

Eighth Session

Item 50

IMPLEMENTATION OF ARTICLE 65 OF THE CHARTER

Memorandum submitted by the Lebanese Delegation

Article 65 of the Charter contains two quite distinct statements: the first is that the Economic and Social Council may furnish information to the Security Council; the second is that it shall assist the Security Council upon its request. The first phrase refers to an option, the second to a conditional obligation.

This distinction, unfortunately, is not reflected in the French text of this Article which seems rather to confuse the two ideas and, in so doing, to distort them both. It refers not to an option or a conditional obligation, but to something which is neither one nor the other, something which represents a hybrid conception: the conception of a conditional option. The French text, liberally translated, states: "The Economic and Social Council may furnish information to the Security Council and assist the Security Council upon its request". This means that the Economic and Social Council may also refuse to furnish information to the Security Council and may refuse to assist it even upon its request. This does not, in our view, conform to the spirit of the Charter and takes no account of the obligations of either the Security Council or the Economic and Social Council. We find it difficult, if not impossible, indeed, to conceive that the Charter, which embodies the idea of the organic unity of the United Nations, could grant one of the organs of the organization the right to refuse assistance to another organ which requests it, particularly when, as here, it is a matter of information which the Council responsible for the maintenance of international peace and security may deem necessary for the performance of its functions. We must therefore regard the English text of Article 65 as the only text which adequately reflects the spirit of the Charter, as it clearly mentions two distinct functions of the Economic and Social Council: the latter may, if it so wishes, furnish information to the Security Council, but must do so if the Security Council so requests.

If this internal textual criticism which leads us to this conclusion is found by some to be too subtle, we could put forward a more direct argument taken from the article's history, an argument which leaves no

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doubt as to its meaning. When defining the powers of the Economic and Social Council at San Francisco, Committee 3 of Commission II had, at first, expressed in two separate paragraphs the two ideas which now appear in a single article. Paragraph (i) stated: "(The Economic and Social Council shall be empowered) to furnish information to the Security Council"; paragraph (j) stated: "(The Economic and Social Council shall be empowered) to assist the Security Council upon its request"*.

These two paragraphs were later combined and the English text of Article 65 which emerged therefrom continues clearly to reflect the original distinction between these two ideas: when stating on the one hand that the Economic and Social Council "may furnish information to the Security Council" it mentions a right that the Economic and Social Council may exercise; when stating, on the other hand, that the Economic and Social Council "shall assist the Security Council upon its request" it mentions an obligation to be discharged at the request of the Security Council.

It is easier, in the light of the foregoing, to see the mistake of those who consider that the Economic and Social Council need not bother implementing Article 65 unless the Security Council asks it to do so. In this way they first of all disregard the first part of the article, the implementation of which depends solely upon the Economic and Social Council. Secondly, they fail to take into account the responsibility laid upon the Economic and Social Council by the second part itself. For, while the Economic and Social Council is, of course, required to implement this second part only when so requested by the Security Council, it will still have to consider how it may perform this task and what it must do to be ready to meet this request.

Others, again, might perhaps consider that, in order to implement this article, the Economic and Social Council need only instruct the Secretary-General, once and for all, to furnish the Security Council with such information as it might need. This view would be equally erroneous, since the report of the Rapporteur of Committee 3 of Commission II of the San Francisco Conference states the following in this regard: "Whereas the Dumbarton Oaks Proposal empowered the Economic and Social Council 'to enable the Secretary-General to provide information to the Security Council', it is now recommended that the Economic and Social Council should be empowered 'to furnish information to the Security Council'". **

* See United Nations Conference on International Organization: Document 823, II/3/55, June 6, 1945, in Volume 10, page 282, English text, of Documents of this Conference, in the United Nations Library.

