



Ninth session  
Agenda item 38

BUDGET ESTIMATES FOR THE FINANCIAL YEAR 1955

Use of income derived from the Staff Assessment Plan

Nineteenth report of the Advisory Committee on Administrative and  
Budgetary Questions to the ninth session of the General Assembly

1. In its report of 28 November 1953 on the supplementary estimates for the financial year 1953<sup>1/</sup> the Advisory Committee on Administrative and Budgetary Questions recommended that the Secretary-General should be requested to submit to the General Assembly at its ninth session a report on the general problem of national income taxation imposed upon staff members of the United Nations, together with his proposals for a solution of the problem. The subsequent report of the Fifth Committee to the General Assembly<sup>2/</sup> took note of this recommendation and of the related statement of the Secretary-General that it was his intention to submit for the consideration of the Assembly at its ninth session "a definite proposal which, he hoped, would go far towards solving the existing problems". The Advisory Committee has considered the report which the Secretary-General has accordingly presented (A/C.5/584 and Corr.2) and which contains proposals for the use of income derived from the Staff Assessment Plan.

1/ See Official Records of the General Assembly, Eighth Session, Annexes, agenda item 38, document A/2580, paragraph 14.

2/ Ibid., document A/2624, paragraph 16.

2. The problem with which the Secretary-General's report deals is one related essentially to the Convention on the Privileges and Immunities of the United Nations, which was approved by the General Assembly in resolution 22 A (I) of 13 February 1946 and proposed to the Members for accession. The question of obviating the imposition of double taxation on the staff members of the United Nations, though of great importance, is historically subordinate to the cardinal issue which arises because of the failure of an appreciable number of Member States to accede to the Convention.
3. Section 18 (b) of the Convention provides that "officials of the United Nations shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations". At the session at which this provision was approved the General Assembly also decided (resolution 13 (I) of 13 February 1946) that "pending the necessary action being taken by Members to exempt from national taxation salaries and allowances paid out of the budget of the Organization, the Secretary-General is authorized to reimburse staff members who are required to pay taxation on salaries and wages received from the United Nations". In doing so the Assembly concurred in the virtually unanimous opinion of the Fifth Committee<sup>3/</sup> that exemption from national taxation on the salaries and allowances of United Nations staff members is indispensable to equity among its Members and equality among its personnel. Measures providing for relief from double taxation may in practice achieve the above two purposes; they are not a substitute of equal validity with a tax exemption clause inserted in the Convention.
4. The present position is that, of the sixty Member States, forty have acceded to the Convention without reservation in regard to section 18 (b); three have acceded with a reservation in regard to that section; while the remaining seventeen Members have not yet taken action in the sense desired by the Assembly.

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<sup>3/</sup> See Official Records of the General Assembly, First Part of the First Session, Plenary Meetings, page 606 (annex 18).

5. The table below shows the actual expenditure or recorded obligations for tax reimbursement during the years 1946 to 1953:

Dollars (US)

1946	117,740
1947	673,085
1948	969,655
1949	1,169,522
1950	1,117,000
1951	1,391,000
1952	1,650,000
1953	1,800,000
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TOTAL	8,888,002

Amount proposed by the Secretary-General  
in respect of 1954 (A/2792, annex A,  
paragraph 7)

1,650,000

TOTAL (1946-1954)

10,538,002

6. The major part of this total of over \$10,500,000 is related to the reimbursement of staff members of United States nationality employed at Headquarters.<sup>4/</sup> The United States of America has not yet acceded to the Convention, although it has provided in the International Organizations Immunities Act (Public Law 291) approved on 29 December 1945 that officials of the United Nations (as well as those of other international organizations within the meaning of the Act) who are not citizens of the United States shall be exempt from taxation on salaries and emoluments paid to them by the Organization.

7. Since the eighth session of the General Assembly the Secretary-General has been in negotiation with those Member States which have not yet acceded to the Convention, but so far the negotiations have not proved successful.

8. The Secretary-General refrains from making any definite proposal. Thus, in paragraph 10 of his report (A/C.5/584), the plan for a tax equalization fund is offered "as a possible solution to the important problem of achieving equity among Member States." This plan, which is an ingenious one, is built around the two

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<sup>4/</sup> Expenditure in respect of the reimbursement of staff members of other than United States nationality amounts to an insignificant proportion of the total outlay on this account.

principles of equity among Member States and equality among the staff and while not providing for a complete fulfilment of the former principle, safeguards the latter though still at a certain cost to United Nations funds.

