21 Ibid., 315, para.464.
22 Ibid., 316, para.467.
23 Ibid., 317, para.473.
24 Ibid.

17. In this regard, the tribunal admitted that there was "a strong presumption that islands within the twelve-mile coastal belt will belong to the coastal State unless there is a fully-established case to the contrary".[25] The tribunal further held that the sovereignty over islands undoubtedly could generate a right to a corresponding territorial sea and that, though the extended territorial sea "cannot of itself generate sovereignty over islands so encompassed", it could result in "a presumption, capable of being rebutted by evidence of a superior title".[26] In the circumstances of this case, the tribunal concluded that all the islands of the Mohabbakah islands were subject to the territorial sovereignty of Eritrea since all of them except one (High Islet) were within the 12 M territorial sea measured from the mainland of Eritrea.[27]

18. High Islet was barely more than 12 M (i.e. 12.72 M) from the territorial sea baseline along the mainland coast of Eritrea. The tribunal held that High Islet was subject to the territorial sovereignty of Eritrea on the ground that it was part of the Mohabbakah islands.[28] This finding was based on the group or unity principle, which, according to the tribunal, "might find a modest and suitable place" in this case.[29] The reason leading the tribunal to decide in this way was that historical records showed that the Mohabbakah Islands had "always been considered as one group".[30]

19. This decision, in fact, reveals two elements of significant relevance to the application of the group or unity principle: first, the land territory in question should be adjacent to the other territory of a State; and second, historical records indicate that the State concerned has always considered the land territory in question as part of a single group or physical unit of territories under its sovereignty. Some scholars commented that this decision arguably attributed great juridical weight to geographical considerations of contiguity or adjacency in the case of acquiring territorial sovereignty over uninhabited islands.[31]

20. Yet, the relationship between these two elements remains unclear. The tribunal did not address this matter because in the circumstances of this case,

25 Ibid., 317, para.474.

26 Ibid.

27 Ibid., 318, para.475.

28 Ibid.

29 Ibid.

30 Ibid.

31 See, e.g., Constance Johnson, Case Analysis: Eritrea–Yemen Arbitration, 13 Leiden JIL (2000), 446; Nuno Sérgio Marques Antunes, The Eritrea-Yemen Arbitration: First Stage—The Law of Title to Territory Re-Averred, 48 ICLQ (1999), 385.

both elements are fulfilled. However, one may doubt whether these two elements are cumulative or alternative requirements in order for applying the group or unity principle. A subsequent case, namely the 2012 *Nicaragua v. Colombia* case (see Section II.G, below), has touched upon this matter.

II.F. The 2008 *Malaysia v. Singapore* case

21. The group or unity principle was further addressed in the 2008 *Malaysia v. Singapore* case.[32] Malaysia and Singapore each claimed a territorial title to Middle Rocks, which comprised some rocks that were permanently above water, standing 0.6-1.2 meters high, and were located at 0.6 M from Pedra Branca (or Pulau Batu Puteh) and 8 M from the Malaysian mainland coast.[33] Singapore based its territorial claim to Middle Rocks on the ground that they were dependencies of the island of Pedra Branca and formed geographically and morphologically with the latter a single group of maritime features.[34] To this effect, Singapore claimed to treat Pedra Branca (the main island) and Middle Rocks as a group or single physical unit of maritime features to be subject to the same sovereignty.[35]

22. The ICJ did not explicitly comment on the group or unity principle asserted by Singapore. Instead, the ICJ considered that "Middle Rocks should be understood to have had the same legal status as Pedra Branca/Pulau Batu Puteh as far as the ancient original title held by the Sultan of Johor was concerned".[36]

23. The ICJ further concluded that Malaysia lost its territorial title over Pedra Branca at a later stage, as it failed to protest against Singapore's effective control over the island.[37] However, the ICJ concluded that the particular circumstances causing the passing of title to Pedra Branca to Singapore did not

32 It is noted that in this case, Singapore claimed to treat three maritime features—Pedra Branca, Middle Rocks, and South Ledge—as a group or single physical unit to be subject to the same sovereignty. However, the ICJ considered that South Ledge was distinct from Middle Rocks by being a low-tide elevation. Thus, in contrast with Middle Rocks, the ICJ did not conclude that South Ledge should have the same legal fate as Pedra Branca. See Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Judgment of 23 May 2008, ICJ Reports 2008, 99, 100-101, paras.291, 296.

33 Ibid., 96, para.278.

34 Ibid., 96-97, para.279.

35 Ibid., 97, para.282.

36 Ibid., 99, para.290.

37 Ibid., 96, para.276.

apply to Middle Rocks, and thus, the original or historic title over Middle Rocks remained with Malaysia.[38]

II.G. The 2012 *Nicaragua v. Colombia* case

24. In *Nicaragua v. Colombia*, the parties disagreed on sovereignty over the islands of San Andrés, Providencia, and Santa Catalina and the appurtenant islets and cays.[39] Article I of the 1928 Treaty, to which both Nicaragua and Colombia were parties, stipulated that Colombia had sovereignty over "San Andrés, Providencia and Santa Catalina and over the other islands, islets and reefs forming part of the San Andrés Archipelago".[40]The term "archipelago" means a group of islands.[41] Hence, ascertaining what constituted "part of the San Andrés Archipelago" amounts to determining which maritime features could form a group with "the islands of San Andrés, Providencia, and Santa Catalina" to be under Colombia's sovereignty.

