Chapter V

INDIA AND THE FINANCIAL IMPLICATIONS OF THE UNITED NATIONS EMERGENCY FORCE
INDIA'S ATTITUDE TOWARDS ARRANGEMENTS
FOR FINANCING THE UNEP

Statesmen of various countries have always been expecting a little too much from the United Nations and its organs and agencies, while, on the other hand, they have been generally reluctant to fulfill the obligations of their countries to the world organization. Thus, for example, the task of financing the two major and costly peace-keeping operations — one in the Middle East and the other in the Congo — imposed a great and continuing burden on the United Nations. Because of the failure of a large number of Member States to pay their assessments in time, or in full, and the persistent refusal of the Soviet Union and her allies to pay for the UNEF and the ONUC, and because of the refusal of France to pay for the latter operation, the United Nations was confronted with a major financial crisis in the sixties. Basically, however, it was a political — and partly a constitutional — crisis, and not financial. For, indeed, the so-called financial crisis facing the Organisation was nothing but one of the various manifestations of the then prevailing international tension and cold war relationship between the Soviet Union and the Western powers. The Soviet Union and her allies which had been consistently and persistently objecting to

1. By the end of 1962, more than 65 Member States owed the Organisation $122 million for expenses on account of the UNEF and the ONUC. India was one of those countries which had been regularly paying their share of the expenses of these two UN operations in full. See John G. Stoessinger, Financing the United Nations System (Washington, D.C., 1964), pp. 121-4.
appropriations for the UN Truce Supervision Organisation in Palestine, and for the UN Commission for the Unification and Rehabilitation of Korea, stopped paying for these operations after 1963. These States, like France, declined to pay their share of the principal and interest on the UN bonds which were issued by the Organisation, as an interim measure, to overcome the crisis. On the other hand, the acceptance of the Advisory Opinion of the International Court of Justice (ICJ) by the Assembly on the scope of Article 17 (paragraph 2) of the Charter and consequent insistence of the United States on the application of Article 19 of the Charter against the defaulting Member States further deepened the crisis. Apart from the immediate need for the restoration of the financial solvency of the Organisation, the crisis involved various other issues, namely, (i) the authority and role of the Assembly versus the Council in the field of maintenance of international peace and security; (ii) the applicability of Article 17 of the Charter to the cost of UN peace-keeping operations; (iii) methods and sources of financing peace-keeping operations in general and the UNEF and the UNIFC in particular; (iv) the application of Article 19 against the defaulting Member States; (v) the validity and effectiveness of the Advisory Opinion of the ICJ on the question of financial obligations of Member States; (vi) the practicability and political advisability of compelling a permanent member of the Council to pay for a UN operation which it regarded inimical to its national interests; and (vii) the arrangements for financing future peace-keeping operations.
Throughout the crisis, India's approach was constructive and pragmatic. Apart from making significant contribution in terms of men and material, India paid her full assessments and purchased the UN bonds as well. India counselled moderation to the Soviet Union and the United States and worked for bringing about a compromise among all the major powers.

India's Support for Initial Financial Arrangements for the UNRF

The Secretary-General initially proposed that a basic rule, which, at least could be applied provisionally, would be that a nation providing a unit would be responsible for all costs for equipment and salaries of the units concerned, while all other costs should be financed outside the normal budget of the United Nations. He had pointed out that such expenses should be shared by Member States in accordance with the regular 1957 budget scale of assessments; he requested the Assembly to vote a general authorisation for the costs of the Force on the basis of these general principles. India, which herself was one of the participating Member States in the UNRF, supported the Assembly resolution approving the above-mentioned basic rule concerning the financing of the Force and thereby accepted, apart from other financial liabilities to be shared as a Member State, the responsibility to bear all costs for equipment and salaries of her


contingent. India supported the Assembly resolution authorising the Secretary-General to establish a UNEF Special Account to which funds received by the United Nations outside the regular budget for the purpose of meeting the expenses of the Force were to be credited and from which payments for this purpose were to be made. The Secretary-General was empowered to advance from the Working Capital Fund such sums as the Special Account may require to meet any expenses chargeable to it. The establishment of the Special Account outside the regular budget was meant to avoid delay in financial matters and to facilitate the raising of voluntary contributions for the operation.

The Soviet Union insisted that the entire cost of the operation should be borne by those countries that had precipitated the crisis. It was pointed out that such a method of financing the cost would correspond to one of the basic and most important principles of contemporary international law under which a state that commits aggression has to bear both material and political responsibility for it. The Arab States also shared the Soviet viewpoint and they suggested that it was morally and logically


5. Later on, the establishment of Special Account led to many problems. It permitted the Member States to withhold their contributions to the UNEF Account without, at the same time, defaulting in their assessments for the regular budget. Moreover it opened the way to doubts concerning the application of Article 17 of the Charter to the expenses of the UNEF. Nevertheless, the ICJ rejected the argument that the allocation of the expenses to a special account made any difference to the application of Article 17. For details see, D.W. Bowett, United Nations Forces: A Legal Study of United Nations Practice (London, 1964), pp. 142-6. See also Gabriella Rosner, The United Nations Emergency Force (New York, 1963), p. 182 and Stoessinger, n. 1, pp. 107-11.
unjustifiable to expect Egypt, a victim of aggression, to contribute to the costs of the Force. The Soviet delegation supported those Member States which announced their refusal to make any contribution towards the financing of the UNEF and held that placing of financial responsibility for the Force on states which resisted the triple aggression and suffered heavy losses on account of the closure of the Canal would be incompatible with elementary concepts of fairness and the principles on which the United Nations was based. India, though she questioned the fairness of the proposal of making every Member State to pay for the costs of an act committed by one or more Members of the Organisation (particularly when many Member States happened to be underdeveloped countries with limited financial resources) supported the Assembly resolution (of 21 December 1956) which established the principle of collective financial responsibility for peace-keeping operations. The resolution provided that

6. GAOR, session 12, plen. mtg 720, p. 503.

7. On this occasion, Krishna Menon (India) said, "We must also consider who is to cover such costs, whether the UN is to indemnify aggression which, in my opinion, would mean that it would have to underwrite aggression to a certain extent." See GAOR, session 11, plen. mtg 596, p. 343.

8. India told the eight nation UN Special Advisory Committee that the Governments of the United Kingdom and France should bear the entire cost of clearing the Canal. Hindustan Times (New Delhi), 23 November 1956.

adopted by the Assembly for contributions to the annual budget of
the Organisation for the financial year 1957; and (ii) that this
decision shall be without prejudice to the subsequent apportion-
ment of any expenses in excess of $10 million which may be
incurred in connection with the Force. A committee of 9, including
India, was established by the resolution to examine the question
of apportionment of expenses in excess of $10 million. However,
the US delegation declared its government's willingness to meet
up to half the amount in excess of $10 million through voluntary
contribution provided the other governments contributed the
remaining half. India welcomed this good gesture in the hope
that it would mitigate the burden falling on the poorer countries.
By another resolution of the Assembly the Secretary-General was
authorised to incur expenditure on the UNEP during the year 1957.

