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Chairman: Mr. Mario MAJOLI (Italy).

**UNITED NATIONS OPERATIONS IN THE CONGO:
1961 COST ESTIMATES AND FINANCING (A/4703,
A/4713, A/C.5/860, A/C.5/862, A/C.5/863, A/C.5/
864, A/C.5/L.658 AND CORR.1, A/C.5/L.663, A/C.5/
L.664) (*continued*)**

1. Mr. GABITES (New Zealand) pointed out that his country's attitude to the financing of ONUC had been demonstrated by its willingness to pay, in addition to its assessed contribution to the cost of the military operation in 1960, a substantial voluntary contribution to the United Nations Fund for the Congo established under General Assembly resolution 1474 (ES-IV). His delegation had been pleased to note that the principle of the collective responsibility of all Member States for the cost of any operation undertaken by the United Nations for the maintenance of international peace and security had been endorsed by many members of the Committee, including the Indian representative and the sponsors of the Latin American draft resolution (A/C.5/L.658 and Corr.1). The refusal of certain Member States, most of which could not plead economic hardship—and, more particularly, the refusal of permanent members of the Security Council—to contribute to the expenses of ONUC had grave implications for the future of the United Nations and perhaps for the future of many small countries which depended upon the Organization for their safety and progress; it was to be hoped that the Members concerned would reconsider their decision. His delegation associated itself with the conclusion expressed by the Secretary-General at the 839th meeting (A/C.5/864) that Article 17 of the Charter must apply to the expenses of ONUC; those expenses were subject to the principle of collective responsibility, a fact which was ignored by the delegations which argued that they came under Article 43.

2. The New Zealand delegation felt, like many others, that the information given in the Secretary-General's estimates (A/4703) was barely adequate, but appreciated the difficulties with which the Secretary-General had had to contend in that respect. With regard to the amount of the estimates, New Zealand supported the recommendations set forth in paragraph 29 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/4713). The sum involved was substantial and, if apportioned in accordance with the regular scale of assessments, would place a heavy

burden on many Member States. However, the application of Article 17, paragraph 2, to the expenses of ONUC did not prejudice the question of their apportionment. In the New Zealand view, the only equitable criterion for such apportionment was capacity to pay; the application of any other principle, such as the degree of material benefit derived from the operation, was foreign to the nature and purposes of the United Nations as an Organization founded on the belief that peace was indivisible and that all nations were equally interested in preserving it. His delegation was therefore unable to support the Latin American draft resolution, but hoped that the important questions of principle which it raised would be studied at a later date; the Canadian draft resolution (A/C.5/L.664) provided for such a study, and would have his support.

3. New Zealand welcomed the joint Pakistan and Tunisian draft resolution (A/C.5/L.663) which, while preserving the principle of collective responsibility, went a long way towards meeting the needs of countries with limited capacity to pay, any greater concession to those countries would be incompatible with the responsibilities of membership in the United Nations. He could not support operative paragraph 6 of the two-Power proposal, but would vote for the draft resolution as a whole and hoped that it would prove generally acceptable. If it was adopted, New Zealand would pay its assessed contribution. That was a large sum of money for his country to find, but represented an investment in peace and security and in the United Nations itself; to seek to avoid that obligation would betoken a loss of faith in the Organization.

4. Mr. DE PINIES (Spain) recalled the three principles which he had enunciated at the first part of the fifteenth session (806th meeting). His delegation endorsed the reduction in the Secretary-General's 1961 estimates for ONUC which was recommended by the Advisory Committee in paragraph 29 of its report. Since those estimates represented nearly twice the amount of the regular budget, his delegation, like that of Iraq (832nd meeting) would have welcomed a more detailed report from the Secretary-General; however, the presentation of any future estimates for ONUC would doubtless benefit from the experience gained in 1961.

5. When the Committee had first discussed the administrative and financial arrangements for the United Nations Emergency Force (UNEF) at the eleventh session, his delegation had pointed out (546th meeting) that an unprecedented situation required something other than the application of the regular scale of assessments, which was based chiefly on national income statistics and did not reflect the special responsibility for the maintenance of international peace and security vested in the permanent members of the Security Council; that threats to peace and security could not be treated in the same way as the day-to-day commit-

ments with which the regular administrative and financial machinery of the United Nations was designed to deal; and that the permanent members of the Security Council should bear the greater proportion of the cost of UNEF. The regular scale of assessments had been applied—unjustly in the Spanish view—to the expenses of UNEF, with the result that, despite the relief afforded by generous voluntary contributions from the United States and others, many Member States had been unable to meet their assessments for UNEF in the ensuing years.