25. The ICJ first employed the proximity test and concluded that Article I could be understood as including at least the maritime features closest to the islands of "San Andrés, Providencia and Santa Catalina", which were the Alburquerque Cays and East-Southeast Cays lying 20 and 16 M, respectively, from San Andrés island.[42] By contrast, given considerations of distance, the ICJ held that Serranilla and Bajo Nuevo, being the most remote features by lying 165 and 205 M from Providencia, were "less likely" to form part of the Archipelago.[43] Nevertheless, the term "less likely" indicates that the ICJ is not sure about the answer.

26. In fact, the ICJ admitted that the geographical location of the contested maritime features *alone* could not provide a definitive answer to the question about the composition of the Archipelago.[44] Moreover, the ICJ went further to say that neither could the historical records referred to by the parties in this case suffice to clarify the composition of the Archipelago, as such historical

38 Ibid., 99, para.289.

39 Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment of 19 November 2012, ICJ Reports 2012, 633-637, paras.16-17.

40 Ibid., 646, para.42.

41 Merriam-Webster Dictionary, "Definition of Archipelago" (www.merriam-webster.com/dictionary/archipelago).

42 Territorial and Maritime Dispute (Nicaragua v. Colombia), above n.39, 649, para.53.

43 Ibid., 647, 649, paras.43, 53.

44 Ibid., 649, para.53.

records failed to specifically indicate which features were considered by the parties to form part of that Archipelago.[45] In the ICJ's own words:

> the question about the composition of the Archipelago cannot, in the view of the Court, be definitively answered *solely* on the basis of the geographical location of the maritime features in dispute *or* on the historical records relating to the composition of the San Andrés Archipelago referred to by the Parties, since this material does not sufficiently clarify the matter.[46] [Emphasis added.]

27. The words "solely" and "or" infer that *at least in the circumstances of this case*, neither of the two elements—"the geographical location of the maritime features in dispute" and "the historical records relating to the composition of the San Andrés Archipelago referred to by the Parties"—suffices for the purposes of determining the composition of a group or unity.

28. Consequently, the ICJ shifted its focus from the composition of the Archipelago to examining those arguments and evidence submitted by the parties in support of their respective claims to sovereignty that were *not* based on the composition of the Archipelago under the 1928 Treaty.[47] In the end, the ICJ concluded that Colombia enjoyed sovereignty over all the disputed maritime features based on *effectivités* because it had acted *à titre de souverain* in respect of these features.[48]

29. It is noted that the president of Colombia, Juan Manuel Santos, commented on this judgment that:

> Inexplicably—after recognizing the sovereignty of Colombia over the entire Archipelago and claiming that it, as a unit, generated continental shelf rights and exclusive economic zone—the Court adjusted the delimitation line, leaving the keys of Serrana, Serranilla, Quitasueño and Bajo Nuevo separated from the rest of the Archipelago.[49] [Spanish in the original.]

45 Ibid., 649, paras.53, 55.

46 Ibid., 649, para.53.

47 Ibid., 649, para.56.

48 Ibid., 655, 657, paras.81, 84.

49 Translated into English by the author. For the original text, see Alocución del Presidente Juan Manuel Santos sobre el fallo de la Corte Internacional de Justicia, 19 Nov. 2012 (www.cancilleria.gov.co/newsroom/news/2012-11-19/4661).

30. His comment infers that the ICJ treats the entire Archipelago as an integrated unit for acquiring both territorial sovereignty over the features and maritime entitlements around the features. However, he might misread the ICJ judgment.

31. The fact that the ICJ has allocated all the disputed maritime features to Colombia does not mean that the ICJ treats all these features as constituting the Archipelago, or said differently, a group or unity of the same legal fate. Rather, the ICJ has undertaken individual examinations about whether Colombia had acted *à titre de souverain* "specifically in relation to" each disputed feature, noting that:

> although the majority of the acts *à titre de souverain* referred to by Colombia were exercised in the maritime area which encompasses all the disputed features, a number of them were undertaken *specifically in relation to the maritime features in dispute*.[50] [Emphasis added.]

32. In sum, though the ICJ did not decide what should, in borderline cases, constitute the Archipelago or a group or unity of maritime features, its reasoning in this case entails several implications. First, the test of proximity or adjacency is of relevance to a certain extent, regarding what features should form part of a group or unity, but this test *alone* cannot provide a definitive answer, since it remains unclear whether a group or unity should encompass the remote maritime features or not. Second, historical records that specifically indicate which features have been considered by the parties to form part of a group or unity would play a role in clarifying the composition of that group or unity.