India, in the light of the Secretary-General's recommenda-
tions regarding the financial arrangements for the UNEP, co-sponsored
a draft resolution which provided that for the first six months
the United Nations would reimburse participating Governments any
special allowances as distinct from basic salaries paid by them
to members of their respective contingents as a direct result of
their service with the UNEP in its area of operations; in respect
of any period subsequent to the first six months of service the
United Nations would assume financial responsibility for all extra
and extraordinary costs incurred by a Member State as a direct
result of contributing contingent to the UNEP — this meant, in

10. General Assembly Resolution 1161 (XII), 22 November 1957.
effect, reimbursement by the United Nations of expenditure incurred in respect of pay and allowances over and above those costs which the Government concerned would, in any event, have been obliged to meet. In respect of equipments furnished by a participating Member State to its contingent, the United Nations was to assume financial responsibility for its replacement in the event of its being destroyed or worn out. The expenses so authorised were to be borne by the Members of the Organisation in accordance with the scales of assessment adopted by the Assembly for the financial years 1957 and 1958 respectively. Though the most equitable collective arrangement would have been one which provided for the distribution among the entire membership, of all those costs which a participating Member State would not otherwise have incurred; nevertheless India, along with the other participating States, agreed to the arrangements under which for the first six months they had to bear disproportionately very heavy financial burden.

Many Latin American States and most of the developing Afro-Asian Member States did not object to the Assembly authorising a peace-keeping operation in case of a failure of the Security Council to take action in a particular situation; they agreed that the expenses of such UN operations may be apportioned by the Assembly among Members of the Organisation; nevertheless, 11.

India supported another Assembly Resolution 1337 (XIII) of 13 December 1958, as well which provided that the expenses authorised for the UNEF for the year 1959, less any amounts pledged or contributed by Member States as special assistance, shall be borne by the Members of the United Nations in accordance with the scale of assessments adopted by the Assembly for the year 1959.
they insisted that such extraordinary expenses should not be treated as normal expenses within Article 17(2); rather such expenses should be apportioned in accordance with special criteria based on the recognition of special status and special responsibility of permanent members of the Council for the maintenance of international peace and security. It were the big powers who were expected by the authors of the Charter to furnish their contingents for the purposes of maintaining peace, but, in practice, this burden was being borne by medium and small powers for the greater benefit of the developed countries. These developing Member States expressed their financial inability to contribute to these extraordinary expenses of operations in the Middle East. However, they were willing to make nominal contributions as a gesture of the international character of the operation and in recognition of the principle of sovereign equality and in justification of the obligation of all Members to give the United Nations every assistance in any action it takes.

**India's Stand on Methods of Apportionment of the UNEF's Expenses**

The Soviet Union continued to assert that the creation of the Force by the Assembly was a flagrant violation of the Charter. Her delegation refused to vote for any decision whereby the Organisation was to be held responsible for the cost of the UNEF. The Soviet Union and many Arab States insisted that the aggressors who had made the UN peace and security action a

12. See pp. 105-11 of Chapter III of this Study.

13. See Article 2 (paragraphs 1 and 5) of the Charter.
necessity must pay all the expenses of the operations in the Middle East. On the other hand, the Western nations, excluding France, insisted on the collective responsibility of all Members of the United Nations to finance the Force brought into existence by the decision of the General Assembly. The Canadian delegation stressed that peace and security was a collective responsibility of the United Nations, therefore, the principle of collective financial responsibility and the regular scale of assessment should be the basis of financing the UN peace-keeping operations. It regarded the system of voluntary contributions for financing the operations in the Middle East as inadequate and uncertain.

As a matter of principle, India stood for the principle of collective responsibility of the entire Membership of the United Nations for financing its PKOs in general and the operations of the UNEF in particular. In the Fifth Committee (Administrative and Budgetary) of the Assembly the Indian delegation held that if the United Nations was to fulfil its primary task of maintaining international peace and security, peace-keeping operations were in certain circumstances essential and obligatory. As operations of the United Nations, they must necessarily be paid

14. See Stoessinger, n. 1, p. 108. See also GAOR, Session 11, Fifth Cttee mtg 548, p. 75.
15. GAOR, session 12, plen. mtg 720, p. 499.
16. India was one of the 26 countries which, when consulted by the Secretary-General in 1959, on the question of financing the Force in the future, favoured the adoption of the scale of assessment for the UN budget as basis of assessment for expenses of the UNEF. India also supported the proposal that the assessment of UNEF's expenses should be made against all Member States. See for details, UN Doc. A/4176.
for by the United Nations and since any UN action can only result from collective discussion and decision, the expenditure must be the collective responsibility of all Members of the Organisation irrespective of and without prejudice to the views held by them. India was sympathetic to the Soviet and Arab States' demand that aggressors must bear all expenses of the Force but consistent with her approach characterised by spirit of compromise and moderation, she refused to support the proposal. Nevertheless, India as a member of the "Working Group of Fifteen on the Examination of the Administrative and Budgetary Procedures of the United Nations", supported the proposal that collective responsibility in practice must take into account the additional responsibility of those, whose aggression or delinquency makes a PKO necessary or who are otherwise mainly responsible for such an operation. India held that the expenses of the operations of the UNEF should be assessed on the basis of the regular scale of assessment for the UN budget. She herself supported the operation with men, material and money and her delegation at the United Nations tried to persuade other Member States to India's viewpoint on the issue. However, India's delegation along with other Member States worked for a compromise between the principle of collective financial responsibility based on regular budget assessment as upheld by the United States, the United Kingdom and other Member States and the viewpoint of the developing countries, that nations with frail economies should pay only small portion of the expenses. As a result of these efforts

17. CAOR, session 17, Fifth Ctte mtg 972, p. 342. See also UN Doc. A/4971 (XVI), para 7 and summary.
18. See UN Doc. A/4971(XVI).
various resolutions relating to the expenses of the UNEP, adopted thereafter by the Assembly, provided that the expenses of the Force should be assessed against all Members of the United Nations on the basis of the regular scale of assessments. However, voluntary contributions pledged from time to time should be utilised for the purpose of reducing the financial burden on the Member States which had the least capacity to pay as indicated by the regular scale of assessments. This led to the reduction of 50 per cent to 80 per cent in the contributions of many Members for the year 1960 and for the years onward. The United States and the United Kingdom, in principle, believed in the collective responsibility of the United Nations for financing its peacekeeping operations; nevertheless, they made voluntary contributions to reduce the burden on Member States with limited capacity to pay for the UNEP.

India's Response to the Bond Issue

The Soviet Union and her allies persisted in their refusal to pay their assessments on account of UNEP's expenses. Many other Member States also continued to be in arrears with regard to assessments due from them. The financial difficulties of the Organisation further increased because of the huge expenses incurred on the ONUC for which, besides the Soviet Union, her allies and some others, France also refused to pay. There had


20. India, because of her being a developing country, got reduction in her assessments to the extent of 50 per cent with effect from 1962.
developed a wide gap between the assessments and the payments made by the Member States on account of the UNEF and the ONUC. 

Out of grave concern to save the Organisation from liquidation, to save its credit and capacity for accomplishing what it had undertaken in the Middle East and in the Congo and at the same time to alleviate temporarily the financial difficulties of Member States with limited capacity to pay for the costly UN operations, the United Nations took two major steps.