** Ibid: page 276.

Why was this recommendation made? For a reason which we regard as capital and which the report of the Rapporteur of the Committee in question has not dissimulated. It was made, he said, because "the Committee considered that the Economic and Social Council should have closer and more direct relationship with the Security Council."*

This quotation brings us back to the original spirit of the Charter and places us right in the centre of the problem raised by the implementation of Article 65: what kind of relationship should exist between the Economic and Social Council and the Security Council? To what extent can or should the Economic and Social Council share the Security Council's responsibility for the maintenance of international peace and security? How and by what means may or should the Economic and Social Council assist the latter in the performance of its task? And, to be more specific, what kind of information may or should the Economic and Social Council furnish to the Security Council?

The Lebanese delegation is convinced that it is the Economic and Social Council's duty to ask itself these questions in all frankness and, if necessary, to come to an agreement with the Security Council regarding them. We feel that these two bodies cannot continue working in complete isolation one from the other, when their respective fields impinge so often upon each other and when it was the express wish of the Charter, in this same Article 65 to establish close collaboration between them. It was for the purpose of raising this problem in the Council that the Lebanese delegation asked for the question of the implementation of Article 65 of the Charter to be put on the agenda of the present session, and it is for the purpose of beginning the discussion of this question that the Lebanese delegation submits this memorandum.

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The spirit and the letter of the Charter make it clear that it is the Organization as a whole which assumes responsibility for achieving the purposes of the United Nations. From this it follows that none of its organs, although entrusted under the Charter with specific functions, will ever be able to lose sight of these purposes as a whole and of the essential links between them.

The Security Council on which the Members of the United Nations have conferred "primary responsibility for the maintenance of international peace and security" would be acting contrary to the Charter if, in the performance of its political functions, it failed to take into account the non-political aspects of the problems submitted to it.

*Ibid - page 276

The peace and security for the maintenance of which it is responsible, are not just any peace and any security, but a definite and specific peace and security. They are peace and security accompanied by respect for "the principles of justice and international law" (Article 1, paragraph 1), for "the principle of equal rights and self-determination of peoples" (Article 1, paragraph 2) and "for human rights and for fundamental freedoms for all" (Article 1, paragraph 3). Any peace and security based on a disregard of these principles and these rights would not be one of the purposes of the United Nations. Hitler wanted peace; he worked for peace; he even dreamed of a peace to last a thousand years. At the so-called elections he organized from time to time, he asked the German people to vote for the man "who alone could give them peace and bread". And yet the United Nations did not want his peace; they even joined together to fight against him. Why? Because his peace, which was to be established on German supremacy, was to be based precisely on a disregard for the principles which are profoundly linked up with the purposes of the United Nations. From this it is clear that the Security Council has been made responsible for the maintenance of the only international peace and security consistent with the principles and other purposes of the Charter. It should not, therefore, seek to achieve this purpose independently of these principles and these other purposes. It is therefore its duty, even though or because it is a purely political body, to consider the non-political aspects of the problems it discusses and to ask for the help of the other organs of the United Nations which are competent to study such aspects. These organs themselves have the same duty and should, of their own initiative, give the Security Council all the assistance they may deem necessary to enable it to adopt decisions in accordance with the purposes of the Charter, which it is their specific task to implement.

There is no doubt that the Economic and Social Council is one of the organs whose help may be useful to the Security Council. This is a natural result of the bond between the economic, social, cultural, psychological and other questions with which it deals and the political questions which fall within the province of the Security Council. Moreover, the Charter itself, when it made the Economic and Social Council responsible for settling the first group of these questions, did not fail to make their relationship to the second quite clear. Article 55 of the Charter has defined the political nature of the Economic and Social Council by assigning to it a distant objective which, in part at least, coincides with the purpose of the Security Council's work. This is the creation
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"of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples." Finally, Article 65 of the Charter directly invites the Economic and Social Council to assist the Security Council by furnishing the information which it deems necessary or which the Security Council requests.

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All this seems clear and evident to us, but the difficulty begins when we have to decide the type of information which the Economic and Social Council may or should furnish to the Security Council. Our task here is merely to raise the problem and to give certain suggestions and examples as to how it may be solved. It is for the Economic and Social Council itself and, eventually, the Security Council, to find the final solution and to indicate the path to be followed.

