

THE SUPER POWERS
AND
UN PEACE-KEEPING OPERATIONS

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PREFACE

Peace-keeping operations have come to occupy ^J a very significant place in the United Nations' endeavour to maintain international peace and security. It is interesting to note that the mechanism of the operations is neither explicitly provided in the Charter, nor is it the result of any deliberate planning; it has evolved "by accident" while pragmatically responding to the different crises situations. It has been justified by deducing a large measure of implied powers from the United Nations' primary objective of maintenance of international peace and security.

For the initiation and the conduct of these operations, the United Nations essentially depends, more than in any other field, on the co-operation (at least acquiescence) of the United States and the Soviet Union. Various factors determine the decision of the Super Powers to accord or withhold support from, the operations. Thus, their attitude tends to vary from case to case, and on this depends the success or otherwise of the operations.

It is now widely held that the practice of improvising arrangements ad hoc should be ended, so that the operations might be run more or less on a uniform pattern. The (Un) Special Committee of Thirty-three has been working towards this end for the last thirteen years. But the existing mistrust between the United States and

the Soviet Union comes in the way of their giving any blank cheque to the Organisation in advance. It is hoped that with the emergence of improved relations between the two, a definite understanding would emanate regarding the authorisation and successful conduct of the operations.

The scope of the present study is limited. Chapter I sets out the historical development of the peace-keeping operations; it is a series of brief case-studies of the attempts to establish the operations, and it is on the basis of this scrutiny that in Chapter 2, the attitude of the United States and the Soviet Union towards certain significant aspects of the operations has been examined. Chapter 3 constitutes a small but significant part of the entire study. It attempts to identify the factors which condition the support of the Super Powers. The last Chapter, which has been added as an epilogue, sums up the findings of the study. J

It is not an easy task to acknowledge all the assistance which one receives in any research project. In the first place, I am deeply indebted to Professor H. C. Rajan (Head, Centre for International Politics and Organization, School of International Studies) who, as my Supervisor, very kindly and patiently went through the whole manuscript and made many valuable suggestions to improve the quality of the work. I also take this opportunity to express my sincere gratitude to Dr K.P. Saxena, who aroused my interest

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To my beloved parents and friends, for their understanding and moral support, a perennial source of inspiration, I have no words to thank.

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CHAPTER I

INTRODUCTION

"Political institutions, as they develop, often take a form very different from that mapped out for them in theory. The peace-keeping forces established under UN control perfectly demonstrate such a case."¹

The UN Charter was formulated before the end of the Second World War, and it was over when the Charter came into force on 24 October 1945. But the Organization was the product of the ideas and outlook of a victorious war-time coalition and the Charter was formulated with primary reference to the military realities of the war. The founders were cognizant of the role of power in international affairs and had intended to work out an effective system of international organization for dealing with it. There was a consensus on the necessity for collective coercive measures to maintain international peace and security. They had felt that the League of Nations had failed because it had no teeth and that the new Organization must have a bite behind its bark.² At the Dumbarton Oaks Conference and thereafter, it was strongly felt, the adoption of a collective security system under the authority of the Security

1 Wesa Luard, ed., The Evolution of International Organizations (London, 1966), p. 137.

2 Inis Claude, Jr., Power and International Relations (New York, 1962), p. 156.

Council would be very effective to deter or prevent breaches of peace or acts of aggression. Therefore, at the very outset, the Charter recognized that "to maintain international peace and security," the United Nations must "take effective collective measures."³ The Security Council was empowered, in case of "...any threat to the peace, breach of the peace, or act of aggression" to decide what measures should be taken "to maintain or restore international peace and security."⁴ Members of the United Nations were "to make available to the Security Council... armed forces, assistance, and facilities, including right of passage, necessary for the purpose of maintaining international peace and security."⁵ The scheme was fully laid out in Chapter VII of the Charter and soon came to be popularly known as a system of Collective Security.⁶ The aforesaid mechanism was thought to be a great achieve-

3 U.S. Charter, Article 1, paragraph 1.

4 U.S. Charter, Article 39.

5 U.S. Charter, Article 43, paragraph 1.

6 For a discussion whether this system of action may properly be labelled "collective security", see, in particular, Eric Claude, Jr., "The United Nations and the Use of Force", International Organization (New York), no. 532, March 1961, p. 33, and Asgharullah Khan, Political Powers of the United Nations (New Delhi, 1970), pp. 44-49.

ment of the new, comprehensive, world Organization.⁷

There were two basic tenets of the collective security system, originally envisaged by the founding fathers: first, it entrusted a major share of responsibility, for the maintenance of peace to the Great Powers. The Charter provisions clearly stipulate that the enforcement action is the primary responsibility of the Security Council, and within that organ, the permanent members are to have a determining influence by virtue of the power of veto.

Second, the use of force by "...air, sea or land forces", was the essence of the plan, though force, for the maintenance of peace, was to be used only when the Security Council considered that "provisional measures" and "measures provided for in Article 41 [not involving the use of force] would be inadequate or have proved to be inadequate..."⁸

7 It is wrongly thought that the framers of the Charter considered this system to be an unqualified success. On the contrary, it was recognized: "if a major power became the aggressor the Council had no power to prevent war." Documents of the United Nations Conference on International Organization (London and New York, 1945), vol. 11, p. 514; hereinafter cited as UNIO Docs. : Mexican delegate felt that the Conference was engaged in "establishing a world order in which the mice could be stamped out but in which the lions would not be restrained." Ibid., p. 474. The delegates admitted the system was not free from imperfections.

8 UN Charter, Article 42.

RE-EXAMINATION OF COLLECTIVE SECURITY⁹

The post-war experience soon indicated that in certain basic respects, the projected plan was not in harmony with the political and military facts of the contemporary world. The impracticability of the system due to the familiar competitive and conflictual relations among Great Powers is too well-known. Not only this, the doctrine of coercive action also proved obsolete.

The operation of the collective security system depended on the promise that the five permanent members would work unitedly in dealing with conflict-situations. But the Cold War soon revealed the bitter reality that there is, hardly any matter where one of the two Super Powers did not have a vested interest and when it would not like to distrust the one of the other four Powers. Thus, the prevailing disunity among the Powers foreclosed any possibility of the application of collective measures against their respective friends and allies. The process did not end there. The ideological ties among the members of the two

9 Abundant literature is available on the re-examination of the concept of collective security in the UN Charter. See, in particular, Kenneth Thompson, "Collective Security, Re-examined", American Political Science Review (Washington D. C.), vol. 47 (1953), pp. 753-72; Howard J. Johnson and Gerhart Meyner, "Collective Security - The Validity of an Ideal", International Organization (Boston), vol. 3 (1954), pp. 19-35; Ernst E. Eiss, "Types of Collective Security: An Examination of Operational Concept", American Political Science Review, vol. 49 (1955), pp. 40-62.

rival blocs, gave rise to a group of states, later came to be known as the nonaligned. These states, uncommitted in the Cold War, became a direct hindrance in the way of collective security's main hypothesis of all-against-one. The active participation of the Great Powers in the collective action was a basic presumption. But by the transformation of the nature of international relations due to the Cold War, their involvement tended to aggravate a conflict, rather than resolve it.

The founders of the UN very rightly thought that any recourse to force against permanent members of the Security Council would lead to the disruption of the proposed Organization. It was clearly identified: "if a major power became the aggressor the Council had no power to prevent the war."¹⁰ In due course, there arose the need of a mechanism, which would work as a face-saving device, in case the Great Powers (or, any other member state) wished to withdraw from their original position of an aggressor.

With the advent of nuclear weapons, it is unacceptably costly and suicidal to coerce a Great Power by the collective strength of the rest of the world. Thus, in view of the overwhelming military strength of some Powers, the collective strength of the rest of the community became weak. A Super Power cannot be deterred from aggression

by the threat of the United Nations to improvise a collective military venture, although it also remains constitutionally impossible to take collective action against it.

Besides, the speed of ultra-modern warfare is likely to be such that a victim of aggression may be utterly destroyed before the Security Council is even convened to consider the situation. The war may be over before the aggressor could be designated.¹¹ In short, "the theory of collective security, developed with primary reference to the military realities of World War I, can hardly have substantial relevance to the military realities of a possible World War III".¹²

Military technology has radically changed since the UN Charter was formulated. The threat of collective action with nuclear weapons poses new problems which make collective security appear irrelevant to the management of power relations.

The Charter does not indicate any realization on the part of its formulators that the new Organization might need to take collective action involving the use of armed forces which would be neither coercive nor directed against a particular State, but which would have as its aim the

11 Inis Claude, Jr., n. 2, p. 194.

12 Ibid.

maintenance of peace and security. Perhaps, the framers were obsessed with the belief that the situation the new Organisation would have to face, would be broadly the same as those which had confronted the League, i.e., situations calling for coercive action against a particular state or governmental authority.

EVOLUTION OF THE PEACE-KEEPING OPERATIONS

Thus, the features of the contemporary international relations made collective security system, originally envisaged in the Charter, irrelevant, it became necessary to make ad hoc arrangements, of a less comprehensive nature, as and when crises came up. These arrangements have varied widely in character, from the dispatch of a small cease-fire observer group to the creation of sizable force which at its peak consisted of about 20,000 troops (as in the case of the Congo), and activities running from the modest objective of observing and reporting on a cease-fire to engaging in active military hostilities to counter aggression. The authorization of the operations has been made by the General Assembly, the Security Council, or the Secretary-General, and these have been financed sometimes by the regular budget and sometimes by some other special arrangement, mutually agreed upon. None of these were themselves labelled, at the time of their creation, peace forces. But "the gradual accumulation of actions of this sort served

to strengthen and consolidate the concept of international action to police troubled areas.¹³ Such "collective responses" spread over the years have been labelled as "peace-keeping operations" since 1956. Their distinguishing feature is that the mechanism has evolved, not as a result of any deliberative initiative, but by a series of such steps. It is aptly remarked that "neither Charter theory nor any prior planning, but a pragmatic approach and practice of improvisation has been the main thrust of evolution of the peace-keeping operation."¹⁴ Peace-keeping operations represent an effort, not directly to promote the settlement of disputes, but to arrest or prevent their degeneration into violent conflicts, and thus to restore or maintain the possibility that peaceful solution might be found. To use a medical analogy, the military component of peace-keeping has been charged with a prophylactic role — the containment and retardation of conflict, rather than a therapeutic one — resolving the source of conflict.¹⁵

13 Evan Luord, n. 1, p. 143.

14 K. P. Saksena, The United Nations and Collective Security (New Delhi, 1971), p. 270.

15 Charles S. Moskos, Jr., Peace Soldiers (Chicago, 1976), p. 12.

Let us now look briefly at the manner in which the peace-keeping operations have functioned. The aim is to draw together the major strands which led to the steady, though not consistent, growth of this mechanism.