The sixteenth General Assembly, by its resolution of 20 December 1961, authorised the Secretary-General to issue UN Bonds to the amount of $200 million at 2 per cent interest with the principal repayable over 25 years. The principal and the interest were to be paid out of the regular budget; thus it was conceived as an indirect way of compelling the delinquent nations to pay for the UNEF and the ONUC or else to risk the loss of voting privilege in the Assembly. But the bond issue suffered from several flaws. Instead of compelling the defaulting nations to clear arrears at once, it enabled them to escape, for many years the sanctions provided in Article 19, by simply withholding that part of their annual regular contribution which was to be used for amortisation of the UN Bonds. The Soviet Union opposed the move for bond issue and pointed out that the deficit in the United Nations was due to illegal authorisation of the two operations — one in the Middle East and the other in the


22. To the Soviet Union after the issue of bonds it would have taken 12 years to become vulnerable to sanctions under Article 19. For details see Stoessinger, n. 1, pp. 125-9.
Congo. Her delegation feared that issuing of bonds would encourage launching of more such illegal operations by the United Nations. India out of her concern for continuation of the Organisation and its operations took a constructive and realistic stand on the issue. She decided to support any move which was likely to alleviate the complex crisis facing the Organisation. The bond issue was based on the principle of collective responsibility of Member States for financing UN peace-keeping operations, which from the very inception of the UNEP was being upheld by India.

India voted for the resolution concerned which was adopted by 58 to 13 votes with 33 abstentions. Moreover, in spite of her financial limitations and foreign exchange difficulties, she bought the UN bonds worth $2 million. Generally, the response to bond issue was encouraging. These were purchased by more than 65 states but none of the Member States who had challenged the legality of the operations subscribed to the issue.

THE ADVISORY OPINION OF THE INTERNATIONAL COURT OF JUSTICE (ICJ)

The issue of bonds was meant merely to alleviate the financial difficulties in which the United Nations found itself because of the failure of many Member States to pay their assessed contributions on account of the UNEP and the ONUC. No solution of the crisis appeared in sight. The United States, the United Kingdom and many other Member States felt the necessity of seeking an authoritative legal guidance from the ICJ as to the obligations of the Member States under the Charter of the United Nations in

matters of financing the UNPKOs and to that affect a draft resolution was introduced in the General Assembly. The Soviet Union and her allies opposed the move on the grounds that the problem was purely political. They forewarned that they would not regard themselves bound by the Court's opinion. France not only opposed the draft resolution but also moved a draft amendment to it proposing that the Court should have been asked first to decide whether the Assembly Resolutions themselves, which resulted in the expenditure in question, were in conformity with the Charter, however, the proposed amendment was rejected.

India viewed the crisis as more of political nature rather than a legal one and held that it required political settlement. Her delegation abstained from voting on the draft resolution requesting the ICJ to give its advisory opinion on the issue. The Indian representative in the Fifth Committee of the Assembly stated that his government would prefer to leave the whole controversy to the Secretary-General to be resolved through quiet diplomacy and through mutual agreement among Member States.

Eventually the resolution was adopted by the Assembly by 52 to 11 votes with 32 abstentions and the ICJ was requested to give its advisory opinion on the question: "Do the expenditures authorised in General Assembly Resolutions 1683(XV) and 1690(XV) of 20 December 1960 ... relating to the United Nations operations in the Congo undertaken in pursuance of the Security Council

24. GAOR, session 16, plen. mtg 1086, pp. 1150-3. See also UN Doc. A/L.378.
26. GAOR, session 17, Fifth Cttee mtg 972, p. 342.
resolutions ... and the expenditures authorised in General Assembly resolutions 1122(XI) of 26 November 1956 ... relating to the operations of the United Nations Emergency Force ... constitute expenses of the Organisation within the meaning of Article 17, paragraph 2, of the Charter of the United Nations. This question led to a serious controversy among the major powers over the existence or otherwise of the authority of the General Assembly to authorise Peace-keeping Operations in general and the UNEF in particular.

Authority of the General Assembly Versus the Security Council's Authority to Authorise PKOs; India's Stand

Since the authors of the Charter had not fully visualised the concept and functions of UNPK Forces, the question of authorisation of UNPKOs in general, and the establishment of the UNEF by the Assembly in particular, have been subjects of a great controversy among the major powers. The Soviet Union and her allies hold that Article 24(1) confers on the Council primary responsibility for the maintenance of international peace and security; moreover Article 11, paragraph 2, which provides that the Assembly may make recommendations with regard to any such questions ... is limited by its second part reading "Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion." The Soviet Union rejects any distinction between Peace-keeping Forces and enforcement forces and holds that all actions whether UN observer operations, UN supervisory missions,

peace-keeping or enforcement actions involving the use of UN military units can be taken only under Chapter VII of the Charter and therefore, require authorisation and financing by the decisions of the Council and are subject to veto provision.

Chapter VII of the Charter empowers the Council and the Council only, not the Assembly, to set up an international armed force, to define its tasks, composition, size, its direction and command; and the Council alone has the authority to take such action as it may deem necessary including the use of such force to maintain or restore international peace and security. These countries, however, concede that the Assembly may only discuss, consider, study and make recommendations on any questions or matters within the scope of the Charter. The Assembly has the discretion to recommend measures for the peaceful adjustment of any situation likely to impair friendly relations amongst nations. However, it cannot take action of itself nor can it create any binding legal obligations in matters of peace and security. So long the Assembly does not have the authority to authorise PKOs it cannot claim to have an authority to assess members for the purposes.

The Soviet Union pleaded before the ICJ that the authorisation of a peace-keeping operation like the UNEF was an action within the meaning of the term "action" used in Article 11, paragraph 2, of the Charter and therefore, was within the

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See GAOR, session (E3-1) 1956, plen. mtg 567, p. 127.

The Soviet Union holds that the term action used in Article 11(2) of the Charter means dispatch of anything from a small group of military observers to a massive force such as sent to the Congo. See Chapter III, p. 136, n. 62 of this study.
exclusive competence of the Council. The creation and stationing of an international police force on Egyptian territory by the Assembly convened into a Special Emergency Session under the Uniting for Peace Resolution was regarded by the Soviet Union and her allies as violative of the UN Charter. It was pointed out that the resolutions of the Assembly on the creation of the Force were violative of the UN Charter. These not only bypassed the Council but also were inconsistent with the purposes for which the Charter permitted the creation and use of such force. Therefore, the financing of the Force could not be regarded as an obligation incumbent upon Members of the Organisation.

On the other hand, the United States, the United Kingdom and other Member States held that the responsibility for the maintenance of international peace and security conferred on the Council by Members is primary and not exclusive. They concede that all mandatory enforcement actions (against recalcitrant states) covered by Articles 41 and 42 of the Chapter VII are exclusive prerogatives of the Council. Nevertheless, the Assembly has the residuary powers to authorise PKOs short of

30. GAOR, session 11, plen. mtg 632, p. 818.

The Soviet Union pointed out that her delegation did not vote against the resolution because in this instance the victim of aggression had consented to the introduction of the international force in the hope that it might prevent any further extension of the aggression. See, I.C.J., Pleadings, Certain Expenses of the United Nations (Article 17, paragraph 2 of the Charter), pp. 397-8.

