United Nations
GENERAL ASSEMBLY
SEVENTEENTH SESSION
Official Records

FIFTH COMMITTEE, 967th MEETING

Monday, 10 December 1962, at 10.55 a.m.

NEW YORK

CONTENTS

Chairman: Mr. Jan Paul BANNIER (Netherlands).

AGENDA ITEM 64

Obligations of Members, under the Charter of the United Nations, with regard to the financing of the United Nations Emergency Force and the Organization's operations in the Congo: advisory opinion of the International Court of Justice (A/5161 and Corr.1, A/C.5/952, A/C.5/957, A/C.5/L.760 and Add.1-3, A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1, A/C.5/L.763 and Corr.1) (continued)

1. Mr. ROMANOV (Ukrainian Soviet Socialist Republic) said that many representatives had tried to present the item under discussion as a purely legal issue. In so doing, they had omitted to mention the causes of the Middle East and Congo situations and to point to those responsible for the tragic plight of the Congolese people. According to those representatives, now that the International Court of Justice had delivered its advisory opinion,[1] the legal position was clear: Member States were under an obligation to contribute to the expenses of the operations in the Middle East and the Congo and the only question still outstanding was the technical one of how those expenses were to be apportioned.

2. The countries which refused to contribute towards those expenses had been accused by some delegations of wishing to undermine the authority of the Court and to lead the United Nations into an impasse. Yet it was common knowledge that the events in the Congo and the Middle East had been precipitated by a small number of States for the sole purpose of bringing about the economic enslavement of young and defenceless countries. One might have expected that the guilty would be punished, but nothing of the sort had happened. Instead, steps were being taken, in violation of the Charter, to finance the extraordinary expenses incurred by the Organization in the two areas. Some representatives believed that a standard procedure must be established once and for all for the financing of operations such as ONUC; however, such a step could not but encourage further aggression by certain States, which would be secure in the knowledge that the whole world would pay for their actions while they went unpunished. Every case involving extraordinary expenditures must be considered on its merits and in full conformity with the Charter. It would, furthermore, be inadvisable to establish a procedure for meeting expenses arising out of acts of aggression as yet unforeseen. It must be understood by potential aggressors that they would be punished, not encouraged; only then would the Organization be delivered from financial crises.

3. The situation in the Congo was clear: the country was a prey to the monopolists of a few countries who, indifferent to the fate of the Congolese people, were concerned only to pursue their dismemberment of the country and thus to consolidate their positions, especially in Katanga. While they supported the Central Government in public, they were in practice weakening it, for they paid their taxes to the puppet Tshombé. The United States representative had twice stated at the present session that his country had no connexion with the unhappy events in the Congo, giving as evidence the fact that there were no United States or NATO soldiers there. But there was no need of soldiers to exploit the wealth of the Congo; what was needed was capital, and the United States monopolies were second only to those of Belgium in the extent of their investments in the Congo. No one today could be so naïve as to suppose that the political crisis in the Congo had developed in isolation from the activities of such monopolies, or that there was not much in the Congo for which the United States had to answer.

4. As far as the Court's advisory opinion was concerned, his delegation shared the view expressed by Judge Koretsky in paragraph 3 of his dissenting opinion[2] that the issue was first and foremost a political one, and that the Court ought to have avoided giving an answer on the substance of the question in view of the fact that its opinion might be used as an instrument of political struggle. His delegation, therefore, did not share the Court's advisory opinion.

5. Legally speaking, the Assembly ought not to adopt any resolution based on the advisory opinion; official approval of the opinion would convert it into a binding decision, whereas the Court itself had not expected that its opinion would be accepted or rejected. That was not the purpose of advisory opinions. Indeed, such a course would itself tend to undermine the Court's authority, for the Fifth Committee would then be implying that it was a higher authority than the Court. The Committee's task was to settle substance of the question at issue, and it should not mention the Court's opinion in any of its documents. His delegation

[1] Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 151, transmitted to the Members of the General Assembly by a note of the Secretary-General (A/5161 and Corr.1).