Early examples of the UN peace-keeping operations were the United Nations Truce Supervision Organization (UNTSO), the United Nations Commission in Indonesia (UNCID), the United Nations Special Committee on Palestine (UNSCOP), and the United Nations Military Observation Group in India and Pakistan (UNMOGIP).

On 23 April 1948, the Security Council approved a resolution establishing a Special Commission for Palestine (UNSCOP), made up of those members of the Security Council which had career consuls in Jerusalem.¹⁶ In due course it was joined by some more officials. The task of the observers was to engage in observation, and investigation of the violation of the truce. The number of the professional military observers was eventually increased after Armistice Agreements were concluded in 1949 between Israel and its four Arab neighbours, Egypt, Jordan, Lebanon and Syria.

¹⁶ UN Doc. S/727, 23 April 1948.

Syria, however, decided not to participate, UN Doc. S/727, pp. 17-18.

The vote on the resolution was 9 to 0, and 3 abstentions (Colombia, Ukrainian SSR, USSR).

They were subsequently formalized as U.C.T.C.¹⁷ and have been in existence for the last twenty-nine years.

In December 1946, the Security Council utilized a subsidiary investigatory committee to look into Greek complaints that border violation by its neighbours constituted threats to the peace. When the Soviet Union's vetoes blocked further consideration of the case in 1947, it was removed from Security Council's agenda and taken on to the Assembly. The General Assembly in turn established its first subsidiary group, United Nations Special Commission on Balkans (UNSCOB), to observe the situation and assist the parties in reaching settlement.¹⁸ Similar field operations were authorized by the Security Council between 1947 and 1949 in connection with cease-fire and truce-agreements

17 It should be noted that there was never any resolution expressly establishing a "Truce Supervision Organization." On this point, see, Evelyn Higgins, United Nations Peace-keeping 1946-67, Documents and Commentary, vol. 1 (London, 1970), pp. 11-12.

18 GA Res. 100 (11), 21 October 1947.

The vote was 40 to 6, and 11 abstentions. The United States voted for it and the Soviet Union voted against the resolution.

This is the first time when any operation, later came to be categorized as peace-keeping, was recommended by the General Assembly.

between Netherlands and Indonesia (UNCI).¹⁹ In Indonesia the observers were supplied by those members of the Security Council who maintained consulates in Batavia (Jakarta) and in Greece by the governments represented on UNSCOP.

On 20 January 1949, both India and Pakistan agreed to a UN Commission (UNCIIP) to "investigate any dispute or any situation which might by its continuance, endanger the maintenance of peace and security...."²⁰ In July, after further military hostilities, the Karachi agreement was signed providing that the UNCIIP would station observers along the cease-fire line where it deemed necessary. The first group of military observers arrived on the sub-continent on 24 January 1949; and six weeks after the cease-fire, observers were operating on both sides of the cease-fire line. It is noteworthy that change in the status of personnel leading to an effective peace observation operation took place without any formal authorization by the United Nations.

19 UN Doc. S/1234, 29 January 1949.

The draft resolution was voted only in parts: the UN voted for every part and the USSR abstained on all the substantive clauses. UN Doc. (See UN Doc. S/525 (1)), 25 August 1947 establishing Good Offices Committee (GOC) was already there, and on 28 January 1949, Security Council decided that GOC should henceforth be known as United Nations Commission in Indonesia (UNCI).

20 UN Doc. S/654, 20 January 1949.

The vote was 9 to 0, and 2 abstentions (Ukrainian SSR and USSR).

In fact, the United Nations operations assumed a variety of guises, to meet the needs of changing circumstances in international life. The role of the UN in these conflict areas set a novel pattern of organizational concepts which was to provide guidelines for subsequent UN peace-keeping endeavours:

1. The inclusion of any state in the operation was decided by the Secretary-General, in consultation with the host state or states. No state could insist on inclusion as a matter of right.

2. Observers were considered as "experts on missions" and were entitled to the privileges and immunities relevant thereto.

3. Financing at this stage did not pose any problem. Their own governments were responsible for their base salaries and national expenditures and the other expenditures were met by the regular budget.

4. The non-inclusion of countries of Eastern Europe was a continuing phenomenon. Except for the Soviet Union's participation in the Security Council's initial commission of investigation into the Greek frontier incidents, none of these countries found any representation on any of the field missions established during this period. Cordier and Foote have remarked that "all the Communist countries

were carefully shut out from participation."²¹

5. During this period, there was no concern at the exclusion of personnel of the countries constituting the Permanent Members of the Security Council.

6. The mission of the observers was peaceful and they were not to resort to coercive measures except in self-defence.

7. The UN Secretariat had gradually become the centralized co-ordinator and manager of these operations.

In the development of the UN peace-keeping operations, Korea was a very meaningful experience. The Korean experience re-awakened attention to the problem of peace-making. The realization that under normal circumstances, it would not have been possible to take action under UN control brought a determination to find means of circumventing the Security Council, where necessary. ~~The~~ The adoption of the Uniting for Peace Resolution was the logical result of this.²² Its first provision provided for referring a matter from the Security Council to the General Assembly, in case of a deadlock in the former. This procedure has been used a number of times; for example, over

21 Andrew G. Cordier and Silver Voote, ed., Public Papers of the Secretaries-General of the United Nations, Trygve Lie 1946-53, vol. 1 (New York, 1969), p. 186.

22 GA Res. 577(V), 3 November 1950.

Tuez, Hungary and Lebanon.

The situation in Egypt in 1956 had many ingredients to spur effective international action, and resulted in the formation of the first United Nations peace-keeping force.²³

When the British and French direct involvement ruled out any collective action by the Security Council, the matter came to the emergency Special Session of the General Assembly. On 4 November 1956, the General Assembly unanimously adopted a resolution requesting the Secretary-General to prepare a plan for an emergency international United Nations force - later called the United Nations Emergency Force (UNEF), which would "secure and supervise the cessation of hostilities...."²⁴ Its establishment was possible

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The text of the basic documents of legal importance are collected in . Louterpacht, The United Nations Emergency Force (London, 1969), and Rosylin Wierins, n. 17, pp. 221-209. For excellent official summary of the experience derived from the establishment and operation of the force: Report of the Secretary-General, UNGA, Session 13, Annexes, 9 October 1958, pp. 2-32. For unofficial commentaries, see Ireland W. Goodrich and Gabriella J. Rosner, "The United Nations Emergency Force", International Organization, vol. 11 (1957), pp. 413-30; I. Pearson, "Force for UN", Foreign Affairs (New York), vol. 35 (1956-7), pp. 395-404; Hamilton I. Armstrong, "UN Experience in Gaza", Ibid., pp. 600-19; Maxwell Cohen, "The U. N. F.: A Preliminary View", International Journal (Toronto), vol. 12 (1957), pp. 100-27; William Fryc, A UN Peace Force (New York, 1957), and Finn Ceyersted, "United Nations Forces - Some Legal Problems", British Yearbook of International Law (London), vol. 31(1961), pp. 374-390.

24

GA Res. 998 (XV-1), 4 November 1956.

The vote was 57-0, and 9 abstentions.

The UN voted for the resolution and the UNGA obtained.

because to each of the parties it appeared to secure some, different, but important purpose. To Egypt, it served to evict the invading forces; to Israel, it restored security in the Gaza Strip; and to Britain and France, it restored the canal to international control; to the United States, it kept the USSR out of West Asia, and to the Soviet Union, it prevented any further extension of the triple aggression.

A number of key problems of peace-keeping were encountered by the UN for the first time, and it also provided some new principles to the operational concept.

One of these created precedents that have been kept ever since. Above all, the UN experience made very clear that for such an action the acquiescence of the Super Powers is very crucial.

Subsequent Military Operations

The same basic characteristics have applied to subsequent peace-keeping operations involving the use of military personnel, regardless of their varying size, mandates, and details of organization and operation.²⁵ These

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Ruth Russell, "Development by the United Nations of Rules Regarding Peace-keeping," American Society of International Law, Proceedings (1965), pp. 53-60.

include an observation group in Lebanon (1958-59), a UN force in Congo (1960-64), a small security force in West Irian (1962-63), a minor observation in Yemen (1963-64), another force in Cyprus (since 1964), an expanded Indo-Pak observation mission in Kashmir (since 1965), the second United Nations Emergency Force in Egypt (since 1973) and disengagement observation force between Israel and Syria (since 1974).

In 1958, the Security Council, "having heard the charges of the representatives of Lebanon concerning interference by the UAR in the internal affairs of Lebanon", decided to set up an observation group "to ensure that there is no illegal infiltration of personnel or supply of arms or other material across the Lebanese border."²⁶ The Secretary-General was asked to take all necessary steps to establish an observation group capable of fulfilling its mandate; and accordingly, it was the Secretary-General who negotiated with the Lebanese Government for facilities for United Nations Observation Group in Lebanon (UNOGIL); he entered into arrangements with other countries for contribution of personnel and materials. Thus, the day-to-day political and administrative handling of UNOGIL lay with the Secretary-General.

26

UN Doc. S/4023, 11 June 1958.

The vote was 10 to none, and one abstention (USSR).

The expenses of the force were apportioned as an integral part of the regular budget, falling in the section known as "special missions and related activities" - a practice which was still customary in 1957 for minor peace-keeping activities like UNMO and UNCFIP and which was politically no longer possible by the time the financing of the UNMO and UNCFIP came to be considered.

The earlier experiences of U.S. intervention in the conflict situations were steps on the way to a much bolder experiment of United Nations Operations in Congo (ONUC).

The hastily improvised transition of Congo from colony to nationhood posed before the U.S. a problem of unprecedented size, seriousness and complexity. Nonetheless to maintain normal life in the newly independent country, the Congolese Government, by telegram to the Secretary-General, requested, "urgent dispatch by the United Nations of military assistance... to protect the national territory of the Congo against the present external aggression which is a threat to internal peace."²⁷ Drawing upon the past experience of Greece and Lebanon, the Security Council adopted a resolution, authorizing the Secretary-General "to take the necessary steps, in consultation with the Government

of the Republic of Congo, to provide the Government with such military assistance as may be necessary...."²⁸

But in fact, the mission in the Congo was not the same as was performed by UNF or UNOGIL. The standards which were effective in much narrower circumstances could not be adequate in the case of Congo.

By mid-September 1960, the threat from the Belgians progressively transferred the situation into a threat from internal Congolese dissension. The UN Force was unable to do its job in the absence of means commensurate with the task that lay ahead, and a resolution was adopted in the Security Council, which altered and expanded the mandate, providing for, ... "the use of force, if necessary, in the last resort...."²⁹

The operation followed the precedent of UNF in placing primary responsibility on the Secretary-General for the day-to-day management of force, and it set a pattern that the ultimate authority for peace-keeping would lie with the Secretary-General. It also became clear that at least the tacit consent of all the Permanent Members, and

²⁸ UN Doc. 7/4387, 14 July 1960.

The vote was 8 to none, and 3 abstentions. Both the Super Powers voted for the resolution.

²⁹ UN Doc. 7/4741, 21 February 1961.

