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FINANCING THE UNITED NATIONS

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Perhaps no other characteristic of the United Nations illustrates so well the fact that it is an international (rather than supranational) institution as the method of financing the organization. A fundamental requirement of any true government is the power of coercive taxation - and this the United Nations simply does not have. It is true that members failing to meet their financial obligations are subject to a sanction; but, at least in the case of the more powerful members, such a sanction will be applied only with the greatest reluctance. For to apply it risks the very existence of the organization. This point was amply demonstrated in the recently concluded nineteenth session of the General Assembly, where, by mutual agreement, the issue of invoking the penalty against the Soviet Union was circumvented.

More importantly, the distinction between punishing a member for failure to pay its assessment and the ability to coerce payment should be kept in mind. Even if a member is so punished, the United Nations still has no way actually to collect the funds owed to it - another reason for the reluctance to apply the sanction. Despite the fact that the Charter is a mutually binding international treaty, the United Nations remains an essentially voluntary organization, especially so in the critical area of its finances.

These considerations remained pretty much in the background for the first dozen years of United Nations history because, with unimportant exceptions, members consistently met their financial obligations. Beginning with the Suez crisis of 1956, however, and extending into the Congo operations of the early 1960's, the refusal of some members to contribute to one or both of these United Nations activities precipitated what has come to be known as the financial crisis. In discussing this crisis, and the events leading up

to it, I want to emphasize its political implications - I write, that is to say, as a student of politics rather than of public finance.

THE BUDGET AND ITS FINANCING

There are at least two, and possibly three, types of budgets in the United Nations. First, there are the strictly voluntary programs - exemplified by some United Nations Technical Assistance activities - which depend for their funds on contributions of members. Second, there is what is often referred to as the regular budget of the organization. This is prepared in a fashion similar to many national budgets. The Secretary-General makes the initial estimates, these are reviewed by an Advisory Committee of financial experts and then submitted to the General Assembly's Fifth Committee. The final budget is approved by the General Assembly in plenary session. Whether or not there is a third category - special budgets - is a matter of contention.

To raise the money for the regular budget the Charter provides (Article 17, paragraph 2) that «The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.» On what basis that apportionment will be made is clearly up to the General Assembly. Within certain limits the criterion of assessment has been ability to pay. The limits referred to are that (1) in principle no state should be responsible for more than thirty per cent of the total budget, and that (2) no state should be responsible for less than four one hundredths of one per cent of the total budget. The latest assessments for which figures are available (1963) show a range of .04 per cent to 32.05 per cent¹.

In addition to giving the General Assembly wide discretion as to the apportionment of United Nations expenses, the Charter also provides (Article 19):

A member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly

1) This figure is, of course, for the United States. The American contribution has been gradually decreasing from almost forty per cent in 1946-48 to the accepted limit of thirty per cent.

if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Members.

Two things about this article should be emphasized. First, the loss of vote in the General Assembly for those member states more than two years behind in their payments is mandatory. Second, the only exception to this is in the case of a state being unable to pay, that inability to be determined by the General Assembly.

Article 19 thus provides for the «punishment» for non-payment of assessments referred to earlier in our discussion. While, from almost the very beginning of the United Nations, some states fell behind in their payments, the question of applying the article never arose - it being generally understood that failure to pay was due to lack of funds. Furthermore, the states involved were among those allotted the minimum assessment, so that their delinquency was of negligible importance to the financial status of the organization.

THE FINANCIAL CRISIS

What has come to be known as the financial crisis had its inception in the creation of the United Nations Emergency Force (UNEF) to help settle the Suez imbroglio of 1956. At that time it was agreed that all United Nations expenses in connection with the operation would be handled through an ad hoc account, financed by such voluntary contributions as might be forthcoming and by assessing all members on the same basis as that use for the annual budgets². Setting up such an ad hoc, or special, account has been criticized on the grounds that it lends credence to the argument that UNEF (and later operations in the Congo) are not part of the «regular» United Nations budget, and hence member states are not obligated to fulfill these assessments³. While there may be a degree

2) General Assembly Resolution 1001 (ES-1), adopted November 7, 1956 by a vote of sixty-four to zero, with twelve abstentions.