[2] Ibid., p. 254.

would therefore vote against any resolution mentioning the Court's opinion.

6. Mr. SOARDI (Italy) recalled that, at the 1136th plenary meeting of the General Assembly, the Italian Minister for Foreign Affairs had said that the Italian delegation continued to be in favour of placing all financial obligations relating to the United Nations on one footing, irrespective of their cause; at the same time, he had pointed out that the Italian Government had bought some $9 million worth of the bonds issued by the United Nations to help finance its operations in the Middle East and the Congo. As far as the latter operation was concerned, Italy's participation had not been restricted to a financial contribution, for it had also placed personnel and aircraft at the disposal of ONUC. Not only had Italian lives been lost in the process, but the Italian Consul in Elisabethville had just been expelled by the Katangese authorities, which was a grave violation of international law.

7. The sacrifices borne by his and other countries taking part in United Nations action to safeguard peace and security could be justified only by confidence in its successful conclusion. It was in that spirit that his delegation would vote for acceptance of the Court's advisory opinion.

8. Now that the Court had replied to the legal question as to whether or not the expenses in question were expenses of the Organization within the meaning of Article 17, paragraph 2, of the Charter, his delegation did not doubt that the Assembly was competent to decide how those expenses should be apportioned among Member States, or that its decision would be equally binding on all Members, whether they had supported it or not. His delegation did not believe that that would mean transforming the United Nations into a super-State. There were few provisions in the Charter which made the majority decisions of a United Nations body binding on all Members, but Article 17, paragraph 2, was such a provision and it clearly empowered the General Assembly to impose the majority view on the minority. It could not therefore be claimed that the Assembly was acting arbitrarily in imposing such a decision.

9. It remained to be seen what weight should be given to the advisory opinion. His delegation recognized that it was not of itself binding; that was why the General Assembly had to carry it into effect. However, it should be noted that if the opinion had dealt separately with the legal and political aspects of the problem, or if some of the counter-arguments had not been examined by the Court, the General Assembly might have taken into account factors outside the scope of the advisory opinion and perhaps have adopted a different decision. But in reality the issue was essentially legal, for its political aspects could not be considered in isolation from the legal question of the application of a Charter provision; the very way in which the agenda item was worded indicated the specifically legal character of the problem. In any case, the objections raised by certain delegations concerned points about which the Court had already expressed its views; in the circumstances, therefore, it was difficult to see how the General Assembly could come to a different decision without openly opposing the Court, particularly in view of the fact that the Assembly had itself sought the Court's guidance.

10. It had been argued that the General Assembly resolutions concerning UNEF and ONUC were invalid and that therefore any decision to impose on Member States the expenses arising out of those resolutions would likewise be invalid. However, not only had the Court itself rejected that argument on the basis of Article 14 of the Charter, but those very resolutions had been superseded by others in which the Assembly had approved the expenditures in question. For all financial purposes, therefore, the Assembly had in effect ratified the earlier decisions to initiate operations in the Middle East and the Congo, and his delegation no more doubted the validity of those resolutions than it doubted the validity of the Organization's financial commitments in every other case where it had had to confront problems outside the sphere of routine administration. Since the Assembly had decided, on the basis of Article 17, paragraph 1, that the expenses of UNEF and ONUC were expenses of the Organization, it had already established the logical basis for applying the second paragraph of the same Article.

11. His delegation was also moved to support draft resolution A/C.5/L.760 and Add.1-3 by the conviction that the Organization's financial equilibrium must be restored; it wished to see confirmed once and for all the principle that the Organization should always be able to raise the funds needed for operations relating to the maintenance of international peace and security, which was the prime objective of the United Nations.

12. It was true that the expenses in question were "extraordinary", but it could not be claimed that the activities from which they had arisen were extraordinary, since such activities constituted the fundamental task of the United Nations under Article 1 of the Charter. By voting for acceptance of the Court's advisory opinion, the members of the Committee would answer the Secretary-General's appeal and bear witness to their confidence in the future of the United Nations.