The vote was 9 to none, and 2 abstentions (France and USSR).

especially the Super Powers, is a must for the continuation of the operation. It also manifested the limitations of the peace-keeping operations and led to their strengthening.

In June 1963, the Security Council endorsed the establishment of the United Nations Truce Observation Mission (UN Truce) in response to a request to the Secretary-General, by the UAR and Saudi Arabia, to institute a Commission for observing compliance with a disengagement agreement between the two - with regard to their intervention in the then civil war in Yemen.³⁰ The mandate of the mission was limited to "observing, certifying and reporting" and it was technically successful. The mission was subsequently reduced, then finally withdrawn in 1964.

The United Nations peace observation and peace-keeping activities in West Irian were based on a basic agreement for the transfer of administration from the Netherlands to the UN Temporary Executive Authority (UNTEA), to be established by and under the jurisdiction of the Secretary-General. The UNTEA, in turn would transfer the authority to Indonesia. The General Assembly acknowledged the role conferred upon the Secretary-General and authorized

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U. Doc. S/5331, 11 June 1963.

The vote was 10 to none, and one abstention (U.S.S.R.).

him to carry it out.³¹ The practice evolved in the UNYOM, that the costs should be met by the contending parties, was upheld in this operation also.

As the situation in Cyprus worsened in 1964, the issue came before the Security Council. After much discussion, the debate ended with the recommendation to create "...with the consent of the Government of Cyprus, a United Nations peace-keeping force in Cyprus."³² It noted that the resolution was adopted at a time when the controversy regarding the financial and constitutional aspects of peace-keeping operations was heading for a crisis. Great caution was taken before making the force operational. It was laid down that the costs were to be met, in a manner to be agreed upon, by the governments providing the contingents and by the Government of Cyprus. The Secretary-General could also accept voluntary contribution from other governments. It was to be established for a period of three months only in the first place, but this was prolonged by subsequent resolutions right up to the present.

As the war once again erupted in the Middle East, on 6 October 1973, the Security Council, after intensive informal consultation between the US and the

31 GA Res. 1752 (XVII), 21 September 1962.
Both the Super Powers voted for the resolution.

32 U. Doc. 7/5575, 4 March 1964.
The resolution as a whole was adopted unanimously.

USSR, adopted a resolution calling for cease-fire and implementation of the Security Council Resolution 242(1967) in all its parts.³³ It was repeated the next day, with the provision for UN observers to supervise the observance of the cease-fire.³⁴

Meanwhile, both the US and the USSR were continuing their support to their respective clients and the crisis was taking drastic dimensions. Eventually, some understanding reached between the two to institute a UN peace-keeping force and the Security Council adopted a resolution to that effect.³⁵ Two days later, the Security Council approved the Secretary-General's plan for a 7,000-man (second) UN Truce Supervision Organization for an initial six-month period.³⁶

Another peace-keeping operation is in offing in Southern Rhodesia.³⁷ Its success will depend on the

33 UN Res. 338 (1973), 22 October 1973.

34 UN Res. 339 (1973), 23 October 1973.

35 UN Res. 340 (1973), 25 October 1973.

The vote was 14 to none, China not participating in the vote.

36 UN Res. 341 (1973), 27 October 1973.

37 UN Res. 415 (1977), 22 September 1977, requesting the Secretary-General to appoint a representative, was adopted by 13 votes to none, and one abstention (USSR), China not participating in the vote. For details, see, UN Monthly Chronicle (New York), vol. 14, no. 9, October 1977, pp. 11-16.

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favourable attitude of the Super Powers, besides the other permanent members of the Security Council and the parties directly concerned.

The above cursory survey should not make one take the peace-keeping operations of the United Nations for granted. In fact, for these operations, there neither exist any specific authority in the Charter, nor have they been undertaken as conscious alternative to something else. They have just evolved out of necessity. The operations became possible because of the acceptance by the conflict-
ing parties and other member states in general, and the two Super Powers in particular.

The existence of the operations is mainly based upon the willingness on the part of the United States and the Soviet Union to give positive support to them, or at least not to oppose them. What have been the various attitudes of these Powers towards the different aspects of the peace-keeping^{operations}? This forms the subject of inquiry in the next Chapter.

CHAPTER 2

THE FINANCING OF THE SUPER POLICE

The chief characteristic of peace-keeping operations has been hurried improvisation whenever crises arose. As a result, the financial, constitutional, political and personnel aspects of the operations have varied in nature. Equally varied have been the attitudes of the United States and the Soviet Union towards them. In this chapter, I shall examine their attitude towards the issues which are crucial to the origin and continuance of these operations.

[THE QUESTION OF FINANCE]

Several procedures have been used to finance these operations. The initial method adopted to pay for the observer groups was the relatively simple and direct procedure of including these expenses in the regular budget of the Organization. It seemed to be the natural way to share the costs involved, to which neither of the super powers raised any objection. The United Nations assumed the entire budgetary responsibility in meeting the costs of UNCI (1947-49), UNCOF (1947-51), UNDO (from 1949),¹

1 In respect of UNCI and UNCOF, where the observers were appointed by the member states represented on the Committee and were regarded as assistants to their representatives, the

U. OGIL (1958-59) and U. OGIP (from 1948 to date).²

It was the operation in the Middle East (U. F-1), and then in the Congo (U. C) which precipitated financial crisis that culminated in a virtual deadlock of the nineteenth session of the General Assembly. The expenses of the U. F-1 were set forth in a Special Account to be paid

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U. did not assume budgetary responsibility for the major expenses such as salaries, transport, and equipment: the U. met the expense of local transportation, salaries of U. staff etc. A per diem allowance, rather than the entire salary, was thought appropriate for such observers.

In the case of U. TSO and U. OGIP, the governments concerned continued to pay the salary and pension contributions required under national legislation. The U. paid a local allowance; in the event of injury or death, compensation was also paid to the national authorities for transmission to those eligible under national law.

See L. J. Rowett and others, United Nations Forces. A Legal Study of United Nations Practice (London, 1964), pp. 46^a-a.

Until 1963, there was no major controversy over the financing of U. TSO and the costs were met out of the regular budget of the United Nations. In May 1963, when the membership was deeply divided over the question of peace-keeping expenses, the Communist nations announced that they would not pay those parts of their regular budget assessments which were for U. TSO and also refused to pay for 200-man Field Service, some 75 of which were assigned to U. TSO in 1963. But finally they reverted back to the original position.

by the member states on the scale of assessments similar to that used for the 1957 regular budget.³ In addition, the Secretary-General suggested the initial apportionment of \$ 10 million to meet the immediate cash needs of the Force. However, there were objections on the part of a number of states, including the Soviet Union, to paying their assessed share of the Special Accounts costs. The Soviet Union asserted that the total expenses of the United Nations in respect of UNF should logically be borne only by those states which had committed aggression against Egypt - that is, the United Kingdom, France and Israel.⁴ This position was taken in 1956 and was to be repeated in the following years.⁵

The same pattern of financing, reflecting a combination of assessments and voluntary contributions, was again adopted in respect of the ONUC. Here also, the Soviet Union was unwilling to acknowledge these expenses as legitimate United Nations expenses.⁶

The United States adamantly supported the view] that all member states had a legal obligation to pay.

3 Doc. E/AC.1/1151 (AD), paragraph 4, 27 November 1957.

4 It is noteworthy that these states were never adjudged guilty of aggression by the General Assembly or any other organ of the UN.

5 UN Doc. A/P.V./682, paragraph 65, 21 December 1956.

6 See, UN Doc. A/5911, letter of 10 July 1964 from the USSR.

It was (then) paying nearly 32 per cent of the regular budget and was assessed to pay 32 per cent of the costs of the special peace-keeping operations. In effect, since the voluntary contribution was used to offset the reductions granted to fifty-one countries with limited capacity to pay, it was paying 43 per cent of the total. In 1962, these reductions were increased and the United States assumed responsibility for a portion of assessments of 70 member states, which brought its share of the total cost to 48 per cent.⁷ In the case of ONUC, the US again defended the principle of collective financial responsibility as the most equitable method of supporting the financial burden and assumed a large share of the costs from the very beginning and contributed 32 per cent of the gross costs of ONUC and by 1965 purchased bonds worth 75 million.⁸]

New threats to peace arose in 1962 in West New Guinea, in 1963 in Yemen, in 1964 in Cyprus and in 1973 in Middle East, and the Organization had to make some provision to meet these responsibilities. A new method of financing was first devised in West New Guinea and subse-

7. For details, see, J. . . Rainhouse and others, International Peace-keeping at the Crossroads, National Report - Experience and Prospects (Baltimore, 1973), p. 240.

8. The General Assembly authorized the sale of \$ 200 million worth of US bonds for a 25-year period, bearing an interest rate of 2% per annum. Res. 729 (VII), 20 December 1961.

quently utilized in Yemen. On both these occasions, the participants directly concerned bore the costs. In the case of West New Guinea, the United Nations established the United Nations Temporary Executive Authority (UNTEA) and arranged to have the costs shared jointly by the Netherlands and Indonesia.⁹ A similar procedure was adopted for financing the Yemen Observation Mission (UNYOM) under which Saudi Arabia and the United Arab Republic governments paid the principal expenses.¹⁰

By the time the Cyprus question arose in March of 1964, the difficulties flowing from the unpaid balance accruing from past operations threatened the initiation of any new peace-keeping operation. By the time the question was handed over to the Security Council, it was more than apparent that, due to Soviet and French objections, no meaningful agreement would be concluded to establish the force, if the costs were to be borne by the membership as a whole. The only possibility for reaching agreement to establish a United Nations peace force appeared to be to accept the principle of voluntary financing by those states willing to provide funds. The relevant resolution

9 This was done, on an equal basis, between Indonesia and the Netherlands by virtue of Article IV of their agreement of 15 August 1962.

10 UN Doc. S/5325, 7 June 1963.

stated: "All costs pertaining to it [force] being met, in a manner to be agreed upon by them, by the governments providing the contingents and by the Government of Cyprus. The Secretary-General may also accept voluntary contributions for that purpose." 11

These costs have been met by voluntary contributions. The United States was paying a large sum for it, whereas the Soviet Union stuck to its original position that the costs should be borne by the contending parties. Quite significantly, in these cases the United Nations took an important step away from the collective responsibility principle which it had insisted upon previously.

After the eruption of hostilities between India and Pakistan in 1965, the Security Council adopted a resolution giving the Secretary-General a vague mandate to provide necessary assistance to ensure supervision of the cease-fire and withdrawal of armed forces. The Secretary-General instituted United Nations Indo-Pakistan Observation Mission (UNIPOM) to observe the cease-fire along the international border. It is noteworthy that no provision was made in any of the resolutions regarding the crucial problem of financing. Eventually, the costs were met out of the regular budget of the United Nations.

