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Chairman: Mr. Vahap AŞIROĞLU (Turkey).

AGENDA ITEM 74

Budget estimates for the financial year 1967 (A/6305, A/6307, A/6385, A/C.5/1054, A/C.5/1055 and Corr.1, A/C.5/1056 and Corr.1, A/C.5/1060, A/C.5/1062)

1. The SECRETARY-GENERAL made a statement.^{1/}
2. Mr. BANNIER (Chairman of the Advisory Committee on Administrative and Budgetary Questions) made a statement.^{1/}

AGENDA ITEM 73

Supplementary estimates for the financial year 1966 (continued) (A/6436, A/6452, A/C.5/L.867)

Draft resolution relating to the supplementary estimates for the financial year 1966 (continued) (see A/C.5/L.867)

SECTION 19. INTERNATIONAL COURT OF JUSTICE (continued)

3. The CHAIRMAN invited the Committee to discuss the supplementary appropriation requested for 1966 under section 19.
4. Mr. KOUYATE (Guinea) asked on behalf of the African group that the Committee should vote first on the increase of \$72,500 requested under section 19 and then on the section itself. The group would vote against the increase and, if it was approved, abstain on the section. The reasons for that were well known.
5. Mr. BAKOTO (Cameroon) said that his country had originally had a great respect for the International Court of Justice. It had brought a case before the Court on a matter of great importance to it, but because of the manoeuvres of a certain colonial Power

^{1/} The complete text of the statement made by the Secretary-General was subsequently circulated as document A/C.5/1065, and that of the statement made by the Chairman of the Advisory Committee as document A/C.5/1066; both texts appear in the Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 74.

the outcome had not been satisfactory. That same Power had been behind the recent decision in the South West Africa case,^{2/} a decision which was contrary to law and justice. The African countries were therefore bound to ask themselves what they stood to gain from participating in the proceedings of a body which was inimical to their interests. His country would have voted against the appropriation under section 19 if that sum had been intended to finance future activities. Since the money had already been spent, however, it would abstain in the vote on the section as a whole, while opposing the increase.

6. Mr. KULEBIAKIN (Union of Soviet Socialist Republics) stated that politics and economics were inseparable and that a vote could not be taken on section 19 on a purely financial basis. The increased appropriation sought under that section was due mainly to additional expenditure in connexion with the South West Africa case, in which, after lengthy deliberations, the International Court of Justice had taken a decision that could only be described as shameful, since it was contrary to the interests of the people of South West Africa and to the principles of humanity and justice. In obedience to its Statute, the Court should have rendered a decision consistent with General Assembly resolution 1514 (XV), condemning racism and colonialism. Instead it had given them its support. To seek additional appropriations for an organ whose actions were thus at variance with the fundamental principles of the United Nations was illogical. His delegation would therefore vote against the increase and abstain on section 19 as a whole.

7. Mr. MERON (Israel) said that the request for an additional appropriation for the designation of ad hoc judges for the South West Africa case was consistent with the Statute of the Court and with paragraph 1, sub-paragraph (b), of General Assembly resolution 2126 (XX). In the normal way, therefore, his delegation would have voted for it. But in view of the criticisms of the Court's decision—criticisms that his delegation endorsed—it would abstain.

8. Mr. MTINGWA (United Republic of Tanzania) remarked that the statement made by the representative of Guinea on behalf of the African group represented the position of his delegation. It had been said that the Committee should take an over-all view of the activities of bodies such as the International Court and not be swayed by particular aspects. In reply, he would say that Africans had a high respect for law, but only if that law was fair and was not swayed by political considerations. That could not be said of the International Court's decision in the South West

^{2/} South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p. 6.

Africa case. The Court, moreover, had spent six years on what it claimed was a question of procedure. If it was as inefficient as that, it could hardly expect an increase.

9. Mr. QUIJANO (Argentina) said that the request for a supplementary estimate under section 19 was in conformity with Articles 31 and 33 of the Statute of the International Court and with General Assembly resolution 2126 (XX). Technically speaking, there could be no objection to it. The statements made by previous speakers therefore caused his delegation considerable concern. To oppose such an appropriation because of disagreement with a particular decision by the Court would set a dangerous precedent. If the right of United Nations organs to funds was to depend on such subjective judgements, the result might be to paralyse them. The substance of the problem dealt with by the International Court in the South West Africa case was not a matter for the Fifth Committee. It was being considered by the General Assembly in plenary meetings. His delegation therefore opposed the introduction of such elements into the Committee's discussions and would vote for section 19 as a whole.