13. Once the advisory opinion was accepted, agreement must be reached on the method by which peacekeeping operations were to be financed; that was the purpose of draft resolutions A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1 and A/C.5/L.763 and Corr.1. In his delegation's view, the former draft had the double advantage of using the experience of the old Working Group of Fifteen on the Examination of the Administrative and Budgetary Procedures of the United Nations, while leaving it a free hand with regard to criteria. The latter draft did not conflict with the former, but the Working Group for which it provided would be bigger and its freedom of action considerably more restricted. His delegation hoped that the two groups of sponsors would be able to agree on a joint draft.

14. Mr. ALVARADO (Venezuela) said that his delegation had had too many doubts to be able to support either side in the controversy which the advisory opinion of the International Court of Justice had now settled. It had no difficulty in accepting that opinion now, as it had not taken up a position with which that opinion could conflict. Even if it had done so, however, it would still accept the Court's opinion because of the dire financial straits in which the Organization found itself and because it wished to respond to the Secretary-General's appeal. Acceptance of the opinion was implicit in the draft resolution (A/C.5/L.763 and Corr.1) of which his delegation was a co-sponsor.

15. His delegation also fully accepted three other points which were contained in that draft resolution: first, that, in order to meet the expenditure caused

by peace-keeping operations, a procedure was required that was different from that applied to the regular budget of the United Nations; secondly, that, in the short time that remained before the end of the present session, the Fifth Committee could not consider the problem of how the costs of such operations were to be met; and, thirdly, that a working group should be asked to study the matter and report to the General Assembly.

16. If it was to work effectively and avoid fruitless discussion, the Working Group must be given specific directives. Also, if it was not to recommend a method of financing that was unacceptable to the majority of the Assembly, it must be given a clear indication of the factors that it should bear in mind. For that reason, criteria for the guidance of the Working Group had been defined in operative paragraph 2 of the draft resolution. As they already had the approval of the General Assembly, they would facilitate the task of the Working Group and, eventually, of the General Assembly itself; in addition, by narrowing the area of possible disagreement, they would save time and money, for the Working Group would need to meet less often if it did not have to deal with a large number of difficult points. As the cost of a resumed session was bound to be high, the Committee should do everything in its power to see that money was not wasted on avoidable meetings.

17. Like many others, his delegation felt that the force and authority of a General Assembly resolution was directly proportionate to the amount of support it received in the vote. For that reason, it was anxious to explore every means of securing the widest possible agreement on a single text. He welcomed the statement made by the representative of Cameroon at the 966th meeting, particularly as Cameroon was one of the sponsors of draft resolution A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1. Similarly, he had been glad to hear the comments made by the representative of Thailand, a supporter of that draft resolution, at the same meeting. Although he felt that draft resolution A/C.5/L.763 and Corr.1 was the least controversial text that could be arrived at, he was willing to make concessions in order to ensure as much support as possible for a combined text, which, he trusted, the sponsors of the two draft resolutions would be able to agree upon.

18. Mr. MHEDHEBI (Tunisia) recalled that, as the Tunisian Minister for Foreign Affairs had stated at the 1141st plenary meeting, Tunisia considered that Member States were bound to take part in the financing of operations undertaken in accordance with the Charter; that conviction had now been confirmed by the International Court of Justice, and his delegation was therefore prepared to accept the Court's advisory opinion without reservations as the logical conclusion to a prolonged controversy over the legal basis of the financial obligations of Member States. His delegation further believed that the General Assembly should accept an opinion which it had itself sought and whose authority was in no way reduced by its advisory character.