Contrary to the position held earlier by the UNCTAD that the parties to the dispute should pay, in this case, India made it very clear that, as the victim of the aggression, it could not be expected to pay for U.N.I.P.¹² Although the Soviet Union made objections regarding the authorization of the Secretary-General on questions such as the numbers, functions and financing of the observers,¹³ it did not have any particular reservation on the issue of financing through the regular budget. The United States approved the arrangement, holding the view that resolution of 20 September 1965 empowered the Secretary-General to implement it in his own way and it was enough for him to report regularly to the Security Council.¹⁴

The acceptance of the expenses of U.N.I.P. as expenses to be borne by the members as apportioned by the

12 India later withheld from its regular contribution for 1965 and 1966 sums which represented its proportionate share of cost of U.N.I.P. and of extra expenditure incurred by U.N.I.P.

See, UN Doc. T/6747, letter dated 5 October 1965 from the Representative of India to the Secretary-General.

13 UN Doc. Yr 20, ntc 1247, 25 October 1965.

14 Ibid.

For a sharp exchange between the representatives of the UN and the USSR, see, Ibid., ntc 1251, 5 November 1965, pp. 6-9.

General Assembly in 1973,¹⁵ by the United States and the Soviet Union was a remarkable achievement in the development of peace-keeping operations. A special arrangement was worked out by the General Assembly, by a vote of 102 in favour, 3 against and 1 abstention.¹⁶ The formulae for apportionment calls for nearly three-fifths of the costs to be met by the five permanent members of the Security Council, other developing countries paying in accordance with their regular rate of assessment, developing countries much less and the least developed countries only a nominal part.¹⁷

Both the super powers have been paying for the costs according to the above-mentioned arrangement.

15 U.N. Charter, Article 17, paragraph 2.

16 GA Res. 3101 (XVIII), 11 December 1973.

17 GA Res. 3101 (XVIII), adopted on 11 December 1973, lays down four categories of contributing members for the purpose of apportionment to UNIT 2-I. Five permanent members to pay more than three-fifths of the scale of assessment for the years 1974-76; ii. approximately one-third (\$ 10,434,000) to be paid by economically developed countries; iii. \$ 606,000 to be contributed by developing countries; iv. a nominal amount of \$ 15,000 to be borne by the least developing countries.

One permanent member, China, has refused to contribute and did not participate in the voting on the resolution.

POLITICAL AND CONSTITUTIONAL FACTORS

The attitude of the Super Powers generally shapes the response of the United Nations, and it is especially true in the case of peace-keeping operations. Political factors are central in conditioning the attitude of the Powers. Although constitutional and legal predispositions of the Super Powers also have much significance, their attitude in the final analysis is determined by hard political facts. Once the political reservations are removed, military, financial or legal problems conveniently disappear.

The roots of the problem of organizing peace-keeping machinery lie in the disagreement between the United States and the Soviet Union over the rights of the General Assembly to call for international forces and to apportion the expenses of peace-keeping activities, and the obligation of states to pay the apportionment. The early period was the embryonic stage where the Soviet Union started opposing the competence of the General Assembly and the Secretariat in respect of the authorization and direction of UN missions. This seemingly constitutional objection had political roots. The United Nations missions established during this very important seminal period in the development of UN peace-keeping had the full support of the United States. In most cases, these operations

resulted from U. S. initiatives, the United States was represented on almost all of them - it supplied the major portion of observers and most of the logistical support. On the other hand, the Soviet Union, except the Security Council's initial commission of investigation into the Greek frontier incidents, was represented on none of the field missions established during this period, and this generally applied to the other countries of the Socialist bloc. The Soviet backed Polish proposal that the Security Council send a commission representing all its members to Indonesia was rejected, as was the Soviet proposal that all Council members be given the opportunity to supply observers in Palestine. The resort to a consular commission in these two cases was justified by the urgent need for on-the-spot information, but it had the effect of precluding Soviet participation. Two top officials have remarked that, "all the communist countries were carefully shut out from participation"¹² and this extended to Soviet nationals in the Secretariat as well.

UNTF and ONUC

The crisis over peace-keeping took serious dimensions with the establishment of the Emergency Force

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Andrew L. Cordier and Wilder Foote, ed., Public Papers of the Secretaries-General of the United Nations, 1946-52, vol. 1 (New York, 1960), p. 106.

in 1956, and then the Congo operations in 1960. These were financial only in part. Surrounding these were more serious political and constitutional disputes over powers and responsibilities under the Charter.

The establishment of the U.T.-I was made possible because of the favourable political attitude of the United States and the Soviet Union. In respect of the Suez conflict, the United States was annoyed with its allies, Britain and France, who, without consulting or even informing the United States in advance, had plunged into fight in the Middle East. The United States gave the U.T.-I plan its strong support because it wanted to keep the Soviet Union out of the Middle East; thirdly, it wanted to use the Force as a face saving device for the withdrawal of the forces of the United Kingdom and France.

The Soviet Union also did not object strongly and permitted the establishment of the Mission by abstaining from vote, so that the conflict-situation was put under control. Besides, the Force was not to include contingents of the permanent members. But when in 1963 controversy arose over the proper method of financing, it expressed its constitutional reservations. It viewed U.T.-I as illegal for having been set up by the General Assembly, and not by the Security Council. It further justified its non-payment by insisting that the entire cost of the operation should be borne by those countries, which had precipitated

the crisis - Britain, France and Israel. 7

The controversy reached critical proportions after the launching of ONUC. The Congo was no one's sphere, and thus, a tenuous consensus existing between the Super Powers to maintain peace in the area, brought forth the Congo operations. At the same time, there was a constant fear that without UN presence, it would become a sphere of Cold War rivalry. The Congolese Government had sent a cable to Prime Minister Khrushchev on 13 July 1960, the day when they sent telegram to the Secretary-General, telling him that they might have to call on Soviet help.¹⁹ As on 12 July 1960, Vice-Premier Tizenda had requested UN aid from Ambassador Timberlake. The Congolese Government had made clear to the Secretary-General that in case of a delay from the United Nations, they "will be obliged to appeal to Bandung treaty powers."²⁰ Besides all this, the Soviet Union found the best opportunity to play its self-appointed role as champion of anti-colonialism by favouring the withdrawal of Belgian forces. Above all, the African states were unitedly backing the resolution for UN mission and this also made both the Super Powers make their position clear. Writing specifically of this operation,

19 Ibid., vol. 5, p. 19.

20 UN Doc. 74322, 12 July 1960.

Hammarskjöld expressed the view that it was "rendered possible by the fact that both blocs have an interest in avoiding such an extension of the area of conflict because of the threatening consequences, were the localization of the conflict to fall."²¹ Thus, both the Super Powers had common interest in having the United Nations interposed as a neutral force to prevent their direct confrontation.

Very soon, a major struggle between nationalism and colonialism turned into a power struggle between Premier Lumumba and President Kasavubu. The initial mandate given to the Force was not sufficient to meet the aggravated situation. In order to bring the situation under control, Andrew Cordier, Executive Assistant to Hammarskjöld, decided to close all Congolese airports, to immobilize troops, and to shut down the national radio in Leopoldville. These moves incidently were pro-western in nature. Quite obviously, it aroused bitter Soviet hostilities. The Soviet Union accused the United Nations of neo-colonialism. It proposed a draft resolution directing the United Nations to cease any interference in the internal affairs of the Congo and to hand over the airports and the radio stations to the central government.

²¹ Cited in Inis Claude, Jr., "The Political Framework of the United Nations' Financial Problems", International Organization, vol. 17 (1963), p. 238.

On 21 February 1961, the Security Council passed its strongest resolution urging that "the United Nations take immediately all appropriate measures to prevent the occurrence of civil war in the Congo, including... the use of force, if necessary, in the last resort."²² The USSR abstained, and not vetoed, because most of the African and Asian states solidly supported the resolution. The US also had certain misgivings about the implications of the "use of force.... in the last resort", but supported it because it also could not afford to alienate the African states.

Thus, the Soviet Union and the United States took the positions which suited best their national interests. The United States continued supporting it very strongly and actively because the United Nations was taking a pro-western course. It, at first contributed three-fourths and then, about one-half of the expense. The USSR also continued supporting it - positively or by abstaining from voting, due to the above-mentioned political factors. But when it concluded that ONUC was being used for purposes unfavourable to its interests, it expressed its political reservation in terms of financial non-support and constitutional objections. Thus, it refused to make any contribution either for UNFF-I or for the ONUC.

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UN Doc. S/4741, 21 February 1961.

The financial crisis was in fact a manifestation of a deep and persistent political cleavage and constitutional reservations between the Super Powers, over the operations.

In its Memorandum of 10 July 1964,²³ the USSR stated that under the Charter, the only body authorized to take action in the maintenance of peace and security was the Security Council, within the purview of which lay decisions in all matters, relating to the establishment of UN armed forces, the definition of their duties, their composition and strength, the direction of their operation, the structure of their command, and also matters of financing. No other UN body, including the General Assembly, has the right under the Charter to decide such matters. The USSR position was further elaborated in its Memorandum of 11 September 1964, in which it was again stated that, under the Charter, only the Security Council was empowered to decide questions, such as the establishment of UN², which related to the taking of action maintaining international peace and security. It cited Art. 24, Art. 25, Art. 29 and the whole of Chapter VII of the UN Charter

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UN Doc. S/5811, letter of 10 July 1964, from the USSR transmitting memorandum of Government of USSR regarding certain measures to strengthen the effectiveness of the UN in safeguarding of international peace and security.

as confirming, reinforcing and crystallizing the proposition that all questions relating to the establishment and use of UN armed forces lay within the competence of the Security Council.

The Memorandum of 11 September 1964²⁴ referred to the decision of the General Assembly at its first Emergency Special Session of 1956 to establish UNTF. Attention was drawn to a statement by the USSR representative at that session to the effect that the Assembly decision was in violation of the Charter, as it impinged upon the responsibility of the Security Council which had the sole competence in such cases. This is the position which has been repeatedly emphasized by the Government of the USSR.

In a Memorandum presented to the International Court of Justice in 1962, the USSR had also drawn the conclusion that, as the UNTF was established in violation of the Charter, circumventing the Security Council, its financing could not be regarded as imposing an obligation on the UN member states.²⁵

24 . UN Doc. T/5964, letter of 11 September 1964 from the USSR transmitting memorandum from Ministry of Foreign Affairs of the USSR on the question of financial situation of the United Nations.

25 Yearbook of the United Nations, 1964 (New York, 1966), p. 9.

Regarding CAUC, the USSR Memorandum of 11 September 1964 argued that, while the basis for UN operations in the Congo had been a Security Council resolution of 14 July 1960, both, this resolution and the UN Charter, had been grossly violated in the course of UN operations in the Congo. In violation of Article 4^o,²⁶ the USSR added, the Secretary-General had bypassed the Security Council and had himself determined the states invited to participate in the Congo operation - the USSR representative being compelled to protest against the Secretary-General's actions as early as the meeting of the Security Council on 20 July 1960.

