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PEACE KEEPING AND THE
UNITED NATIONS STRUCTURE

PREFACE

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The experience of World War II has demonstrated that war is enormously destructive. Therefore, when the United Nations Charter was signed in 1945, it was natural that the main anxiety of the international community should be the maintenance of international peace and the building up of international machinery to deal with aggression and to achieve disarmament "to save succeeding generations from the scourge of war".  

The Charter requires Members to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations", and requires too that "all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered". The Charter set the maintenance of international peace and security as the first purpose of the Organization. It defined two main approaches to the realisation of this purpose. Firstly, by the settlement of international disputes or situations by peaceful means. Secondly, by using collective measures for preventing or
removing threats to the peace and suppressing acts of aggression or breaches of the peace. The Charter distinguishes between the functions of the General Assembly and the Security Council by placing on the latter the "primary responsibility" for the maintenance of peace, while the General Assembly is prevented from dealing with that matter in a way that might embarrass the Security Council, while its functions in other regards are very wide and general. The Charter goes on, however, to permit the use of force by the United Nations or, more accurately, by states acting under its flag, in collective action against minor aggressors in conditions which find the major powers unanimously supporting or at least permitting such action.

The then Secretary-General of the United Nations Dag Hammarskjöld noted that "in 1945 the governments were unwilling to give to the U.N. any sovereign powers with the sole exception of the Security Council's power to order enforcement action to prevent or suppress armed aggression when - and only when - the five Great Powers agreed unanimously to do so. In every other respect, the United Nations was always intended to rely for the accomplishment of its purposes upon the moral power of the undertakings of the Charter and upon the influence which its recommendations could exert upon the policies of its Members". The Charter does not provide a system for United Nations action to repress aggression launched or supported by any of the major powers. The veto system of Article 27 represents the element that prevents the creation of any forces under United Nations banner for resistance to great-power

aggression. The cold war had produced many difficulties in securing Great Power agreement within the Security Council. The maintenance of international peace and security was to be achieved by recognizing the residual responsibility of the General Assembly.

In fact, even at a time when much of the political activity of the United Nations, and especially of the Security Council, was interrupted by the contestants in the cold war, the United Nations was able to demonstrate in a number of serious crises that it could help in preserving peace and security by using other means under the auspices of the Charter and particularly by creating a peace-keeping mechanism, based on participation and voluntary co-operation. This technique was successfully developed in a series of conflict situations, the first of these being the military observer groups in Palestine and Kashmir. The process which has come to be known as peace-keeping although not specifically described in the Charter, eventually became a new and a hopeful international scheme. The most promising factors are to be found in cases which have involved the use of United Nations Forces for purposes other than fighting against aggressors, for supervising truces, patrolling borders or armistice lines, or observing the degree to which rival parties respect agreed arrangements for regulating their relationships. These are peace-keeping operations to help disputant states to find a solution to their problems with the United Nations responsible for avoiding the outbreak or renewal of hostilities.

The term "peace-keeping operation" is neither mentioned nor defined as such in the Charter, nor has any effort been made, until 1956, in any United Nations body to attempt a clear
and precise definition of the term. But it is used in this paper as a means of differentiating the new procedures from those which went by the name of collective security. The use of military forces for enforcement action under Chapter VII of the Charter is a quite different matter. The U.N. action in Korea in the fifties was in theory the only instance of an enforcement action under Chapter VII of the Charter. But in fact it was not a real U.N. operation. Though it was created under Security Council resolution, it was in fact under United States command, was mainly financed by the United States and in general, it was not under the executive control of any United Nations organ. In fact there has been a transition from the concept of collective security as set out in Chapter VII of the United Nations Charter to a more practical idea of peace-keeping, which has become the most important aspect of UN action in the field of international security.

If we look through the UN practice with respect to this kind of activity, we can notice that from small and informal beginnings a body of precedents has grown up over the years of using military personnel of Member States on peace-keeping operations in a variety of circumstances and for different purposes. What are called "peace-keeping operations" have varied greatly in size, in scope, and in methods of financing, as in methods of management and control. All of them have been distinctive and few generalizations are possible about them as a group.

5. Charter 2 of this paper.
6. Charter 2 of this paper.
The Secretary-General in his two reports of November 4 and 6, 1956, laid down the principles of the UN Forces. No permanent member of the Security Council or any "interested" government should contribute contingents, the Force should not be used to affect the military or political outcome of the dispute, its arms should only be used in self-defence, and it should not be stationed on a state's territory except with that state's consent. Speaking at Harvard in June 1963, Secretary-General U Thant explained that peace-keeping forces "are essentially peace and not fighting forces and they operate only with the consent of the parties directly concerned". Their essential character was a moral presence of the United Nations, to ensure that neither side can endanger the peace without involving itself in larger international consequences. This is a temporary presence, and it has nothing to do with the solving of the problems which have given rise to its creation.

The success of temporary United Nations Forces prompted many governments to look for the possibility of establishing a force on a permanent basis, which would be under the control of either the Security Council or the General Assembly. There are, however, many problems in the way of creating such forces, problems of functions, composition, size, command, where it is going to be stationed and, most important, how it is to be financed. There is less disagreement between the U.S.A. and the Soviet Union as to

7. UN Documents A/3289 and A/3302.
the shape the UN force is to take than about its function. Both see a permanent force as a long-term goal, necessary for disarmament but too expensive at present.

The Charter provided for the use of UN military forces on a national contingent basis, by asking all members to provide on the Security Council's call and in accordance with special agreements, armed forces, assistance and all facilities necessary for the purpose of maintaining international peace and security, but attempts to achieve agreement among the major powers on the principles governing the forming of these forces were not successful. Secretary-General Trygve Lie proposed in June of 1948, 8 that the General Assembly create a permanent United Nations Guard Force of relatively modest size - 1,000 to 5,000 men - to provide support for field missions. It was agreed by the General Assembly in 1949 9 to provide for a UN Field Service of 300 men supported by Member governments to supply certain technical aid to field missions, and in addition a Field Service Panel of trained persons who might be called to service by decision of the General Assembly or the Security Council. This, of course, could not constitute a peace-keeping force in the general meaning of the term as it was used later by the United Nations.

Peace-keeping operations are not "enforcement" forces, they are not "permanent", but still the concept is open to a

variety of definitions and has been used in several ways. The lack of an agreed definition has made the task of discussing peace-keeping problems more difficult. Broadly defined, it could include everything which the UN does in the political field to establish "peace and security"; accordingly, peace-keeping would to a very great extent include all the UN's political operations, except its single attempt at collective security - its part in the Korean War. In a narrow concept peace-keeping operations are the use of military force. This excludes all other activities of the United Nations limited to fact finding, conciliation, mediation, etc. without using military force. Probably, there could be no obvious reason why peace-keeping should not also include such operations, which the UN has established on many occasions in the name of peace.

Yet Allan James has insisted on analysing peace-keeping operations by asking, in each case, what the UN is trying to do, the functions which the UN is attempting to fulfil. In this outline, UN peace-keeping operations may fall into three categories: patching-up, prophylaxis, and proselytism. "Patching-up" consists of activity which is intended to realize an agreement between disputants or to assist in the execution of a settlement. But if the UN is faced with conditions which are at least threatening, and which cannot guarantee a realistic negotiated settlement, it may therefore adopt a second prophylactic approach by trying to prevent the deterioration of the situation, such as the crisis in Cyprus, when the UN's Force intervened to prevent intercommunal violence. The third category in this analysis comprises those UN operations which are neither conciliatory nor
preventive but which are instituted out of a desire to upset certain aspects of the established order. These are instances of United Nations proselytism, in which the Organization seeks to act as an instrument of change in order to rid the world community of situations which the majority regard as unfair. South Africa provides the major example of this in its policy of apartheid. Or, a Power's determined effort to retain its overseas possessions may stimulate the United Nations to adopt measures designed to produce a reassessment of that policy, as in the case of the Portuguese colonies.  

But the activities of the UN in keeping the peace do not always correspond to this division, because sometimes the Organization has engaged at the same time and in relation to the same situation, in both patching up and prophylactic efforts, as in Kashmir. Then, too, an operation may be transferred from one function to another. For instance, in the Suez crisis of 1956, the United Nations Emergency Force helped to patch up the situation by supervising the withdrawal of the invaders from Egypt. After the accomplishment of this task in March 1957, it took on a prophylactic role. Moreover the functions which the UN operation is intended to fulfil may sometimes be unclear, so it is necessary to look behind the formal terms, especially to the debates in the relevant bodies, but this by no means suffices to clarify the real purposes of the operations.

All of these terms and others may be of great value according to the purpose of the particular study. However, the purpose of this research is to concentrate on peace-keeping operations involving military forces. The Korean case, where the UN endorsed and encouraged joint action against North Korean aggression is excluded. In this instance, action by the United Nations was made possible only by the existence of a particular set of circumstances which were not likely to be repeated. These circumstances facilitated the implementation of Chapter VII of the Charter which gave the Council the right to use military force to maintain or restore international peace and security. It seems then appropriate to deal with the delicate and complex question of "peace-keeping operation" in two parts. The first one will deal with the nature and scope of UN peace-keeping operations in the light of its experience. In this part the differentiation will be between the United Nations peace keeping operations established or authorized by the Security Council and other operations established or authorized by the General Assembly. The second part will deal with the role of the Secretary-General in the operation and the financial problems of peace-keeping. The concluding remarks will discuss the future prospects of peace-keeping operations and the growing role of the Super Powers.
PART ONE

THE ESTABLISHMENT OF PEACE KEEPING OPERATIONS

Chapter 2

The Role of the Security Council

The United Nations has a leading role in preserving and enforcing international security, this responsibility being assigned to the Security Council. The Charter places upon the Security Council the primary responsibility for the maintenance of international peace and security, and Members "agree that in carrying out its duties under this responsibility the Security Council acts on their behalf." The Security Council alone is directed to determine the measures to be taken in case of a threat to the peace, breach of the peace or act of aggression, and to recommend or decide measures to be taken to restore international peace and security.

The Charter confers on the Security Council powers which far exceed those possessed by any of the other bodies of the United Nations and they are greater than have ever before been exercised by any international organization. No League institution possessed such powerful capacity for maintaining international peace and security as that given to the Security Council by the Charter. The Covenant of the League contained a comprehensive scheme for the settlement of international disputes. By Article 12 the members agreed that 'if there should arise between them any dispute likely to lead to a rupture' they would deal with it in one of three ways: they

would submit it to arbitration, or to the Permanent Court, or to inquiry by the Council. In the first alternative the award, and in the second the judicial decision, had to be given within a reasonable time. In the third the Council had to make its report within six months; the members agreed that they would not 'resort to war' until three months after the award or the decision or the report as the case might be.

Article 13 of the Covenant dealt with the first two alternatives provided by Article 12, and indicated the disputes which were considered generally suitable for arbitration or judicial settlement. In the event of failure to carry out an award or judgement, the Council was to propose what steps should be taken to give effect thereto. Article 15 dealt with the third alternative of Article 12, the submission of a dispute to the Council. The Council's first task was 'to endeavour to effect a settlement of the dispute', and if it succeeded it was then to publish a statement of the facts and the terms of settlement. If, however, this attempt to get the parties to agree should fail, the Council's next duty was 'to make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto'. The Council had no power to dictate a settlement to the parties; its function was not an arbitral one. The effect of its report differed according to whether it was reached unanimously (the votes of the parties to the dispute being excluded) or by a majority vote: if it was unanimous, 'the members of the League agree that they will not go to war with any party to the dispute which complies with the
recommendations of the report'; if it was a majority report only, they 'reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice'. In other words, in neither case were the parties actually bound to accept the report. But a party which accepted a unanimous report was guaranteed against attack by the other, whereas a majority report did not carry this guarantee, and the parties were free to go to war, after the interval prescribed by Article 12, if they chose. Article 16 contained the 'sanctions' provisions, and the circumstances in which these were to be put into force was clearly defined; it was that a member should 'resort to war in disregard of its covenants'. The occasion for sanctions was precisely defined and it was left to each of the members to decide for itself whether the occasion had arisen, and consequently whether it was under obligation to join in the imposition of sanctions. The Council might recommend plans for co-ordinating the actions of the members in that event, but it could not make decisions on their behalf, nor issue directions which they would be bound to follow. There was thus a risk that the several members might not all decide alike.\(^{12}\) The Charter provisions marked an attempt to improve on the League of Nations' system for peace preservation, which was based on a universal responsibility for collective security.

Unlike the Covenant the Charter contains no specific programme for the exercise of the powers of the Security Council, but it makes an important distinction between powers

relating to the Security Council's function of promoting pacific settlement and those relating to enforcement action. In fact, in relation to the former, it has, strictly speaking, no powers; its decisions are no more than recommendations to the parties. While Chapter VI of the Charter gave the Council the right only to recommend measures for peacefully settling international disputes, Chapter VII gave it the right to undertake direct positive action by ordering complete or partial interruption of economic relations and of rail, sea, air and other means of communication, the severance of diplomatic relations, and use of military forces to maintain or restore international peace and security. Such rights were given only to the Security Council if there was unanimous agreement among its five permanent members. (Article 27, para 3)

If the decisions of the Security Council involve action for maintenance of peace, it could "make recommendations or decide what measures shall be taken" (Article 39) to maintain or restore international peace and security, and before making the recommendations or deciding upon the measures it may call upon the parties concerned to comply with any necessary provisional measures without prejudice to their rights, and it "shall duly take account of failure to comply with such provisional measures" (Article 40). The Security Council has the right to determine what constitutes a threat or a breach or an aggression and there are no restrictions on its determination except for its general obligation to act in accordance with the Purposes and Principles of the United Nations. All the members of the United Nations undertake to make available to the Security Council "on its call and in
accordance with a special agreement or agreements" (Article 43, para 1) armed forces and other forms of assistance and facilities.

Decisions of the Security Council require the affirmative votes of nine members, but these must include the votes of all the five permanent members. Each of the five permanent members thus has a veto on decisions. There was no disagreement among the major powers at San Francisco on the principle that the unanimity of the major powers should be required. The Great Powers refused to accept a system of voting under which they might be outvoted, and in the scheme which was embodied in the Charter they insisted on a privileged position. At Yalta, the powers accepted President Roosevelt's proposal that a member of the Security Council, party to a dispute, whether a permanent member or not, should not be permitted to participate in voting a decision which the Council might take in practising its function of peaceful settlement or adjustment.

Despite the apparently vast extent of the powers of the Security Council, this veto has always limited their real significance. Therefore, no decision can be reached if any of the five permanent members objects. Thus, in effect the maintenance of international peace and security was the responsibility of all permanent members. The veto makes it impossible for the Security Council ever to use its powers

against a Great Power. Aggression by such Power can seriously endanger the peace. No enforcement action can be taken in such a case without threats to the peace. Therefore, the purpose of all these plans drafted in the Charter is to deal with conflicts between small powers. Small-power aggression never has been a serious problem to the peace of the world if the Great Powers are agreed among themselves, and if they are not, then this machinery cannot be useful to world security.

Nevertheless, there are two exceptions to the rule of voting. Decisions on matters of procedure may be agreed by votes of any nine members, and when a member is a party to a dispute which the Security Council is investigating that member must abstain from voting. The question whether a particular matter is or is not procedural is not itself a question of procedure and in this case a permanent member can use its veto on that preliminary question. Moreover, the Charter differentiates between a "dispute" and "a situation which might lead to international friction and give rise to a dispute",15 and when the Security Council is investigating a "situation", there is nothing to prevent a permanent member, however deeply it may be involved, from using the veto.16

The Charter provisions leave no doubt that enforcement action is the primary responsibility of the Security Council. But the concept of the United Nations peace enforcement

15. Article 34.
16. Article 27, para 3.
scheme based on Great Power co-operation failed to materialise due to the rapidly deteriorating relations between the Soviet Union and the Western Powers in the post-war period. Consequently, the Military Staff Committee, which was composed of the Chiefs of Staff of the Security Council's permanent members or their representatives to advise and assist on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, has been inactive since 1947. The Report which the Committee submitted to the Council on April 30th, 1947, was not accepted by the members. It was obvious from the discussion in the Committee and later in the Security Council that the disagreements resulted primarily from the lack of confidence between the Soviet Union and the United States. As a result the Security Council has not had available to it the military forces essential to the full discharge of its responsibility for the maintenance of peace. The Military Staff Committee ceased to function and the agreements with states have never been signed.

Only under exceptional conditions has the Council been at all effective in dealing with threats to or breaches of the peace where the vital interests of permanent members have been directly in conflict. In the case of Korea in 1950, the Security Council was presented with a unique opportunity to take action in a situation involving the interests of permanent members, since the Soviet representative was absent in protest against the seating of the Nationalist Government.

17. UN Security Council, Official Records, Second Year, Special Suppl. No.1, 'Report of the Military Staff Committee'.
of China in the place of the Communist Chinese representative to the UN, and when he returned to the Council in August 1950, the possibility of further action stopped. While the Security Council has been unable, except in the above mentioned instance, to initiate collective measures of the kind described in Articles 41 and 42 of the Charter, it has nevertheless, within those areas where the permanent members have had a common interest in the maintenance of international peace and security, been able to agree on a common course of action.

Thus, to a large extent the Organization's role in maintaining peace and security depends upon its being able to prevent disturbances between small states from developing into conflicts between powers. So in dealing with hostilities where major powers, for different reasons, were anxious to end the conflict without using their armed forces in the disputed area, the Security Council was able in many cases, such as the Congo and the Middle East crises, to achieve considerable progress in realising peace and security.