31. The Soviet Union held that the Security Council Resolution 3721(XI) had only asked the Assembly to make appropriate recommendations rather than to take action for maintaining peace and security, which the Council alone was competent to perform. I.C.J., Pleadings, n. 30, p. 399.
enforcement measures if and when the Council is prevented from doing so. Under Articles 10, 11, and 14 of the Charter the Assembly may make recommendations with regard to any such questions relating to the maintenance of international peace and security to the state or states concerned or to the Council or to both. The sole limitation to the Assembly's power to make recommendations on any such questions or matters within the scope of the present Charter is specified in Article 12 which precludes the Assembly from making recommendations with regard to any dispute while the Council is exercising functions assigned to it in the present Charter with respect to that dispute. These states in order to justify the peace-keeping powers of the Assembly rely on Article 11(2) and hold that the term "action" used in this Article means enforcement action as defined in Articles 41 and 42 of the Chapter VII. The sentence in question (last sentence of Article 11(2)) can only be read as requiring reference to Council where in the judgment of the Assembly the dispute cannot be dealt with by a resolution of the Assembly and would require action of a mandatory character, and therefore, a decision of the Council. This sentence did not operate to limit the Assembly's powers to establish the UNEF. Moreover an action taken at the request or at least with the concurrence of a state

32. The United States and other states hold that if and when the Council fails to act on a particular question, under Chapter VII, because of exercise of veto, it means that it is not exercising its functions on the issue concerned. On the other hand the Soviet Union holds that in case of such an eventuality, the Council is considered to have been exercising its functions on the issue concerned. See UN Yearbook 1950, pp. 153-5. However, the Soviet Union is no more so legalistic in her approach to the above interpretation. For detailed analysis, see Arthur Lall, The UN and the Middle East Crisis, 1967 (New York, 1967), pp. 118-22.
or states concerned and which is non-mandatory and non-coercive in nature is not enforcement action. Thus these Member States conclude that the establishment of the UNEF and its dispatch to Egypt with the consent of all the countries concerned did not amount to an action (enforcement action). The resolutions which created the Force as a subsidiary organ of the Assembly under Article 22 of the Charter were adopted by the Assembly in the exercise of its powers expressly granted to it by the Charter.

As regards France, she holds that the UN operations restricted to the performance of observation, supervision or inquiry functions, even involving the use of forces, may be authorised by the Assembly as well provided that such military personnel do not constitute units under a military commander and are not charged with the functions of their own security. However, under Article 12 of the Charter if the Council was already exercising its functions in respect of the same matter, the Assembly could make recommendations only at the Council's request. On the other hand if in an operation the UN forces were called upon to perform quasi-military duties, such an operation was to be regarded as an enforcement action and could be authorised only by the Council. The United Kingdom which along with France had raised legal objections to the transfer of the matter from the Council to the Assembly never challenged the constitutionality of the UNEF.

The Court in its advisory opinion held that the responsibility for the maintenance of international peace and security conferred on the Council by Article 24 of the Charter is primary and not exclusive. It concedes that it is the Council which can
require enforcement by coercive action against an aggressor; nevertheless the Charter makes it abundantly clear that the Assembly is also to be concerned with questions of peace and security. The Assembly for the implementation of its recommendations which may include certain measures for peaceful adjustment of situations, made under Article 11 or 14, can set up under Article 22, its subsidiary organs like commissions, bodies etc. involving organisational activity — action in connection with the maintenance of international peace and security. The first part of Article 11, paragraph 2, empowers the Assembly, by means of recommendations to organise PKOs at the request or with the consent of the states concerned. To this effect the Assembly could make recommendations to states or the Council or to both.

The Court interpreted the term "action" used in Article 11(2), as coercive or enforcement action — an action as is solely within the province of the Council as indicated by the title of Chapter VII of the Charter namely "action with respect to threats to the peace, breaches of the peace and acts of aggression"; but it categorically stated that neither the UNEP nor the ONUC were

33. The Court pointed out that the Assembly's powers were not confined to discussion, consideration and initiation of studies and making of recommendations. It had the powers which were related to preventive and enforcement measures (Articles 5, 6 and 18 of the Charter may be referred for the purposes). See Certain Expenses of the United Nations (Article 17, paragraph 2 of the Charter), Advisory Opinion of 20 July 1962; ICJ Reports 1962, p. 163.

34. The Court held that Article 14 relating to the powers of the Assembly was subject to only one limitation (provided in Article 12) that the Assembly could not recommend measures while the Council was dealing with the same matter unless the Council requested it to do so. See ibid.
enforcement actions within the compass of the Chapter VII of the Charter. The Court refused to accept the Soviet argument that Article 11(2) could restrict the budgetary authority of the Assembly in respect of the expenses incurred for the maintenance of international peace and security. It was pointed out that Article 43 had no application to the UNEF though its operations were undertaken to fulfil a primary purpose of the United Nations i.e. to promote and maintain a peaceful settlement of the situation. The authorisation of the UNEF was considered by the Court within the competence of the Assembly. The Court held that as the resolutions of the Assembly pertaining to the UNEF did not mention upon which Article they were based and since the language used in most of them might imply reference to either Article 14 or to Article 11, it could not be concluded that they were based upon the former rather than the latter Articles. The Court found that the Force was a subsidiary organ of the Assembly but a more precise basis could be found in other Articles of the Charter. The Court concluded that the creation of the Force involved no violation of the provisions of the Charter pertaining to spheres of competence of the Council and the Assembly.

35. Ibid., p. 165.
36. Ibid., pp. 166-72.
37. The Court held that as the action (creation of the UNEF) was within the scope of the functions of the Organisation, it could not be declared invalid on the grounds that it was not in conformity with the division of functions among the several organs, which the Charter prescribed. See ibid., pp. 162-5. The Court justified the creation of the UNEF by the Assembly in the context of the principle of Organization's effectiveness and the doctrine of inherent powers of the Organization. See ibid., p. 168.
India did not like the controversy over the peace-keeping role of the Assembly versus the Council on the grounds that it was likely to increase international tensions. She was opposed to any arrangement aimed at enabling the Organisation to undertake collective measures against the opposition of a great power and held that such an eventuality could precipitate a general war or the death of the Organisation itself. Her delegation had expressed India's support for Section 'A' of the Uniting for Peace Resolution (General Assembly Resolution 377(V) of 3 November 1950) which provided for the consideration of question or situation on which the Council failed to act because of the exercise of veto by a permanent member of the Council; but because of India's misgivings about the composition and the functioning of the Collective Measures Committee and about the idea of earmarking national units, the resolution as a whole was regarded by India as an unrealistic attempt. The Indian delegation had emphasised that notwithstanding the adoption of the resolution, the Assembly was not competent to take any enforcement action because all enforcement actions or actions of a coercive nature were the exclusive prerogatives of the Council. An action falling short of enforcement action and which could be taken with the consent of the parties concerned was primarily the Council's responsibility. However, India conceded that the Assembly had also been given considerable powers under Articles 10, 11, 12, 14 and 35 of the Charter. Under these Articles the Assembly could discuss questions relating to the

38. See UN Doc. A/AC.121/3R.4, p. 5. See also GAOR, session 21, Special Political Cttee mtg 466, p. 2.
maintenance of international peace and security and could make necessary recommendations.

Thus, India's position on the issue of Assembly's powers to authorise PKOs fell between the viewpoint of the United States, the United Kingdom and others—that the Assembly had the residual powers to dispatch UN armed forces in the event of the Council's failure to act—and the Soviet and French stand that only the Council could approve the use of armed forces by the United Nations. India held that the functions of the two principal organs of the Organisation were intended by the Charter to be complimentary. She urged the Member States to arrive at an agreement as to where measures that could be recommended by the Assembly under Article 14 ended and actions which could be taken only by the Council began. It was suggested that an agreement may be reached to the effect that the dispatch of armed personnel otherwise than for the purpose of observation or investigation should be within the exclusive powers of the Council but where the parties primarily concerned concurred, the great powers might agree, save in exceptional circumstances or for special reasons, not to vote against a proposal involving the dispatch of armed forces.

39. See UN Doc. A/AC.121/3R.4, p. 5 (General Assembly Special Committee on Peace-Keeper Operations).

During the Congo crisis, Menon referring to Article 14 of the Charter (which deals with the powers of the Assembly), called for a broad interpretation of the Assembly's powers. He urged for full implementation of the mandate including taking of an effective action by the United Nations. See GAOR, session 15, plen. mtg 960, p. 1317. See also SCOR, yr 15, mtg 917, p. 39.