10. Mr. HAMBRO (Norway) agreed with the representative of Argentina. The Committee was not concerned with politics, but solely with budgetary matters. It was therefore neither necessary nor proper for it to discuss the decisions of the International Court. It would indeed be a dangerous precedent to deny an organ funds because of disagreement with a particular decision. The supplementary estimates were in part a reflection of mandatory provisions concerning the appointment of *ad hoc* judges. They also corresponded to expenditure necessary for the proper working of the Court, *inter alia*, in the case concerning the Barcelona Traction, Light and Power Company, Limited (Belgium *v.* Spain). His delegation would therefore vote for them.

11. Mr. S. K. SINGH (India) felt that the Fifth Committee was as appropriate a forum as any other for political discussions. At the fourth special session of the General Assembly, in 1963, it had discussed peace-keeping operations and at the seventeenth and eighteenth regular sessions it had discussed a very important advisory opinion of the International Court. It had on a number of occasions taken political decisions on ONUC and UNEF. Any attempt to stop the Fifth Committee from discussing something political was therefore inadmissible. In noting the views of the Argentine delegation that one organ of the United Nations should not appear to discipline another, and in view of its feelings of fraternal solidarity with the African countries, his delegation faced a dilemma. It was also aware of the fact that most of the money required under the supplementary estimate under section 19 had already been expended by the Secretary-General in a manner that was entirely proper and, therefore, he would not be able to vote against the supplementary estimate for the International Court and would abstain.

12. Mr. KOUYATE (Guinea) said that the effect of the International Court's decision was to further the cause of apartheid. The Committee had to decide

whether it did or did not wish to support the Court in that respect.

13. Mr. HOVEYDA (Iran) agreed with the Indian representative that the Committee could not ignore political issues. While it would be dangerous, as the Argentine representative had said, to refuse funds on a subjective basis, the issue in the present case was that legislation enacted by the United Nations had not been put into effect. On the other hand, he could not agree with the representative of the United Republic of Tanzania that the length of the Court's proceedings was a sign of inefficiency; the course of justice was often a slow process. His delegation had informed the General Assembly of its dismay at the International Court's decision. But the Secretary-General's request for supplementary estimates was perfectly in order under the powers conferred upon him by General Assembly resolution 2126 (XX), and the Iranian delegation would not wish to cast doubt on the correctness of the Secretary-General's action. It would therefore abstain in the vote.

14. Mr. FAKIH (Kenya) said that the African States would vote against the increase, not because the Court's verdict had gone against them but because the judges had failed to perform the task for which they had been appointed. After previously deciding that Ethiopia and Liberia had standing in the case, the judges had finally ruled that they lacked such standing.

15. Mr. CHURCH (United States of America) pointed out that all delegations would have ample opportunity during the current session to express their views on the recent judgement of the International Court; the question of South West Africa was being debated in plenary meetings of the General Assembly. The views of the United States on the subject were well known and would be stated at the appropriate time. The issue before the Fifth Committee was not apartheid (which the United States deplored), nor the decision of the Court (to which the United States had also taken strong exception). The issue was whether or not obligations properly incurred by a United Nations organ were to be met. He asked what would be the effect of a decision by the Committee to reject the requested increase of \$72,500.

16. Mr. KIRKBRIDE (Secretariat) explained that the revised estimate related to expenditures for the *ad hoc* judges and for temporary assistance staff required for the servicing of the sessions of the Court and the translation, typing and reproduction of its official proceedings. The bulk of the expenditures had already been incurred. Consequently, if the revised appropriation were not approved, the Secretary-General would have to find the sum required within the totality of appropriations voted by the General Assembly for 1966. The concurrence of the Advisory Committee would be required before funds saved in other sections could be transferred to meet the deficit in section 19 in order to close the year-end accounts.

17. Mr. BAKOTO (Cameroon) denied that the African States were passing a subjective judgement on the Court's verdict or that their attitude might set a dangerous precedent. The budget was the translation into financial terms of a certain political trend; it was permissible to condemn a trend which departed from

earlier decisions. Under its Statute, the International Court was supposed to base its judgements on certain norms. Those norms had not been respected. The Fifth Committee was entitled to say that the sums disbursed for the Court had not been spent as had been intended.

18. Mr. TARDOS (Hungary) asked whether the expenditures under consideration had been foreseen when budget estimates had been prepared for the Court for the year 1966.