9. The effect of the plan on the assessment of Member States is illustrated in the following table,<sup>5/</sup> which shows, individually in the case of four Members and collectively in the case of the remaining fifty-six Members, (a) the contributions to the regular budget of the Organization which are required under the existing practice; and (b) the corresponding contributions which would be required under the proposed scheme.

<sup>5/</sup> The data used in this comparison, with the exception of the scale of assessment, relate to the year 1953; they have, however, been adjusted to actual requirements as estimated at 25 October 1954. The amounts of the total contribution, which have similarly been adjusted to the actual amount of income from staff assessment, exclude deductions in respect of other items (for example, the transfer of League of Nations assets). A single scale of assessment, that for the year 1954, has been used.

Member States	Scale of assessments	UNDER PRESENT PRACTICE				UNDER PLAN DESCRIBED IN A/C.5/584			
		Initial assessment	Supplementary appropriation for reimbursement	Total contribution required	Initial assessment	Share in Tax Equalization Fund	Required for tax reimbursement		Total contribution required
							From Tax Equalization Fund	Supplementary appropriation	
%	\$ (US)	\$ (US)	\$ (US)	\$ (US)	\$ (US)	\$ (US)	\$ (US)	\$ (US)	
Brazil	1.40	618,115	23,100	641,215	682,986	64,870	1,479	619,595	
France	5.75	2,538,688	94,875	2,633,563	2,835,119	266,431	6,074	2,544,762	
Ukrainian SSR	1.88	830,041	31,020	861,061	917,152	87,111	1,986	832,027	
United States of America	33.33	14,715,558	549,945	15,265,503	16,259,933	1,544,375	35,205	16,295,138	
Remaining fifty-six Members	57.64	25,448,687	951,060	26,399,747	28,119,488	2,670,802	60,881	25,509,567	
<b>TOTAL</b>	<b>100.00</b>	<b>\$44,151,089</b>	<b>\$1,650,000</b>	<b>\$45,801,089</b>	<b>\$48,784,678</b>	<b>\$4,633,589</b>	<b>\$105,625</b>	<b>\$45,801,089</b>	

10. In essence the proposed plan provides the following:
- (a) Relief from double taxation is afforded to any staff member who is subject to national income taxation in respect of salary and other emoluments received from the United Nations; the relief, which consists of a reimbursement of the staff member by the United Nations, equals the amount of the tax levied by the Member State concerned;
  - (b) A Tax Equalization Fund is established, to which are:
    - (i) Credited all revenue accruing under the existing Staff Assessment Plan (i.e. amounts deducted from salaries and wages in respect of staff assessment); and
    - (ii) Debited all amounts paid for the reimbursement of staff members (sub-paragraph (a) above);
  - (c) A separate account in the name of each Member State is opened in the Tax Equalization Fund. To each such account there are:
    - (i) Credited the revenue deriving from the Staff Assessment Plan (sub-paragraph (b) (i) above) in the proportion laid down in the scale of assessment of contributions to the United Nations budget; and
    - (ii) Debited the amount, if any, of reimbursement claims submitted by staff members in respect of taxes levied by the Member State concerned;
  - (d) A credit balance in any such account is treated as an offset to the annual contribution of the Member State concerned. A debit balance becomes a charge to the regular budget of the Organization and, as such, must be met by the whole membership.
11. A variant on this plan was considered by the Fifth Committee<sup>6/</sup> during January and February 1946, when a Mexican proposal<sup>7/</sup> (designed to fulfil the

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6/ See Official Records of the General Assembly, First Part of the First Session, Fifth Committee, fourth to sixth meetings and sixteenth meeting.

7/ "[The Committee] recommends that, pending this accomplishment [exemption from national taxation], the budget of the Organization should carry a contingent appropriation to refund tax payments and that an amount equivalent to such refunds to employees because of income tax, be added to the budget contributions of the Members whose nationals in the service of the United Nations were required to pay income tax on their salaries and allowances received from the Organization."

principle of equity among Members) that the Committee should recommend that the amount of any tax reimbursements should be added to the contributions of the Member States imposing the taxation was initially adopted by the Fifth Committee by seventeen votes to eleven (abstentions not recorded),<sup>8/</sup> but subsequently<sup>9/</sup> replaced by the text of paragraph 13 of General Assembly resolution 13 (I) of 13 February 1946,<sup>10/</sup> which was adopted by thirteen votes to eight (abstentions not recorded).