While the restrictions of the Charter upon the authorisation of enforcement measures remain, the organisation has demonstrated that it can deploy military forces. But it can do this only upon the invitation of the members involved and without any right to take military initiatives or to violate domestic jurisdiction.

During recent years the Security Council has authorised the establishment of several forces for cases when the Security Council would be powerless or unwilling to authorise enforcement measures: great powers.
1. In 1948, a United Nations Truce Supervision Organization (UNTSO) was established in connection with the Palestine problem.


5. In 1960, a United Nations Force was sent to the Congo (ONUC).

6. In 1963, the Security Council created the (UNYOM) to supervise the disengagement in Yemen.

7. In 1964, a Force (UNFICYP) was sent to Cyprus to take up positions between the Greek and Turkish communities.

8. In October 1973 the Security Council decided to set up a (UNEF) to disengage the Egyptian and Israeli forces.

All the above mentioned United Nations Forces have been different in size, in scope and in methods of financing, as in methods of management and control. The nature of these differences will be considered in the following discussion.

1. Observers for Palestine.

On 29th November 1947, the General Assembly adopted a resolution for the partition of Palestine, and a commission was appointed to ensure transfer of administration from
Britain to itself and hand it over to the successor states two months later. But when Britain withdrew on May 15th, 1948, war broke out between the Arabs and the Jews. The Security Council was not willing to undertake the enforcement of the partition plan recommended by the General Assembly, but exercised steady pressure on the parties to cease fighting and agree to permanent armistice arrangements. On 23rd April, it established a Truce Commission for Palestine\(^\text{18}\) composed of those Council members other than Syria, which had career consuls in Jerusalem\(^\text{19}\). On 14th May 1948, the office of United Nations Mediator was established\(^\text{20}\), and the Security Council chose Count Folke Bernadotte, President of the Swedish Red Cross, as a UN Mediator. After his assassination on 17th September 1948 he was succeeded by Dr Ralph Bunche and by 11th December 1948 the General Assembly had established a Conciliation Commission consisting of three Member States to assume the functions of the United Nations Mediator. When Bernadotte requested Belgium, France and the United States to provide him with 21 officers each\(^\text{21}\), the Soviet Union argued that the Security Council must decide on the establishment of the supervisory team, and suggested that each member of the Council, other than Syria, should be entitled to send observers, but the United States supported the right of the Mediator and the Truce Commission to make whatever arrangements they thought appropriate and succeeded in defeating the Soviet proposal.

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19. They were Belgium, France and the United States.
20. GA Res. 186 (S-2) of 14 May 1948.
The truce was supervised by 63 observers from the above mentioned countries, supported by some volunteers from the Headquarters Guard and Secretariat Staff. The main job of this group of observers was to investigate incidents, to observe and supervise the cease-fire lines and also report, when required, to the Security Council. It had no authority to prevent violations or enforce its decisions.

War recommenced on 8th July. On the 15th the Security Council ordered a cease-fire and instructed the Mediator to supervise the observance of the new truce. He approached the Truce Commission countries, which agreed to provide 300 observers and later increased them to 600. The observers played the same role during the second truce, but violations of the truce increased and in October full-scale hostilities resumed. The Security Council accepted a proposal from the Acting Mediator that the truce should be replaced by an armistice agreement, and rejected a proposal from the Soviet Union to require an immediate peace treaty. Armistice Agreements were signed between Israel and Egypt on 24th February 1949, Israel and Lebanon on 23rd March, Israel and Jordon on 3rd April, and Israel and Syria on 20th July.

With the conclusion of the Armistice Agreements, a system of international supervision under the general oversight of the Council was established because all the Armistice Agreements referred to the United Nations Truce Supervision Organisation (UNTSO), but, though a Truce Commission had been set up, there was never any resolution expressly establishing a "Truce Supervision Organisation". The terms of the Armistice were to be supervised by a Mixed Armistice
Commission (MAC) composed of an equal number of members from both sides under the chairmanship of the Chief of Staff of UNTSO or one of his senior officers. The Security Council on 11th August 1949 asked the Secretary-General to arrange for continued service of UNTSO's personnel, and instructed UNTSO to observe and maintain the cease-fire and report back to it from time to time. The UN Secretariat, with the general support of the Security Council, emphasised that UNTSO had an independent responsibility for the maintenance of peace, in accordance with the Council's decisions of 15th July 1948 and 11th August 1949.

The UNTSO observers were not permitted by the parties to move freely along the Armistice Demarcation Line, and in the demilitarised zones and defensive areas the parties insisted that they should be accompanied on their investigations by liaison officers. This greatly impeded the mobility of the observers. The parties also placed restrictions on the airfields which could be used by UNTSO's aircraft. UNTSO had no legal right to give orders to the parties or to use force to prevent incidents, but as long as there was a desire between parties to avoid war UNTSO was able to play a valuable role by encouraging them to take measures which would reduce the possibilities of clashes. Despite these limitations the observers were able to perform their duties, but tension increased rather than diminished, resulting ultimately in the collapse of the armistice when Israel invaded Egypt on 29 October 1956. UNTSO remained in existence after November 1956 to implement, observe and supervise the armistice structure set up in 1949, but during the actual fighting UNTSO played an invaluable role in providing information, and in the
immediate aftermath of the cease-fire it rapidly assumed an observer role in several crucial areas. After the end of the fighting, UNTSO contributed to securing the cease-fire agreed upon especially on the Jordanian and Syrian fronts. On 10th July the Council authorised the Secretary-General to make the cease-fire more secure. Israel and Egypt had agreed in principle to this, and the observers took their new positions. UNTSO's job was to keep the situation quiet, and within the limits of its resources it conducted this task to the satisfaction of the Security Council.

2. Observers in Indonesia.

Disagreement between the Netherlands and the Republic of Indonesia over the implementation of the Indonesian independence agreement of March 1947 led to military hostilities later that year. The Security Council called for an end to hostilities and the settlement of the dispute by arbitration or other peaceful means. On 25th August 1947 it adopted a resolution requesting the member-Governments of the Council which had career consular representatives in Batavia to instruct them to prepare jointly, for the information and guidance of the Security Council, reports on the situation in the Republic of Indonesia. Such reports were to cover the observance of the cease-fire orders and the conditions prevailing in areas under military occupation. The Council requested the Governments of the Netherlands and the Republic of Indonesia to grant to the representatives all the facilities necessary for the effective fulfilment of their mission.

22. SC Res. S/459 of 1 August 1947.
commission of observers was strongly opposed by the Soviet Union which had urged instead the establishment of a commission of all Security Council members. Two further resolutions were passed by the Security Council at that time. The first provided for the establishment of a Good Offices Committee (GOC), and the second called for a cease-fire. The Committee was aided by a small group of military observers from the staffs of the Consuls-General in Indonesia.

After the cease-fire had broken down several times, a truce agreement was negotiated, with United Nations assistance, in January 1948. This too broke down and hostilities resumed during the final weeks of 1948. Further resolutions were adopted by the Security Council between February and December 1948. In January 1949 the Security Council again requested a cease-fire. For the first time it made detailed proposals for a political solution, and reconstituted the GOC with a complement of military observers as the United Nations Commission for Indonesia (UNCI). During 1949 other resolutions were adopted concerning the financing of UNCI representatives and United Nations Observers in Indonesia. Agreement was reached in November 1949 for a Dutch transfer of sovereignty to Indonesia, and after completing tasks connected with implementation of the transfer agreement, the United Nations mission was discharged in 1951.

3. **India and Pakistan.**

Shortly after gaining their independence, India and Pakistan divided between them some five hundred states, formerly under British sovereignty. One of these, Kashmir, has been a source of hostilities since its Hindu ruler opted in 1947 to attach his state to India. The Security Council adopted a resolution and established a Commission composed of representatives of three members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.  26

The Commission had a dual function. Firstly, it was to investigate the facts pursuant to Article 34 of the Charter of the United Nations. Secondly, it was to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties. The Security Council recommended various measures to end hostilities between India and Pakistan over Kashmir, till a final decision by the people of Kashmir regarding their future could be reached. It was not until the detailed resolution of 21st April that authorisation was given to the United Nations Commission for India and Pakistan (UNCIP) to use observers.  27

The observers were finally established in Kashmir upon the signing on 27th 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.

After the cease-fire which came into operation on 1st January 1949, the Commission felt the need for an independent

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source of information on the military situation, and as a result, General Delvoie of Belgium was appointed as its military adviser. He asked the Secretary-General to furnish a sufficient number of military observers to enable him to observe the cease-fire. These came to be known later as the United Nations Military Observer Group for India and Pakistan (UNMOGIP). A few officers from Belgium, Canada, Mexico, Norway and the United States were quickly dispatched to Kashmir, headed by the Commission's Military Adviser, and, in close co-operation with the military authorities of the two parties, watched over the cease-fire and prevented minor incidents from getting out of hand. At the end of 1949 the Commission which had failed to make any progress towards securing the conditions which had been agreed to be necessary for conduct of the plebiscite reported that it should be replaced by a single person, and on 14th March 1950 the Security Council transferred its responsibilities to a UN Representative, Sir Owen Dixon of Australia. The Representative and the Secretary-General then agreed that the military adviser should report directly to the Secretary-General. In March 1951, the Security Council appointed a new Representative, Mr Frank Graham of the United States, and decided that the military observer group should continue to supervise the cease-fire. This was the first occasion on which the military adviser and his observers were formally recognised as having at least a semi-autonomous existence.

UNMOGIP has been able to deal with civilian infringements of the line, and to prevent minor incidents. It has been able to act with more efficiency on account of the
fact that both the Indian and Pakistan forces have usually been willing that quiet should be maintained in Kashmir. UNMOGIP could do nothing to check the entry of armed infiltrators into Indian-held Kashmir in August 1965, which led to the outbreak of full-scale hostilities in September. The matter was soon brought before the Security Council for action after the parties ignored its calls for a cease-fire during the first week of September. The Council used exceptionally strong language and, with the consent of the United States and the Soviet Union, demanded a cease-fire and a subsequent withdrawal of military forces. The Council delegated to the Secretary-General the responsibility for assisting in the supervision of the cease-fire agreement. He strengthened the existing UN observers in Kashmir (UNMOGIP) and created a new group, the United Nations India-Pakistan Observation Mission (UNIPOM), which commenced operations in late September 1965.\textsuperscript{28} General B.F. Macdonald of Canada was appointed Chief Officer and the group consisted of 90 unarmed military observers drawn from 10 countries in addition to 25 from other UN operations. Its mandate was to observe, investigate and report on compliance with the Security Council's demands concerning the 1,000 miles long international frontier. Along the 500 mile cease-fire line in Kashmir, the same tasks were to be carried out by UNMOGIP which was already on the spot.

\textsuperscript{28} SC Res. 209 (4 September 1965).
SC Res. 210 (6 September 1965).
SC Res. 211 (20 September 1965).
The creation of UNIPOM led to some difficulties with the Indian Government, which had informed the UN that it would not allow such a force in Indian territory; therefore, the cease-fire and withdrawal should be supervised by a single body. But the Secretary-General clarified that he could not attach observers outside Kashmir to UNMOGIP, unless Pakistan agreed, which she did not. India replied that she could not be expected to help pay for UNIPOM. Moreover, France and the Soviet Union began to complain that in its establishment and control the Secretary-General had taken too much upon himself, and so had usurped the proper functions of the Security Council. The Secretary-General emphasised that the withdrawal from Kashmir and India and Pakistan would be treated as a single operation, and that the use of two bodies, which were to act in close co-operation, was only an administrative matter. Consequently, India decided not to pursue her objections.

General Marambio of Chile was appointed to arrange a meeting between India and Pakistan to negotiate plans for withdrawal, and was able to begin a series of meetings with military representatives of both sides. He announced, five days after the signature of the Tashkent agreement, that settlement had been reached for withdrawal plans. Everything went accordingly, and by 25th February the withdrawal had been completed. UNIPOM was then discharged within three weeks, while UNMOGIP was gradually reduced and has continued its role in Kashmir.

4. The Observer Group in Lebanon.

In 1958, a very tense situation occurred in Lebanon. The problem, though affected by external factors, was essentially
a domestic one. Early in 1958 there were rumours that President Chamoun of Lebanon was planning to amend the Constitution to open the way to his re-election, but dissatisfaction with his policies led to a serious situation. The assassination of an editor of a Beirut newspaper which was severely critical of the Chamoun regime led to disturbances which spread quickly. Lebanon alleged UAR interference, and complained to both the Arab League and the Security Council. In the Arab League a resolution acceptable to the Lebanese delegation was drafted, but was rejected by the Lebanese Government. In New York, the Lebanese Foreign Minister asked for the protection of the United Nations. On 11th June the Security Council authorised the establishment of the United Nations Observer Group in Lebanon (UNOGIL) to ensure that there was no illegal infiltration of personnel or supply of arms or other material across the Lebanese borders. In this way Lebanon would be assured that there was no outside interference from Syria in its affairs.

The Security Council authorised the Secretary-General to take appropriate steps to establish the Observation Group. He was able to take advantage of the presence in the area of the UN Truce Supervision Organization, and the first observers arrived in Beirut on 12th June 1958. A three-man committee was appointed to head the Group: Galo Plaza, a former president of Ecuador; Rajeshwar Dayal, an Indian diplomat; and Major-General Odd Bull of Norway. In its report the Group asserted that there was very little doubt that the majority

of those opposing the government were Lebanese. Accordingly, the Lebanese Government described the Group's conclusion as misleading.

The Revolution in Iraq on 14th July produced an emergency atmosphere in both the United States and Lebanon. On 15th July, several thousand marines landed outside Beirut, and the entire U.S. Sixth Fleet was moved to the Eastern Mediterranean. The purpose of the landing was to prevent deterioration of the western position in the Middle East, because the situation in Iraq was expected to encourage the opposition in Lebanon. The United States informed the Security Council that its action should be seen as in keeping with the spirit of the Council's resolution of 11th June, and expressed its willingness to withdraw once the UN was able to resume its task. In Lebanon the American landing was deplored by many sectors of the Lebanese people. The Government announced that there would be no attempt on its part to amend the Constitution. A new President was elected, and Lebanon returned to normal. The General Assembly welcomed the assurances given by the Arab States that each member "shall respect the systems of government established in the other member states, and that each shall pledge to abstain from any action calculated to change established systems of government". The General Assembly requested also that the Secretary-General make arrangements to facilitate the early withdrawal of foreign troops from both Lebanon and Jordan.

As a result of the efforts which had been taken by the Secretary-General, UNOGIL was expanded to a total of 591

30. GA Res. 1237 (ES-111), 21 August 1958.
observers by 14th November. The United States reached an agreement with the new Lebanese Government on 8th October for a total withdrawal, which was completed on 25th October. Although the General Assembly Resolution of August 1958 had spoken of arrangements to support Lebanon's independence once the foreign troops had left, the Secretary-General ordered the withdrawal of the Group from Lebanon immediately after the American withdrawal, and the last of its personnel left Lebanon on 9th December 1958.

5. The Challenge of the Congo.

The greatest and most complex challenge to the United Nations in the peace-keeping field arose in the Congo. It has been the Organization's largest operation without the use of enforcement measures. A few days after the country gained independence from Belgium on 30th June 1960 civil war and public disorder erupted, and Belgian troops were rushed from their bases in the Congo and neighbouring Rwanda Urundi in order to protect lives and property of Belgians. The Congolese Government objected to the Belgian intervention and appealed on 12th July to the Secretary-General of the United Nations for UN military assistance. The Security Council authorised the Congo peace-keeping force, Operation des Nations Unies au Congo (ONUC), to prevent outsiders from intervening and to facilitate the withdrawal of the Belgian troops. The Council called on Belgium to withdraw and authorised the Secretary-General to provide the Congo with the necessary military assistance till the national security forces should be able to meet their tasks.31

ONUC was by far the largest, most complex, most costly, and most controversial UN operation. On 15th July the first UN troops arrived and by 17th July 3,500 men from four African countries were in the Congo. By the end of the year they reached 17,500 combat and 2,000 administrative troops from 9 African, 2 Asian and 2 European countries - Egypt, Ethiopia, Ghana, Guinea, Liberia, Morocco, Nigeria, Sudan, Tunisia, Indonesia, Malaya, Ireland and Sweden.

On 9th August the Council passed another resolution, calling on Belgium to withdraw its troops immediately from the Province of Katanga under special arrangements made by the Secretary-General. The Belgian troops had left the Congo by the first week of September, but a few officers remained in Katanga on an individual basis. The UN Force was established to secure Belgium's withdrawal and to prevent foreign intervention, so the Congolese Government had asked the Soviet Union to be ready in case it might find it necessary to call for its assistance; later the Congo Prime Minister, Patrice Lumumba, threatened to appeal to the Soviet Union unless Belgian troops were out of the country within 24 hours.

On 5th September, Lumumba was deposed by Kasavubu. The Special Representative of the Secretary-General in the Congo, Mr Andrew Coridier, ordered major airports throughout the Congo to be closed to all traffic other than the UN's. He also ordered UN troops to take control of Leopoldville's radio station and closed it down. These moves could be argued in terms of Security Council resolution 146 of 1960. Accordingly, the Force "will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise". The criticism of ONUC has in
general been that it was not neutral in this struggle. Although ONUC refused, on 15 September 1960 and again on 11 October, to permit the arrest of Lumumba on a warrant issued under President Kasavubu's authority, it has been said that ONUC's action in closing the Leopoldville radio station and airport effectively denied to Lumumba the possibility of appealing for popular support and ensured Kasavubu's triumph in the struggle for power. It is believed, however, that, whether or not this was the eventual result of this action, it was not the result intended by ONUC. The intention of these actions, as subsequently explained by the Secretary-General was to prevent the outbreak of civil war which seemed likely had Lumumba been able to appeal to the people to take up arms against President Kasavubu's Government and to fly in from Kasai the troops loyal to Lumumba on the aircraft which the Soviet Union had provided. As such the action was the only reasonable action ONUC could have taken. The Soviet Union furiously attacked the Secretary-General and ONUC's attitude. On 14th September General Mobutu of the Congolese Army announced that he had decided to depose both Lumumba and Kasavubu, and ordered the closing down of the communist embassies in the Congolese Capital.