19. The Court had thus confirmed both the obligation of Member States to bear the extraordinary expenses of the Organization and the authority of the General Assembly under Article 17, paragraph 2, to apportion such expenses among Member States. However, as the Court had pointed out, the obligation was one thing, while the way in which it was met was another, and the General Assembly could decide among several alternative methods. His delegation believed the time had come to adopt a method for financing the extraordinary expenses of the Organization different from that employed in apportioning the expenditures under the regular budget. The General Assembly had for some time been aware of the need to find more satisfactory criteria and had already begun to depart from the normal procedure when it had decided to make certain adjustments under resolutions 1619 (XV) and 1733 (XVI). His delegation felt that the "different scale of assessment" mentioned in those resolutions should be instituted without delay; a satisfactory scale would be one based on the criteria set forth in the draft resolution A/C.5/L.763 and Corr.1. That would constitute a definitive solution to a problem which affected the financial equilibrium of the Organization, its prestige and its capacity to assume all its responsibilities in the field of collective security.

20. Whatever the importance of the legal questions raised by United Nations action in the Middle East and the Congo—a matter which his delegation now regarded as settled by the Court's opinion—it must not be forgotten that the essential mission of the United Nations, and indeed its very raison d'être, was to "maintain international peace and security". That purpose took precedence over all others in the Charter and deserved the unanimous and unswerving support of Member States. The Fifth Committee was not the forum in which to consider criticisms of the way in which decisions were adopted and carried out by the United Nations; for such criticisms could in no circumstances release Member States from their obligations under the Charter. To try by withholding financial support, to compel the Organization to ignore the will of the majority was to paralyse it at present and doom it for the future. That could not be the wish of any Member State, for when the very future of the United Nations was at stake all differences must be overcome. Tunisia was a small country, incapable of committing aggression but with no guarantee that it might not one day be the victim of aggression; it therefore looked to the United Nations for the only protection it could hope for, that of a strong and effective Organization fully equipped with the means of action. His delegation therefore urged those Member States which hitherto had expressed doubts regarding the legality of certain of their financial obligations to recognize and honour such obligations. The Court's advisory opinion offered a happy opportunity to put an end to an unproductive legal controversy. A satisfactory formula for the settlement of arrears could be worked out in agreement with the Secretary-General, while the new scale of assessments would settle the problem for the future.

21. His delegation would therefore vote for the three draft resolutions before the Committee (A/C.5/L.760 and Add.1-3, A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1 and A/C.5/L.763 and Corr.1) although it preferred the Latin American proposal (A/C.5/L.763 and Corr.1) because it gave precise directives to the proposed Working Group. His delegation had no objection to expanding the Working Group, but believed that in principle the appointment of Member States to the Group should take place by elections in the Fifth Committee.

22. Sir Susanta DE FONSEKA (Ceylon) recalled that his delegation had not supported the General Assembly's decision to request an advisory opinion from the

International Court concerning the nature of the expenses relative to UNEF and ONUC (resolution 1731 (XVI)). It had not supported that decision because it considered that the issues involved were political as well as legal and that adjudication by the Court would not facilitate a practical agreed settlement. It had anticipated that the Court's verdict might introduce an element of compulsion into the payment of expenses for peace-keeping operations to which the delegation of Ceylon was opposed.

23. A number of Member States had objected to the apportionment of the expenses of UNEF and ONUC as expenses of the Organization within the meaning of Article 17 of the Charter for different political reasons. Some had contended that the operations were a means of enabling certain countries to maintain their influence in particular regions of the world; some had opposed the operations in the Congo on such varying grounds as the removal of Belgian control, the delays in removing Belgian influence, the "outlawing" of the Katanga Government and the death of Prime Minister Lumumba; still other States had seen in the Congo operations a dangerous precedent which might one day be applied to other sovereign countries if local political situations should become explosive. They had consequently been opposed to the principle of the two operations and to the extension of their scope, and had refused to pay a share of the expenses on the legalistic ground that they related to special security measures exclusively within the competence of the Security Council.

24. Now that the Court had rendered its advisory opinion, those States, regardless of their legalistic opposition to sharing in the expenses of UNEF and ONUC, should accept it. They should do so in order to demonstrate their collective support of the United Nations and because such acceptance constituted the best guarantee of the financial support necessary to ensure the success of the two operations and of similar future operations. As a small nation, Ceylon would be glad to see peace-keeping operations become part of the normal activities of the United Nations and the relevant expenditure become a normal part of the expenses of the Organization. One of the most powerful weapons available to the small and newly independent nations was to appeal to the United Nations for a peace-keeping operation whenever they felt their independence threatened by subversion of any kind from any quarter.