6. In his delegation's opinion, the Latin American draft resolution was fair and realistic. The first of the three principles enunciated in the third preambular paragraph of that draft resolution—that of the correlation between powers and obligations—reflected his delegation's comments on that subject at the 806th meeting and seemed to him to justify the provision of operative paragraph 3 (a). Principle (b) was perhaps more controversial, but principle (c)—that of collective responsibility for the maintenance of international peace and security—was inescapable. As he had already pointed out (806th meeting), it might be helpful if the Secretary-General consulted the permanent delegations before initiating operations like ONUC, but they nevertheless created a general responsibility. The proportions proposed in operative paragraph 3 of the Latin American draft resolution for the apportionment of the expenses of ONUC might be subject to some adjustment, but that specified in paragraph 3 (c)—5 per cent for all Member States—seemed wholly justified. He wondered whether, if the United States had presented the United Nations with a bill for the Korean war, the regular scale of assessments would have been applied to it. There was nothing in Article 17 of the Charter to indicate that all expenses of the Organization had to be paid on the basis of a single scale of assessments, and in his delegation's view every extraordinary expenditure, and *a fortiori* expenditure relating to the maintenance of peace and security, should be financed separately; the Mexican representative's statement (A/C.5/862) had been most illuminating in that regard.

7. Principle (a) of the Latin American draft resolution was reflected in the fifth preambular paragraph of the two-Power draft resolution (A/C.5/L.663) but found no adequate practical expression in operative paragraph 5 of that proposal. Moreover operative paragraph 3 (c) of the Latin American draft resolution seemed to his delegation to offer a more reasonable means of reducing the financial burden on Member States with least capacity to pay than that suggested in operative paragraph 7 of the two-Power proposal. Needless to say, no resolution yet adopted and no proposal now under consideration should be regarded as setting a precedent for the financing of any emergency action which the United Nations might have to undertake in the future.

8. The current financial crisis was the greatest which the United Nations had ever had to face; it had to be resolved before the fifteenth session ended, or the survival of the Organization would be in jeopardy, with irreparable consequences for peace and security. The success of ONUC was in the interest of all Member States and the Latin American draft resolution offered a means of solving the concomitant financial problem on the basis of principles which were clearly equitable and compatible with the Charter.

9. The Canadian draft resolution (A/C.5/L.664) was an interesting proposal, but a request to Member States for their observations, on the lines of that provided for in operative paragraph 4, had been made at the Argentine delegation's instigation two sessions previously, with scant results; moreover, delegations' views had been stated at length in the Fifth Committee and were already on record. His delegation was indebted to the Canadian representative for his kind references to its contributions to the discussion of a similar problem at the eleventh session, but would not presume to claim paternity of the current Canadian proposal; instead, it urged members of the Committee to vote in favour of the Latin American draft resolution.

10. Mr. ROSHCHIN (Union of Soviet Socialist Republics) said that the Mexican representative's statement at the 837th meeting (A/C.5/862) was a valuable contribution towards solving the problem of financing expenses relating to the maintenance of international peace and security. It had proved conclusively that expenses arising out of the provisions of Article 43 of the Charter were not expenses of the Organization within the meaning of Article 17, paragraph 2, nor were they subject to the sanctions provided for in Article 19. That contention had not been denied, not even by Mr. Hammarskjöld.

11. However, the Mexican representative had made a serious mistake in the further development of his argument. He had said that he could not agree with the USSR position, as summarized by the Secretary-General at the 977th plenary meeting, held on 5 April 1961. But Mr. Hammarskjöld had incorrectly represented that position. The USSR considered that questions concerning expenditure relating to "actions" undertaken for the maintenance of peace and security should be decided by the Security Council. Article 43 contained provision for agreements to be negotiated by the Security Council. It followed that no State would ever be called upon to assume commitments in excess of its capacity. Moreover, such agreements would be subject to ratification by the signatory States in accordance with their constitutional processes. Clearly, the Security Council was the only competent body to decide on such matters. The Mexican representative had explained the significance of the amendment to Article 19 which had been proposed, and subsequently withdrawn, by Australia at the United Nations Conference on International Organization, held at San Francisco, but had drawn the wrong conclusion, namely, that the General Assembly was competent to take decisions on the financial aspects of actions undertaken under Article 43.

12. Commenting on the Indian representative's statement at the 838th meeting (A/C.5/863), he observed that, while the Indian delegation did not consider that the costs of the Congo operations were expenses within the meaning of Article 17 of the Charter, he had not suggested which other Article was relevant.