The Soviet Union supported Lumumba and sought without success to remove the United Nations command which, in its view, supported Kasavubu. The Soviet Union vetoed a series

32. S/4505/Add.2 and S/4531, para 27.
of resolutions calling on States to refrain from giving military aid except through the United Nations. The Soviet support of Lumumba opened the possibility of an internal conflict, with the antagonists receiving support from conflicting power groups. To avoid this situation, Ceylon and Tunisia proposed in the Security Council a resolution that would have permitted ONUC to act to restore order even though the governmental authority in the Congo was divided. The Soviet Union vetoed resolutions to accomplish this objective, and the United States brought the Congo problem before a special session of the General Assembly. On 20 September 1960 it passed a resolution, which appealed to all Congolese to solve their internal conflicts by peaceful means "with the assistance...of Asian and African representatives appointed by the Advisory Committee on the Congo, in consultation with the Secretary-General, for the purpose of conciliation." The Conciliation Commission established under this resolution was of relatively little importance to the history of the Congo. It arrived in the Congo on 3 January 1961 and submitted its report to the General Assembly on 21 March 1961. The Conciliation Commission was intended to consist of representatives from each state serving on the Advisory Committee on the Congo and appointed by the Advisory Committee in consultation with the Secretary-General. These states were Ethiopia, the Federation of Malaya, Ghana, Guinea, India, Indonesia, Liberia, Mali, Morocco, Nigeria, Pakistan, Senegal, Sudan, Tunisia, and the United Arab Republic. However, Guinea, 

Indonesia, Mali and the United Arab Republic, because of the hostility of President Kasavubu, withdrew from the Advisory Committee and therefore were not represented on the Commission. ONUC had the double task of excluding outside intervention on the one hand and the internal policing of a huge area on the other. Nevertheless the Secretary-General took the view that the principles he had laid down for UNEF in the Middle-East were equally valid for ONUC. The Secretary-General told the Security Council on 13th July 1960 36 "The United Nations Force would not be authorized to action beyond self-defence...They were not to take any action which would make them a party to internal conflicts. The selection of personnel should be such as to avoid complications because of the nationalities used... This does not...exclude the use of units from African States, ...while it does exclude troops from any of the permanent members of the Security Council." This meaning was confirmed in the leaflet distributed by Dr Bunche and General von Horn to all members of ONUC on their arrival in the Congo. 37 "You serve as members of an international force. It is a peace force, not a fighting force. The United Nations has asked you to come here in response to an appeal from the Government of the Republic of the Congo. Your task is to help in restoring order and calm in this country which has been so troubled recently. You are to be friendly to all the people of this country. Protection against acts of violence is to be given

to all the people, white and black. You carry arms, but they are to be used only in self-defence. You are in the Congo to help everyone, to harm no one." As might be expected the first principle to come under strain was the ban on the use of force to affect the military or political outcome of the situation. In a country where the army was rebellious any peace-force was bound to find itself in a very delicate position. The issue of force or no force merged into the issue of interference or non-interference. In practice non-interference was less possible than abstention from force.

The factional fighting inside the Congo and the intervention from outside complicated the Congo operation. ONUC was a predominantly African force. It was necessary to secure the moral backing of Africa, but it was impossible for such a force to be completely disinterested, because each contributing state had strong views on every Congo issue. Thus when ONUC prevented Lumumba from using the radio station and airports, in September 1960, three States (Guinea, Ghana and the UAR) threatened to withdraw their troops and claimed a right to place them at Lumumba's disposal. From this, the conclusion might be drawn that absence of a permanent UN force gives an advantage in the UN to small countries, since it enables those of them who provide contingents to exert influence upon the direction of peace-keeping operation.

ONUC had found itself in direct confrontation with the host government, which sometimes tried to impose impossible conditions on it. These led the Secretary-General to issue the following interpretation of their relations. "The relation between the UN and the Government of the Republic of the Congo
is not merely a contractual relationship in which the Republic can impose its conditions as host State and thereby determine the circumstances under which the UN operates. It is rather a relationship governed by mandatory decisions of the Security Council. Only the Security Council can decide on the discontinuance of the operation and therefore conditions which, by their effect on the operation, would deprive it of its necessary basis, would require direct consideration of the Security Council."

The UN was preoccupied with the question of Katanga, where it was employing armed forces in a direct endeavour to topple the regime. On 11th July 1960, when the province of Katanga declared its independence, the secessionist regime headed by Tshombe was not formally recognised by any member of the United Nations. Lumumba insisted that ONUC forces should take all necessary steps to re-establish the Central Government's authority in Katanga. The Security Council (Res. 143-1960) had decided to give the Government military assistance to help in restoring order. There was a widespread feeling among UN members that UN troops ought to be deployed in all parts of the Congo, but Tshombe declared that there was no need for them in Katanga and he was ready to use his force to keep the UN out. In August 1960 the Security Council (Res. 146-1960) declared that the entry of the UN Force into Katanga was necessary and clarified that the Force would not intervene in internal conflict.

The Secretary-General was able to convince Mr Tshombe as to the interpretation of the Council's resolution and

38. UN Document S/4389/Add.5.
consequently the UN took over the task of securing order in Katanga. But the death of Lumumba produced a very bitter Afro-Asian reaction against the conduct of the UN operation. Thus the Security Council passed, on 21st February 1961, a resolution (Res. 161-1961) urging the UN to take all measures to prevent civil war in the Congo using force, if necessary, as a last resort.

This procedure in effect nullified the paragraph of the resolution of 9 August 1960 "that the United Nations force in the Congo will not be party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise." Thus for the first time the UN changed its policy that peace-keeping activities were to involve the use of force only in self-defence. The turning point of the operation was the above-mentioned resolution passed on 21st February 1961. From this point on, the Security Council furnished the main guidelines: reorganisation of Congolese armed units and elimination of interference by such units in the political life of the Congo; withdrawal of all Belgian and other foreign military and political advisers not under the United Nations Command; and opposition to the secessionist activities in Katanga. The Secretary-General was authorised to take vigorous action, including the use of force, if necessary, for the immediate apprehension, detention

39. On 27 November 1960 Lumumba sought to travel from Leopoldville, where the United Nations had provided him with physical protection within the confines of his home, to Stanleyville, where his supporters had control. He was caught by the Kasavubu forces and arrested on 2 December. On 17 January 1961, he was placed in an airplane and delivered to the Katanga secessionist regime, where he was murdered.

41. UN Security Council 982 meeting, 24 November 1961, S/4741.
pending legal action and deportation of all foreign military and para-military personnel and political advisers not under the United Nations Command to prevent the return of such elements. The steps taken by the Secretary-General were both political and military. This new policy was not accepted clearly by every one. Britain, for instance, although voting in its favour, made it clear that there was no question of empowering the United Nations forces to impose a political settlement. It met with strong criticism in a number of other countries. In face of these pressures the Secretary-General agreed to hold cease-fire talks with Tshombe, but he was killed when his aircraft crashed on the way to the meeting. In November U Thant was appointed as acting Secretary-General, and on 24th November 1961 the Security Council passed a resolution authorising the Secretary-General "to take vigorous action, including the use of the requisite measure of force, if necessary, for the immediate apprehension, detention pending and/or deportation of all foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries." The Council condemned Katanga's secession and declared its full support for the Central Government's efforts to maintain the Congo's integrity.

In December the Secretary-General authorised the Force to proceed with its operation. Tshombe's forces were unable to resist successfully and he therefore agreed to mediation. On 21st December Tshombe signed a declaration which put an end to Katanga's secession and in June he left the country. The Secretary-General insisted that the aim of the December

42. SC Res. 169 (1961).
operation was not to impose a political settlement on the Congo. But there was no doubt that such policy had weakened, at least, the secessionist regime. Early in 1962 the UN agreed to help the Central Government in bringing down the secessionist regime which was based on the Orientale Province of the Congo.

The UN was participating in the Congo's political affairs by supporting the authority of the Central Government. Therefore, ONUC cannot be considered as a simple peace-keeping operation; it had some characteristics of a mandatory enforcement action. The ONUC remained in the Congo until June 1964.

6. The Disengagement in Yemen.

At the end of September 1962 the royalist regime in Yemen was overthrown. Civil war began between the republicans and the royalists but soon became more than just an internal conflict. At the request of the new republic the UAR began to send troops, while the royalists received arms from neighbouring Saudi Arabia. Secretary-General U Thant had been consulting with the countries involved in the activities.

The UN the Secretary-General reported to the Security Council that his consultations with the various interested parties had resulted in the acceptance of a disengagement agreement in Yemen.43 The Security Council adopted a resolution44 "Noting with satisfaction the initiative of the

44. SC Res. S/5331, 11 June 1963.
Secretary-General mentioned in his report of April 1963 (S/5298)...requests the Secretary-General to establish the observation operation as defined by him... Urges the parties concerned to observe fully the terms of disengagement set out in the report of 29th April and to refrain from any action which would increase tensions in the area." It was agreed that a demilitarised zone should be established to a depth of 20 kilometres on each side of the border and that the disengagement process should be confirmed by UN or other impartial observers.

The Secretary-General reported to the Security Council that the size of the observation team which would be needed would not be more than 200 for a period of four months. He thought that the two states involved would divide its cost between them. The UN Yemen Observation Mission (UNYOM) was dispatched as a basis for the disengagement of the UAR and Saudi Arabia from the affairs of Yemen. This operation was not given any peace-keeping functions. Its role was to observe and report. Its terms of reference gave it a more restricted range of activity than UNTSO, UNIPOM, UNEF or ONUC, and it had no mediation or conciliation functions. The UNYOM, consisting of 100 Yugoslav officers and men transferred from UNEF and a Canadian air unit of about 50 persons, began its activity on 4th July 1963. The observers carried arms for self-defence. The frontier was difficult to observe because it was about 400 miles long and in very rugged country. Since the disengagement agreement involved only Saudi Arabia and the UAR, UNYOM was not concerned with other Governments and bordering territories. It was not given authority to issue any political or military directives. Only later (November 1963)
did the Secretary-General appoint a Special Representative in Yemen, Mr P. Spinelli, who tried to shift the emphasis of the Mission from military to political tasks.

When it appeared that the agreement which the UNYOM was supposed to supervise was not being executed, Saudi Arabia declared its intention to refuse to renew its earlier agreement to pay for the extension of UNYOM's life for a further two months, but changed its mind and UNYOM was retained. UNYOM's life was extended for several more two monthly periods after informal consultation with the members of the Security Council. But the force was unable to carry out its mission because of its limited numbers and the wide rugged area it was covering, so although fighting had not ceased, the Secretary-General asked in September 1964 for the termination of UNYOM. Fighting in Yemen continued for almost three years after its departure. Only on 31st August 1967 did the UAR and Saudi Arabia agree to stop interfering in Yemen, and the UAR troops left Yemen in December 1967.

7. Peace-Keeping in Cyprus.

In Cyprus the UN attempted mediation in an internal dispute with international repercussions. The Turkish Cypriot minority formed about twenty percent of the island's population of about 620,000, and in the Zurich and London Agreements of February 1959, they were given 30 percent of posts in the

legislature, civil service, and police, and 40 percent of those in the army, while the Turkish Vice-President was given a veto in matters of defence and foreign policy, and both union with Greece and partition were forbidden. The provisions which protected the Turks often proved difficult to implement after independence was gained in 1960. The crisis began when President Makarios announced that he intended to put forward certain constitutional amendments. On 21st December 1963 fighting broke out in Nicosia and quickly spread throughout the island. On 15th February 1964 both Britain and Cyprus asked for an early meeting of the Security Council. This took place on 4th March, and it recommended that an international force be established. The Secretary-General, in agreement with the four countries concerned, designated a mediator to promote a peaceful and agreed settlement. The Mediator, Mr Galo Plaza, ex-President of Ecuador, submitted a report to the Secretary-General in which he suggested that the Greeks should agree to put the question of enosis (union with Greece) on one side, and that the Turks should reconsider their insistence on the geographical separation of the two communities under a federal system of government. He proposed that the UN should act as the guarantor of any settlement and establish a Commissioner in Cyprus to supervise its observance. After the report was made public, the Turks refused to have anything more to do with the Mediator. At the end of 1964 he resigned, and since that time the UN's mediation function has been in suspension.

The UN force in Cyprus was established in accordance with the Security Council resolution of 4th March 1964 providing for the creation of a "United Nations Peace-Keeping Force in
Cyprus" the function of which was "in the interest of preserving international peace and security, to use its best efforts to prevent a recurrence of fighting and, as necessary to contribute to the maintenance and restoration of law and order and a return to normal conditions." The Security Council's resolution recognised the Cyprus crisis as a threat to international peace, thus creating a basis for UN intervention. It authorised a peace-keeping force of 7,000 for three months, with the task of preventing further fighting and restoring law and order, when required. It was sent not to an international frontier but to an internal and unofficial line dividing the Greeks and Turks in Cyprus. The Force had no mandate to settle the problem; that task lay with a UN mediator. U Thant on several occasions warned that the success of UNFICYP in maintaining peace in Cyprus should not lead to failure of the effort to obtain a political solution, and stressed that a United Nations force should not be called upon to maintain indefinitely an obviously unsatisfactory status quo. He pointed out that "the capacity of the United Nations to settle disputes or promote constructive and peaceful solutions to disputes is as much - perhaps even more - in need of study as the problems of peace-keeping. The tendency of peace-keeping operations, originally set up as temporary expedients, to assume semi-permanent character because no progress is made in setting the basic causes of conflict is a serious reflection on the capacity of the United Nations to settle disputes even when these disputes have been brought to the United Nations by the parties directly concerned." The

47. SC Res. 186 (1964).
Security Council kept UNFICYP on a short leash, initially by successive authorisations of only three months at a time, and then from June 1965 for six-month periods. The main role of the Force was to try to place itself between the Greek and Turkish military positions, or in the best and nearest locations. It patrols the main roads, villages and towns in disputed areas, and in case of firing, is required to attempt to bring it to an end by peaceful means. Its members are permitted to use arms, to the minimum extent necessary, against attacks on themselves, or on UNFICYP's premises, posts and vehicles, and are entitled to resist any attempt to force them to withdraw from positions occupied under orders.

However, the Secretary-General regarded these powers as insufficient. He proposed to instruct UNFICYP's Commander that the Force must have complete freedom in certain circumstances to remove positions and fortifications and to ask for separation of the opposing military forces. The Security Council did not prevent the Secretary-General from acting as he requested. A separate vote was taken on Paragraph 4 of the above-mentioned resolution, asking the Secretary-General to establish the composition and size of the force in consultation with the governments of Cyprus, Greece and Turkey. The Soviet, Czech and French representatives abstained from the separate vote on Paragraph 4, arguing that investing the Secretary-General with these powers was far beyond his authority, but they subsequently voted for the entire resolution. It was agreed that costs should be met by the governments providing the contingents, by Cyprus, and by voluntary contributions.

49. UN Document S/5950, para 232.
For the first time a permanent member of the Security Council - the United Kingdom - was invited to supply a contingent with other personnel coming from Austria, Sweden, Denmark, Canada, Finland and Ireland.

UNFICYP has been able to decrease tension in many situations, prevent fighting from getting out of hand, and solve many problems. There is always the possibility the UNFICYP can do a great deal to prevent an accidental war, but it is powerless in face of a prepared war.

Fighting broke out again in 1967, bringing Greece and Turkey to the brink of war before Athens removed General George Grivas, who had returned to Cyprus to pursue the EOKA dream of enosis. Early in 1974 Archbishop Makarios made a concerted effort to send home the Greek officers commanding the island's National Guard, claiming that they had been encouraging conspiracies against him. On 15th July 1974 the Greek-officered Cyprus National Guard launched a coup, and a former EOKA member, Nicos Sampson, was sworn in as President. It was announced that Archbishop Makarios was dead, but he had in fact escaped to London.

On 20th July, Turkey invaded Cyprus. The Turkish Prime Minister Mr Ecevit claimed that Turkey's new military offensive in Cyprus was legal and within its rights as a guarantor of the island's independence, and pledged that Turkish troops would not take control of territory in excess of what would be a fair area for the Turkish population of the island.

After personal appeals to Greek and Turkish leaders by the US Secretary of State, Dr Kissinger, both sides agreed to a cease-fire under the Security Council Resolution. In Geneva,
UN officials and military representatives of Britain, Turkey and Greece signed an agreement setting out cease-fire demarcation lines in Cyprus. The Security Council in an emergency session unanimously approved a resolution demanding a halt to the fighting and resumption of peace talks. The Council's resolution deeply deplored the resumption of fighting and declared this to be contrary to the provision of the cease-fire approved before. The resolution reaffirmed the cease-fire call in all its terms and urged the parties to implement them without delay.

The peace-keeping force remained in the island to maintain peace and security.