The decisive criterion for the legality of the actions of the UN forces, in the opinion of the Soviet Union was the consistency of those actions with the Purposes and Principles of the United Nations Charter. While forces might be formally established in accordance with the Charter, their activities might be so directed as to

26 Article 48 of the Charter provides: "The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the members of the United Nations or by some of them, as the Security Council may determine."

produce results diametrically opposed to the Purposes of the Charter. This was what had happened in the Congo, where the Secretary-General and UN Command had acted in the interests of the colonizers and, as representatives of the USSR had repeatedly pointed out, had frustrated the proper implementation of the Security Council decision of 14 July 1960 by failing to end colonial interference and to strengthen Congolese independence. The Congo operations, added the USSR, had thus served as a cover for the colonial policy of a specific group of powers. The Memorandum also advanced the view that expenditure for UN armed forces did not fall under Article 17 of the Charter; that Article 19 of the Charter had no relevance to the expenditures involved in peace-keeping operations. Thus, the USSR declared that what was involved was not a matter of a few dollars illegally spent, but a matter of principle. Its refusal to pay for UNTF and ONUC caused a rapid deterioration in the financial position.

On the other hand, in its Memorandum of 8 October 1964,²⁷ the United States maintained that there

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UN Doc. A/5739, letter of 8 October 1964 from the United States transmitting memorandum on the UN financial crisis.

was no basis for the USSR's position that only the Security Council had exclusive rights to take any action with respect to keeping the peace; Article 24 of the Charter, the US said, gave the Council primary, not exclusive authority for the maintenance of international peace and security. It never meant that the General Assembly could not even make recommendations for the preservation of peace. It added that the establishment of the UNT had not involved enforcement action under Chapter VII of the Charter and had thus come within the recommendatory powers of the Assembly. Furthermore, it referred to the Security Council resolution of 14 July 1960, which authorized the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with military assistance, and stressed that the Secretary-General had merely done what the Security Council had asked him to do.

Before the beginning of the 19th session of the General Assembly, the Soviet Union had accumulated more than two years of arrears and under the terms of Article 19 was liable to be deprived of its vote. The Soviet Union threatened that it would walk out of the Organization if deprived of its vote. To avoid any show down, it was decided not to take any vote in the General Assembly.

Eventually, the US withdrew its hard stand and at the same time made clear that in future it also would not be obliged

to pay for all peace-keeping operations.

Thus, the political reality prevailed - that it is exceedingly difficult to require powerful sovereign states to give financial support for actions which they do not regard as being in their interest. The Congo operations had been in the national interest of the United States and, it very emphatically argued for collective financial responsibility for peace. Quite contrarily the Soviet Union refused to pay, because the results which the operations in the Congo achieved did not meet with its approval. ✓

UNOGIL

In 1958, Lebanon levelled charges against the United Arab Republic of subversive activities to undermine its independence. The UAR categorically denied many of them. The Soviet Union strongly supported the UAR position and the United States sided with Lebanon.²⁸

At the conclusion of the debate, the Security Council, without making any judgement on the merits of the complaint, merely noted the charges and directed the Secretary-General to dispatch urgently to Lebanon an

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The US had already reinforced the Sixth Fleet and had in fact announced on 16 May that it was ready to send tanks and men, if requested, to assist in the restoration of normal conditions in Lebanon.

See, L. E. Mainhouse, n. 7, p. 107.

observation group "so as to ensure that there is no illegal infiltration of personnel or supply of arms or other material across the Lebanese borders."²⁹

The consensus was based on a mixture of factors. The United States, not yet ready to intervene militarily, could hope that UNOGIL as a display of international concern would bolster the Lebanese regime and have a preventive effect on possible outside interference. The Soviet Union probably did not wish to see the operation transferred to the General Assembly, if it vetoed it in the Security Council. Moreover, the fact that there would be United Nations presence, might impede the UN unilateral action. In explaining his abstention, the Soviet representative stated that he had not voted against the resolution because neither Lebanon nor the UN objected to it. However, he could not vote in favour because he believed the Lebanese complaint to be totally unfounded and the situation in Lebanon to be solely a domestic problem.³⁰

There was no controversy over its financing in the Security Council or in regular or emergency sessions of the General Assembly. Financial arrangements for the

29 UN Doc. S/4022, 11 June 1958.

30 SCOR, yr 13, at 825, 11 June 1958, pp. 17-18.

observers were the same as that for UNTSO: countries supplying observers paid salaries and national entitlements not covered by the United Nations. No time limit was placed on the duration of OMOGIL, nor was there any requirement for periodic renewals. It lasted for six months and did not pose any problem.

UNTAG

The United Nations Temporary Executive Authority was a face-saving device, created to facilitate the transfer of disputed territory from the Dutch to Indonesians. The dispute between the Netherlands and Indonesia over West New Guinea was settled peacefully and the Mission was a neutral interim administration.

In the case of West New Guinea, the Assembly was faced with a plan that had been accepted by both the parties. The Soviet Union, the principal supplier for the Indonesian arms build-up, voted for the resolution. The agreement had the full backing of the United States; and owed its existence largely to the US decision to shift from a policy of "positive neutrality" to achieve efforts to bring about a peaceful settlement. The settlement was viewed as "good" for international peace. Willingness to approve the settlement stemmed partly because the parties were in agreement with it and partly because the Netherlands and Indonesia agreed to assume the entire financial burden

for the operation.

The implementation was a Secretariat operation to a much larger extent than usual and the role of the Secretary-General was central. The decisions as to how the agreements were to be interpreted and implemented rested in his hands and he was to decide when the administration of the territory would be turned over to Indonesia. The Security Council played no role in the operation. The Assembly was restricted to authorizing the Secretary-General to carry out the tasks entrusted to him under the basic transfer agreement.

UNDO

The UN observers in Saudi Arabia-Yemen area were vitally necessary and could be the decisive factor in avoiding serious trouble in that area; their presence was desired by all parties concerned; moreover, as the need was urgent, it was to be dispatched with the least possible delay. At the request of the Soviet Union the Security Council was convened and on 11 June, it adopted resolution 7/5331, authorizing the establishment of UNDO. It was adopted with ten in favour - and the USSR abstaining. The United States voted in favour, welcoming "the prompt dispatch of observers to the area as proposed

by the Secretary General.³¹ The Soviet Union abstained due to its dissatisfaction 1) with the financing arrangements, and 2) with the direction for the duration of UNYOM. It was made clear that the "Soviet delegate is not in principle opposed to the dispatch of United Nations observers to the region. However, this operation like any other operation involving the use of armed forces under the auspices of the United Nations must be limited. Otherwise, a difficult situation may arise."³²

The USSR did not have any strong objections to the method of financing the Mission, and stated that "the position is based on a just and politically reasoned approach, namely that the aggressor nations should pay the costs of liquidating the consequences of their aggression," but expressed dissatisfaction because the renewal of UNYOM beyond a four-month period was left as an open option, while the mention of the source of finance referred only to the first two months. According to the USSR delegate, the United Nations should take decisions involving action "only when all aspects of the matter, including the material

31 . . . SCOR, yr 18, mtg 1030, 11 June 1963, p. 3.

32 Ibid., p. 4.

and financial conditions for the execution of decisions, have been duly examined.³³

Since the parties concerned were in agreement to the sending of a limited number of UN observers to the area, and their governments had undertaken to pay the costs of the operation, and the United Nations was not committed to pay financial expenditure in respect of the observer operation, the USSR merely abstained and did not veto it.

UN FICYP

On 4 March 1964, the resolution establishing a United Nations Peace-keeping Force in Cyprus was unanimously adopted in the Security Council.³⁴ The adoption was made possible because the parties involved in the dispute, Britain, Greece, Turkey and Cyprus were willing to accept its role. So were the two Super Powers.

In support of the draft resolution as a whole, the USSR representative said, the USSR was taking account of the fact that the Government of Cyprus considered it useful despite its defects. The Force, unlike in Gaza and the Congo, was to have a fixed and firm duration of three months, which could be extended beyond that day only

33 Ibid., p. 5.

34 UN Doc. S/5575, 4 March 1964.

by a new action of the Security Council. Another reason, influencing the USSR to vote for the resolution, was the fact that such a force was an additional guarantee of the independence and non-alignment of the Cyprus. The NATO force as an alternative, would have carried the possibility of pressure being brought in favour of a solution which satisfied Greece and Turkey at the expense of non-aligned Cyprus. The United Nations intervention on the other hand, prevented the issue being dealt with as if it was essentially an intra-NATO affair.³⁵

Quite significantly, the Soviet Union made a point to record its reservations on constitutional grounds by abstaining on paragraph 4 of the resolution, since it embodied procedures which would circumvent the Security Council.³⁶ It made sure that the authority given to the Secretary-General regarding the size, composition and control over its day to day functioning was to be an exception than a rule. It further made sure that the Security Council's control over the operation by the provision that the mandate of UNFICYP, in the first instance, was to last only three months. Thus short-periodic renewals were

35 K. P. Saksena, The United Nations and Collective Security (New Delhi, 1974), p. 222.

36 See SCOR, yr 19, mtg 1102, 4 March 1964.

to enable the Security Council to hold the reins. It did not have any objection on financial grounds, because the very first resolution establishing the Force had made clear that "...all costs pertaining to it being met in a manner to be agreed upon by them, by the governments providing the contingents and by the Government of Cyprus. The Secretary-General may also accept voluntary contributions for the purpose." The USSR has maintained that it gives substantial support to the Cyprus peace-keeping operation by merely allowing it to exist over the years, thus permitting the "imperialists and colonialists of the aggressive NATO military bloc" to calm a bad military situation for which they are totally responsible. Any idea that the Soviets should also make financial contribution was "completely unacceptable."³⁷ The Soviet Union (and France), while casting an affirmative vote for each renewal of the UNFICYP mandate, has consistently opposed all attempts to expand its role or alter its financial support basis. The Soviet Union and Warsaw Pact states have neither pledged nor paid any sums for Cyprus peace-keeping operation.

The United States also welcomed the Force in Cyprus. Its efforts to confine the trouble within NATO

fold and install a NATO peace-keeping operation had miserably failed in the face of President Makarios' insistence on submitting the Cyprus situation to the UN Security Council. On the other hand, the USSR leaped into the Cyprus imbroglio on 7 February 1964 and warned Britain, France, the United States and Turkey that any move against the Government of Cyprus would be "the source of international complications fraught with grave consequences."³⁸ Britain lacked both the will and the means for committing the necessary forces in a purely British effort to impose order. With British, American, NATO and Commonwealth approaches stymied, and with the predictions of Turkish invasions and Greek-Turkish war rampant, Britain threw the problem into the hands of the UN Security Council. Turkey had requested the unilateral intervention of the United States, but the latter chose to support the British effort.³⁹ Thus, peace-keeping force under the United Nations auspices became the only acceptable solution and the United States backed it. It also had the other meaningful side effects like keeping the Russians out of direct involvement and also from the peace forces. Furthermore,

38 K.P. Saksena, n. 35, p. 226.

39 J. A. Stergna, The United Nations Force in Cyprus (Columbus; Ohio, 1969), p. 35.

the British forces were to be included in UNFICYP and Western military interests (British military base) were not threatened.