3. Rosener, *The United Nations Emergency Force* (1963), cited in D. W. Bowett, *United Nations Forces*, London: Stevens & Sons (1964), p. 144.

of validity in this criticism, it should be remembered that UNEF was created at a time of great tension - the Hungarian revolution was proceeding simultaneously with the invasion of Egypt. Further, neither the full extent of the operations of UNEF could be clearly seen from the beginning, nor the amount of voluntary contributions be accurately estimated. In view of this, the Secretary-General's proposal, which was accepted by a large majority of the Assembly, to handle the Suez operation apart from the regular annual budget seems reasonable.

Despite the General Assembly's adoption of this plan, objections to it were voiced almost immediately. These objections took two forms: one concerning the legality of any Assembly-authorized use of contingents; the other concerning the method of assessment for financing those contingents. In the first category was the argument of representatives of the Soviet bloc who insisted that *only* the Security Council could authorize the use of troops, and the Assembly's action therefore violated the Charter. In the second category two positions were developed. The Arab states, supported by the Soviets, argued that only those states responsible for the aggression should be assessed. Many Latin American delegates, on the other hand, suggested that since the major powers had the primary responsibility under the Charter for the maintenance of international peace and security the major burden for financial support of peace-keeping operations should fall on them.

These arguments, voiced continually during the Suez crisis, and repeated later with regard to the Congo operation, would be of minor interest if their proponents had nonetheless been willing to consider themselves bound by their rejection in the General Assembly in favor of following the usual method of assessment. But they were not. Instead, they were used to justify the adamant refusal to contribute funds either to UNEF or the Congo operation.

Failure to contribute proved financially embarrassing for the United Nations in the case of Suez. In the Congo crisis of the early 1960's embarrassment turned into incipient catastrophe. Without going into a myriad of details, a few figures may be used to indicate the dimensions of the problem. As of the end of 1962, out of a total membership of one hundred ten, seventy-one states were in arrears on either or both of their UNEF and Congo assessments. At the same time the United Nations had a deficit of \$ 74 millions - which increased to almost \$ 94 millions by the end of March, 1963. Signif-

icantly, more than half of this deficit could be accounted for by Soviet refusal to contribute to either operation. Perhaps just as significantly, France joined the list of opponents to the Congo operation, accounting for another \$15 millions of the deficit ⁴.

While these figures indicate the situation at the early part of 1963, it had become obvious from almost the beginning of the Congo crisis that the worsening problem of finances would have to be met. With this in mind, in 1961 the General Assembly took two steps, one amounting to a frontal attack on the problem, the other involving the attempt at a more subtle remedy.

The first of these was a decision to ask the International Court of Justice for an advisory opinion as to whether the expenditures authorized for the Suez and Congo operations constituted «expenses of the Organization» within the meaning of Article 17 of the Charter ⁵. The notion was that if the Court answered this question in the affirmative there would be a clear legal obligation on the part of all members to pay their Suez and Congo assessments. And, in July, 1962, the Court rendered its opinion ⁶ - in a nine to five decision - that the expenditures concerned did fall under Article 17. It summarily brushed aside the contention that the Suez and Congo accounts were special, as opposed to the regular budget, by pointing out that Article 17 refers simply to the expenses of the organization, irrespective of whether these expenses are regular, special or anything else. In addition, the majority decision contained two interesting points which are worth noting in passing.