25. However, while the Court's opinion had disposed of the legal problem, it had not resolved the political issues. Since the United Nations had not yet evolved to the point where it could automatically bring sanctions against an aggressor whether or not such sanctions had the agreement of individual nations, its peace-keeping operations necessarily had to be undertaken by agreement of its Members and with their co-operation. The great Powers bore a greater responsibility for such co-operation. However, no Power, great or small, should be free to decide, in the light of its own interpretation of the functions of the political organs of the United Nations under the Charter or for any other political reason, that it had no obligation to share in the costs of peace-keeping operations. Even at that late stage, the Assembly should endeavour to bring about an understanding which would give due weight to the Court's opinion and would enable countries refusing to pay their assessed share of the expenses of the UNEF and ONUC operations to make their contributions on a voluntary basis. They should recognize that those operations had received support from the majority of Member States and that it was vital that they should be pursued to a successful conclusion. Particularly when the Congo operation was entering a crucial phase, the Secretary-General should have their full support.

26. Sir Kenneth BAILEY (Australia) pointed out that peace-keeping was one of the basic purposes of the United Nations and that while primary responsibility for the maintenance of international peace and security rested with the Security Council, the Charter also vested in the General Assembly specific functions in that respect. In point of fact, the United Nations, in pursuit of its purposes, had undertaken peace-keeping operations of various kinds almost since its inception. Its consistent practice had been, unless other means such as voluntary contributions were available, to treat the costs of all peace-keeping operations as expenses of the Organization and to apportion them among all Members as provided in Article 17, paragraph 2, of the Charter. In the case of Korea, the operative costs had been met entirely by voluntary contributions. In certain other cases, voluntary contributions had covered part of the total expenses. However, in so far as other means had not been available, all peace-keeping expenses had been regarded as subject to apportionment under Article 17. In the circumstances, the assertion of the representative of Poland that the practice of the United Nations and of the Fifth Committee, in particular, contradicted the contention that the UNEF and ONUC expenses were to be regarded as "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter was entirely unfounded. In support of that assertion, he had quoted the third preambular paragraph of General Assembly resolution 1732 (XVI), which stated that "a procedure different from that applied in the case of the regular budget is required for meeting these extraordinary expenses", in other words, the expenses relating to the operations in the Middle East and the Congo. The USSR representative had quoted the same preambular paragraph in support of his position. However, the contentions of both those representatives were refuted by operative paragraph 4 of the same resolution, under which the Assembly decided to apportion the costs of the Congo operations "as expenses of the Organization". The scale in accordance with which those costs had been apportioned had in fact departed in certain respects from the scale applied in the case of the regular budget, so that the "procedure" had in fact been different. But the costs had not been left to be met by voluntary contributions, and the practice of the Organization in apportioning peace-keeping costs had not been altered.

27. In order to resolve the dispute which had arisen concerning the competence of the General Assembly to adopt that practice, the Assembly had sought an advisory opinion from the International Court as to whether the expenditures authorized and apportioned among Member States in the resolutions relating to the operations in the Middle East and the Congo constituted "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter. In requesting that opinion, the Assembly had asked the Court to perform the legal task of interpreting a treaty provision. From the point of view of the Fifth Committee, however, the significance of the answer lay primarily in its relevance to budgetary practice: the question was whether, in apportioning the costs of

the two operations among all Members, the Assembly had acted in accordance with the Charter. The Court had answered that question in the affirmative, thus placing the seal of the principal judicial organ of the United Nations on the practice consistently adopted by the Assembly in relation to peace-keeping costs.