The following are a few of these suggestions:

The Security Council fulfils its functions on three planes which are different but normally follow one another like three stages in one single process:

(1) Article 34 of the Charter gives it the right to "investigate any dispute, or any situation which might lead to international friction or give rise to a dispute". In this regard the Economic and Social Council may furnish the Security Council with information on the economic, social, cultural or other conditions which might lead to such a dispute or situation. This would occur when these conditions become so grave as to threaten peace and when the action needed to remove them falls within the competence of the Security Council and not of the Economic and Social Council. To quote an example: let us assume that the Economic and Social Council is led to believe that international peace is threatened because a certain State is persecuting a minority on its territory, and to believe that only such measures as economic sanctions or the breaking off of diplomatic relations could be effective: the Economic and Social Council could then usefully inform the Security Council of the situation or pass on to the Council information supplied to it, for this purpose, by various specialized agencies.

(2) Article 39 of the Charter instructs the Security Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression". Here the Economic and Social Council may furnish it with information about the economic, social, cultural or other factors which help to engender such situations, so as to enable the Council to understand and thus to judge them better.

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(3) Under Article 41 of the Charter the Security Council may "decide what measures not involving the use of armed force are to be employed to give effect to its decisions andcall upon the Members of the United Nations to apply such measures." In this case, the Economic and Social Council may furnish the Security Council with information on the economic, social, cultural or other consequences which might result from the application of these measures and thus help the Council to choose, among the measures to be employed, that which best meets the immediate purpose to be achieved and which, moreover, also takes into account the other purposes of the Charter. If one thinks of certain peace treaties concluded in the past it will at once be evident that the social and human consequences of the provisions of those treaties have often been disregarded.

(4) Furthermore, we venture to suggest another type of information that the Economic and Social Council may usefully furnish to the Security Council and which should help the Council to perform all the tasks mentioned above. This is scientific information resulting from systematic studies made by groups of experts in psychology, sociology and other sciences, bearing on the international dispute, its nature, conditions, origin, evolution and outcome and everything which may shed light on the dispute, for the purpose of its prevention or settlement. There can be no doubt that such information would enable the Security Council to a better understanding of the particular problems referred to it and hence to solve them. It would be truly regrettable if the Council did not take advantage of the progress achieved in the humanities when endeavouring to carry out its heavy task. This would apply equally to the General Assembly and its Interim Committee in their consideration of the general principles of co-operation in the maintenance of international peace and security (Article 11, paragraph 1).

Here, finally, are some specific examples of what the Economic and Social Council might do to implement Article 65 of the Charter:

(1) When the Security Council is seized of a fundamental dispute between two groups or two nations, separated moreover by ideological differences, the Economic and Social Council should appoint a group of experts in sociology, economics and psychology to analyse the essential factors underlying the dispute and to consider the steps to be taken in the economic and social spheres to achieve a modus vivendi, irrespective of the ideological dispute itself. The long period of suffering which finally resulted in a modus vivendi in the past (as in the case of the dispute between Christianity and Islam, between Protestantism and

Catholicism) could perhaps have been considerably shorter if these disputes had been treated scientifically.

(2) The Economic and Social Council might ask the Secretary-General to prepare a periodic review of the opinions of experts on the economic, social and cultural aspects of the problems before the Security Council.

(3) When the Security Council sets up a mediation or conciliation commission, the Economic and Social Council could furnish information on the economic, social and cultural aspects of the situation which the commission has to examine, as well as information on the types of mediation which would best accord with the cultural and social circumstances affecting the parties to the dispute.

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All these suggestions and examples are not perhaps satisfactory. We do not particularly stress any one of them, but we have deemed it useful to put them forward so that the Economic and Social Council may give favourable consideration to the one idea which we would really like to emphasize now: the idea of asking the Secretary-General to submit to the next session of the Council a study with accompanying suggestions, on the implementation of Article 65 of the Charter.

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