First, the Court took up the question of whether the United Nations was authorized by the Charter to undertake the kind of action it had pursued in Suez and the Congo, agreeing that if such action were not authorized there would be no obligation on the part of any member to support it financially. The Court's conclusion that the activities were «constitutional» is not as noteworthy as its assertion of what amounts to judicial review. That is, by even entertaining the question, the Court asserted its authority to determine whether acts of the United Nations were or were not in conformity with the Charter - though, admittedly such determinations remain

4) United Nations Document ST/ADM/Ser. B/168. Cited in Sydney Bailey, *The United Nations*, New-York: Frederick A. Praeger (1963), Appendix, p. 126.

5) General Assembly Resolution 1731 (XVI).

6. *I. C. J. Reports*, 1962, pp. 151-80.

advisory in nature. A second interesting point in the Court's decision concerned the Soviet argument that only the Security Council could authorize action for the maintenance of peace and security. Rejecting this contention, the Court went on to say that even if it were accepted, the financial obligation would not be removed. As long as the United Nations itself is authorized to act, the obligation to support that act financially exists, irrespective of whether the action was taken by the «proper» organ. How far this doctrine might be extended in the future is anybody's guess.

By a vote of 76 to 18, with 8 abstentions, the General Assembly accepted this opinion in December, 1962⁷. The frontal assault appeared successful - but was it? In other words, what is the significance of the acceptance by the General Assembly of an advisory opinion of the Court if there remain members who still argue its legality and refused to be bound by it? The question is well suited to provide students of international law countless hours of abstract legal argumentation, but what it comes down to is the fact, mentioned at the outset of this discussion, that no state can be coerced into payment. The Court's opinion doubtless added moral weight to the position of the majority, it may even have created a legal obligation for delinquent states to pay their arrears (though this is arguable). But in any case it did not, as it could not, prevent any state from continuing to default on its payments.

The second step taken by the General Assembly in 1961 was to authorize the Secretary-General to issue bonds in an amount up to \$200 millions, and to include in subsequent budgets provision for the payment of two per cent interest and any principal due. This flanking maneuver was designed both to ameliorate the immediate financial situation of the organization and, a strifle more subtly, to force states to contribute to the United Nations operations despite their objections. For if the bonds were used to pay for the United Nations forces in the Congo, and the «regular» budget increased to pay off the bonds, then any state keeping up with its regular assessment would, in effect, be contributing to the Congo operation. The bond issue did succeed in taking some of the immediate financial pressure off the organization, but did not succeed in its other purpose. The Soviet Union, among other members, simply announced

7) General Assembly Resolution 1854 (XVII).

that it would not pay that portion of its regular assessment earmarked for the repayment of the bond issue.

The financial crisis does not mean that the United Nations is incapable of further efforts along the lines of Suez and Congo. One alternative source of financing similar operations - as illustrated in Cyprus - is to have interested states undertake the burden. But it does mean that future operations may have to be circumscribed, and it raises the further spector of the possibility of a financial «veto» in the United Nations - preventing, or at least seriously impeding, United Nations activities by refusing to contribute the necessary funds.

Considerations such as these have given rise to a number of suggestions - emanating mostly from private groups and individuals - to provide the United Nations with alternative sources of income. These have ranged all the way from setting up a Reserve Fund to the taxation of individuals. Other possible sources suggested include economic rights in Antarctica or the ocean beds, and the tolls from one or more international waterways⁸.

While there is doubtless merit in considering various alternative sources of income, such an approach does not go to the heart of the present difficulty. When the entire United Nations budget, including both the Suez and Congo operations, for the year 1962 represents less than one-half of one per cent of the American defense budget or less than one and one-half per cent of that of the Soviet Union, it is difficult to argue that the major problem of United Nations peace keeping activities is one of unduly high costs.