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8/ See Official Records of the General Assembly, First Part of the First Session, Fifth Committee, sixth meeting.

9/ Ibid., sixteenth meeting. Certain of the considerations which prompted the replacement of the initial recommendation were: (a) that as the question was of importance to any country acting as host to a specialized agency or branch office of the United Nations, it was advisable to leave it as open as possible; (b) that the recommendation had been designed solely to fulfil the principle of equity among Members and not to encroach on their constitutional rights; and (c) that the text of the recommendation was directly opposed not only to the constitutional rights of the Congress of the United States of America but also to Article 105 of the Charter, in accordance with which the power of the General Assembly in regard to the detailed application of paragraphs 1 and 2 of that Article concerning the privileges and immunities of the Organization, its Members and its officials is limited to making recommendations or proposing conventions. A further argument was advanced at the sixth meeting of that session by the United States representative in the following terms: "This proposal [the Mexican proposal for a system of additional assessment] was in effect an attempt to obtain national exemption of taxation by indirect means. Such an attempt would be likely to produce the opposite effect to that desired. Countries like the United States which had a deep-rooted prejudice against tax exemption would be best convinced of its rightness in this case by a simple and frank statement of the arguments". It is necessary to recall that despite the fact that the ultimate recommendation of the Fifth Committee and the subsequent decision of the General Assembly were swayed by this and similar considerations, seventeen Members have failed to accede during the intervening nine years to the Convention on the Privileges and Immunities of the United Nations.

10/ "In the case of any Members whose nationals in the service of the Organization are required to pay taxation on salaries and allowances received from the Organization, the Secretary-General should explore with the Member concerned methods of ensuring as soon as possible the application of the principle of equity amongst all Members."

12. Four solutions which would ensure the principle of equity among Member States could be envisaged:

- (a) The first, and the only fully satisfactory solution, is that Members of the Organization should all accede to the Convention on the Privileges and Immunities of the United Nations;
- (b) The second consists of national legislation providing for relief from double taxation;
- (c) The third calls for an administrative arrangement (not essentially different from the second solution) affording de facto as distinct from de jure relief; and
- (d) The fourth solution is to omit from the budget any provision for tax reimbursement.

13. Further comment on the first of these solutions is not necessary. As regards the second and third solutions, it is to be noted that in 1948 the General Assembly, faced with the failure of so many Member States to comply with its proposal of February 1946 (resolution 13 (I)), urged upon those Members which had not acceded to the Convention at least to take one or other of these alternative measures<sup>11/</sup> and adopted for this purpose the plan of staff assessment which, with minor amendments, remains in force. Finally, the fourth solution ensures equity among the Members but at the expense of equality among the staff. Even though it may be argued with reason that the adverse consequences of its adoption could not be attributed to the United Nations itself, or to discriminatory action on its part, such a solution would prove administratively inexpedient.

14. The Advisory Committee takes note of the fact that accession to the Convention on the Privileges and Immunities of the United Nations has not been made an essential condition of membership in the United Nations. The relevant resolutions of the General Assembly contain no more than requests or recommendations to the Member States concerned: in resolution 78 (I) of 7 December 1946 the General Assembly "resolves that Members which have not yet completely exempted from taxation salaries and allowances paid out of the budget of the Organization are requested to take early action in the matter" and an equivalent phraseology is used in resolution 160 (ii) of 20 November 1947.

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<sup>11/</sup> See resolution 239 C (III) of 18 November 1948.



15. The Advisory Committee, while commending the Secretary-General for his determined efforts to find a solution of this problem, has accordingly reached the conclusion that it is preferable for the time being not to proceed with the plan tentatively submitted in his report. The Committee has therefore no alternative but to recommend that the Secretary-General should be requested to continue his conversations with the seventeen Member States with a view to their acceding to the Convention or at least adopting alternative measures, whether legislative or administrative, whereby all United Nations officials may be granted the necessary tax exemption. Although such a recommendation admittedly prolongs an unsatisfactory situation that has existed for many years, it serves at least to uphold a paramount interest of the United Nations, namely, to secure on the part of its Members an unreserved acceptance of the Convention.

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