28. It had been generally agreed that while the Court's opinion was not legally binding upon Member States, it was entitled to great respect. It provided the Assembly with the "authoritative legal guidance as to obligations of Member States under the Charter of the United Nations in the matter of financing the United Nations operations in the Congo and in the Middle East" (resolution 1731 (XVI)) which it had specifically sought. The Assembly had been justified in referring to its need for such guidance. The fact that the authoritative advice had been provided by the organ designated as the principal judicial organ of the United Nations should be taken into account in considering what weight should be attached to the Court's opinion. The Assembly should definitely not adopt the position of the USSR delegation that the Court's opinion should be regarded as having no force whatever. Australia concurred in the view expressed by the Sixth Committee in the case concerning reparations for injuries incurred in the service of the United Nations that "the authoritative nature of the advisory opinion should be taken for granted",[3/] and in that of the Secretary-General that a principal organ of the United Nations should defer to the decisions of another principal organ on matters within the competence of the latter. The case for that general rule was particularly strong because of the circumstances in which the Assembly had sought legal guidance from the Court. For all those reasons, Australia had co-sponsored and would support draft resolution A/C.5/L.760 and Add.1-3.

29. The effect of accepting the Court's opinion was to acknowledge that the Assembly had been legally correct in assuming that the expenses it had authorized in resolutions adopted between 1956 and 1961 with respect to UNEF and ONUC had been "expenses of the Organization" and, as such, apportionable among all Member States. The Court had thus answered the question put to it in relation to past expenses. While it had made no direct reference to future peace-keeping costs—and it would not have been relevant for it to do so—it had pointed out that the Assembly was competent to decide how to apportion "expenses of the Organization". It had further emphasized that in upholding the Assembly's power to apportion expenses, it was not expressing any opinion on the scale of assessments to be applied: the Assembly could adopt any scale it deemed appropriate.

30. In that context, the operative paragraph of draft resolution A/C.5/L.760 and Add.1-3 simply meant that the Assembly would take the advice of the Court. It did not mean that the Assembly agreed or did not agree that, in point of law, the opinion was correct. It was not the function of the Assembly to review or pass judgement on an advisory opinion of the International Court, and even less to transform the opinion into a binding decision. The sponsors of the draft resolution had no intention of inviting the Assembly to assume such a function, as the representatives of France and Jordan appeared to think. The Assembly had merely received advice which it was free to accept or reject. If it accepted the Court's advice, the existing apportionments of UNEF and ONUC expenses would continue in force, as they stood, and it would be generally recognized that the Assembly was entitled to apportion similar expenses in future under Article 17, paragraph 2, if it so decided, and to apply any scale of assessments which it deemed appropriate. In order to implement the Court's advice for the future, Australia had also co-sponsored draft resolution A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1.

31. No good or sufficient reasons had been advanced for not accepting the Court's opinion. The main legal contention of the Soviet Union was not new. It amounted to the proposition that peace-keeping operations could be validly undertaken only by or under the authority of the Security Council and in pursuance of Article 43 of the Charter, and that therefore the costs of such operations were not chargeable against any Member State except by agreement. That argument had been put forward previously and rejected in the Fifth Committee; it had later been explicitly considered and rejected by the International Court itself. The same was true of the subsidiary argument adduced by the Polish representative with regard to the wording of Article 17. The representative of France had also disagreed (962nd meeting) with the Court's opinion on the ground that the obligatory powers of apportionment conferred by Article 17 extended only to the administrative expenses of the United Nations, and that no Member State was under obligation, except by its own agreement, to bear any part of the expenses of United Nations operations either in the military or in the economic, social or technical field. Since the "regular budget" was not limited to strictly administrative expenses, the French contention was tantamount to saying that certain items even in the regular budget could not be included in any Member's assessment without its consent. The French argument had been previously put forward in the General Assembly and had not prevailed. It had been explicitly considered by the Court and rejected. Legal arguments which had been rejected by the principal judicial organ of the United Nations should carry no weight in the General Assembly.