But suppose that the United Nations did have an independent source of income totalling, say, \$100 millions per year. Who would control the disposition of these funds? Until now, the Secretaries-General have operated on the principle that no United Nations forces could enter an area without the consent of the government. But, as well, each Secretary-General has felt honor bound by the nature of his office to carry out the recommendations of the General Assembly to the best of his ability. It is not inconceivable that the two-thirds vote necessary to pass an Assembly resolution could be mustered among Afro-Asian states to send United Nations troops to the Union of South Africa to coerce a change in that country's policy of apartheid. Regardless of what one may think of the de-

8) See Bowett, *op. cit.*, pp. 481-82.

sirability of doing just that, the possibilities opened up by such a course of action are, to put it mildly, staggering.

What this suggests is that what has been termed a financial crisis in the United Nations is in reality a political one.

THE POLITICAL CRISIS

The political nature of the crisis as brought to a head at the nineteenth session of the General Assembly last Fall. On January 1, 1964, the arrears of the Soviet Union (including its obligations for Suez and the Congo) amounted to more than the contributions due from it «for the preceding two full years», thus making that state subject to the application of Article 19. It is safe to say, that with the possible exception of Albania, no member state was happy about this situation. If the issue was brought to a vote in the General Assembly, either a clear provision of the Charter would be flouted, or the real risk of the Soviet Union leaving the organization would be incurred. At the same time, merely to ignore the fact of Soviet delinquency and proceed as if it did not exist would, in the opinion of many delegations (including, especially, that of the United States), amount to an open breach of the Charter. The Americans insisted, therefore, that Article 19 be applied unless the Soviets agreed to contribute the necessary funds, while the Soviets just as insistently refused to budge from their position that UNEF and the Congo military operation were illegal.

The issue was evaded by the temporary expedient of not voting. Those decisions taken were handled as proposals by the President of the General Assembly to which no delegation objected - hence, technically, no vote. At the last minute, the Albanian delegation tried to upset the agreement by demanding a vote; this was overcome by the simple device of voting but not considering it as voting.

This «double-think» aura of the nineteenth Assembly was obviously a stop gap measure to get through this session and hope that before next Fall a way would be found to reconcile the Soviet and American positions. It is not being overly optimistic to assert that probably some way out of the current impasse will be found. But the underlying problem still remains. And this concerns the very nature of the United Nations.

When the Soviet delegate, during the Suez crisis, voted to turn the matter over to the General Assembly because French and

British vetoes stopped Security Council action, he clearly indicated his government's acceptance of the Uniting For Peace Resolution which it had fought against for so long. But the Soviet Union did not, at the same time, accept the notion that the General Assembly could do anything more than recommend a settlement. There is a difference, in the Soviet view, between recommendation and action of the sort taken in Suez and the Congo - and for the latter the Soviets have argued the necessity of Security Council authorization. Leaving aside any ulterior motives the Soviets may have had for taking such a position, in defending it that have had an ally in France - and, in fact, may not be so very far from the views of the United States and Britain as well.

Using the General Assembly as a source of United Nations action, over the protests of important members, may seem all right when your side has the votes. But as the Southern Hemisphere increasingly dominates the General Assembly, there is a distinct possibility of voting majorities having little relationship to power realities - which can work only to the detriment of the organization.

The United Nations has so far demonstrated a remarkable capacity to survive what might be called its constitutional impasses. But in each case, if a major power was involved, it has been in a relatively isolated position. To grant the General Assembly authority to involve the United Nations in activities which will necessitate the financial support of the major states is to play a most dangerous game. For it means either turning over to qualified majority rule what amounts to legislative authority, or - the more likely result - granting authority without the power to enforce it. Such a step may be desirable, even necessary. But it obviously transcends the question of finances, and is one which should not be taken lightly.

This is not to say that exploration of a way out of the current impasse is not critically needed. Nor is it to deny the usefulness of imaginative proposals for giving the United Nations the financial where-withal to carry on its activities independently of the interest of any particular state or states. But it is to assert that the financial crisis is only the glacial cap on the underlying iceberg of a political crisis involving the very nature of the United Nations. In such a crisis the need for haste may be great - but there is perhaps a greater need to make haste slowly.