8. The Council's Role in the 1973 Middle East Crisis.

The Security Council was able to end the October 1973 war between the Arab States and Israel, and to deploy UN emergency forces between the belligerents on both the Egyptian and Syrian fronts. The Council decided in its Resolution 340 of the 25th of October 1973 to set up under its authority a United Nations Emergency Force, and under Resolution 341 of 27th October 1973 to set up that Force for an initial period of six months.

The Security Council created a new peace-keeping operation, the United Nations Disengagement Observer Force (UNDOF), between Syria and Israel.50

The detente made it possible for the Security Council to regain its ability to serve the purposes of the Charter. In recognition of the difficulties in securing Great Power agreement within the Security Council - during the cold war

period - the General Assembly initiated positive action. In fact, the General Assembly had played a more important role in peace-keeping operations in the Middle East since 1956. Therefore the role of the Security Council in 1973 Middle East crises will be discussed in Chapter 3.
Chapter 3

The Role of the General Assembly

The specific functions of the General Assembly are to discuss any matter within the scope of the Charter and to make recommendations thereon either to the members of the United Nations or to the Security Council or to both, but this is subject to the provision that it must refer to the Security Council any question relating to the international peace on which action is necessary, and that it may not make any recommendation on a dispute or situation which is being dealt with by the Security Council. At San Francisco the Smaller Powers engaged in various and successful efforts to extend the competence of the General Assembly beyond the terms contained in the Dumbarton Oaks proposals. The competence of the General Assembly was widened particularly in Articles 10, 11 and 14. Accordingly, the General Assembly has the power 'to discuss any question relating to the maintenance of international peace and security' and to 'make recommendations with regard to any such questions' but 'any such question on which action is necessary shall be referred to the Security Council'; it has the power to make recommendations 'on any questions or any matters within the scope of the present Charter' and in the peaceful adjustment of any situation likely to cause deterioration in good relations among nations, and it 'may consider the general principles of cooperation in the maintenance of international peace and security.'

51. Article 10 of the UN Charter.
52. Article 11, para 2.
53. Article 12, para 1.
The Security Council is more likely to confine itself to dealing with specific situations related to the maintenance of peace and security, which require swiftness of action and about which the permanent members are able to achieve some measure of agreement. Any development of relations between the major powers would bring about an increase in the effectiveness of the Security Council; it would also reduce the anxiety of the major powers to turn to the General Assembly for political propaganda reasons. But with any deterioration in the relation between the major powers the General Assembly will be more concerned rather than the Council, because the voting system will not permit the proper functioning of the Security Council. But, concentration of attention upon the voting procedure of the Council as an explanation of its weakness seems somewhat untrue, since the real cause lies beyond that. It reflects the balance of relations among the permanent members of the Council. The primary cause of the decline of the Security Council role must be sought in the breakdown since 1945 of the wartime alliance of the United States, United Kingdom and the Soviet Union.

Nevertheless, since the establishment of the UN, there has been an increasing trend, which indicated the inability of the Security Council to serve the purposes of the Charter, and there were growing preferences of Members to deal with the General Assembly. This trend has been accompanied by the gradual breakdown of the lines of functional separation between the Security Council, drawn up at Dumbarton Oaks, by the gradual assumption by the General Assembly of an active role in the maintenance of international peace and security. The first development of the General Assembly is the role begun in
the first year of the United Nations. After the failure of the Security Council to take action with respect to the Franco regime in Spain, the question was brought to the attention of the General Assembly which recommended in the matter.\textsuperscript{54} In 1947, Greece’s complaint against her northern neighbours for assisting guerrilla activities was brought to the General Assembly after the Security Council had become deadlocked and had removed the matter from its agenda. The Assembly recommended that Members refrain from action which might assist any armed group fighting against the Greek Government.\textsuperscript{55}

The major step in the development of the Assembly’s role in police action came with the adoption of the 'Uniting for Peace' resolution on 3 November 1950. With the return of the Soviet Union representative to the Security Council on 1 August 1950, it became apparent that the Council could no longer achieve its responsibilities of directing the collective measures that were being taken to repel the North Korean armed attack, and restore international peace and security in the area. The United States therefore proposed that the General Assembly assume the responsibility of dealing with such situations when the Security Council was prevented by the veto from acting. The United States proposal, with some minor changes, was adopted by the General Assembly Resolution 377(V) of 3 November 1950. The General Assembly has tried to deal with the situation in its 'Uniting for Peace' resolution. Under the terms of the resolution the General Assembly asserted its competence in case of failure of the Security Council to

\textsuperscript{54} GA Res. 39(I) 12 December 1946.  
\textsuperscript{55} GA Res. 193(III) 27 November 1948.
discharge its responsibilities; it declares that this failure does not relieve members of their obligations or the United Nations of its responsibility under the Charter for the maintenance of peace and security, and goes on to provide that in the event of such a failure whenever there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall make appropriate recommendations to members for collective measures including the use of armed force if necessary. The resolution also set up a Peace Observation Commission to report on the situation in any area of international tension.

The General Assembly was to exercise this 'residual responsibility' only after the Council had failed to take action and had removed the item from its agenda. Thus, the relationship between the Council and the Assembly was explicitly re-defined to transfer the consideration of an alleged threat to peace or breach of the peace to the General Assembly. Thus the way was prepared for making the Council's 'primary responsibility' largely inconsiderable, unless the permanent members were in full accord. Hammarskjöld believed that the General Assembly possessed the authority to consider threats to the peace only if the Security Council had discussed them and had been unable to act on them.

The Assembly may recommend, it may investigate, it may pronounce Judgment, but it does not have the power to compel compliance with its decision. Under the Charter only the Security Council has the power to order the use of force....

'It is worth recalling that the "Uniting for Peace" resolution, in establishing a procedure intended to safeguard the

application of the relevant provisions of the Charter - Articles 10, 11 and 51 - in support of the maintenance of peace, did not constitutionally transfer to the General Assembly any of the enforcement powers reserved to the Security Council by the Charter. 57

The developing role of the General Assembly as a substitute for the Council, was not beyond dispute. It could be argued that it is not in accordance with the Charter system of collective security. We could also say that such a possible development was expected at San Francisco in case the major powers did not cooperate, and that Article 10 was adopted with this end in view.* For the Soviet Union, the 'primary responsibility' as mentioned in Article 24 is equal to 'exclusive responsibility'. In May 1965 Soviet Ambassador Ferdorenko said that 'the Security Council has sole power under the Charter to decide all questions concerned with taking action for the maintenance of international peace and security, which includes operations using United Nations armed forces'. For the Soviets, all units of military character can be authorised only by the Security Council, without any distinction between peace-keeping or enforcement forces. 58 The United States acknowledged in June 1965 that 'the Security Council should, as it had normally done in the past, authorize future peace-keeping operations. However, the General Assembly should assume that responsibility in appropriate cases whenever

57. Ibid., p.145.
enforcement measures were not involved. As Dag Hammarskjöld had stated in 1957, enforcement action by the United Nations under Chapter VII of the Charter continued to be reserved to the Security Council....'59

The main question is whether the General Assembly may authorise peace-keeping operations when the Security Council is prevented from doing so by the veto. For the US the word 'action' in Article 11 means only enforcement action;60 this interpretation has been supported by the International Court of Justice.61 For the French, forces may be authorised by the General Assembly only if they are restricted to the performance of observation, supervision or inquiry functions.62 The conflicting viewpoints have hardened, but the authorisation issue has become less critical. In May 1966, Swedish Ambassador Astrom advised publicly in the Special Committee on Peacekeeping Operations 'to put aside for the time being the problem of the relative competence of the Security Council and the General Assembly' because there was no reason to believe that differing views could be settled and because it was unclear whether any useful purpose would be served by laying down, in advance, more precise rules for the problems of competence.63

The General Assembly authorised three main operations:

UNSCOB, UNEF and UNTEA.

59. Ibid., p.106.
60. I.P.K.O. Documents, ibid., No.19.
63. Arthur M. Cox, ibid., p.108.
1. **The Peace Commission on the Balkans.**

On 3 December 1946 Greece asked the Security Council for consideration of the situation in northern Greece resulting from aid allegedly provided to Greek guerrillas by Albania, Bulgaria and Yugoslavia. On 19 December the Council established a commission of investigation composed of one representative for each member of the Council for 1947, to ascertain the causes and nature of the alleged border violations and to make proposals for averting a repetition. But after the United States intervention in Greece and Turkey (The Truman Doctrine, March 1947) the Soviet Union blocked further consideration of the case. On 15 September, the Council removed the case from its agenda and it was taken up by the General Assembly, which called on Albania, Bulgaria and Yugoslavia to do nothing to aid the Greek guerrillas. It asked those three countries and Greece to cooperate in settling their disputes through the establishment of normal diplomatic relations, frontier conventions and cooperation in solving refugee and minority problems. The Assembly established an eleven-member United Nations Special Committee on the Balkans (UNSCOB); it consisted of representatives of Australia, Brazil, China, France, Mexico, the Netherlands, Pakistan, the United Kingdom and the United States of America, seats being held open for Poland and the Soviet Union, to observe the compliance by the four Governments concerned and to assist them in complying with its recommendations. UNSCOB's mandate was successively

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64. UN Security Council, Official Records, First Year, Second Series, No.28, 19 December 1946, pp.700-01.
65. GA Res. 109(II) 21 October 1947.
66. Ibid.
continued until 1951 when it was substituted by a Balkan Subcommission of the Peace Observation Commission (POC). 67 The Peace Observation Commission was established in accordance of the 'Uniting for Peace' resolution of 1950.

The Subcommission observers continued to report on the Greek situation until 1954 when the group was withdrawn at Greece's request. What is important to notice is that UNSCOB found that professional military officers were invaluable as an observer group in assessing the highly complicated and fluctuating situation. It also requested operating funds from the Secretary-General so as to safeguard the international character of the operation. 68 But that request exceeded the Assembly's appropriations for UNSCOB, that a major part of its expenses had to be provided by the participating Governments. The Soviet Union requested that no portion of its budgetary contribution should be used to defray UNSCOB expenses. 69 The United States supplied logistical support for the mission. 70

UNSCOB had authority from the General Assembly to use its good offices and mediate between the parties. It encouraged bilateral discussions between Greece and its northern neighbours. UNSCOB, even though rebuffed by the northern neighbours of Greece, continued its efforts to communicate with them. The committee received indirectly from the Secretary-General the complaints against Greece made by

67. GA Res. 508(VI) A and B, 7 December 1951.
68. UN General Assembly, A/415 (Mimeo) 18 October 1947.
69. The Soviet Union did not take up its membership in UNSCOB according to GA Res. 109(II) of 21 October 1947.
70. UN General Assembly, A/521 (Mimeo) 9 January 1948, p.33.
Albania and Bulgaria directly to the Secretary-General. Yugoslav complaints were made directly to Greece and never reached UNSCOB. The most important activities of UNSCOB were the operations of the observer teams. The members of these teams acted as individuals and seldom called for instructions from their governments. Their reports went to UNSCOB and were generally included as attachments to the UNSCOB report without any comment. The shift from a pattern of a group of instructed delegates to a group of individuals became even more apparent when UNSCOB turned its functions over to the POC. The POC formed a subcommission of five states which at the request of the Greek Government dispatched six observers to Greece. The observers reported both to the Secretary-General and to the POC. In fact, the reports of the observers were circulated directly by the General Assembly to the UN members, in effect separating the observers from both the POC and its subcommission. When the General Assembly created UNSCOB it clarified two possible methods of operation: (1) observation on both sides of the line and mediation if the northern neighbours of Greece co-operated; (2) observation on one side of the line if the co-operation of the northern neighbours of Greece did not materialise. Thus, the functions of UNSCOB were always clearly defined.

2. The Emergency Force in the Middle East.

On 24 October 1956, Israel invaded Egypt. Two days later Britain and France started to invade Egypt, and their forces had progressed along the Suez Canal to a distance of some 23 miles before a cease-fire came into operation at midnight on 6 November. The crisis had first been considered by the
Security Council, where, on 30 October, Britain and France vetoed a resolution calling on Israel to withdraw and on all members to refrain from the use or threat of force. On the following day the Council decided to convene an Emergency Special Session of the Assembly which, on 2 November, adopted an American-sponsored resolution urging an immediate cease-fire and a halt to the movement of military forces and arms into the area. On 4 November 1956 the General Assembly endorsed a Canadian suggestion that the Secretary-General be asked to submit, within 48 hours, a plan for the establishment 'within the consent of the nations concerned' of a force to 'secure and supervise the cessation of hostilities.'\(^{71}\) Hammarskjöld reported on the matter and as a result the Assembly, on 5 November, decided to establish 'a United Nations Command for an emergency international force,'\(^{72}\) 'to secure and supervise the cessation of hostilities....' On 7 November it approved the Secretary-General's second report, which concerned its organisation and functioning.\(^{73}\)

Egypt raised some questions about UNEF's character and composition, but the Force started to arrive on 15 November and by the end of the month 2,500 men were on duty. Two months later it had been increased to 6,000 officers and soldiers drawn from ten of the members who had offered to supply contingents: they were Brazil, Canada, Colombia, Denmark, Finland, India, Indonesia, Norway, Sweden and Yugoslavia. It took up its position in March on the Egyptian side of the Egyptian-Israeli international frontier and the Armistice

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71. GA Res. 998 (ES-1), 3 November 1956.
72. GA Res. 1000 (ES-1), 5 November 1956.
73. GA Res. 1001 (ES-1), 7 November 1956.
Demarcation line, and remained there till May 1967. The Representative of Canada, Mr Lester Pearson, in his speech to the General Assembly, spoke of the desirability of the UN sending a force to maintain quiet between Israel and Egypt while a political settlement was being worked out. He was encouraged by the United States and others to go ahead with his proposal, and the UNEF was established. On 24 November the General Assembly called for immediate compliance with its resolutions. On 3 December Britain and France notified the Secretary-General that their troops would be withdrawn without delay, and the operation was completed by 22 December. UNEF played a very useful role immediately after its arrival, when tension was high; it took up its position between the Anglo-French and Egyptian forces and so reduced the possibility of a resumption of fighting. Later on, the Assembly decided to place the UNEF on the Egyptian-Israeli armistice line once Israel had withdrawn. This withdrawal was completed by 8 March.

The fact that UNEF was established at a special session of the Assembly called by the Uniting for Peace procedure has led to an assumption that the constitutional authority for UNEF lies in the Uniting for Peace resolution. But this resolution had always been opposed by the Soviet Union and her allies. The Soviet Union has contended that the provisions of Chapter VII do in effect entail a prohibition on the Assembly in respect of the establishment of UN Forces. The United States based the UNEF's existence on certain specific

74. GA Res. 1125 (X-1), 2 February 1957.
75. I.P.K.O. Documents, ibid., No.17.
76. Ibid., No.19.
articles of the Charter - Articles 10, 11, 14 and 22 - but the Soviet Union looking to the same articles has denied that they can provide a legal basis for UNEF. It was only because Egypt consented to UNEF that the Soviet Union abstained on rather than voted against its creation.

The United Nations Emergency Force went to Egypt with the express consent of the Egyptian Government and after the other parties concerned had agreed to a cease-fire. The UNEF was designed not to fight but rather to allow those involved to disengage without further disturbance. In other words, UNEF was a device which would enable all parties to return to the status quo ante with maximum speed and minimum loss of face. Later on the UNEF's mandate was broadened to watch over the armistice lines between Israel and the U.A.R. The object of the UNEF was then preventive. It was to be placed between belligerents to ensure that the armistice is observed, or that a threatening situation does not develop into actual fighting. The element of force was, strictly speaking, minimal; it was military only in being composed of soldiers. The creation and functioning of UNEF was due to many factors, particularly because no interested power could impose a solution alone, and all great and small powers preferred an international controlled solution to a conflict which could develop dangerously into a wider war. It is true that the Soviet view of UNEF has been critical. However, its opposition always remained silent and never reached the proportions of active obstruction. The

77. Ibid., No.17.
Soviet criticism was of a legal and political character, maintaining that only the Security Council, acting under Chapter VII of the Charter, has the power to establish an international police force. But for political reasons the Soviet Union did not vote against the establishing of the UNEF.

The conditions of UNEF laid down by the Secretary-General in his two reports of 4 and 6 November 1956\(^79\) were the necessary basis of its existence and also set the limits to what it might achieve. In summary these principles were:

1. No permanent member of the Security Council or any interested Government should contribute contingents to the Force.
2. The Force should not be used to affect the military or political outcome of the dispute.
3. Its arms should only be used in self-defence, so its success in keeping the peace depended mainly on the readiness of the parties to maintain the cease-fire.
4. It should not be stationed on a State's territory except with that State's consent.

Some of these basic principles proved to be inadequate for later UN Peace-keeping operations, particularly in the Congo case, as was mentioned earlier in Chapter 2. The Secretary-General, in answering a question, said the UNEF would have to function at the dividing line between Egyptian and Israeli forces wherever that might be...while the Force would have to start close to the Canal, it would end up at

\(^79\) UN Documents A/3289 and A/3302. The conditions were later confined in Document A/3943, dated 9 October 1958.
the Armistice Demarcation Line. He said also that its function would be to help maintain quiet during and after the withdrawal of non-Egyptian troops and to secure compliance with the terms of the resolution of 2 November. While emphasising that it was a temporary force, he saw it as staying beyond the immediate crisis for a period which would be determined by the needs arising out of the present conflict. 80

As for the financing of UNEF, the Secretary-General recommended that a special account outside the regular budget be set up for UNEF and that the costs of the force be charged by member States on the basis of the scale of assessments to be adopted for the 1957 budget. The special account was a device for getting funds for the force immediately but it does not bar consideration of UNEF costs as a United Nations expenditure within the general scope and intent of Article 17 of the Charter. This proposal touched off a controversy between the Soviet Union in particular and the United States which culminated in the financial crisis of the United Nations. We shall return to this point later, in Chapter 5.