13. Mr. Hammarskjöld felt that the problem could be dealt with adequately within the framework of Article 17. Although Article 40 did not provide for military actions, he had argued that the United Nations action in the Congo had been taken under that Article, and that Articles 42 and 43 related only to "sanctions" or enforcement action. Mr. Hammarskjöld's purpose in adopting that line of argument was to circumvent the principle of the unanimity of the permanent members

of the Security Council. The provisions of Article 40 were, however, directly related to those of Article 43.

14. In his statement at the 838th meeting, the United States representative had attempted to prove that Article 17, paragraph 1, covered expenses relating to the maintenance of peace and security, on the grounds that Article 17, paragraph 3, mentioned the administrative budgets of specialized agencies. The authors of the Charter had not intended that expenses relating to actions undertaken for the maintenance of peace and security should come under Article 17. The Australian amendment at the San Francisco Conference had sought to extend the scope of Articles 17 and 19 to cover such expenses, but had not been adopted. The regular budget, which was the budget referred to in Article 17, comprised administrative expenses and expenses of an operational character, such as technical assistance, but did not include expenditure relating to the maintenance of peace and security.

15. The United States was attempting to bring the expenses of ONUC within the scope of Article 17 by offering a voluntary contribution on certain conditions. Such an attempt to exert pressure was unacceptable. The United States was an interested party for it had capital invested in the Congo, had supported the colonialist aims and should, therefore, contribute substantially to the expenses of ONUC.

16. His delegation's position was strictly based on the Charter. Article 11 had been the subject of much discussion at the San Francisco Conference, when attempts had been made to extend the General Assembly's competence to include decisions concerning action to be taken for the maintenance of peace and security. Those attempts had been rejected and it, therefore, followed that all questions relating to action taken for the maintenance of peace and security were within the exclusive competence of the Security Council. Article 43 stipulated that action should be taken on the basis of agreements concluded by the Security Council. But it was impossible to conclude agreements with a State concerning the material aspects of a military operation without considering the financing of such an operation. Moreover, under regulation 13.1 of the Financial Regulations and Rules, the Secretary-General was required to report on the financial implications of any proposal by the Security Council for such an operation.

17. Mr. Hammarskjöld had acted as if the Security Council had delegated all its powers to him with respect to the conduct of the Congo operations. If he continued along those lines, he would surely destroy the Organization.

18. The USSR delegation could not support the draft resolution submitted by the Latin American countries (A/C.5/L.658 and Corr.1), because the General Assembly had no authority to allocate the expenses of ONUC.

19. For the same reason, his delegation could not support the draft resolution submitted by Pakistan and Tunisia (A/C.5/L.663). That draft resolution appeared to have been inspired by the United States delegation, which had formulated its contents in the Committee before it had been submitted. The draft resolution violated the principles of the Charter by failing to comply with the provisions of Article 43. The sponsors were proposing provisional measures until the sixteenth session of the General Assembly without attempting to find a real solution to the problem.

20. Where the Canadian draft resolution (A/C.5/L.664) was concerned, he considered that operative paragraph 1 was superfluous, since the report of the Committee of Experts on the Review of the Activities and Organization of the Secretariat was to be discussed at the sixteenth session. The proposal to establish a peace and security fund was another attempt to bypass the Security Council. Moreover, operative paragraph 1 (b) prejudged the findings of the Committee of Experts.

21. Mr. SHAHI (Pakistan) said that, in view of the USSR representative's reference to a similarity between the position taken by the United States delegation on the question of the ONUC expenses and the principles embodied in draft resolution A/C.5/L.663, he wished to indicate the motives underlying the joint submission of that draft by his own delegation and that of Tunisia.

22. Noting the wide divergence of views in the Committee on the question of financing the United Nations operation in the Congo, those two delegations had consulted a number of others in an effort to find some common ground. While each delegation had gained from those consultations a better understanding of the position of the others, it had soon become apparent that full agreement could not be achieved. The two delegations had therefore put forward their draft, which, in its third and fourth preambular paragraphs, stated certain new principles that had not appeared in previous General Assembly resolutions on the subject. Operative paragraphs 4 and 7 were also new, previous resolutions having merely recognized the burden which contributions towards the cost of the operation would impose on certain Member States.