40. GAOR, session 21, Special Political Cttee mtg 526, p. 160. See also UN Yearbook 1967, p. 54-55.
The creation of the UNEF by the Assembly did not appear to India as a violation of any constitutional provisions of the Charter under which the permanent members of the Council were always free to establish international force. India which had emphasised the necessity of having the consent of all nations concerned for setting up the UNEF held that it was not a force of the type envisaged in Article 43 of the Charter or the type of force proposed by the Collective Measures Committee created under the Uniting for Peace Resolution. It was purely a temporary arrangement to secure and supervise the cessation of hostilities rather than an operation of enforcement nature. India in view of the seriousness of the crisis and because of certain other factors had fully supported resolutions of the Assembly pertaining to the creation and continued operation of the UNEF.

In the Special Committee on Peace-keeping Operations, it was considered neither desirable nor feasible to thrash out the controversy relating to relative competence of the Council and the Assembly with regard to authorisation of PKOs, particularly when big powers had taken up irreconcilable stands on the issue. However, it has come to be widely accepted by Member States that the Council in view of its primary responsibility for the maintenance of international peace and security and for ensuring prompt and effective action by the United Nations should have the prerogative of examining in the first instance any question which may involve authorisation of a UNPKO. If the Council fails to

41. The Soviet Union, out of her anxiety for the settlement of the crisis, did not oppose the creation of the UNEF and this further emboldened nonaligned India to support the UNEF.
discharge its primary responsibility because of the use of veto, the Assembly may consider the matter immediately and may make appropriate recommendations to the Members of the United Nations or and to the Council in conformity with its responsibilities and relevant provisions of the Charter. The Assembly, if not in session, may be convened into an Emergency Session at the request of the Council or on the request of majority of Member States. The Assembly, in the first instance, is supposed to make its recommendations back to the Council. India also subscribes to this view which signifies the swing back of authority and influence with regard to the maintenance of international peace and security from the Assembly to the Council.

India's Stand on the Inclusion of UNEF's Expenses in the Expenses of the Organisation (Article 17, paragraph 2) of the Charter

With regard to the controversy over the question, whether the expenses incurred on the operations of the UNEF constituted expenses of the Organisation within the meaning of Article 17, paragraph 2, of the Charter, the Soviet Union and her allies maintained that expenses resulting from the operations for the maintenance of international peace and security were not expenses of the Organisation, in as much as they fell to be dealt with exclusively by the Council in accordance with the procedure laid down in Chapter VII and more especially through agreements negotiated in accordance with Article 43. The Soviet Union contended that the Assembly did not have unlimited powers to impose financial obligations upon Member States. With regard to

42. For details see Chapter III, p. 147, n. 81 of this study.
the UNEF as well as the ONUC it was pointed out that these measures were of extraordinary character and their expenses did not fall within the scope of Article 17(2). On the other hand, the United States and others pleaded before the Court that the expenses of the UNEF, which was conceived from the outset as a subsidiary organ of the Assembly within the terms of Article 22 of the Charter, were part of the budget of the Organisation. The ICJ conceded that enforcement actions provided in Chapter VII were within the exclusive authority of the Council and expenses of such actions to the extent these were arranged under Article 43, were within the purview of the Council, however, the portion of such expenses not provided for in agreements between the Council and the Member States formed part of the expenses of the Organisation within the meaning of Article 17, paragraph 2, of the Charter and were to be apportioned by the Assembly. Expenses of the PKOs authorised by the Assembly constituted expenses of the United Nations. The Court refused to accept the Soviet contention that all measures taken for the maintenance of international peace and security must be financed through agreements under Article 43. With reference to the expenses of the UNEF, the Court referred to various Assembly resolutions and to the Secretary-General's reports and concluded that from year to year these expenses were treated by the Assembly as expenses of the Organisation. The setting up of a special account for the purposes was a matter of convenience and not of principle.

44. Ibid., pp. 182 and 206.
The Court concluded that the costs of the operations of the UNEP constituted expenses of the Organisation within the meaning of Article 17, paragraph 2, of the Charter.

India's viewpoint on the issue, which was shared by other countries as well, was marked by spirit of compromise and moderation. India did not like major powers getting involved in the controversy over the inclusion or non-inclusion of the UNEP's expenses in Article 17(2). Her delegation refused to support the US contention (which was upheld by the Court as well) that the expenditure incurred on the UNEP and the ONUC should be treated as expenses of the Organisation within the meaning of Article 17(2). It was pointed out that peace-keeping forces are created on an ad hoc basis and therefore their costs should not be treated as part of the regular budget. The inclusion of such expenses in the regular budget was sure to involve larger obligatory assessments on all Member States including those who

45. The Court held that any expenditure incurred, as a result of resolutions of the Assembly or the Council, so long it was appropriate for the fulfilment of one of the stated purposes of the United Nations, was legitimate an expense of the Organisation. ICJ Reports (1962), n. 33, pp. 166-75.

46. See General Assembly Resolution 1874(S-IV), 27 June 1963.


48. India did not support the Soviet stand that the costs of UNPKOs by their very nature and basis could not be regarded as regular expenses of the Organisation as envisaged in Article 17 of the Charter. See ibid.
financial capacities were limited. There was apprehension on the part of India and other states that such a proposition would involve legally binding obligations on Member States to pay even for those operations which were regarded by the states concerned as inimical to their national interests. Nevertheless, India supported the proposition that the collective responsibility for the pursuit of PKOs devolves on Members of the UN irrespective of and without prejudice to Article 17 of the UN Charter. India urged the Member States to accept their responsibility for sharing the UNEF's expenses irrespective of position taken by them on the applicability or otherwise of Article 17(2) to these expenses. No doubt India had some reservations with regard to the scale of assessments. Many Member States including India feared that the inclusion of expenses of the UNEF and the ONUC in Article 17(2), of the Charter would be exploited for the purposes of sanctions under Article 19, against the recalcitrant Member States.

49. The Assembly after taking into consideration the exchange of views between the Member States and the Secretary-General on the issue of the scale of assessments on account of UNEF's expenses, provided in its resolution 1441 (XIV) of 5 December 1959, some concessions to the economically less developed states. However the assessments were made on the basis of regular scale of assessment. See UN Doc. A/4176 and General Assembly Resolution 1733(XVI), 20 December 1961.

50. See UN Doc. A/4971(XVI), para 23.

51. The representative of India opposed the inclusion of the costs of the Congo Operations in Article 17(2). See UN Doc. 23, A/C.5/863 at 838 mtg of the Fifth Committee of the Assembly quoted in I.C.J. Pleadings, n. 30, p. 17.
Authority of the General Assembly to
Aportion UNEF's Expenses

With regard to the question of authority of the Assembly
to apportion these expenses among Member States, the Soviet Union
and France challenged the very authority of the Assembly to
initiate PKOs and/or to allocate their expenses among Member
States on binding basis. With regard to the UNEF, the Soviet
Union alleged that it was created by the Assembly in violation
of the provisions of the Charter. However, France conceded that
only those Member States which had voted for the establishment of
the UNEF could be obliged to accept financial obligations resulting
from the operation. On the other hand the United States upheld
the authority of the Assembly to initiate PKOs and to make
binding assessments on Members for the purposes. They criticised
the Soviet Union's refusal to pay its assessments. As regards
the Court, it took a broad interpretation of the term "budget of
the Organisation" as well as of the Assembly's powers to consider,
to approve and apportion the same among Member States. With
regard to the expenses incurred on the UNEF, the Court held that
each Member State was obliged to bear that part of expenses which
was apportioned to it by the Assembly.