For ten years UNEF was a buffer between two potential belligerents, in order to prevent a resumption of hostilities. But the events of the second half of 1967 proved that the whole concept of peace-keeping operations may have its shortcomings. Here we touch upon the question of consent which was the subject of much controversy during the Middle East crisis. Consent has been an essential part of the entire

80. UN Document A/3302, paras 7 and 8.
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UNEF scheme. Secretary-General Dag Hammarskjold and Member States were singularly forceful on this point. In his second report to the General Assembly of 6 November 1956 the Secretary-General stressed his view that 'while the General Assembly is enabled to establish the Force...it could not request the Force to be stationed or operate on the territory of a given country.' In resolution 998 (ES-1) the Assembly called for the placing of the UNEF along both sides of the armistice demarcation line. Israel did not accept this proposal, and hence never became a 'host' to UNEF. Egypt was the 'host' to UNEF and the very fact that UNEF was in that country with Egypt's consent led to the establishment of a relationship with the UN which was to serve as an example for subsequent UN peace-keeping.

Actually, the need to have Egyptian consent to the stationing of UNEF troops on territory subject to Egyptian sovereignty has never been challenged by the General Assembly. Indeed, without consent, the operation, by definition, would be enforcement and thus, for the General Assembly at least, illegal, if not politically unsound. In an operation based on the consent of the parties a major problem is the termination of consent. Is there any restriction on the right of a party to retract its consent unilaterally and request the withdrawal of the United Nations force? A good deal of public outrage was directed at Secretary-General U Thant when, in May 1967, he agreed promptly to the request of the United Arab Republic that UNEF leave the country. It has been alleged that the

81. UN Document A/3302, 2nd and final report of the Secretary-General on the plan for an emergency international UN Force, 6 November 1956.
final decision on the withdrawal of UNEF should have been taken only after consideration by the General Assembly. In UN Peace-keeping Operations the host State is the final arbiter of the continued presence of a UN force in its territory. A peace-keeping operation which requires the consent of the parties to begin its task logically requires their consent throughout its duration, which means that the parties have the right to cancel their consent at any time unless they agree, either formally or tacitly, to a limitation of this right. There was no such explicit agreement in the case of UNEF. The question remains, however, whether there was an implied limitation on U.A.R.'s right to end the operation, based on the general agreements between Egypt as host State and the United Nations on the presence and functioning of the Force, or based on the nature of the relationship between the United Nations and Egypt.

The only agreement between the United Nations and Egypt relating in any way to the withdrawal of UNEF was a reciprocal pledge of good faith in all matters concerning the presence and functioning of the Force. The Government of Egypt declared that:

When exercising its sovereign rights on any matter concerning the presence and functioning of UNEF, it will be guided, in good faith, by its acceptance of General Assembly resolution 1000 (ES-1) of 5 November 1956.

The UN for its part declared:

The activities of UNEF will be guided, in good faith, by the task established for the Force, in particular, the United Nations understanding this to correspond to the wishes of the Government of Egypt, reaffirms its willingness to maintain UNEF until its task is completed.

82. UN Document A/3575 (the good faith aide memoir of 20 November 1956) Annex to the report.
The Secretary-General himself did not offer any interpretation of the 'good faith' aide-memoir to the General Assembly or make any statement questioning the remarks made by the Foreign Minister of Egypt in the General Assembly the following week. He said, 'We still believe...the General Assembly could not request the United Nations Emergency Force to be stationed or to operate on the territory of a given country without the consent of the Government of that country.' It would appear, however, that in an exchange of cables he had sought to obtain the express acknowledgement from Egypt that its consent to the presence of the Force would not be withdrawn before the Force had completed its task. Egypt did not accept this interpretation but held to the view that if its consent was no longer maintained the Force should be withdrawn. Subsequent discussions between Mr Hammarskjöld and President Nasser resulted in the above-mentioned 'good faith' aide-memoir.

This understanding could relate only to General Assembly Resolution 1000 (ES-1) of 5 November 1956 which defined the task of UNEF in very general terms as being to 'secure and supervise the cessation of hostilities.' Once UNEF was deployed and hostilities ceased, it can be said that the task of the Force was completed. Therefore, the good faith pledge could not have any relevance to the later function defined for UNEF by the General Assembly on 2 February 1957 (Res. 1125(XI)). But a personal memorandum of Secretary-General Dag Hammarskhold reveals that he understood the 'good faith' agreement as a limitation to the right of Egypt to revoke its consent on the presence of UNEF on its territory. The memorandum, dated 5 August 1957, was not an official UN document, and had never been made public until it was released during the controversy
over the withdrawal of UNEF by Ernest Gross, a former United States representative to the United Nations, who had been a legal consultant to Dag Hammarskjold. On its release, the United Arab Republic dismissed it as having no legal or political binding force, and Secretary-General U Thant said that the government of the United Arab Republic knew nothing about it and was in no way bound by it. Moreover, it is not clear from the memorandum whether the Egyptian Government agreed even privately to the interpretation given by Dag Hammarskjold. 83

But can we say that there is an implied limitation on U.A.R.'s rights to end the UN operation based on the nature of the relationship between the United Nations and Egypt? Some have thought so. 84 The argument is that the United Arab Republic had an obligation not to end UNEF operation without the concurrence of the United Nations because it accepted the Force without a specific reservation of a right to retract consent on its own. This argument is based on a doubtful presumption in favour of the United Nations authority as opposed to the sovereign authority of a State. Actually the purpose of the operation is not to place the parties under the authority of the United Nations or to reduce their sovereign rights; it is rather based on cooperation and therefore it is reasonable to assume that the state retains whatever rights it has not specifically modified by agreement. From the above discussion we can conclude that any UN peace-keeping operation

84. Tandon, Y. 'UNEF, the Secretary-General and International Diplomacy in the Third Arab-Israeli War' in International Organisation, Vol. XXII, Number 2, Spring 1968, p.530.
is based on the principle of consent as to the authorisation, the functioning or the withdrawal of the international force. Otherwise it would turn itself into a sanctions force, appropriate only to Security Council enforcement action according to Chapter VII of the Charter.

UNEF made a very important contribution towards achieving stability along the Armistice Demarcation Line and the international frontier; this was a great improvement in the situation. But it did not change the attitude of the parties because the fundamental problem remained unsolved; therefore, it seemed that the pacific attitude had little to do with the presence of the Force. When the tension between Syria and Israel reached a high level in 1967, Egypt asked for the immediate withdrawal of UNEF from the frontier. On 6 June the third Arab-Israeli war started. The Security Council could do nothing till 22 November 1967 when the Council unanimously affirmed that a just and lasting peace settlement must include an Israeli withdrawal from the territories which she had occupied since June 1967, and the 'termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.' The resolution noted also the need for a just settlement of the refugee problem and free navigation through international waterways. The Secretary-General was asked to send a Special Representative

85. SC Res. 242, 22 November 1967.
to the Middle East and he appointed Mr Gunnar Jarring, Sweden's Ambassador to the Soviet Union, to the post. The Special Representative set up his headquarters in Nicosia, but as he could make no progress he proposed that his mission should be transferred from the Middle East to the UN headquarters in New York. The parties agreed, but there was still no progress. In fact both superpowers have an interest in keeping the peace in the area, but it was clear that they were not going to adopt an active line to solve the problem till the outbreak of war again on 6 October 1973.

It was the eight nonaligned Members of the Security Council - Guinea, India, Indonesia, Kenya, Panama, Peru, Sudan and Yugoslavia - which proposed the dispatch of an Emergency Force after two cease-fire resolutions sponsored by the Soviet Union and the United States had failed to stop the new war. The first resolution adopted by the Council on 22 October 1973 called for the parties to the dispute to cease fire and end all military activities within 12 hours. It also called on all parties to begin immediately following the cease-fire to apply Security Council Resolution 242 of 22 November 1967 in all its parts, which included Israeli withdrawal from territories occupied in the June 1967 war, as well as security for all within recognised boundaries. Moreover, the Security Council decided under Resolution 338 that at the same time a cease-fire was carried out talks should begin between the parties concerned under proper supervision with the aim of establishing a just and permanent peace in the Middle East. The second cease-fire resolution, adopted by the Security Council on 23 October urged withdrawal to the 22 October 1973 positions and called for the dispatch of UN Observers. Observers were already
functioning on the Syrian-Israeli front and their operation was later adjusted to take account of the new military situation. The resolution of the non-aligned States, adopted by the Council in its Resolution 340 of 25 October 1973, called for an augmented observer operation on the Suez Canal front and provided for the establishment of a UN Force which would exclude participation by the Council's five permanent Members.

Advance units drawn from the UN Force in Cyprus were on the spot within 24 hours. The Security Council then decided under Resolution 341 of 27 October 1973 to set up a 7,000-man Force for an initial period of six months, and continue in operation thereafter if the Council so decided. Its functions are to supervise the observance of the cease-fire and the return of forces to 22 October 1973 positions, to use its best efforts to prevent a recurrence of fighting, and to co-operate in the humanitarian efforts of the Red Cross.

The dispatch of UNEF was followed by several important events. On 11 November 1973 an Egyptian-Israeli agreement covering a number of major problems was signed by the Military Chiefs of Staff of the two countries and by the UNEF Commander at Kilometer 101 on the Cairo-Suez Road. Worked out with the help of US Secretary of State, Dr Kissinger, it was welcomed by the Secretary-General of the United Nations as a very important step toward peace. Most of its provisions were swiftly put into effect under UN auspices - unhindered non-military supplies for the town of Suez and Egyptian units on the East Bank of the Canal, exchange of war prisoners, and evacuation of wounded civilians from Suez, and the replacement of Israeli by UN checkpoints on the Cairo-Suez Road.
Disengagement and separation of forces proved more troublesome, but on 18 January 1974 an agreement was concluded, and on the 24th a detailed plan for carrying it out was signed. It was emphasised that this was not a definitive settlement, but a first step towards a final, just and durable peace, in accordance with the Security Council resolution of 22 October 1973, and within the framework of the Geneva Peace Conference.

In accordance with Resolution 338 of 22 October 1973, the first stage of the Middle East Peace Conference was held in Geneva late in December 1973, under the sponsorship of the Soviet Union and the United States, and presided over by the Secretary-General of the United Nations. It heard Egypt, Jordan and Israel outline their hopes for the future. There is yet no indication as to when the second stage of the Geneva Conference will be convened. The Secretary-General has warned that facing all the other aspects of the Middle East question that have to be dealt with will be a long, hard task demanding courage, statesmanship and patience.

"I have no illusions as to the difficulties, but I believe that all the parties are determined to succeed. If that is so, it should be possible to reach at last the goal of peace with honour and justice in the Middle East." 86

With disengagement completed, there are three strips averaging roughly ten kilometres in width each and running North-South on the eastern side of the Suez Canal. The middle one is a buffer zone occupied by UNEF. The Egyptian forces in

the western strip and the Israeli in the eastern are subject to limitations of armaments, which are checked by UNEF and UNTSO Observers. The Secretary-General has emphasised that there is good co-operation between all parties trying to solve the Middle East problem and that he did not see any rivalry in the matter. He observed that the UN was not just watching; the Organization was constantly involved in contacts with all concerned. Mr Waldheim made this point:

"I can only welcome the fact that for the first time the two superpowers are ready to engage themselves, as they done it directly in the efforts to achieve a lasting settlement of the Middle East question and they also insist on cooperating fully with the United Nations." 87

Meanwhile, various consultations and contacts were taking place regarding the possibilities for disengagement and separation of forces on the Syrian-Israeli front. On 31 May 1974, Syria and Israel signed in Geneva a military disengagement agreement. The guns, which for some three months had been firing with escalating intensity in the Golan Heights, finally fell silent. General Ensio Siilasvuo of Finland who signed for the United Nations as an observer and who, four months earlier, had witnessed the signing of the Disengagement Agreement between Egypt and Israel said that "Although the present agreement is not a peace treaty, no one can deny that it represents a milestone in the unceasing efforts to achieve a just and lasting peace in the Middle East...I have the strong conviction that this historic agreement may well turn out to be that giant and courageous

87. Ibid.
step that brought us to the threshold of a new era of trust, justice and peace in the Middle East.\textsuperscript{88}

Within a few hours of the signing in Geneva, the UN Security Council met in New York to set up a new peace-keeping operation – UNDOF – the United Nations Disengagement Observer Force between Syria and Israel.\textsuperscript{89}

As authorised for an initial six-month period, the new force was drawn primarily from UNEF contingents serving in the buffer zone between Egyptian and Israeli forces in the Sinai Desert. Drawing also observers from the long-standing UN Truce Supervision Organization in the area, UNDOF comprises a total of some 1,200 men.

The Council acted on the basis of a resolution jointly sponsored by the United States and the Soviet Union. It was introduced by US Ambassador John Scali, who said that the new accord, together with the earlier Disengagement Agreement between Egypt and Israel, would open the way to progress at the Geneva Peace Conference towards an enduring Mid-east settlement. He said:

"We are pleased that the United States, through the efforts of Secretary Kissinger, was privileged to help bring about this agreement. We express our appreciation also for the cooperation of the Soviet Union as reflected in the three conversations which the Secretary of State and the Foreign Minister have held in recent weeks."\textsuperscript{90}

The Council, said Mr Scali, was being asked to take the next critical step in the hoped-for quickening movement towards a permanent peace.

\textsuperscript{88} Palais de Nations, Geneva, 31 May 1974.
\textsuperscript{89} Security Council, 1774th meeting, 31 May 1974.
\textsuperscript{90} Ibid.
For the Soviet Union, Ambassador Yakov Malik told the Security Council:

"The Soviet Union, as a participant in the numerous contacts in the preparations for the Agreement on the Disengagement of Syrian and Israeli troops, favourably assesses the agreement that has been achieved...At the same time, the Soviet Union considers it necessary to stress that this troop Disengagement Agreement is only a step towards the fulfilment of the major task, which is the total liberation of the Arab territories from Israeli occupation. This task must be performed if all interested parties genuinely wish to achieve a just and lasting peace in the Middle East. The Geneva Peace Conference on the Middle East accordingly is faced with a serious task: that of finding on this basis a solution to the Middle East problem in the interests of peace, security and the protection of the legitimate interests of all States and peoples of that region, including the Arab people of Palestine. The Soviet Union will continue to do everything in its power and everything possible along these lines, in its role as a participant in the Geneva Conference."  

The Resolution setting up the new Disengagement Observer Force was approved by 13 votes in favour to none against. China, which does not favour the dispatch of UN Peace-keeping Forces in general, disassociated herself from the decision. So did Iraq. Many speakers hailed the Council action as falling squarely within its central role of preventing war and maintaining international peace and security, and as showing that the UN is inextricably linked to the task of creating peace in the Middle East.  

The Council agreed to Secretary-General Kurt Waldheim's plan to set up UNDOF on the basis of the same principles approved for UNEF, and to draw on the latter's Peruvian and Austrian contingents and Canadian and Polish logistical elements along with UNTSO observers. General Gonzalo Briceno, Peruvian Commander of UNEF's northern brigade, was named

91. Ibid. (Russian, then translation).
92. Ibid.
interim commander of the new force in the Golan Heights, and General Siilasvuo, who commands UNEF, was later named to co-ordinate all the Mideast operations.