23. Mr. ARRAIZ (Venezuela) welcomed the inclusion in the preamble of draft resolution A/C.5/L.663 of certain principles which were already contained in draft resolution A/C.5/L.658 and Corr.1 and whose validity was demonstrated by their increasing acceptance in the Committee. He referred to the principle that a special account should be established for the ONUC costs and the principle of the special responsibility of the permanent members of the Security Council.

24. However, as the Spanish representative had pointed out, the value of draft resolution A/C.5/L.663 was nullified by the failure to reflect in its operative paragraphs the considerations mentioned in its preamble. The preamble and the operative parts of the draft appeared, in fact, to be entirely distinct from one another. There was, for instance, no statement in the preamble providing a logical basis for the reference, in operative paragraph 6, to the direct responsibility of Belgium. Such a basis might take the form of a reference to the allusions to that Government in the previous resolutions of the General Assembly and of the Security Council, but the inclusion of such a reference would in fact serve no useful purpose as the operative part of the draft imposed on Belgium no obligation to make a substantial contribution based on its responsibility.

25. Similarly, while the fifth preambular paragraph referred to the special responsibility of the permanent members of the Security Council, operative paragraph 5 did no more than appeal to those members to make sizable voluntary contributions. That could scarcely be described as the imposition of an obligation. It seemed to him inappropriate to address the same appeal to the permanent members of the Security Council and to "Member States who are in a position to assist", when

the special responsibility of the former, a responsibility based upon the Charter, had been recognized in the preamble. States which were merely in a "position to assist" had no such responsibility.

26. The most serious inconsistency in the draft was between the fourth preambular paragraph and operative paragraph 4. The former recognized that the costs of the Congo operation should be apportioned on the basis of a special scale, whereas operative paragraph 4 provided for the use of "the scale of assessments for the regular budget", subject only to the reduction of certain contributions through and application of voluntary contributions. The principle stated in the fourth operative paragraph appeared to be purely theoretical and no provision was made for its practical application. The scale of reductions in contributions, set forth in operative paragraph 7, appeared to be merely a device to circumvent the moral and legal consequences of the principle embodied in the fourth preambular paragraph. The preamble contained no justification for the granting to certain Members of the privilege provided for in operative paragraph 7.

27. His delegation appreciated the problem faced by the sponsors of the draft resolution and the reasons underlying its text. The present draft clearly represented a desire to maintain, with respect to costs such as those of ONUC, the policy on which the series of General Assembly resolutions referred to in the second preambular paragraph had been based. According to that policy, the principal difference between expenses such as those of ONUC and the regular budget of the United Nations lay in the fact not that certain Members had a special responsibility, but that such expenses imposed a heavy financial burden on some States. His delegation had, however, consistently maintained that it should pay proportionately less of the Congo costs, not for reasons of poverty, but because other States had a greater responsibility. Notwithstanding the considerable support it enjoyed, no expression had been given to that principle in the resolutions previously adopted and the time had now come to state it emphatically. That had been done in draft resolution A/C.5/L.658 and Corr.1.

28. His delegation would have to vote against draft resolution A/C.5/L.663 unless it was modified substantially.

29. Mr. NOGUEIRA BATISTA (Brazil) said that his delegation regarded the costs of the Congo operation as "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter. It considered that Article 43 was not relevant to those costs as no agreements of the type mentioned in that Article had been concluded.

30. The Security Council had delegated to the Secretary-General, under Articles 29 and 98, the responsibility for implementing the decisions it had taken. Such delegation of power had implied an understanding that the General Assembly's concurrence was required in any financial commitments entered into by the Secretary-General. That understanding had been confirmed by the General Assembly and had been reaffirmed only recently by the Security Council. The Committee had no power to reverse decisions taken by the latter organ, since, under Article 25, the Members of the United Nations agreed to accept and carry out the Security Council's decisions.

31. His delegation considered that the costs of the Congo operation, although expenses of the Organization,

were extraordinary expenses which should be assessed on the basis of a special scale such as that proposed in draft resolution A/C.5/L.658 and Corr.1.