On the question of authority of the Assembly versus the
Council to apportion the costs of the UNEF among Member States,
India took a realistic stand. Her delegation held that the costs
of PKOs, whether launched by the Council or by the Assembly, te

52. GAOR, session 17, Fifth Cttee mtg 962, p. 284.
53. ICJ Reports (1962), n. 33, p. 164.
the extent these were not arranged through agreements under Article 43 of the Charter, should be apportioned among Members by the Assembly. If the Members of the Council agreed to bear all such costs themselves there would be no objection by non-members of the Council but if such costs had to be shared by all Members of the United Nations, the Assembly alone should have the power to decide how they should be apportioned. It was pointed out that it would be difficult for more than hundred countries which were not members of the Council to accept an assessment in which they would have had no say. With regard to the expenses of the UNEF, India fully supported the Assembly's authority to decide the scale of assessments and apportion the costs among Members accordingly. But India did not favour the use of compulsion against any defaulting Member State for making payments towards the costs of a PKO which that state regarded as inimical to her interests.

India and the General Assembly's Acceptance of the Court's Advisory Opinion

The ICJ did not answer the question whether the method of apportionment adopted was correct or not, nor did it explicitly state that the Member States were legally obliged to pay their share of the costs of the UNEF and the ONUC. It made no reference to the question of the propriety or otherwise of the application of sanctions against defaulting Member States. Its advisory opinion, supported by nine to five judges, to the effect that the

54. GAOR, session 18, Fifth Cttee mtg 1057, p. 288. See also UN Doc. A/4971, para 27.

55. See UN Doc. A/AC.121/SR.4, pp. 4-5. See also GAOR, session 18, plen. mtg 1302, p. 11.
expenses authorised in the General Assembly’s resolutions dealing with the financing of UNEF and the ONUC constituted expenses of the Organization within the meaning of Article 17, paragraph 2, of the Charter of the United Nations and the Assembly had the power to apportion the same implied that the Member States were obliged to pay their respective assessments as apportioned by the Assembly. India believed that the discussion in the Assembly over the Court’s advisory opinion would increase international tension and would harden the big powers’ attitudes towards the controversy. Her delegation tried to persuade Member States for the postponement of the discussion in order to facilitate the Secretary-General to work for the resolution of the conflict through his quiet diplomacy. Nevertheless, India held that the dignity of the World Court must be maintained and its advisory opinion should be respected. The Indian representative while supporting the Assembly’s resolution of 19 December 1962, providing for the formal acceptance of the Court’s opinion, pointed out in unequivocal terms that the acceptance of the advisory opinion did not mean that Article 19 of the Charter would automatically come into operation; the advisory opinion merely clarified the legal position on a specific issue.

INDIA'S STAND ON THE ARTICLE 19 CONTROVERSY

After a favourable opinion of the ICJ on the issue, the United States and other Member States felt encouraged to invoke Article 19 of the Charter against the defaulting Members of the Organisation. They thought that even a threat to that effect might induce the delinquent Members to clear their arrears rather than face an adverse publicity. The US delegation asserted that failure to apply Article 19 would hamper the ability of the Organisation to undertake PKOs in the future. Some of the defaulting Member States cleared their arrears but true to India's appraisal of the situation the Advisory Opinion of the Court failed to resolve the basic problem. The politically motivated recalcitrant Member States did not pay any heed to the non-binding advisory opinion of the Court. It was maintained that countries were under no legal constraints than before to pay assessments they believed to be illegal or otherwise non-obligatory. The Soviet Union and her allies rather took a firm stand on the issue and challenged the very constitutionality of both the operations. They held that the expenses in question were not expenses as referred to in Article 17(2). These involved no financial obligations on Member States. They insisted that the application of Article 19 was not automatic. France also held that the

59. GAOR, session 17, plen. mtg 1189, p. 1197.
60. It was maintained that a Member State could be deprived of its voting right in the Assembly only by a two thirds majority of the votes of the Assembly. The Soviet Union and others were in arrears not because of their simple refusal to pay their assessments but because they denied the existence of any legal obligation to pay for the UNEF and the ONUC. It created additional complications with regard to application of Article 19. See Norman J. Padelford, Financial Crisis and the Future of the United Nations in Richard A. Falk and Saul H. Mendlovitz, The United Nations (The Strategy of World Order Series, Vol. 3) (New York, 1966), pp. 733-70.
Assembly had no authority to create binding financial obligations as a result of projects launched by it on the basis of nonbinding resolutions. The jurisdiction of the Court to interpret the Charter for the Assembly was also questioned. It was pointed out that the Court's opinion was in no way binding on Member States.

With regard to Members' obligation to contribute to UNPKOs, particularly in view of the Court's affirmative opinion on the issue, the Indian delegation took a realistic stand and pointed out that no Member State could be compelled against its will to contribute either troops or funds for an operation which it regarded against its interests. India expressed her opposition to the idea of application of sanctions under Article 19, against the defaulting Member States. It was felt that the financial difficulty confronting the United Nations was only a symptom of a deeper political crisis — the problem of the control and direction of the UNPK activities for the purposes of promoting one's own national interests. India held that it was through negotiations and quiet diplomacy that the defaulting Members could be persuaded for making equitable contributions towards the costs of the UNEF and the ONUC. India's viewpoint on the issue fell in conformity with the viewpoint of eminent writers like Professor Inis L. Claude and John G. Stoessinger on the question. To quote Claude, "Whatever the legal position may be with regard to the location of financial authority within the United Nations, the

61. GAOR, session 17, Fifth Cttee mtg 962, p. 284.

62. India's stand was consistent with the provisions of the Uniting for Peace Resolution which did not envisage the exercise of compulsion on unwilling states to contribute to the UN operations.
political position is that no state will pay for major United Nations activities which it regards as inimical to its interests." He did not expect that the United States would succeed in pressing the Soviet Union to renounce that position or the United States herself would accept such renunciation. Stoessinger likewise holds "... financial support should be correlated with political support; a state should give financial backing to an international activity only if and to the extent that it regards that activity as compatible with and conducive to the interests and purposes expressed in its national policy."

On the Eve of the Nineteenth Session of the General Assembly

Upto 1963, the Soviet Union and her allies had paid in full their contributions under the regular budget which included the costs of a few minor UN observer operations as well. In 1963, notwithstanding the affirmative advisory opinion of the Court on the issue and its acceptance by the Assembly they announced that they would not contribute to these costs and to the costs of the UN bonds which had been included in the regular budget of the Organisation. They refused to pay contributions under the regular budget to the extent that the expenses resulting from the use of military forces were included in their assessment. They maintained that the operations in the Middle East and in the Congo were unlawful. France had already notified the Secretary-General of


64. Stoessinger, n. 1, p. 21.
her refusal to pay her share on account of principal and interest on the UN bonds. Most of the small and new Member States — 43, to be exact — which had voted for the formal acceptance of the Court's opinion and whose votes alone could have enabled the United States and her allies to invoke successfully the sanctions against the defaulting Member States were themselves in arrears in their payments towards the costs of the UNEF and the ONUC, and therefore, were vulnerable to such sanctions in near future. Some of the nonaligned nations including India, though not in arrears, realising that the imposition of sanctions was a political rather than a legal problem, were opposed to the drastic move. There was also a general apprehension that the Soviet Union and her allies might withdraw from the Organisation if the matter was pressed too far.