Like the Egyptian-Israeli Agreement before it, the new Syrian-Israeli Military Disengagement Accord provided for a United Nations buffer zone, with a thinning out of forces and armaments on either side. There were also specific timetables for carrying out its provisions. Accordingly, within 24 hours of the signing in Geneva, on 1 June, all Syrian and Israeli wounded prisoners of war were repatriated, and work was begun on a detailed plan for carrying out the separation and disengagement of forces. On 5 June 1974, at the signing of another agreement in Geneva, General Siilasvuo said:

"With the completion of our work, the process of disengagement and separation of forces will begin tomorrow. I want to congratulate particularly the Israeli and Syrian representatives for their cooperation and understanding throughout the talks held here in Geneva. I am sure I discern a sign, however feeble, of a desirable change of attitude." 93

He also welcomed the participation of representatives of the Soviet Union and the United States in the military working group as Co-Chairmen of the Geneva Conference. The two powers, he added, had thus again underlined their determination to cooperate in building a new structure of peace in the area. 94

On 6 June, UNDOF began operations as disengagement got under way, and all remaining Syrian and Israeli prisoners of war were repatriated. Meanwhile, the Secretary-General of the UN also had occasion to observe a new atmosphere in the area. Following talks with President Nixon and Secretary of State

94. Ibid.
Kissinger in Washington, the Secretary-General had an opportunity to discuss the situation with government leaders in Lebanon, Syria, Israel, Jordan and Egypt. He was able to meet with all the senior UN military personnel and to visit all the peace-keeping operations, including UNDOF. As for his personal impression of the UN soldiers of peace who come from different parts of the world, he said:

"I am happy to say that there is an excellent cooperation between the different nationalities. There is comradeship and they help each other... and they are also full of idealism. They see a real task, a task for peace...In other words, they are really representing the spirit of the United Nations, and I think this is a very important contribution to the efforts in the political field to find a solution of the Middle East problem."\(^{95}\)

In summing up his trip to the Middle East, Mr Waldheim commented:

"Well, I think that it was a very useful experience and a necessary trip...I am convinced that we have reached a turning point in the Middle East with the Disengagement Agreements. I noticed a change in the political climate. There is more confidence in a settlement of the outstanding questions."\(^{96}\)

While expressing enthusiasm about the Disengagement Agreement, the Secretary-General warned that this did not mean that a just and durable peace was at hand. He emphasised that long and active efforts would be needed to come to solve the problems. The Secretary-General was also asked about the resumption of the Geneva Peace Conference, and said in reply:

"Well, there are different opinions. There are some Governments which feel that the Conference should be convened as soon as possible in order to use the momentum. But there are other Governments which prefer a later beginning so that the parties and the Governments can absorb what has been achieved during

\(^{96}\) Ibid.
the last weeks and months, to prepare carefully the Conference, and then only to resume the second phase of the Geneva Conference. So, we have to see how things develop now within the next few weeks, and only then it will be possible to decide when the Geneva Conference can be reconvened."97

The disengagement between forces was merely a first step towards a settlement of the Middle East problem, and the continued functioning of the Emergency Forces was fundamental, not only to the maintenance of quiet on the fronts, but also in order to help, if requested, in efforts to reach a just and durable peace in the area. The Security Council adopted its resolution 246 of 8 April 1974 which called for the renewal of the United Nations Emergency Mandate for another six months, and renewed it for a further six months under resolution 362 of 23 October 1974. But it noted that the general situation in the Middle East would continue basically unstable so long as problems which are at the root of the dispute remained unsolved. Therefore efforts were made during February and March 1975 to reach another disengagement agreement with the aim of paving the way for the Geneva Conference, where the main issues could be discussed in order to set up a just and permanent peace in the Middle East. Nevertheless, these efforts failed. In spite of this and for the purpose of defusing the explosive situation, President Sadat of Egypt decided to re-open the Suez Canal to international navigation. He ordered the implementation of an intensive plan for the reconstruction of the Canal cities and some 600,000 citizens have returned to their homes to date.98 In addition, the Egyptian Government

97. Ibid.
98. From the letter which Deputy Premier and Minister of Foreign Affairs of Egypt addressed to the Secretary-General of the United Nations on 14 July 1975.
decided to renew the mandate of the UNEF for an additional three months, so as not to negate the efforts of the mission as a preliminary step towards the implementation of the Security Council resolutions. The Egyptian Government informed the Secretary-General that it should be pointed out that until further steps towards peace are taken, extension of the Mandate of the United Nations Emergency Force by the Security Council would be at variance with the Council's objective in establishing the force, in that it would tend to turn the quiet into stagnation and consequently perpetuate the Israeli occupation. In his letter to the Secretary-General of the United Nations the Egyptian Minister of Foreign Affairs said "While Egypt does not agree to the extension of the UNEF Mandate, it does not object to the UN Security Council taking the actions it deems fit within its powers in accordance with the United Nations Charter." The Egyptian Government pointed out in the above-mentioned letter that until further steps towards peace have been taken, Egypt cannot extend the mandate of the UNEF.

The Security Council voted on 24 July 1975 to extend for three months the mandate of the United Nations emergency force in Sinai. The extension was approved by 13 of the 15 Council members after China and Iraq dissociated themselves from the resolution. The Council vote was taken only six hours before the old mandate was due to run out, after snags arose over the wording of the resolution. The issue was resolved when the Italian Ambassador Mr Eugenio Plaja, the Council President, agreed to make an opening statement expressing his appreciation.

99. Ibid.
100. Ibid.
to the Government of Egypt for its positive response to the appeal sent by him to President Sadat on 21 July 1975.\textsuperscript{101} The Council's resolution expressed concern at the continued state of tension in the area and the lack of progress towards achievement of a just and lasting peace in the Middle East.

3. The UN in West Irian.

The dispute between Indonesia and the Netherlands over West Irian involved the UN in another unprecedented role. The western half of the island of New Guinea was governed as part of the Netherlands East Indies prior to the establishment of an independent Indonesia. However, the political status of West New Guinea was not settled by agreements leading to the independence of Indonesia. The Netherlands claimed that its sovereignty over the territory was unaffected by the Charter of Transfer of Sovereignty, while Indonesia maintained that West New Guinea became an integral part of its territory on the date of Indonesia's independence. The Netherlands continued to administer the territory. The dispute was brought before the General Assembly from 1954 to 1961 without any significant change in the position of either party. During December 1961 and January 1962 a number of serious clashes took place between Dutch and Indonesian troops. The United Nations Secretary-General arranged for Dutch and Indonesian delegations to negotiate in the presence of a moderator, Ambassador Ellsworth Bunker of the United States. An agreement for the transfer of administration from the Netherlands was signed on 15 August 1962. On 21 September

\textsuperscript{101} Canberra Times, The Australian, 26 July 1975.
1962 the General Assembly passed a resolution approving the Agreement concluded between Indonesia and the Netherlands acknowledging the role conferred upon the Secretary-General in the Agreement. The Agreement which the Assembly approved included a provision that the Secretary-General should provide such security forces as the UN Administration should deem necessary. In fact, the Agreement provided for the United Nations to assume a number of functions which involved peace observation and fact-finding, during the period before the transfer of administrative authority to Indonesia, which turned out to be 1 May 1965. General Rikkye, senior military adviser to the Secretary-General, arrived in West Irian on 17 August 1962 before the General Assembly had considered the Agreement and consented to assume the functions assigned to it.

The Agreement between the Netherlands and Indonesia provided for two phases of United Nations operations. During the first period, after the cessation of hostilities on 18 August 1962, the Secretary-General agreed to undertake the following functions:

1. to observe the implementation of the cease-fire by both parties and their agreement not to reinforce their military forces.
2. to take necessary steps for the prevention of any acts endangering the security of the forces of both parties.
3. to receive reports of any incidents and take the necessary measures to resolve the situation in consultations with both parties.

102. GA Res. 1752 (XVII).
4. to make advance arrangements to permit the rapid installation of a UN Temporary Executive Authority (UNTEA) on General Assembly approval of the agreement between the Netherlands and Indonesia. 104

During the second period after the General Assembly's approval of the agreement, the functions conferred on the Secretary-General were as follows:

1. Administration of the territory would be transferred from the Netherlands to a UN Temporary Executive Authority under the jurisdiction of the Secretary-General. A UN administrator acceptable to Indonesia and the Netherlands would be appointed by the Secretary-General and would have full authority under the direction of the Secretary-General to administer the territory for the period of the UNTEA administration. 105

2. The Secretary-General would supply UNTEA with such security forces as the administrator deemed necessary. Moreover, UNTEA had responsibilities in connection with advancing the education of the inhabitants, responsibilities that continued even after the transfer of administrative responsibility to Indonesia. The agreement described in detail the participation of the Secretary-General in the act of self-determination.

During the period from the cessation of hostilities until the establishment of UNTEA on 1 October 1962, the functions assigned to the Secretary-General were performed by the military adviser to the Secretary-General, Brigadier

104. Ibid., Annex B, p.11.
General Rikhye, and twenty-one military observers provided by six member states - Brazil, Ceylon, India, Ireland, Nigeria and Sweden. Their duties were to assist the Dutch and Indonesian troops in preparing for the take-over of authority of UNTEA in October. On 21 September 1962, the United Nations observer team reported that it had completed its task. In accordance with the General Assembly recommendation, the Secretary-General's representative arrived in the territory and prepared a detailed plan for the transfer of authority to UNTEA. 106

UN Administrator Dr D.J. Abdoh was appointed on 24 October 1962; he re-organised the civilian administrator by replacing 18 top Dutch officials with United Nations-appointed personnel.

Thus the objectives of UN activities in connection with the transfer of West Irian from the Netherlands to Indonesia went far beyond peace observation and even peace-keeping. For example, UNTEA had for a time full administrative responsibility for the territory, the duty of supervising the replacement of Dutch officials, and duties in connection with providing economic assistance. The Agreement on West Irian gave to the Secretary-General an authority of considerable scope. UNTEA was to be established by and under his jurisdiction and not the Security Council's, and he was also to provide UN security forces. All permanent members of the Security Council voted in favour of the resolution. The affirmative vote

of the Soviet Union runs to some extent against their strongly argued position on the right limits to the authority of both the Secretary-General and the General Assembly, because Russia was supporting the Indonesian cause in the crisis and the agreement was acceptable to Indonesia. The UNTEA military forces consisted of approximately 1,500 UN troops, 350 Papuan troops – originally officered by Dutch but later by Indonesians – and almost 1,500 Indonesian troops, all under the command of UNTEA. The UN troops, apart from some Canadian and US pilots, were all Pakistanis. This was the first instance of a UN operation with personnel from only one country. The full costs of the operations were shared by the Dutch and the Indonesians, thus avoiding some of the problems that have confronted the United Nations in other cases. This point will be discussed later on. The United Nations contingent was completely withdrawn on 1 May 1963, when the Indonesian Government assumed authority.

The UN operation in West Irian was successful in implementing the agreement for cessation of hostilities, and achieved the transfer of authority from the Dutch to the Indonesians with a minimum of violence. The time element was most significant. The cease-fire was signed on 12 August 1962, the first observers arrived on 17 August, and the preliminary task was completed by the first of October. The General Assembly authorised the formation of UNTEA on 21 September. UNTEA and its military force arrived on 1 October and completed its main tasks by 1 May 1963. The UN Secretariat proved its ability to take on these functions in such a short time.
PART TWO

THE POLITICAL AND CONSTITUTIONAL PROBLEMS

Chapter 4

The Strategy and Tactics of the Secretary-General

1. The Secretary-General and the Employment of the Secretariat.

The Secretary-General is appointed by the General Assembly upon the recommendation of the Security Council.\(^{107}\) The role of these bodies is limited to procedures of the selection, and once he is elected he is protected against the pressure of all Members during his term of office. The recommendation for appointment from the Security Council is not regarded as a procedural matter, so it is subject to the veto. The existence of the veto has meant that, in practice, the person recommended to the Assembly must have been approved by the major powers.

The Charter emphasises the personal responsibility of the Secretary-General. 'The staff shall be appointed by the Secretary-General.'\(^{108}\) It is he who is responsible for appointment of all members of the Secretariat and for the manner in which they carry out their tasks. It is evident from Article 101 that a 'paramount consideration in the employment of the staff in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due

\(^{107}\) Article 97 of the Charter of the UN.
\(^{108}\) Article 101, para 1.
regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible'. This Article would suggest a special qualification in the employment of the Secretariat staff, but the principle of geographical distribution is also taken into account. The Secretary-General did not interpret the principle as meaning that the citizens of a particular country should have a specified number of posts, nor that they should receive a particular percentage of the total salaries. Rather, he clarified: "in the first place, the administration should be satisfied that the Secretariat is enriched by the experience and culture which each member nation can furnish and that each Member nation should, in its turn, be satisfied that its own culture and philosophy make a full contribution to the Secretariat." Article 101 could be interpreted as intended to accord priority to considerations of efficiency and competence over those of geographical representation.

Article 100 of the Charter provides that the Secretary-General and his staff "...shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization." Meanwhile the Charter legally assures the Secretary-General and his staff protection against certain acts. "Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence

them in the discharge of their responsibilities."\textsuperscript{110} Article 105 provides that the Organization shall enjoy in the territory of each member such privileges and immunities as are necessary for the fulfilment of its purposes. Also, officials of the Organization "shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization."\textsuperscript{111} These privileges and immunities have been defined in international agreements approved by the General Assembly. The most important are the Convention on Privileges and Immunities of the United Nations of 13 February 1946,\textsuperscript{112} and the Headquarters Agreement between the United States and the United Nations of 31 October 1947.\textsuperscript{113} Therefore, there are two essential principles of the permanent Secretariat. Firstly, its international composition, a principle finding legal expression in Article 101 of the UN Charter. The second principle concerns its international responsibilities, and is based in Articles 100 and 105 of the Charter. In his last speech, which was made to the Secretariat staff on the occasion of Staff Day in the General Assembly Hall, Dag Hammarskjöld clarified his reasoning when he said: "At stake is a basic question of principle: Is the Secretariat to develop as an international Secretariat, with full independence contemplated in Article 100 of the Charter, or is it to be looked upon as an intergovernmental - not international - secretariat providing merely the necessary administrative

\textsuperscript{110} Article 100, para 2.  
\textsuperscript{111} Article 105, para 2.  
\textsuperscript{112} UN Doc. A/43, Annex 1, pp.687-93.  
\textsuperscript{113} General Assembly Resolution 169(11).
services for a conference machinery? This is a basic question and the answer to it affects not only the working of the Secretariat but the whole future of international relations. If the Secretariat is regarded as truly international, and its individual members as owing no allegiance to any national government, then the Secretariat may develop as an instrument for the preservation of peace and security of increasing significance and responsibilities. If a contrary view were to be taken the Secretariat itself would not be available to member governments as an instrument, additional to the normal diplomatic methods, for active and growing service in the common interest."  

The Secretariat comprises the Secretary-General together with the staff appointed by him. The Secretary-General is designated as the chief administrative officer not of the Secretariat but of the Organization as a whole (Article 97). It is the office of the Secretary-General, rather than the Secretariat, which has been referred to in Article 7 of the Charter as the sixth principal organ of the United Nations, since his authority extends over the Secretariat as a whole. The Secretary-General "is the only elected officer in principle representing all members." As Secretary-General, Dag Hammarskjold paid much attention to having a unified

115. Article 7, para 1. 'There are established as the principal organs of the United Nations, a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.'
116. From Dag Hammarskjold address at the special Convocation and dedicatory celebration marking the completion and occupancy of the new Law Building of the University of Chicago, Law School, Chicago, 1 May 1960, Foote (ed.), ibid., p.335.
executive in the office of the Secretary-General for the constitutional development and growing influence of the United Nations. He noted that a weak or non-existent executive would mean that the United Nations would no longer be able to serve as an effective instrument for active protection of the interests of those many Members who need such protection. This policy was noted clearly when Nikita Khrushchev, then Chairman of the Council of Ministers of the Soviet Union, proposed to "set up, in the place of a Secretary-General who is at present the interpreter and executor of the decisions of the General Assembly and the Security Council, a collective executive organ of the United Nations consisting of three persons each of whom would represent a certain group of States. That would provide a definite guarantee that the work of the United Nations executive organ would not be carried on to the detriment of any one of these group of States..."\textsuperscript{117} The Soviet Union argued that "any Secretary-General could be the impartial representative of three different groups of States...." The Secretary-General confirmed that there was nothing in the Charter which puts responsibility of the kind of the Congo Operation on the shoulders of the Secretary-General or makes him the independent master of such an operation. It was the Security Council which, without any dissenting vote, gave this mandate to the Secretary-General.\textsuperscript{118}

\textsuperscript{117} General Assembly, Official Records, 15th year, Plenary meeting 869 (23 September 1960), para 272-85 and meeting 871 (26 September 1960), 882 (3 October 1960) and 883 (3 October 1960).
\textsuperscript{118} Ibid.
2. Administrative and Political Functions for the Secretary-General.

In Article 97 of the United Nations Charter the Secretary-General is characterised as the 'chief administrative officer of the Organization.' In that capacity his role can be described as limited to administrative problems outside the sphere of political conflicts. But that is not all. Article 98 provides that the Secretary-General 'shall perform such other functions as are entrusted to him by these organs.' This entitles the General Assembly and the Security Council to entrust the Secretary-General with political responsibilities. The Charter provides the Secretary-General with explicit political responsibilities. This is made more explicit in Article 99 than in any other. 'The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security....' This Article carries with it an implied political responsibility to assess such matters, and conducting inquiries and informal diplomatic activities in order to form his opinion. Thus, the Secretary-General is an official entrusted both with a political role as well as administrative functions. In his Oxford University speech Hammarskjöld said: "It was Article 99 more than any other which was considered by the drafters of the Charter to have transformed the Secretary-General of the United Nations from a purely administrative official to one with an explicit political responsibility."119

The administrative problems of the Secretariat (the financial structure, terms of employment and similar questions) had been successfully dealt with by the end of the first Secretary-

General's tenure of office. As for the political problems, these were not of great importance. Through the whole period of Tlygve Lie's office, the Security Council and the General Assembly were very much under the influence of the Western Powers. The Latin American countries at that time constituted the largest interest group in the UN, which made it easy for the Western Powers to pass any resolution. The General Assembly session of 1955 was a turning point in the history of the United Nations, and from then on the influence of the Western Powers has constantly decreased. In that session, the United Nations admitted 16 new members, mostly from Africa, and thereby started the massive expansion of its membership, which made it difficult for the Western Powers to dominate decisions on situations threatening international peace and security. This significant change in the composition and functioning of the Organization enabled Dag Hammarskjöld to promote the role of the Secretariat through the methods of reconciliation on the basis of the purposes and principles of the Charter of the United Nations. His success with the conciliation technique in the Suez crisis of 1956 led to direct involvement of the UN in a number of major political affairs.

The Security Council was frequently paralysed by the veto because of clashes of interest within the orbit of Cold War conflicts, and as membership increased it also became difficult to obtain a two-thirds majority vote in the General Assembly.

120. They were Argentina, Bolivia, Brazil, Chile, Colombia, Haiti, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.
121. There are 51 original members.
Therefore, the effectiveness of the United Nations has become increasingly dependent on the Secretary-General. The vast majority of member Governments, many of them from the third world, were willing to vest responsibility in him because of their wish not to be aligned with one or the other power bloc. Therefore, we could say that there was a desire from all Members, including the major powers, that the Secretary-General should be supplied with a specific political role. Consequently, there are no limits to the duties which the Organization may assign to the Secretary-General in political disputes. Sometimes it will be departing from the basic concept of the Charter if he is not permitted to take a stand on political issues in response to requests of the General Assembly or the Security Council.\footnote{Articles 98 and 99 of the Charter. \footnote{Chapter 2 and 3, and see pp.107-110.}} Several examples in Chapters 2 and 3 demonstrate the attitude of the organs in providing the Secretary-General with tasks that have obliged him to practise his duties in the field, on his own initiative but within the framework of international law and resolutions already taken.\footnote{Chapter 2 and 3, and see pp.107-110.} In some cases, such as the Congo operations, a wide authority was delegated to the Secretary-General in matters of peace and security.