32. Mr. GARCIA ROBLES (Mexico) welcomed the support given by the USSR representative to the arguments he had advanced at the 837th meeting (A/C.5/862) to demonstrate that the costs of operations such as ONUC were expenses of a special nature and not "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter. However, it was possible to accept the Mexican representative's reasoning and yet to hold a logical view with regard to the competence of United Nations organs which differed from that held by the USSR delegation. As he had stated earlier (A/C.5/862, para. 47) it might be desirable to work out generally acceptable arrangements which, in the event of possible further emergency operations, would preclude a repetition of what had occurred in connexion with ONUC and UNEF. It should be borne in mind that it was unlikely that the provisions of Article 43 could be implemented in the near future—ideal though that solution might be. Any temporary arrangement to be worked out for covering such emergency expenses as those resulting from ONUC had to take into account the astronomical cost of highly mechanized armies and should offer all Member States guarantees at least equivalent to those contained in that Article. His delegation considered that if the provisions of Article 43 could be implemented, that Article would certainly apply, but it was obvious that was not the case at present and would not be for some time to come. Nothing in the Charter or in the series of decisions taken by the Security Council precluded the General Assembly from applying, in respect of the ONUC costs, an equitable scale acceptable to all Members. If, notwithstanding the absence of the agreements referred to in Article 43, any permanent member of the Security Council desired that that Article should govern the financing of the implementation of the Council's decisions, it would be sufficient for it to ask for the inclusion of a provision to that effect in the respective resolution to be adopted by the Council. The absence of such a provision from one of the resolutions on the Congo might be interpreted as having been due to an omission, but no such provision had been added to any of the Security Council's four resolutions of 14 July, 22 July and 9 August 1960,¹ and 21 February 1961.²

33. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that, when the Advisory Committee's action in authorizing the Secretary-General to incur commitments under the resolution on unforeseen and extraordinary expenses had first been challenged in the Fifth Committee on the grounds of illegality, he had refrained from making an immediate reply on the Advisory Committee's behalf in order not to impede the debate. However, since the same interpretation of the Advisory Committee's action had been periodically reiterated, he felt compelled to enter a plea of "not guilty" on its behalf, lest his silence on the indictment should lend it a credibility not warranted by the existing rules and regulations and the decisions of the General Assembly.

¹ *Official Records of the Security Council, Fifteenth Year, Supplement for July, August and September 1960*, documents S/4387, S/4405 and S/4426, respectively.

² *Ibid.*, *Sixteenth Year, Supplement for January, February and March 1961*, document S/4741.

Now that the Committee had dealt with the item relating to unforeseen and extraordinary expenses, he felt free to make a statement.

34. In the course of the past fifteen years, the Security Council had taken several decisions relating to action, including the establishment of missions, for the purpose of maintaining peace and security. The Secretary-General had provided, in his regular budget estimates, for the implementation of the Security Council's decisions, and year after year the General Assembly had considered and approved appropriations for the maintenance of the missions concerned. Surely the Advisory Committee could not legitimately be expected to question decisions validly arrived at by its parent organ—the General Assembly—which, as a principal organ of the United Nations and the only one on which all Member States were represented, had come to be the sovereign body in administrative and budgetary matters. If it was now suggested that part of the General Assembly's responsibility in financial matters should be transferred elsewhere, it was for Member States, not the Advisory Committee—perhaps not even the Fifth Committee—to consider the desirability of an appropriate constitutional change.

35. Members of the Committee had differed on whether competence to deal with the purely financial aspects of an action duly authorized by the Security Council, such as ONUC, vested in the General Assembly or in the Security Council; if there were legitimate differences on interpretation of the Charter, the General Assembly was at liberty, under Article 96, paragraph 1, of the Charter, to request the advisory opinion of the International Court of Justice; in that connexion, members of

the Committee should also note Article 92 of the Charter and Article 36, paragraph 2 *a*, and Article 65 of the Statute of the Court.

36. Quite apart from the question of the General Assembly's competence, it might well be argued that the resolutions on unforeseen and extraordinary expenses, in the form in which they had been successively adopted over the past fifteen years, had perhaps laid an unduly heavy burden of financial responsibility on the Advisory Committee. Mindful of that responsibility, the Advisory Committee had responded to the Fifth Committee's request by recommending a limit to the theoretically unlimited authority which the General Assembly had hitherto seen fit to confer on it. That was a happy example of the evolution, through empirical devices, of checks and balances on financial administration and controls.

37. It did not behove the Advisory Committee to go beyond the directives which the General Assembly gave it from year to year; if the Assembly, in its wisdom, now wished to institute new procedures, the Advisory Committee would uphold them with its traditional loyalty and determination.

38. Mr. RUTLEDGE (Secretary of the Committee) announced the following corrections to the Canadian draft resolution (A/C.5/L.664): in the fourth preambular paragraph the words "and development" should be inserted after the word "growth"; in operative paragraph 2 the word "members" should be replaced by the words "Member States"; in operative paragraph 5, the words "the two previous paragraphs" should be replaced by the words "operative paragraphs 2 and 3".

The meeting rose at 6 p.m.