32. The political objections to the operations in the Middle East and the Congo expressed by the Soviet Union and some other States were not relevant either to the legal question which the Court had been asked to answer or to the question whether the Court's advice should be accepted by the General Assembly. They showed how impracticable it would be to finance any extensive peace-keeping operations purely on the basis of voluntary contributions. The maintenance of international peace and security was the purpose of the whole Organization and the Organization could not operate effectively if its Members maintained the right to withhold their contributions towards the cost of activities of which they disapproved. If contributions to the costs of peace-keeping operations were made conditional upon political approval by individual States, those operations would be financially precarious and the Organization itself might be totally disabled. Political objections to the undertaking or conduct of such operations were in order in the Security Council or the Assembly at the appropriate time; they were not legitimate reasons for refusal by a Member State to pay its assessed share of the expenses of the United Nations.

[3/] Official Records of the General Assembly, Fourth Session, Plenary Meetings, Annex, agenda item 51, document A/1101 and Corr.1, para. 7.

33. At the 964th meeting, the Jordanian representative had opposed acceptance of the Court's opinion on quite different grounds. Although he did not contest the authority of the Court, he had urged the Committee merely to take note of its opinion; he had not agreed with the Court's finding and had proposed that the General Assembly should set up a new committee to consider ways and means of financing such exceptional expenses as those of UNEF and ONUC. The Jordanian representative had recommended that course because he feared that, in view of the expressed unwillingness of some Member States to pay their share of the UNEF and ONUC costs, a substantial number of Member States might find themselves deprived of the right to vote, as a result of the application of Article 19 of the Charter.

34. No one really wished to see Article 19 applied. That Article was intended as a deterrent and as a means of ensuring the financial stability of the Organization. It was based on the sound principle that the making of decisions should be confined to those who paid their assessed contributions. The United Nations had, in fact, always operated within the framework of Article 19, a number of facts indicated. First, the Committee on Contributions kept the position of Member States under constant review; and, secondly, early in 1962, that Article could have been applied to three Member States, even if contributions to UNEF and ONUC were disregarded, and to six more if those contributions were taken into account; all nine had since regularized their position. By so doing, the six Member States which had been in arrears in their contributions to UNEF and ONUC had in effect accepted the General Assembly's decision, now confirmed by the advisory opinion, that such costs were apportionable. They could not now be allowed credit for a proportion of their contribution to UNEF and ONUC; that being so, it was difficult to see why a different rule should be applied to other States.

35. The Court's opinion did not require costs such as those of UNEF and ONUC to be apportioned as "expenses of the Organization"; it merely confirmed the General Assembly's right to treat those costs in that way if it so wished. If the Jordanian proposal was adopted, it would involve the abandonment of the position hitherto maintained by the General Assembly and possibly the rescinding of the resolutions by which the costs of UNEF and ONUC had been apportioned.

36. The General Assembly could not abandon its position without imperilling the future of the United Nations, for three main reasons. First, as the Secretary-General had pointed out at the 961st meeting (A/C.5/952), unless the problem of liquidating the present arrears on the UNEF and ONUC contributions and of providing for the future financing of such operations was solved now, the United Nations faced bankruptcy. As at 30 June 1962, the pre-1962 arrears on the UNEF and ONUC accounts had amounted to $77 million, and the bond issue was not yet fully subscribed.

37. Secondly, if the principle of voluntary contributions was to apply to all the operational activities of the Organization, it would be necessary to curtail such activities drastically, not only in the peace-keeping sphere but also in the social and humanitarian fields. The programmes covered by part V (Technical programmes) of the budget estimates were just as much operational expenses as those of UNEF and ONUC.

38. Thirdly, if those Member States which had met their obligations hitherto were told not only that they had to shoulder the burden of the present arrears, which they had not accumulated, but that other Member States would not have to contribute if they did not wish to, their willingness, and even their ability, to pay for social and economic activities would be seriously impaired. Any departure from the sound principle of collective responsibility would undermine the whole standing of the United Nations. National legislatures would not be willing to vote funds to pay off arrears and at the same time to maintain their voluntary contributions at the present level. Representatives could assess the importance to their own regions of the technical and humanitarian programmes of the United Nations, including assistance to refugees; they should ponder the effects of a curtailment of voluntary contributions by States with larger resources.