3. **Changing Roles.**

The efforts of successive Secretaries-General had developed over the years on the basis of the Charter. The role of each Secretary-General was different according to circumstances. The years following World War II were marked by high tension. The Cold War made it difficult for the Secretary-General to intervene effectively in any controversy
involving the interests of the major Powers. Yet Trygve Lie, the first Secretary-General, gained support from the major Powers for his assertion of the Secretary-General's right to make any enquiries or investigations he thought necessary to determine whether or not he should bring any aspect of a matter to the attention of the Security Council under the provision of the Charter. \(^{124}\) At the start of his administration, Lie was quite cautious. He stated, "Your Secretary-General is not called upon to formulate the policy of the United Nations... the lines of that policy are laid down in the Charter and determined by decisions of the different relevant organs of the United Nations. The task of the Secretariat will be to assist all those organs of the United Nations in preparing and carrying out all decisions taken by them in order to make the policy program of the Charter a living reality." \(^{125}\) Lie's thinking underwent a marked change during the Korean War, in regard to global action in the face of a great power. He found it possible to write, in the Introduction to Sixth Annual Report in September 1951, that "the founding of the United Nations was motivated by a far more fundamental and lasting concept concerning the world than a passing war-time alliance of Great Powers." \(^{126}\)

Despite Lie's early efforts, however, the field remained largely unexplored, and it fell to Dag Hammarskjöld to develop

more fully the Secretary-General's role. In fact Hammarskjöld not only maintained the powers of the Office as initially constructed by Lie, but expanded its role far beyond the limits dreamed possible by the Organization's founding drafters. Hammarskjöld was the first Secretary-General to illustrate the capacity of the world organization for independent behaviour. He was well aware of the limits of his independent activities and sought to strengthen his position by seeking informal approval from members of the Security Council. But he passionately defended his right to exercise "good offices" without a formal decision by a United Nations organ. He firmly held that such a right was within the competence of the Secretary-General and in all respects in strict accordance with the Charter, provided it was exercised in order to assist in achieving the purposes of the Charter.

At a press conference in May 1953 Hammarskjöld said: "I think the right of initiative in a certain sense, informally of the Secretary-General goes far beyond what is described in the Charter provided that he observes the proper forms, chooses his approaches with tact and avoids acting in such a way as to say, counteract his own purpose this is to say, by his own initiative further the development but at the same time not introducing unnecessary complications." Following his election to a second term as Secretary-General in September 1957 he said: "I do not believe that the Secretary-General should be asked to act, by the Member States, if no guidance for his action is to be found either in the Charter

or in the decisions of the main organs of the United Nations, within the limits thus set. However, I believe it to be his duty to use his office, and indeed, the machinery of the Organization, to its utmost capacity and to the full extent permitted at each stage by practical circumstances. On the other hand I believe that it is in keeping with the philosophy of the Charter that the Secretary-General should be expected to act also without such guidance, should this appear to him necessary in order to help in filling any vacuum that may appear in the systems which the Charter and traditional diplomacy provide for the safeguarding of peace and security. In fact, this "vacuum policy" was regarded by the Secretary-General as an appropriate legal interpretation of the Secretary-General's independent powers under the Charter. His general thinking was based on a very liberal legal interpretation of the Charter; he considered an action legal and appropriate when it did not violate any specific provisions of the Charter and when it was in accordance with the Purposes and Principles of the Organization. He noted also that new working methods could be created to realise the goals of the international cooperation.

128. Foote (ed.), ibid., p. 150.

129. Foote (ed.), ibid., p. 223. On this question he stated in his 1959 Introduction: 'The Charter as an international treaty establishes certain goals for international co-operation and creates certain organs which the Member States may use in their co-operation towards these goals. The statement of objectives in the Charter is binding and so are the rules concerning the various organs and their competence, but it is not necessary to regard the working methods as indicated in the Charter as limitative in purpose. Thus, they may be supplemented by others under the pressure of circumstances and in the light of experience if these additional procedures are not in conflict with what is prescribed.'
U Thant stated that the UN Secretary-General had a political role to play if he was to be of real assistance to Member States in a dynamic and imaginative search for peace and for the realization of the purposes and principles of the Organization. Stable and agreed practices were developed by U Thant on the basis of Hammarskjöld's actions although U Thant did not merely continue what his predecessors had begun. In his own words: "The efforts and experiences, achievements and failures of successive Secretaries-General are the raw materials out of which the Office had developed over the years on the basis of the very general description which is given in the Charter. While the fundamental objectives of the Charter remain, circumstances change, new opportunities for development present themselves - and sometimes new obstacles appear. Things that were possible for one Secretary-General are no longer possible for his successor, and vice versa. There are times when action, dynamism and innovation are in demand, and other times when Governments shun them like the plague. The Office is, of necessity developed through trial and error and in response to the demands and challenges of the passing years. Each Secretary-General must build as best he can on the Office as he inherited it. If he cannot hope to repeat all the successes of his predecessors, neither should he fear to try again where they failed."  

4. **The Extent of the Secretary-General's Responsibility.**

The significance of the principle stated in Article 98 of the Charter is that the Secretary-General can perform any functions entrusted to him by the Security Council or the General Assembly. The Charter mentioned many ways in which the Secretary-General could approach the conflicts and represent his ideas. Moreover, experiences of successive Secretaries-General developed other forms of action.\(^{132}\)

A. **The Annual Report:**

The Secretary-General was required\(^{133}\) to make an annual report to the General Assembly on the work of the Organization. In the Introduction to his Annual Report the Secretary-General has consistently discussed important general issues affecting the functioning and status of the Organization. Dag Hammarskjöld and his successors have used the obligations established by Article 98 to submit, in the annual reports, a statement of their views on major policy problems. The report gives the Secretary-General an opportunity available to no one else to explain his stand in the controversial issues. He is obliged to keep all Members well informed about the problems which he is facing, and through his reports he can discuss his policy decisions and obtain political direction from the Members.

B. **The Advisory Committees:**

For practical reasons the Advisory Committees facilitate an institutionalised method of consultation. They are

\(^{132}\) Many actions are set forth in the previous chapters 2 and 3.

\(^{133}\) Article 98.
comprised of the representatives of delegations under the chairmanship of the Secretary-General who seeks to formulate the judgements to be derived from the discussion. The establishment of the Advisory Committee on UNEF and the later Advisory Committee on the Congo constituted a defined response to the need for a constitutional means to assist the Secretary-General in reducing the elements of purely personal judgement in political action. The Secretary-General obtained guidance for his management of peace-keeping forces by consulting the special advisory committees which were created to deal with problems which were not already dealt with by the Organs. Hammarskjold wrote in the UNEF Summary Report that, "Meetings of the Advisory Committee have been held whenever matters have arisen requiring discussion or whenever the Secretary-General has sought advice, or, at times, only to keep the Committee informed on current developments. The Advisory Committee has been consulted particularly on those questions which the Assembly had indicated should be the subject of consultation between it and the Secretary-General, such as the Regulations for the Force, the policy of the Force, as regards self-defence, and the issues of medals." 134 The Secretary-General did not suggest such a committee when UNOGIL was created in June 1958, but after the American landing in Lebanon, he announced that he had set one up. Again, he did not establish an advisory committee for ONUC in the initial stages of the Congo crisis, but on 21 August 1960 a Congo Advisory Committee was created.135

134. UN Doc. A/3 943, 9 October 1958.
C. To carry out the policies as adopted by the organs:

Usually the mandates outline to the Secretary-General the limits of his role in specific terms. The serious problems arise precisely because sometimes it is not possible for the authorising organs to define the controversial issue which might face the Secretary-General, and consequently it has to be left to him to solve it in the light of resolutions already taken. The Secretary-General is under the obligation to carry out the policies adopted by the authorising organs. In principle the competent organ is the judge. It may always instruct him, but when it does not he must carry out his tasks with full regard to his exclusively international obligation under the Charter. He may also seek guidance in statements relevant for the interpretation of the resolution. The Secretary-General is expected to continue to apply the mandates which he has been given previously until a new mandate is granted. In his speech at Oxford University on 30 May 1961 Hammarskjöld said, "...the responsibilities of the Secretary-General under the Charter cannot be laid aside merely because the execution of decisions by him is likely to be politically controversial. The Secretary-General remains under the obligation to carry out the policies as adopted by the organs; the essential requirement is that he does this on the basis of his exclusively international responsibility and not in the interest of any particular State or groups of States." 136 The Secretary-General can refer the issue to the relevant organ to resolve the problem, but the clash of

interests inside the Security Council or General Assembly may prevent any particular solution and consequently the problem has to be left to the Secretary-General to solve. It may be said that to be on the safe side the Secretary-General should not implement a resolution until the organs have reconsidered the issue. But this excuse will not discharge the Secretary-General from the responsibilities placed upon him by the Charter, particularly in a matter considered to affect international peace and security. The Secretary-General remains under the obligation to implement the resolutions as adopted by the organs; and he does this on the basis of his international responsibility, guided by the principles and purposes of the Charter.

The conclusions of the Secretary-General should to the utmost degree be of constitutional character. For this purpose he needs support for his activities within the political organs of the United Nations. The Secretary-General should obtain the guidance of the Members through all available channels for his direction of peace-keeping forces, especially through resolutions of the General Assembly and the Security Council and consultations with delegates of Member states, and from special advisory committees. 137

137. Hammarskjold noted that 'Experience has thus indicated that the international civil servant may take steps to reduce the sphere within which he has to take stands on politically controversial issues. ...he will seek guidance in the decisions of the main organs, in statements relevant for the interpretation of those decisions, in the Charter and in generally recognised principles of law, remembering that by his action he may set important precedents. Further, he will submit as complete reporting to the main organs as circumstances permit, seeking their guidance whenever such guidance seems to be possible to obtain.' Foote (ed.), ibid., p.347.
D. Dealing with conflicts between the Blocs:

Will the major powers be prepared to accept international conciliation processes directed by the United Nations Secretary-General when their own interests, especially their security interests, are regarded by them as directly involved? Dag Hammarskjöld considered during his first years as Secretary-General (1953-1955) that peaceful settlement of conflicts between the blocs was the most important task of the United Nations. The only major involvements which the United Nations and Hammarskjöld handled in a dispute over interests within the blocs was the dispute between the United States and Communist China in 1954 and 1955 over China's imprisonment of some American fliers captured during the Korean War. The United States submitted the dispute to the United Nations General Assembly on 5 December 1954.\(^{138}\) The General Assembly held five meetings on it, and on 10 December passed a resolution, declaring that the imprisonment of the fliers violated the Korean Armistice Agreement, and condemning their trial and imprisonment by China. It also requested that the Secretary-General "...make continuing and unremitting efforts..." to seek their release.\(^{139}\) After long negotiations between the Prime Minister of the State Council and Minister of Foreign Affairs of the Chinese People's Republic, Chou En-lai, and the Secretary-General the fliers were released on 1 August 1955. The Secretary-General conducted his discussions by virtue of the authority vested in him by the Assembly's resolution. The General Assembly initiated a completely new

\(^{138}\) UN Doc. A/2 830, 5 December 1954.
\(^{139}\) GA Res. 906(IX), 10 December 1954.
means of peaceful settlement when it asked the Secretary-General to do whatever he could to have the fliers freed. Trygve Lie during his term of office had tried on his own initiative to solve or influence the resolution of some disputes such as the presence of Soviet troops in Iran in 1946, the dispute over Communist China's admission to the United Nations but he had never been asked by the representative organs to perform these tasks. This role soon became one of the major approaches of the United Nations in trying to further the peaceful settlement of conflicts. During that stage the Secretary-General thought that the United Nations should turn its primary attention to Cold War conflicts and to control and moderate those conflicts that constitute an immediate danger to world peace and that above all "the East-West conflict must command first attention in day-to-day decisions."

E. Dealing with conflicts outside the Blocs:

Later on the Secretary-General adopted a new strategy. He felt that the UN should concentrate on resolving conflicts which were outside the territorial spheres of the blocs. The Secretary-General noted that the Organization should concern itself primarily with the conflicts between the countries of Africa and Asia rather than with the threat of a military clash between the Western and Communist states in Europe or the Far East. He thought that the United Nations could seldom influence conflicts involving primary interests of the blocs

141. UN Doc. A/2404, 21 July 1953, p.XI.
142. UN Doc. A/2911, 8 July 1955 and UN Doc. A/3137, Add.1, 4 October 1956.
because the veto provision would make it impossible for the Security Council to act and because the General Assembly could seldom concert the political power which would be necessary to influence one of the super-powers. In his 1960 Introduction he wrote: "With its constitution and structure, it is extremely difficult for the United Nations to exercise an influence on problems which are clearly and definitely within the orbit of present day conflicts between power blocs...

Whatever the attitude of the General Assembly and the Security Council, it is in such cases also practically impossible for the Secretary-General to operate effectively with the means put at his disposal."143

His new strategy did not emerge in practice until the crisis in the Middle East in 1956, and it was not clearly outlined until 1960.144 Also agreement may be achieved to

144. In his 1960 Introduction he wrote that 'Preventive action ...must in the first place aim at filling the vacuum so that it will not provoke action from any of the major parties, the initiative for which might be taken for preventive purposes but might in turn lead to counter action from the other side. The ways in which a vacuum can be filled by the United Nations so as to forestall such initiatives differ from case to case, but they have this in common: temporarily, and pending the filling of a vacuum by the normal means, the United Nations enters the pictures on the basis of its non-commitment to any power bloc, so as to provide to the extent possible a guarantee in relation to all parties against initiatives from others.' 'Whatever the countries concerned call themselves, non-committed, neutral, neutralist or something else, they have all found it not to be in harmony with their role and interests in world politics, in a general sense, to any one of the blocs or to any specific line of action supported by one of the sides in the major conflicts.' Foote (ed.), ibid., pp.302, 303.
discuss the case in the UN because of mutual interest among
the big Powers to avoid having a regional or local conflict
drawn into the sphere of bloc politics.

The initiative and responsibility given to the Secretary-
General is one of the most significant development in UN
history. It seems to me that the statement which Dag
Hammarskjold made on 31 October 1956 will be considered as a
sound and forceful exposition of the responsibility of the
Secretary-General and his staff. He said:

...I wish to make the following declaration: The
principles of the Charter are, by far, greater than
the Organization in which they are embodied, and
the aims which they are to safeguard are holier
than the policies of any single nation or people.
As a servant of the Organization the Secretary-
General has the duty to maintain his usefulness
by avoiding public stands on conflicts between
Member nations unless and until such an action
might help to resolve the conflict. However, the
discretion and impartiality thus imposed on the
Secretary-General by the character of his immediate
task, may not degenerate into a policy of expediency.
He must also be a servant of the principles of the
Charter, and its aims must ultimately determine what
for him is right and wrong. For that he must stand.
A Secretary-General cannot serve on any other
assumption than that - within the necessary limits
of human frailty and honest differences of opinion -
all Member nations honor their pledge to observe all
articles of the Charter. He should also be able to
assume that those organs which are charged with the
task of upholding the Charter, will be in a position
to fulfil their task. The bearing of what I have
just said must be obvious to all without any
elaboration from my side. Were the Members to
consider that another view of the duties of the
Secretary-General than the one here stated would
better serve the interests of the Organization, it
is their obvious right to act accordingly.  

In the course of the meeting the representatives of the Great
Powers including France, the United Kingdom, the U.S.S.R. and

145. Ibid., pp.123-124, Statement at the time of the Suez
crisis on the Duties of the Secretary-General, before
the Security Council, 31 October 1956.
the United States, as well as other members, indicated their acceptance of this statement of the right and duty of the Secretary-General to speak and act in support of the principles of the Charter in such circumstances. He made a second statement on 4 November 1956 before the Security Council at the time of the Hungarian crisis. "...I would like to put on record that the observations I made on that occasion (the Suez crisis) obviously apply also to the present situation."146

5. **His Role in Peace-Keeping Operations.**

The most unusual extension of the concept of the international secretariat has been the involvement of the military profession in peace-keeping activities under the direction of the Secretary-General. The role of the Secretary-General as executive agent of the United Nations in peace-keeping operations was very important to the Organization's duty to promote international peace and security. The operating responsibilities for the Secretary-General are in fact a part of every peace-keeping operation authorised either by the Security Council or by the General Assembly. As we have demonstrated above all members have shown that they were willing to allow the Secretary-General to play a role in peace-keeping operations and no member has challenged this role. The differences of opinion relate to whether he is to function as a purely administrative or as an independent agent within the limits laid down by the authorising organ.

Dag Hammarskjold left a strong personal imprint on the creation of the United Nations peace-keeping forces. In his report of 6 November 1956 he mentioned three courses of action which may be chosen to direct the peace-keeping forces:

1. To charge a country or group of countries with the responsibility of organising a force whose purpose was determined by the United Nations (Korea).