UN IPOM

No formal authorization ever occurred by the Security Council for the establishment of United Nations India-Pakistan Observation Mission (UNIPOM) as a separate unit from United Nations Military Observation Group in India and Pakistan (UNMOGIP). It was established initially for a three-month period, but the Secretary-General informed the Security Council that he proposed to accede to India and Pakistan's request that UNIPOM stay for further three months. No formal vote was taken on this extension. The Secretary-General regarded the Security Council Resolution 211 of 20 September 1965 as the constitutional base of UNIPOM. In this resolution, the Security Council unanimously requested the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel. In another paragraph, it requested the Secretary-General to exert every possible effort to give effect to this resolution.⁴⁰ The Secretary-General did not leave anyone in

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SC Res. 211 (1965), 20 September 1965.

the dark about what he was doing. He kept the Council informed about every step he was taking, but not a voice was raised in the Council at that time. He apprised the Council in sufficient detail about the observers he was recruiting for both the forces.⁴¹

The Soviet Union nevertheless felt that the Security Council's authority was being invaded. These misgivings related to the composition of UNIPOM and the methods by which it was financed, and to the general scope of the Secretary-General's discretion. Russia's arguments were part of its wider views on constitutional authority for all UN peace-keeping operations.⁴²

"The Soviet Union as everyone will recall, has always supported the resolutions adopted by the Security Council on the subject of the armed conflict between India and Pakistan.... we have a question in our mind which is of significance in terms of principle... the actions taken

41 See the extensive documentation reproduced in Rosalyn Higgins, United Nations Peace-keeping 1946-67, Documents and Commentary, vol. 2 (London, 1970), pp. 427-28, 432-33.

42 For a detailed exposition of Soviet views on constitutional aspect of the peace-keeping operations, see, Rosalyn Higgins, "United Nations Peace-keeping - Political and Financial Problems", World Today (London), August 1965, pp. 324-336.

by the Secretary-General... departs from the provision of the Ua Charter in accordance with which only the Security Council is competent to adopt appropriate measures on concrete questions connected with observers of the United Nations, namely, with their functions, their numbers, their command, the method of financing, their activities and so on. And yet, all these matters in actual fact are being decided upon apart from the Security Council, whose members are merely informed of the measures already adopted."

The USSR representative also added: "What is taking place in actual fact? ...we see a new organ is being created altogether: a mission of the Ua military observers.... The decisions of the Security Council do not refer to them at all.... All this is done in circumvention of the Security Council.⁴³ The establishment of UNIFCM as such was not formally requested by the Security Council. However, the Secretary-General kept the Council informed of his actions and reasons therefor. It was he who decided which nations to approach to contribute personnel; the number of personnel needed, the command and financial arrangements etc.

43

Cited in Rosalyn Higgins, n. 41, p. 431.

The United States, on the other hand, had no objections to the establishment of UNIPOM. Referring to resolution 210 of 6 September 1965, Arthur Goldberg, the US representative, noted that it called upon the Secretary-General to strengthen UNMOGIP and to keep the Council fully informed of the implementation of the cease-fire and the situation in the areas: "Our Secretary-General did exactly that. He filed a steady stream of reports indicating the steps that he was taking pursuant to this resolution in order to give effect to what this Security Council had decided.... his actions were entirely reasonable, well within the limits that could be envisaged in view of the seriousness of the problem."⁴⁴

The Mission was financed in accordance with the normal budgetary assessments as they had customarily applied to UNMOGIP; its expenses were apportioned among the membership of the United Nations, and raised under the provision for unforeseen and extraordinary expenses.⁴⁵ The Soviet Union argued that "only the Security Council is competent to adopt appropriate measures on the method of financing the activities."⁴⁶

44 Ibid., pp. 43^o-34.

45 UN Doc. S/6697/Add. 11, 15 December 1965.

46 Cited in Rosalyn Higgins, n. 41, p. 458.

Given both the general constitutional objections which the USSR had expressed on a variety of matters relating to UNIPOM, and its views on specific questions of financial authority, a withholding of funds might have been expected. However, the Soviet Union did not withhold any funds in respect of UNIPOM from its contributions for 1965 and 1966.

Thus, the Soviet Union restricted its objections to rhetorics, and otherwise continued favouring ^{and} the financing it because of its keen interest in the restoration of peace in the area.

UNTF-II

For seventeen days since the war began in the Middle East in 1973, the Security Council was not allowed to act because the two Super Powers could not agree on the course of action that the United Nations could take. Not even a customary cease-fire call was issued. But the question of containing the war and restoring peace was uppermost in the minds of both the Powers. The war had reached a stage where the two could hardly keep themselves away from direct involvement and military confrontation. The military situation was such that neither side could afford for long a war of attrition on the scale it was being fought.

The policy of the United States and the Soviet Union to follow - because of their conflicting interests in the area - "no-war no-peace" policy in the Middle East was seriously jeopardized. Both were forced to supply arms and to stand and be counted upon by the opposing sides. It was unthinkable for the United States to allow Israel to be crushed and therefore it had to pour phantom jets and necessary ammunition into Israel; similarly, it was equally difficult for the USSR to stand by and do nothing if the Arab enemies, which the Russians had equipped, were not to be smashed.⁴⁷ Thus, the Super Powers found it in their interest to do their best to stop the fighting with swift diplomatic moves, the two decided to pull their joint efforts together to bring about an end to the fighting. The Security Council resolution calling for cease-fire, was then adopted.⁴⁸ The call was repeated the next day, with the provision for UN observers to supervise the observance of cease-fire.⁴⁹

Despite the cease-fire calls, the crisis continued raging. Being on the losing end, Egypt appealed to

47 The narration of background to the establishment of the Emergency Force is based on K.P. Saksena, n. 35, pp. 339-40.

48 SC Res. 338 (1973), 22 October 1973.

49 SC Res. 339 (1973), 23 October 1973.

Moscow for help. The PRC threatened to send its troops to the Middle East to end the fighting. To this, President Nixon responded by ordering American troops around the world on precautionary alert. Eventually, some understanding was reached between the two for instituting a UN peace-keeping force, without Super Power's participation, and the crisis began to wind down. On 25 October, a resolution was adopted to this effect, by 121 votes in favour, none against, and China abstaining.⁵⁰

The financial arrangement for the operation was remarkable. Both the Super Powers (and all major Powers, except China) accepted the cost of the Emergency Force, estimated at £ 30 million for the initial period of six months. It was to be considered "as expenses to be borne by the Members as apportioned by the General Assembly."⁵¹

The operation is a distinct example of the fact that if the political interests favour, constitutional and financial reservations do not stand in the way. Though the Force was set up by the Security Council resolution, the financial arrangements were worked out by the General Assembly resolution.

50 SC Res. 340 (1973), 25 October 1973.

51 The point of emphasis is that, for the first time all major Powers (except China) accepted the cost of peace-keeping as falling under Article 17(2) of the Charter.

However, be it noted that the USSR made sure to enumerate that the arrangements were ad hoc in nature, so that they should not be taken as a precedent for the following operations.⁵²

UNDOF

Following the signing of the disengagement agreement between Israel and Syria on 30 May 1974,⁵³ the United Nations Disengagement Observer Force (UNDOF) was set up on the following day. The force was entrusted with the task of maintaining the cease-fire and to see that it is scrupulously observed. Both the Super Powers voted for the resolution because of their keen desire to restore peace in the area. They also agreed to the financial arrangements worked out by the General Assembly. The Force is in existence since that time, and, as late as on 26 May 1977, the Security Council again extended its mandate for another six months until 30 November 1977.⁵⁵

52 The General Assembly resolution laying down the apportionment principle refers to it. "as ad hoc arrangements...."

See, GA Res. 3101 (XXVIII), 11 December 1973.

53 For text of the Agreement, see, S/11302/Add. 1, 30 May 1974.

54 UN Doc. S/PV. 1774, 31 May 1974.

55 SC Res. 408 (1977), 26 May 1977.

Peace-keeping Operations in Southern Rhodesia

A word may be written about the proposed peace-keeping operations in Southern Rhodesia. The establishment of a peace-keeping force in Southern Rhodesia is, at the time of writing, under active discussion. Its role during the interim period leading up to elections and majority rule would be to assure a smooth transition to peace. The United Nations Secretary-General, Erhart Waldheim, has appointed Lt. Gen. Lewan Fren Chand as his Special Representative to discuss security arrangements for Southern Rhodesia during a projected transitional period pending elections and majority rule there.⁵⁶

PERSONNEL

The Palestine Truce Commission - from which the Mediator was subsequently to forge a United Nations Truce Supervision Organization in 1949, was composed in principle of "representatives of those members of the Security Council which have career consular offices in Jerusalem...." In practice, this meant Belgium, France, the US and Syria.⁵⁷ The Soviet Union thought that the proposed Truce Commission

56 UN Monthly Chronicle, vol. 14, no. 9 (October, 1977), pp. 11-16.

57 UN Doc. 7727, 23 April 1949.

would consist of the United States, Belgium and France, and the attitude of these Powers stood out clearly in the case of Indonesia, where their policy was to force on Indonesian Republic a one-sided agreement designed to crush the Indonesian national movement for freedom. In other words, Gromyko thought that 'the US proposal for a Commission is a logical sequence of the US Government's attitude towards the Palestine question, and a step designated to allow it to take over the whole question, including control over the truce.....'⁵⁸ and thus it abstained on the resolution which was the first of the many resolutions leading to the establishment of UNTC.⁵⁹ However, it was unwilling to veto a resolution which had the approval of the parties directly concerned.

Under resolution 7/1234 of 28 January 1949, it was resolved that the Committee of Good Offices would thenceforth be known as United Nations Commission in Indonesia. By resolution 9/525 (11), the Security Council had established GOC constituting of three members of the Council, each party selecting one and a third to be designated by the two so selected. Indonesia selected Australia, the Netherlands selected Belgium, and Australia and Belgium selected the United States. In resolution 7/597 of 1 November 1947, the Security Council requested

58 See, 3308, yr 3, mtg 227, 23 April 1948, p. 24.

59 The reference is made to the Security Council Resolution. See Un Doc. 7/727, 23 April 1948.

the Consular Commission to make its services available to the GOC. The Consular Commission was composed of those government members of the Security Council who had career consuls in Batavia (Jakarta). The establishment of career consuls as a commission of observers was strongly opposed by the Soviet Union which had urged instead the establishment of Commission of all Security Council members. In the view of Russian representative: "Among the five eligible so-called career consuls, these three are the UK, France and the US consuls.... They will reflect the opinion of three countries, namely, the UK, France and the US....."⁶⁰

In the case of UN IFCM in 1948, the observers were finally designated in Kashmir upon the signing on 27 July of the Karachi agreement on a cease-fire. This was a direct bilateral agreement between India and Pakistan and was not voted on by the Security Council.