19. Mr. KIRKBRIDE (Secretariat) replied that, since expenses for *ad hoc* judges, assessors, witnesses and experts were of a contingent nature, no estimate had been made for 1966. However, provision had been made in the draft resolution relating to unforeseen and extraordinary expenses in 1966 to authorize the Secretary-General to enter into commitments of up to \$37,500 for *ad hoc* judges and \$25,000 for assessors, witnesses and experts. As regards the provision for temporary assistance, the budget estimates for 1966 had been prepared on the basis of a more normal workload for that year, with the proviso that they might have to be revised in the light of actual experience. Thus the initial estimates had not taken into account the heavy workload that had eventually resulted from the South West Africa and the Barcelona Traction cases.

20. Mr. KULEBIAKIN (Union of Soviet Socialist Republics) said that some representatives seemed to have misinterpreted his delegation's explanation of its vote on section 19 of the supplementary estimates. Any delegation had the right, in the Fifth Committee or in any other United Nations organ, to explain the reasons for its vote. Irrespective of the actual sum in question, a political principle was involved and it was determining the attitude of those States which could not approve of the increased appropriation.

21. The CHAIRMAN invited the Committee, in accordance with the request made by the representative of Guinea, to vote separately on the amount of \$72,500 proposed by the Secretary-General as a supplementary appropriation for the International Court of Justice for 1966.

The supplementary appropriation of \$72,500 for section 19 was rejected by 40 votes to 27, with 13 abstentions.

22. The CHAIRMAN suggested that, in consequence of the decision just taken, the initial appropriation of \$1,074,100 should be maintained for section 19 for the financial year 1966.

It was so decided.

23. The CHAIRMAN invited the Committee to consider the draft resolution appearing in document A/C.5/L.867. By part A of the draft resolution, as amended by the action just taken in respect of section 19, the Committee would recommend to the General Assembly the adoption of a revised appropriation for the financial year 1966 totalling \$121,080,530.

Part A of the draft resolution was adopted by 65 votes to 1, with 13 abstentions.

24. The CHAIRMAN invited the Committee to consider part B of the draft resolution, entailing the approval of a revised estimate of income for the financial year 1966 in the amount of \$20,405,200.

25. Mr. SOLTYSIAK (Poland) asked whether the estimate for income section 3 (General income) included the unexpended balance for the United Nations Military Observer Group in India and Pakistan mentioned in paragraph 16.3 of the Secretary-General's report (A/6436). In addition, the 1966 appropriations had provided for an expanded fleet of 68 vehicles for the mission, but the estimate for 1967 was based on a return to the former level of 25 vehicles. He wondered what had been done with the other 43 vehicles.

26. It was explained in the Secretary-General's report (*ibid.*, para. I.6, sub-paragraph (d)) that the deficit for the catering service would be partly offset by the anticipated refund of cigarette taxes by the New York State and New York City authorities. He wondered how much the refund would amount to and whether the matter was covered by the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. He would also like to know whether the United Nations paid other taxes, such as liquor taxes.

27. Mr. KIRKBRIDE (Secretariat) said that surplus vehicles from UNMOGIP had been used to replace vehicles in other missions, reflecting a corresponding decrease in the requirements of those missions as shown in the initial budget estimates for 1967.

28. He would answer the Polish representative's other questions at a subsequent meeting.

29. Mr. TARDOS (Hungary) asked whether the Committee's decision in respect of section 19 of the supplementary estimates affected the estimate of income from staff assessment.

30. Mr. KIRKBRIDE (Secretariat) explained that, since the sum involved was relatively small and had related to short-term staff recruited for the International Court, the effect on staff assessment income would be practically negligible.

Part B of the draft resolution was adopted unanimously.

31. Mr. KIRKBRIDE (Secretariat) said that, pending formal approval by the General Assembly of the Committee's recommendations, the Secretary-General would consider himself authorized to incur expenditures within the limits of the appropriations recommended for each section of the budget for 1966.

32. At the 1123rd meeting, the Polish representative had expressed the view that the revised estimate under section 4 (Common staff costs) should have shown a larger decrease because of the reduction under chapter I (Established posts) of section 3 (Salaries and wages). However, aside from the 5 per cent increase in the pensionable remuneration of staff in the professional category and above, it had also been necessary to meet additional costs consequent upon upward adjustments in the salary scales of general service staff at Headquarters and Geneva. In addition, there had been an increase in the number of full participants in the Pension Fund and a larger number of staff members who had started as associate participants had elected to revalidate their past service and become full

participants when their original fixed-term contracts had been renewed for a longer period.

33. At the same meeting the Bulgarian representative had referred to the decrease in income section 1 (Staff assessment income) and the saving in salaries and wages under section 3. The Secretary-General had

explained some of the reasons for the shortfall in income section 1 in his report (A/6436). In addition, the effect on staff assessment income of the revision in the base salary scales of the professional and higher grades had been overestimated.

The meeting rose at 5.45 p.m.