India's Conciliatory Efforts in the Working Group (of 21) and During the Special Session (IV) of the General Assembly (1963)

India supported the Assembly resolution of 19 December 1962, providing for the re-establishment of a Working Group (of 21), on the Examination of the Administrative and Budgetary Procedures of the United Nations to study inter alia special methods for financing PKOs of the United Nations involving heavy expenditures, such as those for the Congo and the Middle East, including a possible special scale of assessments. India was also chosen as one of its members. In the Working Group, the Soviet Union reiterated its stand that the Council alone had the right to impose assessments for PKOs, while the United States emphasised the principle of

collective financial responsibility for the purposes. With regard to the expenses of the UNEF and the ONUC for the last six months of 1963, the United States expressed her opposition to any special scale of assessments other than the scale applicable to the assessments for the regular budget. But she was not rigid about giving some concessions to countries with frail economies. The Indian delegation tried to help work out an acceptable scale of assessments. India as a member of the Working Group along with other developing countries held that the industrialised countries should pay most of the cost of the PKOs. It was suggested that only first $5 million of any PKO's expenses should be apportioned among entire Membership on the basis of regular scale; between 50 per cent to 95 per cent of the costs above $5 million should be raised from permanent members of the Council (who were supposed to shoulder greater responsibility for the maintenance of international peace and security) and from other developed nations. Thus, India stood for a compromise between the principle of collective responsibility and the principle of equity -- the Member States with a higher financial capacity should pay more while the Members with limited financial capacity should pay less. This compromise formula was expected to provide an element of flexibility in the scale of assessments. The Working Group which was in agreement on the principle of collective responsibility for financing UNPKOs failed to reach any agreement on the scale of assessments. Nevertheless, there was a strong consensus in

favour of easing the financial burden of countries with frail economies.

As a result of all these efforts of developing nations which included India as well, the Assembly adopted a compromise resolution which provided that a part of the expenses of the UNEF for the last six months of 1963, should be apportioned among the entire Membership according to the regular scale of assessments for the year 1963. For the remaining costs, the economically less developed nations were allowed reduction by 55 per cent in their assessments. The deficit was to be met through voluntary contributions from industrialised states. The Soviet Union opposed the resolution and threatened to walk out if any money were apportioned to her for the purposes. Nevertheless, the provisions of the resolution became a precedent for financing the operations of the UNEF in subsequent years.

India which believed in the spirit of compromise and moderation co-sponsored a resolution in the Fifth Committee of the Assembly. The resolution contained an appeal to Member States in arrears in respect of their assessed contributions for payment to the UNEF and the ONUC special accounts to pay their arrears disregarding other factors. Such Member States were urged to make payments and help in solving the financial difficulties of the

67. General Assembly Resolution 1875 (3-IV), 27 June 1963. India's assessment was reduced to 45 per cent of the rate under regular scale of assessment for the year 1963.


69. See UN Doc. A/5438 (3-IV). See also UN Doc. A/C.5/L.785 and Add 1 and 2.
United Nations without prejudice to their respective positions on political and juridical grounds to paying their assessments on account of the UNEF and the ONUC. The Secretary-General was requested by the resolution to consult with Members in arrears and to work out with them before 31 October 1963, arrangements as to the most appropriate modalities within the letter and spirit of the UN Charter. This draft resolution was adopted by the Assembly by 79 to 12 votes with 17 abstentions.

Nineteenth Session of the General Assembly: India's Role

The United States realised that the consensus in the Nineteenth Assembly which was convened as late as December 1964, partly, to avoid confrontation among great powers and to find out a compromise formula, was against the application of sanctions. The mobilisation of support of a two-thirds majority for the legal victory against the Soviet Union did not appear in sight. There was a widespread concern about the future of the Organisation itself. In view of the reality of the situation the United States felt retreating from her otherwise adamant stand on the application of Article 19. India was keen to avoid the major political confrontation among great powers on the issue of applicability of Article 19, against the Member States who had

70. General Assembly Resolution 1877 (S-IV), 27 June 1963.

71. It appeared to the United States that some day she might find herself in the same predicament and might be compelled to pay for an operation which she considered to be against her national interests. For details see Jack C. Plano and Robert E. Riggs, Forging World Order: The Politics of International Organization (New York, 1967), pp. 164-6.
not cleared their arrears on account of the costs of the UNEF and the UNUC. Such an eventuality was sure to aggravate tension among major powers and in view of the Soviet threat to walk out of the Organisation on the application of sanctions against her, it could have resulted in a break up of the United Nations. India actively participated in the mediatory efforts made by various groups of Members to avoid a showdown and to bring about an early solution of the problem of arrears. India suggested that political and constitutional problems relating to the UNPKOs should be referred to the Working Group (of 21) for study and examination; and this Group should be asked to furnish a precise definition of the scope of functions of the Assembly and of the Council.

Meanwhile a group of Afro-Asian Member States submitted a compromise proposal providing that the question of applicability of Article 19 should not be raised. The Soviet Union was not fully satisfied with the terms of the proposal, nevertheless, she accepted it with the hope, that Article 19 would not be used for provocative purposes and that the Assembly would not be hampered in its normal work in accordance with its normal procedure. She expressed her willingness to make such voluntary contributions as may be determined by itself. The Assembly welcomed the compromising

72. See GAOR, session 19, plen. mtg 1301, pp. 11-13.

73. India supported the Afro-Asian proposal of 30 December 1964 which inter alia recognised that the way to restore solvency of the Organisation was sharing of the arrears of the cost of operations by the co-operating states as was done in the case of the UN operations in Korea. See UN Doc. A/AC. 121/SR. 4, pp. 4-5 (General Assembly Special Committee on Peace-keeping Operations). See also UN Yearbook 1964, pp. 41 and 50.
attitudes of the major powers and by consensus decided to avoid the situation whereby voting might have become essential. During the nineteenth session of the Assembly no business was transacted and the session ended almost without any vote. India felt sore at these developments and her delegation regretted that the Assembly was paralysed and its authority was weakened. India urged the Member States to resolve the controversy in a spirit of compromise. Eventually the Organisation survived the political-cum-financial crisis. The twentieth session returned to business as usual. One of the results of the nineteenth session was that the principle of collective financial responsibility for UNPKOs, in the legalistic sense of the term, came to be rejected and it came to be accepted that in future any Member State could refuse financial support to any PKO to which the Member concerned was strongly opposed.

INDIA'S STAND ON THE FINANCING OF FUTURE PEACE-KEEPING OPERATIONS

India's stand on the financing of future UNPKOs has been consistent with her viewpoint on the financing of operations in the Middle East and in the Congo. In the Special Committee on

74. Albania tried to create an ugly situation by seeking to force a vote. A vote was taken on, whether a vote should be taken — the Soviet Union participated and voted against. See UN Yearbook 1964, p. 41–42.

75. See GAOR, session 20, plen. mtg 1328, p. 3.

76. The US Ambassador stated that Article 19 was applicable but as the consensus of opinion in the Assembly was against it, therefore, his government would not seek to frustrate that consensus. See UN Doc. A/AC.121/3R.15, pp. 5–6 (General Assembly Special Committee on Peace-Keeping Operations); see also Rosalyn Higgins, United Nations Peacekeeping 1946–67: Documents and Commentary (London, 1983), vol. 1, pp. 460–9.