The United Nations Emergency Force set a precedent in 1956. The Secretary-General enumerated the principle of exclusion of the permanent members of the Security Council from participation in the U.N.E.F: "I would try to determine from which countries the necessary troops might be drawn without delay, as well as from which countries recruitment may be possible for a somewhat later stage."

For both stages, I would endeavour to develop a plan where, as a matter of principle, troops should not be drawn from countries which are permanent members of the Security Council."⁶¹

The exclusion of permanent members became a regular feature of the following operations. UNOGIL, ONUC, UNTTA, UNYOM, UNIPOM, UNTF-2 and UNDOF fall into this category. The United Nations Force in Cyprus set up in 1964 is a possible exception to it. For the first time since UNTF-1, one of the permanent members was included among those providing personnel to the Force. Practical considerations, rather than any rigid theory were adhered to in accepting British forces, which were already on the spot as part of UNFICYP. Neither of the Super Powers had any objection to it.

Thus, after the initial period of observation mission, there was little controversy over the composition of the Force. After getting a mandate to establish a force, it becomes a matter between the Secretary-General and the contending parties to mutually arrive at an agreement regarding the composition. It is one of the basic principles of peace-keeping that they must have the approval of the host government.

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UN Doc. S/3289, First Report on an Emergency International Force, 4 November 1956.

The Soviet Union cannot help but see in the Secretary-General's choice of manpower a calculated effort to transform the office of the Secretary-General from an administrative office to that of a chief executive with the power of leadership and initiative of his own. The simple truth is that the non-inclusion of states from the Soviet bloc is more or less a regular feature. UNTF-II is a landmark in the development of peace-keeping in the sense that for the first time a UN peace-keeping force has included a contributing force from a socialist country - Poland. The development removes one sore-point which these countries had had towards UN peace-keeping force in general.

SUMMATION

The conclusion that the above analyses yield is somewhat paradoxical. Theoretically, the United Nations can, in view of its capacity emanating not only from the express provisions of the Charter but also from those implied and ancillary powers arising from it, assume unrestricted legal capacity under international law.⁶² But

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For a scholarly analysis of the implied powers of the United Nations, see, Rahmatullah Khan, Implied Powers of the United Nations (Delhi, 1970).

the likelihood of it in the current international context is the very opposite. Practice in the field of peace-keeping bears ample testimony to this fact.

The peace-keeping operations become functional only when both the Super Powers either actively support them; or at least, do not strongly oppose them. Only when the area is not a Cold War zone and the interests of the Super Powers are not impinged upon, an internationally contrived and controlled solution to a conflict becomes possible.

On an examination of the attitude of the Super Powers, it seems that the struggle is mainly on three-four grounds: financial, constitutional, political and personnel. The central truth which emerges after close scrutiny is that it is not so much a conflict between "liberals" and "conservatives"; those who wish to maintain the Organization as a static conference machinery, and those who wish to endow it with increasing strength and executive authority. It is also not due to pressures on the national budgets of the Super Powers. But the struggle is rather political at the roots.

It is true that the United States has generally favoured the creation of the peace-keeping operations, voted for the financial resolutions and then made payment as well. But as we look at specific cases, the operations have been generally in its national interest. No one

knows how it will react to an operation which conflicts with its national interests, because to date it has never been on the wrong side of the operations.

On the other hand, the USSR has tended to reject the consensus principal for the United Nations peace forces. Another look at the specific cases will reveal that the USSR has not always said "no" with equal vigor or permitted the establishment with the same degree of enthusiasm. Until 1963, it never raised any strong objections and paid for a considerable number of peace-keeping operations that were financed through the regular budget. It acquiesced in the establishment of the UNF-F-I and actually voted for the creation of the ONUC. It was only later on, when the operations in the Congo began impinging on its national interests, the Soviet Union tried to destroy it and refused to recognize the peace-keeping operations as the collective responsibility of the membership. There are instances when it had certain reservations about the composition or constitutionality of the operations, but despite these, it was interested in the creation and successful continuation of the operations, because the operations as such either did not conflict with its national interests or the creation was congruent with its interests. In this category fall UNTSO, UNCI, UNMOGIP, UNF-F-I, UNOGIL, ONUC, UNTTA, ULYOM, UNFICYP, UNIPOM and UNF-F-II - which means practically all the major operations.

The attitude inevitably varies from case to case and can be portrayed in terms of a spectrum ranging from acquiescence through passive resistance to active approval.

Thus, both "liberal" and "conservative" have varied their position over a broad spectrum. In fact, both the Super Powers have responded to specific peace-keeping cases in terms of their immediate national interests, rather than abstract principles. The crisis over peace-keeping is predominantly political, though there is some substance in the constitutional and personnel aspects also.

In matters of peace-keeping, it is misleading to associate the United States or the Soviet Union too closely with any philosophical position towards the United Nations in the abstract. Both permit the establishment when they consider their national interests better served through UN action than through UN paralysis. At the heart of the problem is the stark fact of international reality that each case is decided in accordance with the national interests as they relate to each particular dispute/situation.

CHAPTER 3

FACTORS CONDITIONING THE ATTITUDE OF THE SUPER POWERS

Peace-keeping operations have been conducted not by activating the Super Powers, but by carefully excluding them from the actual physical conduct of the operations. At the same time, it is beyond doubt that the favourable attitude of the Super Powers is the key to the success of these operations. The operations cannot be launched in the absence of political support of these Powers or at least against their opposition. At times, they have furnished equipment, airlift and logistic services etc. Financial support has been of a very mixed pattern. Some of the operations have been financed out of the regular budget of the United Nations, and thus, supported by all the member states. Some have been mainly financed by one of the Super Powers (the United States). And for some of the operations, the costs have been borne by the contending parties. On the constitutional level also, some of the operations run very smoothly and some have faced obstacles after a very short while.

Many factors determine the states' decision to accord or withhold support. Moreover, these factors are not confined in their respective water-tight compartments and therefore tend to merge or at least overlap. The following analysis is an attempt to identify many

of these factors.

National Political Factors 7

The crisis over peace-keeping is only in the most superficial sense a financial or legal one. The reasons for financial non-support have very little to do with pressures from national treasuries or conformity of the operation with the provisions of the United Nations Charter or previous practices or precedents. It is essentially the national interest which finally conditions the attitude of the Super Powers (as, of course, of the other members too).

In principle and as a matter of practice, neither of the two Super Powers is opposed to peace-keeping operations and will let the operations function as long as these serve their national interests, or at least do not impinge on them. Dag Hammarskjöld, father of the theory and practice of preventive diplomacy, very rightly observed that the Organization could carry out successful and useful operations in the political and security fields only when the primary contestants in the Cold War were agreed that they had a common interest in having the United Nations interposed as a neutral force to prevent their direct confrontation. The Organization could not perform

this function in the absence of such tacit agreement.¹

The United States' attitude is a good illustration. The operations undertaken so far have, by and large, served American interests, and thus there is hardly any voice of dissent, on constitutional or other grounds, from the United States.

The study of the USSR's attitude is equally a meaningful exercise. Take the case of ONUC. It approved the beginning of the operation, and turned against it only when it concluded that the ONUC was being used for purposes inimical to Soviet interests. It permitted the establishment of UNFICYP, despite procedural objections on paragraph 4 of the authorizing resolution. In the same way, it did not raise any strong objections to UNIPOM, which was authorized by the Secretary-General and for whose finances no specific provisions were laid down by the Security Council. The concept of collective financial responsibility did not also come in the way of its overwhelming desire to establish peace in the Middle East after the 1973 Arab-Israeli war.

1 Inis Claude, Jr., "The Political Framework of the United Nations' Financial Problems", International Organization, vol. 17 (1963), p. 838.

In short, the Super Powers cannot be permanently divided into one who opposes and one who favours peace-keeping operations. The USSR has sometimes functioned as a crucial dissenter, but it is conceivable that the US might assume that position in future contingencies. It should not be believed that the American attitude is fundamentally different from that of the Soviet Union. If the United States has so far supported peace-keeping operations enthusiastically, it is because in most of the cases these have been in support of American policy and interests. There is every reason to believe that the United States would balk at the application of the rule of collective financial responsibility in cases involving programmes to which its policy was opposed. Indeed, one can easily infer from the sudden US change of attitude to the enforcement of Article 19 against the Soviet Union in 1965 that hereafter the United States can also benefit from the Soviet stand in the issue by refusing to pay for the peace-keeping operations to which it was opposed.

The attitude of the USSR has also been very flexible and favourable. It made compromise with its constitutional stands as long as the operation did not become a threat to its national interest.

In fact, the financial and legal reservations are symptoms of deep political crisis. A realistic view

of the behaviour of states would suggest that no Super Power is likely to give active support, or to tolerate passively, the use of the Organization for purposes which it regards inimical to its interests. In such circumstances neither a seemingly constitutional ruling that a state is obliged to contribute funds, nor an ostensibly moral insistence that a state should respect majority decision is likely to prove effective.

Constitutional and Legal Factors

The fundamental disagreement between the Super Powers relates to the interpretation of the Charter in respect of the obligations of members. There is, on the one hand, a Super Power (the USSR) which believes that the Charter must be construed strictly. In its view, the organs of the United Nations must remain firmly within the bonds imposed by the Charter as a multilateral treaty. The powers beyond those expressly granted are stated to be reserved to the member states and can be exercised by the United Nations only with their express consent.²

Strict constructionists like the spokesmen of the USSR deny that the General Assembly has any

² The position is summarized in the Report of the Working Committee on the Examination of the Budgetary Procedures of the United Nations. See, UN Doc. A/5407, 29 March 1963.

authority to authorize the operations or apportion the costs as binding assessments, without a decision of the Security Council. The Security Council has "primary responsibility," not only for all matters relating to the use of armed forces but also, by inference, the power to decide how the use of such forces should be financed. Thus, the Soviets argue that the Assembly actions "usurp" the powers of the Security Council, are "attempts to circumvent" the Security Council, and are an "inadmissible violation of the Charter." Consequently, they argue that they have no obligation to pay and that it is "impossible to speak of arrears" which members must reimburse.³

Notwithstanding the advisory opinion of the International Court of Justice in 1962, the acceptance of this by the General Assembly and the adoption of the resolution entitled "General Assembly to serve as guidelines for the sharing of the costs of the future peace-keeping operations involving heavy expenditure", by an overwhelming majority of the General Assembly on

3 Fedorenko strongly asserted the Soviet case at the Assembly's fourth special session. See GAOR, 4th special session, pp. 19-21. For the Soviet position, in the words of Ulanchev before the Working Group, with the US reply, see, UN Monthly Chronicle, vol. 1, no. 5, October 1964, pp. 48-50.