39. The Court's advisory opinion should be accepted, not only because it emanated from the principal judicial organ of the United Nations, but because the principle it affirmed was an indispensable instrument for maintaining the United Nations as a force for world peace. Although Article 19 was important, it would be a mistake to concentrate too much attention on it. If the gravity of the financial situation of the Organization was appreciated and belief in its value wide-spread, there would be no need to invoke that Article.

40. If the advisory opinion was not accepted, the General Assembly would deliver a damaging blow to the International Court and it would stultify itself by abandoning a principle on which it had consistently acted for years, just when the validity of its action had been fully vindicated. Some delegations had affirmed that if the advisory opinion was accepted, it would lead to the break-up of the Organization through the loss of voting rights under Article 19; but if it was not accepted, the United Nations might be paralysed before the end of the year. The General Assembly must make it clear that it stood firmly on the principle of collective financial responsibility for the maintenance of international peace; he therefore urged the Committee to support draft resolution A/C.5/L.760 and Add.1-3.

41. Mr. WYZNER (Poland), speaking in exercise of his right of reply, said that the Australian representative was mistaken in supposing that the Polish delegation had based its case against contributing to the costs of ONUC on General Assembly resolution 1732 (XVI). It could not have done so, for it had not voted for that resolution. He had quoted the third preambular paragraph of that resolution only to show that even those Member States which did not share Poland's views had been compelled to admit that the expenses of the Congo operation were extraordinary and essentially different from the expenses of the Organization under the regular budget.

42. Mr. CAIMEROM MEASKETH (Cambodia) said that if Member States were convinced that the United Nations served a useful purpose, it would be illogical for them not to take the necessary steps to ensure its survival. Similarly, if they really welcomed the election of the Secretary-General, as they apparently did, they could not refuse to provide him with funds to carry out his task. Cambodia had always been convinced of the necessity for such emergency police forces as those organized in the Middle East and the Congo, which had been instrumental in preventing further disasters in those areas and had ensured a

certain measure of stability and security pending a final solution of the problems involved. Cambodia had, therefore, always paid its annual contribution to UNEF. The fact that it was not in the same position with regard to ONUC was entirely attributable to its straitened financial circumstances. However, conscious of its duty as a Member State, it had done what it could to assist ONUC, and had made a voluntary contribution of one million old francs to that operation even before a scale of assessments had been worked out.

43. Although the advisory opinion of the International Court of Justice was not legally binding, Member States should feel themselves morally bound by it. When asked for authoritative legal guidance, the Court had stated unequivocally that the expenses of UNEF and ONUC were "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter. It would be paradoxical if resolutions relating to the financing of peace-keeping operations adopted by a two-thirds majority of the General Assembly—operations which were designed to achieve one of the Purposes of the United Nations—were not to be binding upon Member States. In spite of its financial difficulties, Cambodia did not intend to evade its responsibilities. However, if the poorer countries like Cambodia were to meet their obligations, the United Nations should keep the expenses for peace-keeping operations as low as possible.

44. For the reasons he had given, his delegation would support draft resolution A/C.5/L.760 and Add.1-3. While draft resolution A/C.5/L.761 and Add.1 and 2 and Add.2/Corr.1 gave the Working Group every latitude to consider future methods of financing peace-keeping operations, it did not contain any specific recommendations. The Cambodian delegation thought it preferable to specify that the new scale of assessments should not be the same as for the regular budget and should be based on the operative parts of General Assembly resolutions 1732 (XVI) and 1733 (XVI). It therefore felt more inclined to support draft resolution A/C.5/L.763 and Corr.1, which laid down certain criteria for the guidance of the Working Group.

45. Cambodia accepted the advisory opinion; it urged other Member States to do the same.

The meeting rose at 12.50 p.m.

Litho in U.N. 77501—April 1963—2,150