III. Analysis of salient features

33. The foregoing analysis of relevant international jurisprudence unveils several salient features of the group or unity principle. The first one pertains to the distinction between this principle and modes of territorial acquisition. The second concerns the legal status of this principle. The third one relates to two elements for the application of this principle.

34. First, the group or unity principle should be distinguished from modes of territorial acquisition, namely primary rules relating to the acquisition of

50 Territorial and Maritime Dispute (Nicaragua v. Colombia), above n.39, 655, para.81.

territorial sovereignty, including but not limited to discovery of *terra nullius*, *effectivités*, historic title and cession. Accordingly, this principle should not be regarded as the roots of a title. Instead, it serves as a presumption about the extent and scope of an established title and may be rebutted by other fully established evidence to the contrary.

35. Second, concerning its legal status, the group or unity principle might be taken into account as a *general principle* within the meaning of Article 38(1) of the ICJ Statute when interpreting or applying the primary rules relating to territorial acquisition.[51] It is widely accepted that "general principles" under Article 38(1), though only referring to "general principles of law recognized by civilized nations" as derived from national legal systems, also encapsulates "general principles derived from international law".[52] General principles of the latter kind can exert influence on the interpretation, application and development of other rules of international law.[53] Some scholars also called general principles of such kind "mediating principles", as they act upon "other rules and principles".[54] The term "mediating principles" is defined as "a legal concept exercising a kind of interstitial normativity, pushing and pulling the boundaries of true primary norms when they threaten to overlap or conflict with each other".[55]

36. Mediating principles can be seen as "relevant rules of international law applicable in the relations between the parties" under Article 31(3)(c) of the

51 The precautionary principle is of a similar legal status under current international law. Though whether this principle is a valid and binding rule of international law remains disputable, it has been widely recognized as a general principle of international environmental law and can be taken into account when interpreting relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS). For discussions about the legal status of this principle, see Southern Bluefin Tuna Cases (New Zealand v. Japan; Australia v. Japan), ITLOS Case Nos. 3 and 4 (1999), Provisional Measures, Separate opinion of Judge Treves, 317-319, paras.8-11; Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment of 20 April 2010, ICJ Reports 2010, 71, para.164.

52 See James Harrison, Making the Law of the Sea: a Study in the Development of International Law (2011), 219. Also see Alan Boyle & Christine Chinkin, The Making of International Law (2007), 224.

53 Alan Boyle & Christine Chinkin, above n.52, 224.

54 See Vaughan Lowe, Sustainable Development and Unsustainable Arguments, in: Alan Boyle and David Feestone (eds.), International Law and Sustainable Development: Past Achievements and Future Challenges (2001), 31. Also see Alan Boyle & Christine Chinkin, above n.52, 224.

55 Ibid.

Vienna Convention on the Law of Treaties to be taken into account in the interpretation of other primary rules of international law.[56] Arguably, the group or unity principle, which is endorsed by various international jurisprudence, can act as a mediating principle to inform the interpretation and application of the primary rules relating to territorial acquisition, thus raising a presumption about the extent and scope of an established territorial title.

37. Third, two elements are of relevance to determine whether certain land territories constitute a single group or physical unit for territorial acquisition: (1) the land territory in question should be adjacent to the other territory of a State; and (2) historical records show that the State concerned has always considered the land territory in question as part of a single group or physical unit of territories under its sovereignty.

38. Concerning the relationship between these two elements, it is clear that the first element—the test of proximity or adjacency—*alone* cannot provide a definitive answer to the composition of a group or unity. However, whether the above two elements are cumulative or alternative requirements in order for applying the group or unity principle remains to be seen.

IV. Conclusion

39. The above analysis of relevant international jurisprudence leads to the conclusion that the group or unity principle can act as a mediating principle to inform the interpretation and application of the primary rules relating to territorial acquisition, thus raising a presumption about the extent and scope of an established territorial title.

40. In practice, this principle might provide an efficient and pragmatic approach for settling territorial disputes, especially those concerning maritime features. By showing respect for the natural link between land territories that form an integral group or unity, this principle not only avoids volumes of work including identifying the legal status of each land territory individually but also prevents further conflicts arising from the potential co-existence of several sovereign powers within a relatively narrow and adjoining area. Consequently, the application of this principle might significantly contribute to achieving the ultimate peace in disputed areas.

56 Responsibilities and Obligations of States Sponsoring Persons and Entities with respect to Activities in the Area, ITLOS Case No.17 (2011), Advisory Opinion of Seabed Disputes Chamber, 47, para.135.

41. Yet, the application of this principle is not without limits. For a State to avail this principle in territorial acquisition, other States must not have established a title to the territory in question. Otherwise, such an established title would be regarded as evidence to the contrary to have the effect of rebutting the presumption raised by the group or unity principle. This precondition acts as a safeguard to prevent States from abusing this principle.