27 June 1963,⁴ the USSR has continued to insist that these interpretations are "incorrect and incompatible with the Charter" and "creates no obligation of any kind for states."⁵

Speaking before the Working Group of Twenty-one in September 1964, the spokesman of the Soviet Union stated that if an operation was authorized by the Security Council in strict compliance with the Charter, his country would be "prepared to take part with other member states in defraying the expenditures involved in the maintenance of those forces."⁶

At the other end of the spectrum is the United States which has joined in defending the rights of the General Assembly to call for peace-keeping forces in an emergency, particularly if the Security Council has been prevented from doing so by the use of the veto, and to apportion expenses of all peace-keeping operations, whether established by the General Assembly or the Security Council.

4 GA Res. 1874 (S-IV), 27 June 1963.

5 Cited in Norman Padelford, "Financing Peace-keeping: Politics and Crisis", International Organization, vol. 19(1965), p. 448.

6 UN Monthly Chronicle, n. 3, p. 49.

It has asserted the collective financial responsibility of members to pay for the apportionment.

The abstention of the USSR in the Assembly or the Council in cases of UNEF, UNYOM or UNFICIP should not be interpreted as acts of willful obstruction or resistance to the authorization of peace-keeping operations. These were simply acts of protests at the manner in which the operations were being established. As already stated, though constitutional and legal predispositions of the Super Powers have much significance, their attitudes in the final analysis are determined by hard political facts. UNTA, UNYOM and financial arrangements of UNEF-II are distinct examples where something else prevailed over the constitutional factor and the USSR worked enthusiastically for their success.

Financial Arrangements

Peace-keeping operations have occasioned complex financial arrangements. The US policy on the subject has gone through several stages of evolution. It has varied from costs being met by the regular budget to the finances being borne by the contending parties.

The financial arrangements also play important role in conditioning the attitude. The USSR has always maintained that the costs must be apportioned by the Security Council, otherwise, it has refused to finance.

Of course, the UNF-II stands as an exception where the UNSC readily agreed to pay despite the fact that its finances were apportioned by a General Assembly resolution. Otherwise, its refusal to pay for UNT or ONUC are clear-cut examples of peace-keeping operations being plagued by financial difficulties.

Much has been written on the so-called constitutional crisis over financial aspect in 1964-65, where there is no scope of constitutional problems, as in cases of UNFICYP, UNYOM, UNTA, where the contending parties agree to pay for the operation, it becomes easy to secure the positive support of the Super Powers.

Neither of the Super Powers is likely to raise any objection towards the establishment of an operation, where the contending parties agree to pay or consensus emerges for some other arrangement in advance.

Expected Duration

Initially, peace-keeping operations tended to be open-ended affairs. But the establishment of UNTA set a different pattern. UNTA had a pre-determined termination date; in the case of UNFICYP, there has been a three-to-six months renewal requirement; and in UNYOM there was a two-month deadline. Similar provisions for periodic renewals were made in respect of UNT-II and UNECF.

This is certainly a significant development. Super Powers are more likely to commit themselves for short-term missions, and those missions depending on renewal of mandate for further continuation.

Nature of Mandate

The mandate of the operations vary in nature from a modest one as in UNCTA to a near-coercive one as in the case of ONUC. The favourable attitude can be hopefully expected when the mandate is simple and modest. There is hardly any likelihood of the authorization in future of an open-ended operation of the ONUC-type.

Attitude of the Contending Parties and other Member-States

The consent of the parties is crucial in securing 'Super Powers' support in peace-keeping operations.

One of the basic principles of the operations is that they should be undertaken only with the consent of the parties to the dispute. But many a time, the prior readiness of the parties towards the establishment of the operations has also contributed to their setting-up. For example, in Congo, Cyprus and Yemen, the existence of consensus between the parties for the establishment of the operations was a significant factor in making 'Super Powers' accede to the establishment.

Similarly, the attitude of the rest of the community of nations also plays important role in determining their attitude. If a positive attitude prevails among the majority of member states, neither of the Super Powers would like to invite a stigma on their image by obstructing the execution of peace-keeping plans.

Both the Super Powers want to be known as votaries of peace and try to woo a large number of states in their favour. None would prefer to offend the member states and be discredited as an obstacle in the way of peace maintenance. Thus, the consensus for the setting-up of an operation, either prepares the Super Powers for positive role, or at least make them refrain from obstructing the operation, so long as their national interests are not threatened directly.

Selection of Continent

It was only in the early period where instances are found when the Soviet Union had raised objections regarding the composition of the operations, like UNCROB and UNCI. Now, the continents are not decided at the initial stage of authorization, but it is left to be finalized by the Secretary-General, with the concurrence of the host government. It is noteworthy that UNTT-II stands as a distinct exception in the history of peace-

keeping operations, where any country from the Soviet-bloc was included.

As a matter of caution, it is most likely that if the composition continues to be what it has been (namely composed by personnel from non-Socialist states), the USSR's enthusiasm for these operations may lessen. It is not pleaded that personnel of the permanent members be included, but encouragement to the socialist bloc states for physical participation need to be given in the interest of continuing peace-keeping operations.⁷

7 This view is reflected in the proposal made by the representative of the Soviet Union in the Special Committee of 33 that the Committee should establish the principle of equal geographical representation as one of the main guidelines for peace-keeping.

See UN Doc. A/AC. 121/92, 65, 14 March 1975, p. 9.

CHAPTER 4

PROLOGUE

The evolution of peace-keeping operations is a remarkable development in the United Nations' role in the maintenance of international peace and security. As already stated, there is no provision for the operations in the Charter, but the innovation is justified by necessary implication from the Purposes and Principles of the Organization.

Much has been written to illustrate that the development of the peace-keeping operations has been from a series of ad hoc, slow and limited steps, emanating from the necessities of the time. Hence, it is increasingly felt that the operations have suffered from lack of uniform and standing guidelines; efforts are being made to rectify this seeming imperfection. To realize this object, the General Assembly appointed a Special Committee in February 1965 to make "a comprehensive review of the whole question of peace-keeping in all their aspects."¹ Regarding the preparation of guidelines, the United States and the Soviet Union are on record to the effect that they attached much importance to reaching agreement on peace-keeping operations.

1 GA Res. 2006(A), 18 February 1965.

The General Assembly resolutions, passed every year, requesting the Special Committee to intensify its efforts to complete its work by the next session, are always unanimously adopted and could have been treated as a testimony to the keen interest of the Super Powers to have specific, uniform and standing guidelines. However, after thirteen years of intensive deliberations, the Committee has not yet been able to come to any agreement. No consensus has been reached on the question of authorization, the role of the Secretary-General, and of financing.²

In fact, neither of the Super Powers is seriously interested in reaching a formal agreement regarding authorization, financing, composition, supervision and conduct of the operations. Far from any legal or constitutional intricacies, the question is actually of national interest and distrust of each other. Both want to avoid any formal agreement in order to keep their options open, to respond to particular situations in accordance with their national interests. The only point of agreement between the two is the ultimate authority of the Security Council. Both want a perpetual veto for them on every crucial issue of the

² For detailed exposition, see UN Docs. A/AC. 121/SR. 1 to A/AC. 121/SR. 67, dated 3 March 1965, 16 February 1977.

operations. The Soviet Union has repeatedly emphasised this point, and there is every reason to believe that the United States also would not like to surrender its privilege in favour of one-member-one-vote principle of the General Assembly. In its 10th report, the Working Group of the Special Committee presented a set of tentative and preliminary drafts, which is not necessarily exhaustive and subject to further consideration by the Special Committee. It also entrusts the ultimate authority to the Security Council for the establishment, direction and political and financial control over peace-keeping operations.³

Notwithstanding the persisting disagreement on key issues, the operations have continued to respond to conflict-situations threatening peace and security. The process of improvisation remains the hallmark, and each new "response" leave the Organization better equipped than it was before.

As already stated, the problem is basically of political will. There is no evidence that during the last thirty years, the United Nations has been prevented from initiating any peace-keeping agreement because of dis-

3 UN Doc. A/31/337. Working document no. 3 of the Working Group of the Special Committee on Peace-keeping Operations.

agreement on constitutional and legal principles. When the national interests are served, or at least not directly threatened, the question of authorizing organ becomes a minor issue, and the mandate runs from just the observance of cease-fire, or resisting an armed attack against a state to the maintenance of territorial integrity of a state. Regarding finance, a variety of non-mandatory financial techniques are available, ranging from assessment through the regular budget, or apportionment by conflicting parties or other member states on voluntary basis.

Neither of the Super Powers tends to deny the Secretary-General an important role in the management of the operations. They know that in view of the hard and rapid decision-making required for peace-keeping, the Organization cannot function at all without initiatives on the part of the Secretary-General and his staff. In respect of West Irian (1963) and Southern Rhodesia (1977), the General Assembly and the Security Council respectively empowered the Secretary-General to appoint UN representatives. Most revealing of Soviet flexibility is the performance of the Secretary-General on an operation (UNIPOM) undertaken on the Indian sub-continent during the years 1965-66. But seeing the preoccupation of the Secretary-General and his inability to deal with peace-keeping operations in detail, the Soviet representatives have proposed in the Special Committee on peace-keeping that "it was absolutely

necessary that there be an effective working organ in accordance with Article 29 of the Charter, of the Security Council, to direct and control peace-keeping operations.⁴ The Soviet Union will probably continue to insist that the authority of the Secretary-General be under strict Security Council control. In practice, their votes have often supported peace-keeping operations directed by the Secretary-General, though they have not given their financial support.

The record to date shows that a hurried consensus is always evolved to avert a crisis and prevent further deterioration of the situation. The operations are the result of a high degree of pragmatism and inventiveness, unforeseen by the drafters of the Charter. Guidelines once formed have been quietly violated to tailor them to the needs of a particular exigency. But, it is very unlikely that the Super Powers would agree to commit themselves to anything where they would not get anything less than a veto.

With the emergence of improved relations between the United States and the Soviet Union, it is hoped that the mechanism will be more effectively used. As late as in the 69th session of the Special Committee on Peace-keeping, on 16 February 1977, it was hoped that a

definite understanding would emerge regarding the authorization and successful conduct of the operations.⁵ Indeed, at first sight, there seems to be much force in the argument that better relations between the Super Powers would lead to increased use of peace-keeping facilities. But that is really no guarantee. It may also happen that the new understanding tempt the Powers to solve the disputes outside the Organization, as the trend is prevalent in many other fields.

Finally, one needs emphasizing that we need not lament much over the lack of formal agreement. Any rigid formula might mar the key feature of peace-keeping operations—flexibility of the technique — and may make the Organization a passive observer in a slightly different situation. The ad hoc arrangements have virtues of their own, and strict regulations might freeze the options, which otherwise have led to the conduct of the operations in different types of situations. There exists a fairly constant practice, on the basis of which some modest formula might soon be worked out.

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See, for instance, UN Docs. A/AC. 121/SR. 69, 16 February 1977; and A/AC. 121/SR. 67, 4 March 1976.

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