77. UN Doc. A/AC.121/3R.15, 16, pp. 5–6 (Special Committee on Peace-Keeping Operations).
Peace-keeping Operations, her delegation pointed out that the Council in view of its primary responsibility for the maintenance of international peace and security, has the primary responsibility for authorising PKOs; it can make arrangements for financing the same in accordance with Article 43 of the Charter. However, the Council may decide that the expenses of a particular PKO are to be met by the aggressor concerned or by the party responsible for creating the situation requiring the establishment of a PKO. It can decide whether such costs are to be apportioned exclusively among its permanent members or its all members or these are to be paid by the countries directly involved; or to be raised through voluntary contributions. India is emphatic on the point that the Council must not have the authority to tax entire Membership of the Organisation without their concurrence. Such an authority belongs to the Assembly in which every Member State is represented. If the Council fails to make any arrangements for financing its PKO, it may request the Assembly to find appropriate methods of financing the same. In such a situation

78. India does not deny the Assembly's authority to establish PKOs. See UN Yearbook 1967, p. 54-55.

79. India did not support a system of mandatory assessment for peace-keeping costs, which permitted permanent members of the Council not voting in favour of an operation to opt out of financing of that operation. It was pointed out that under this system, if all the five permanent members of the Council opted out of financing a specific operation, the unassessed balance of costs would be borne by a few developing states which would be a politically unhealthy practice. See GAOR, session 21, Special Political Cttee, mtg 548, p. 283. See also ibid., mtg 526, p. 161 and General Assembly Resolution 1874 (S-IV), 27 June 1963.

80. For details see UN Doc. A/AC. 121/3R.4, p. 6 (Special Committee on Peace-Keeping Operations). See also UN Yearbook 1967, pp. 54-59.
the fundamental principle of collective financial responsibility of all Member States should form the basis of apportionment of such expenses by the Assembly. At the same time, in order to have an equitable system of assessments, the Assembly should take into consideration the greater responsibility and financial capacity of the permanent members of the Council and of the economically developed Member States and on the other hand the limited economic capacity of developing countries to pay such costs. The question of aggression and the victim of aggression should also be taken into consideration. The facilities, services, and personnel etc. which Member States might voluntarily provide for the operation should also be taken account of.

With regard to the financing of PKOs and Peace Observers Operations so far, the practice has differed from occasion to occasion. The cost of minor operations was borne by the United

81. Swaran Singh (India) said, "In our desire to reach a settlement, however, we cannot without endangering the very structure of the Charter, depart too much from the fundamental principle of collective financial responsibility of Member States." See GAOR, session 20, plen. mtg 1358, p. 10.

82. India held that the share of developing Member States should not exceed 5 per cent of the total costs of a PKO involving heavy expenditure. UN Yearbook 1967, p. 57. See also UN Doc. A/8PC/1.138.


84. Part VI of the Budget for 1962 included Expenses for UN Truce Supervision Organization in Palestine, UN Conciliation Commission for Palestine, UNMOG in India and Pakistan, UN Representation for India and Pakistan, UN Commission for the Unification and Rehabilitation of Korea, and Committee on South West Africa. See I.C.J. Pleadings, n. 30, p. 146.
Nations itself as part of its regular budget, to which India also contributed as a Member of the Organisation. The Korean operation, though conducted under the UN flag, was financed outside the UN budget. Nevertheless, India in response to the call of the Secretary-General contributed a wide range of supplies and services including medical supplies. The cost of salaries, allowances and other expenses of the personnel sent for medical relief and custodial services purposes by India was borne by the Government of India. The entire cost of the UNTEA in West New Guinea was borne equally by Netherlands and Indonesia. The expenses of the UN mission in Yemen have been shared by Saudi Arabia and the UAR. The UN operations in Cyprus are being financed entirely through voluntary contributions. The UNPKOs in the Middle East and in the Congo were financed partly through regular budget, partly through voluntary contributions and partly through the UN bonds which were to be ultimately amortised from the regular budget of the United Nations. Thus, the United Nations has exhibited a great measure of adaptability and flexibility in financing its operations organised on an ad hoc basis from time to time.

India's direct as well as indirect contribution to the financing of the UNEF has been very significant. In spite of being one of the poorest countries in the world with very low per capita income, India paid her assessed share of contributions to the UNEF Special Account regularly. India purchased the UN

85. More than 90 per cent of the forces were contributed by the United States and the Republic of Korea. It was financed by the United States.

86. GAOR, session 21, plen. mtg 1495; p. 2.
bonds as well to mitigate the financial crisis of the Organisation. Her indirect contribution which enabled the Organisation to keep the overall costs of the UNEF considerably low equally deserves appreciation. India was the first participating Member State which accepted the principle of annual rotation of her troops. India, unlike some other participating Member States which sent volunteers, contributed the troops which were regular members of her national armed forces and, therefore, the United Nations had to reimburse (in the form of extra expenses) at much less rate to India than what it would have had to pay otherwise. The Indian troops with the UNEF performed the same duties which were performed by the troops of other participating Member States but towards the cost of salaries and allowances of an Indian soldier the United Nations had to reimburse at the rate of $25 (pay) plus $8 (allowances) per month while a Swedish soldier cost the United Nations to the extent of $270 and $120 per month. All these good gestures on the part of India helped

87. It was supposed at first, that the contingents furnished by Member States would be drawn from their standing armed forces. But in practice some contributing States organised special volunteer contingents and others went to the length of replacing the contingents sent to serve with the UNEF, by recruiting new persons. The extra costs thus borne by such contributing States were reimbursable to them from the United Nations because it had agreed to pay the full cost of pay and allowances in the case of volunteers; but in the case of regular soldiers only extra expenses were reimbursable. See Bowett, n. 5, p. 140. See also Stoessinger, n. 1, p. 173.

India's contribution in terms of man-power to the UNEF was regarded as "the backbone of the Peace Force." It is manifest that if the United Nations had to pay the entire cost of the Indian troops, including the cost of their training etc., the operations of the UNEF would have been much more expensive to the United Nations.

the United Nations to keep the expenses on the operations in the Middle East, particularly when Indian contingent was the largest one, considerably low.

On the whole therefore India's stand on the financial implications of the UNEF was marked by a spirit of utmost co-operation, compromise and moderation. Her faith in the principle of collective financial responsibility of all Members for the UN activities and her concern for equitable scale of apportionment of costs of PKOs involving heavy expenditure, her opposition to the application of sanctions against recalcitrant Member States and her appeal to Members for the settlement of the controversy through negotiations and through the Secretary-General's good offices found favour with most of the Member States. Yet one cannot deny the need for finding a more durable basis for financing the UNPKOs which should always be considered as a matter of common concern, to be shouldered collectively by the

89. India questioned the advisability of a system of financing a PKO by the party or parties concerned (whose actions caused the United Nations to take measures for the maintenance of international peace and security) or by voluntary contributions, on the grounds that such methods of financing placed too much power in the hands of the host States or the donor States which could jeopardise the continuation of the operation and consequently the keeping of peace in a situation. Nevertheless, India favoured raising of voluntary contributions for solving the problem of arrears and for restoring the solvency of the Organisation. See GAOR, session 15, Fifth Cttee mtg 817, pp. 321-2. See also Report of the Working Group of Fifteen, n. 47, para 27.

90. India was opposed to the principle that the costs of PKOs should be shared according to the normal scale established for the apportionment of the expenses of the Organisation. Report of the Working Group of Fifteen, n. 47, para 33.
entire Membership of the Organisation. Suffice it to say, in this connection that India fully supported the Assembly's call and other efforts to that effect. \[91\]

91. General Assembly Resolution 1879 (3-IV), 27 June 1963.