2. To allow a group of countries to organise a force which would be brought into a formal relationship with the Organization at a later date (the British and French suggestion that the United Nations charge them with certain functions).\textsuperscript{147}

The Secretary-General noted that it would be difficult to establish a real independence for such a United Nations force, as mentioned above, from the states which contributed troops to it.\textsuperscript{148}

3. To direct the force under the General Assembly or the Security Council.\textsuperscript{149}

To the Secretary-General, this would mean that the chief officer of the force should be appointed by the United Nations and that he, in his functions, should be responsible to the General Assembly or the Security Council. He should be fully independent of the policies of any one nation.\textsuperscript{150}

I. The framework of the forces

During his term in office Hammarskjöld emphasised the application of the following principles:

A. Consent of the host country:

The consent of the host country must be obtained. The Secretary-General in his second report on the creation of UNEF

\textsuperscript{147} UN Doc. A/3293 and A/3294, 6 November 1956.
\textsuperscript{148} UN Doc. A/3302, 6 November 1956, para 4-5.
\textsuperscript{149} Ibid., paras 4-5.
\textsuperscript{150} UN Doc. A/3943, 9 October 1958, para 172.
on 6 November 1956 wrote that "the Force, if established, would be limited in its operations to the extent that consent of the parties concerned is required under generally recognized international law. While the General Assembly is enabled to-establish-the Force with the consent of these parties which contribute units to the Force, it could not request the Force to be-stationed-or-operate-on the territory of a given country without the consent of the Government of that country."\textsuperscript{151} Moreover, the Secretary-General believed that establishment of any forces, not to be used for enforcement actions under Chapter VII of the Charter, had to be on a voluntary basis. He noted that "as the arrangements discussed in the report do not cover the type of force envisaged under Chapter VII of the Charter, it follows from international law and the Charter ...that the consent of a Member nation is necessary for the United Nations to use its military personnel or material."\textsuperscript{152}

B. **The right of host State:**

In his Summary Report of the UNEF, the Secretary-General summarised the principles which guide the right of host States to determine the inclusion of troops from certain countries. He wrote: "It would seem desirable to accept the formula applied in the case of UNEF, which is to the effect that, while it is for the United Nations alone to decide on the composition of military elements sent to a country, the United Nations should in deciding on composition, take fully into account the view of the host

\textsuperscript{151} UN Doc. A/3322, 6 November 1956, para 9.
\textsuperscript{152} UN Doc. A/3943, 9 October 1958, para 155.
Government as one of the most serious factors which should guide the recruitment of the personnel. Usually, this is likely to mean that serious objections by the host country in the United Nations operation will determine the action of the Organization.  

But host States should not be able to determine the functions of or to expel certain national forces once they have accepted them in the UN Forces. The Secretary-General refused to accept the demands of Prime Minister Lumumba to use only African troops in Katanga and also did not accept General Mobutu's demand to remove Ghanaian and Guinean troops from ONUC.

C. Self-Defence:

Since peace-keeping forces were not created for enforcement operations, they should use force only in self-defence. The logical interpretation of the term "self-defence" has meant that the troops could fire only when their lives were threatened. But that was not the case in the Congo operation. All the major military actions in Katanga were justified as using force in defence of ONUC's freedom of movement while it was carrying out its mandates. Self-defence was widely interpreted in this case as permitting ONUC to use force to achieve its goals.

D. Great Powers and States with interest in the crisis are excluded:

No permanent members of the Security Council should participate in peace-keeping forces nor should any states having a special interest in the conflict. The Secretary-General thought that to decrease the conflicts threat to international peace, the troops of the Great Powers or of the states which had a special interest in the crisis must be excluded from the forces.157

E. Non-intervention in internal politics:

The Secretary-General made it quite clear that peace-keeping forces should not intervene in the internal politics of the host country. In his report of 6 November 1956 he stated: "The force obviously should have no rights other than those necessary for the execution of its functions, in cooperation with local authorities. It would be more than an observers corps, but in no way a military force temporarily controlling the territory in which it is stationed,"158 and in his UNEF Summary Report he added: "authority granted to the United Nations group cannot be exercised within a given territory either in competition with representatives of the host Government or in cooperation with them on the basis of any joint operation. Thus, a United Nations operation must be separate and distinct from activities by national authorities."159 The Secretary-General emphasised the application of this principle when he proposed the creation of ONUC to the Security Council, stating that the force "may not

158. UN Doc. A/3302, 6 November 1956, para 11.
159. UN Doc. A/3943, 9 October 1958, para 165.
take any action which would make them a party to internal conflicts in this country." The Secretary-General was obliged to ask the Security Council to support him in protecting his stand against attempts to provoke it during the Congo crisis. The Security Council gave its support.

F. Not to impose settlements:

The force should not try to influence the outcome of the dispute and should not be involved in imposing settlements on host countries. In his report on the creation of UNEF on 6 November 1956, the Secretary-General noted clearly: "It follows from its terms of reference that there is no intent in the establishment of the force to influence the military balance in the present conflict and, thereby, the political balance affecting efforts to settle the conflict." He noted also that this was a "necessary limitation on any United Nations forces which were not created under the enforcement Articles of Chapter VII of the Charter." The Secretary-General emphasised that "The Organization must...maintain that the "status jurio" existing prior to such military action be re-established by a withdrawal of troops."

II. The Secretary-General initiatives

In view of the hard and rapid decision-making required for peace-keeping, the organisation could not function at all without initiatives on the part of the Secretary-General. In

162. UN Doc. A/3302, 6 November 1956, para 8.
163. UN Doc. A/3943, 9 October 1958.
164. UN Doc. A/3512, 24 January 1957.
the West Irian operation, the General Assembly resolution authorised the Secretary-General to appoint a United Nations Administrator for the mission, to provide such security forces as the Administrator deemed necessary, to receive the reports of the Administrator and to have the choice whether to submit his own reports to the General Assembly or to Member States. The Soviet Union voted for the resolution. In this instance the Soviets showed that they were willing to allow the Secretary-General to function as freely as most members of the UN would like.\(^{165}\) The issue of validity of the Secretary-General's powers was raised in connection with the Security Council resolution about the Cyprus force, which recommended that "The composition and size of the force shall be established by the Secretary-General, in consultation with the Governments of Cyprus, Greece, Turkey and the United Kingdom. The Commander of the force shall be appointed by the Secretary-General and report to him."\(^{166}\) This resolution was, of course, discussed by the powers prior to its acceptance. In the separate vote on the above portion of the resolution the Soviet Union, Czechoslovakia and France registered their objections in principle by abstaining, but the resolution was unanimously approved as a whole. The French delegate remarked that the Council was going very far in the direction of the delegation of powers to grant them to a single individual. In practice, there is no evidence that the Secretary-General was unable to function because of attempts to limit his ability by the great powers. In two operations in India during 1965 and

\(^{165}\) GA Res. 1752 (XVII).

\(^{166}\) See Chapter 2.
109

1966, the great powers granted a vast authority to the Secretary-General. On 6 September 1965 the Security Council adopted a resolution requesting the Secretary-General "to take all measures possible to strengthen the United Nations Military Observer Group in India and Pakistan." On 20 September 1965 the Council with affirmative votes from the USA, Soviet Union, and France, requested the Secretary-General "to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel." The Secretary-General reported that he decided to organise the Observers "whose function it is to supervise the cease-fire and withdrawals as an organization separate from UNMOGIP entitled United Nations India-Pakistan Observation Mission (UNIPOM)." Thus a new peace-keeping operation was created by the Secretary-General within the mandate of the Security Council. The Soviet Union has her own ideas about the areas of responsibility that should be denied to the Secretary-General such as the task and functions of the armed forces, their numbers and composition, their command structure, the duration of their service in the field, the direction of their operations, and the mode of financing the necessary expenditures. No one else, no other organ, no person, no official of the United Nations is empowered to carry out such actions in measures relating to the use of armed forces, and the actions undertaken by the Secretary-General in this field, depart from the provisions of the UN Charter in accordance with

167. See Chapter 2.
168. SC Res. 211, 20 September 1965.
which only the Security Council is competent to adopt. 169
The French prefer a narrow conception of the authority to the
Secretary-General in peace-keeping decisions. 170


It is beyond dispute that the Secretary-General assumed
an independent influence in international politics. This
clearly occurred where the Security Council or the General
Assembly gave the Secretary-General mandates with a certain
amount of independent decision-making authority. The
Secretary-General Dag Hammarskjöld wrote in this connection
"...the development reflects an incipient growth of
possibilities for the Organization to operate in specific
cases within a latitude of independence in practice given to
it by its Members' governments for such cases...." 171
Hammarskjöld's views on the independent influence of the
Secretary-General were noted and criticised by Dr Conor Cruse
O'Brien, 172 who wrote:

...the theory was this: the Secretary-General
represented the general will of the international
community as a whole, independent of the will of
any individual member or group of members; where the
other organs of the Charter, the Security Council and
the General Assembly, had failed to reach agreement
or, as more often happened, had reached only ambiguous
agreement, the Secretary-General, and under him the
Secretariat, could be, and ought to be, trusted to act
in the general interest of all. In this way, and
through such situations, the authority of the Secretary-
General and the Secretariat were to be gradually built
up in the direction, it was hoped, ultimately of a

171. Foote (ed.), Ibid., pp.227-28 (From the introduction to
172. Conor Cruse O'Brien, To Katanga and Back, New York,
genuinely supranational authority - a world
government... I do not believe however that we are
helping the tendency in that direction by pretending
that we have already reached a state which we have
not in fact reached: a stage where the Secretary-
General and the Secretariat can be implicitly relied
on as an impartial instrument in the service of the
international community as a whole, influenced by no
national policies.

Hammarskjold described in his speech at Oxford in May 1961 the
means by which he could maintain international impartiality
and remain responsive to the wishes of the Members, and
also stated in the same speech:

...non-action may be tempting; it enables him to
avoid criticism by refusing to act until other
political organs resolve the dilemma. An easy
refuge may thus appear to be available. But would
such refuge be compatible with the responsibility
placed upon the Secretary-General by the Charter?
Is he entitled to refuse to carry out the decision
properly reached by the organs, on the ground that
the specific implementation would be opposed to
positions some Member States might wish to take, as
indicated perhaps, by an earlier minority vote? Of
course the political organs may always instruct him
to discontinue the implementation of a resolution
remains in effect, is the Secretary-General legally
and morally free to take no action, particularly in
a matter considered to affect international peace
and security?...The answers seem clear enough in law,
the responsibilities of the Secretary-General under
the Charter cannot be laid aside merely because the
execution of decisions by him is likely to be
politically controversial. The Secretary-General
remains under the obligation to carry out the
policies as adopted by the organs, the essential
requirement is that he does this on the basis of his
exclusively international responsibility and not in
the interest of any particular State or groups of
States.

Others thought that Hammarskjold's conception of the
Organization was too ambitious. One of his critics has

173. 'The International Civil Servant in Law and in Fact'.
Lecture delivered to Congregation at Oxford University,
30 May 1961 (Foote, ed.), ibid., p.329.
Hammarskjold is Dead', The New York Times, 14 March
1965, Section VI, p.32.
felt that the reaction to his policies has been so great that "the UN of Dag Hammarskjöld is dead."175 "The UN presided over by the late Secretary-General was an effective international instrument, then, it has succumbed to ills inherent in the Charter many years ago, plus others since acquired."176 "The UN which Dag Hammarskjöld molded into a dynamic instrument of governments is dead."177 But there were those who believed that Hammarskjöld was working in very complicated circumstances that forced him to assume a responsibility which was unfair to him, as a man, and beyond the true function of his office.178 We cannot ignore the role of Hammarskjöld in encouraging the expansion of the Secretary-General's practices, particularly in creating the United Nations peace-keeping operations and the choice of the Secretary-General as their executive director. The main criticism has arisen regarding his independent role in this connection. We could not deny that the Secretary-General in his role as executive agent for peace-keeping operations has political power over some matters. But Hammarskjöld perhaps overstressed the bureaucratic character of his post at the expense of its political roles. When U Thant became UN Secretary-General on 3 November 1961 after the death of Hammarskjöld, and for ten years until he resigned in December 1971, he sought to bring the family of nations closer together. But these ten years were a period of far-reaching changes, a

175. Ibid.
176. Ibid.
177. Ibid.
178. K. Twitchett, ibid., p.80.
thaw in East-West relations ending the cold war, the emergence of the non-aligned countries, which argued that the absence of war did not automatically imply either peace or welfare for everyone, and a new policy of co-existence and dialogue adopted by the great powers. Fully aware of the loftiness of the goals of peace and the limited means for achieving them, U Thant gave the activities of the world organisation a character which was appropriate to the times, and discussed and moved with more caution. His successor, Kurt Waldheim, has recognised the reality - that whatever the men at the top may do, the only real power in the Glass House today comes from 35 floors down where the Security Council and General Assembly meet.
Chapter 5
The United Nations Financial Crisis

1. The Financial Powers as Regarded by the Charter.

The Charter provisions with regard to the budget are embodied in Articles 17, 18 and 19. Article 17 reads as follows:

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

As stated in Article 18, decisions 'shall be made by a two-thirds majority of the members present and voting. These questions shall include...budgetary questions.' Article 19 reads as follows:

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Accordingly, the financial powers lie with the General Assembly. It was to apportion the budget among the member states. The budgetary questions are to be decided by a two-thirds majority and if a member state failed to pay its financial contributions it might lose its voting rights in the General Assembly. The collection of contributions for the regular budget has not posed a serious problem, the total
arrears never exceeding 15 per cent of the entire budget. Until the United Nations engaged in peace-keeping operations, the budget never in fact became a problem in the Organization's disputes.

2. **UNEF and ONUC threatened the Entire Financial Structure of the United Nations.**

There have existed four financing methods to operate United Nations Forces: the first is financing by states that benefit directly from the presence of peace-keeping forces. Two operations have been funded in this way by agreement of the parties concerned; this method will be adequate for operations of particularly limited size, cost and duration. By agreement in Yemen in 1963, Saudi Arabia and the UAR consented to pay the mission's costs in equally divided shares. The Netherlands and Indonesia shared the costs for the seven-month peace-keeping operation in West Irian. A second financing method was used for the first time in the Cyprus operation; it is financed entirely by voluntary contributions from member states. The third financing method, which was in common use before the financial crisis provoked by UNEF and ONUC, was financing of the operations out of the regular budget and, if needed, by transferring available funds from one budget category to another. Operations on the India-Pakistan border, and in Kashmir have been financed in this way. Each fiscal year the General Assembly authorises in the regular budget the equivalent of a 'contingency fund' empowering the Secretary-General to finance obligations not provided for in the regular budget. Up to $2 million of this fund may be used to cover expenses of any operation that is authorised by the Secretary-General as relating to the
maintenance of peace and security. The fourth financing method used, the so-called apportionment system, has been used to finance UNEF expenditures from 1965 on. For example, the total estimated costs for 1965 were apportioned among the United Nations Member States, a little over five per cent of this total was apportioned on a capacity-to-pay principle among the large majority of states, the remaining 95 per cent was distributed among twenty-six developed states.179

It is clear that activities of all United Nations organs are financed from the regular budget, but when the General Assembly passed its resolution concerning the creating of UNEF in November 1956 it was the first time that the UN decided that the costs of such an international force should be shared by the world community. The Secretary-General recommended that a Special Account outside the regular budget be set up for UNEF and that the costs of the Force be shared by the member states on the basis of the scale of assessments to be adopted for the 1957 budget. Moreover, he asked for $10,000,000 to meet the urgent needs of the Force. The General Assembly established the Special Account on 26 November 1956; but when the Secretary-General asked on 3 December for the balance of the expenses to be shared in accordance with the 1957 scale of assessments a storm of controversy divided the Assembly.180 The Soviet Union and France objected on the ground that UNEF was illegal in a fundamental sense, since

only the Security Council had the right to authorise peace-keeping operations. Once again in 1960 the Secretary-General defended the principle of 'collective responsibility' with regard to the financing of ONUC. The Fifth Committee of the General Assembly, by a vote of 45 to 15 with 25 abstentions, endorsed the view of the Secretary-General and recommended an ad hoc account for the expenses of ONUC, to be assessed on the basis of the 1960 scale. The Soviets argued that ONUC financing should be governed by the unanimity principle in the Security Council. The Congo crisis revealed a dispute over the political direction of the UN Force, which led to Soviet refusal to finance the operations. This aggravated the pre-existing position over the financing of UNEF, and led to a financial crisis, which produced a direct challenge to the authority of the General Assembly. On 24 October 1960, the Secretary-General estimated the cost of the Congo Force for 1960 at $66,625,000. The Advisory Committee on Administrative and Budgetary Questions recommended that the total costs of ONUC for 1960 be held to $60,000,000. In the Fifth Committee, Ireland, Liberia and Sweden suggested that ONUC's 1960 expenses be included with the regular budget and apportioned in accordance with the 1960 scale of assessments. This would clearly bring ONUC within the scope of Articles 17 and 19 of the Charter. Pakistan, Senegal and Tunisia proposed to create an ad hoc account for financing ONUC, but clearly agreed that

181. The Soviet Union stated its intention not to contribute to part of ONUC's expenses since in its opinion, 'The main burden...should be borne by the Chief culprits - the Belgian Colonizers'. GAOR, Fifteenth Session, Fifth Committee, 775th Meeting, 26 October 1960, para 8.
the costs were to constitute expenses of the Organization within
the meaning of Article 17. This technique would make it a
collective responsibility, but would keep it separate from the
regular budget for accounting purposes. The Soviets declared
that they would not contribute to any part of ONUC's expenses,
arguing that the main burden should be borne by Belgium, and by
voluntary contributions. The Latin American countries suggested
that the expenses be paid largely by the permanent members of the
Security Council. The Fifth Committee, by a vote of 45 to 15 with
25 abstentions, approved the draft resolution proposed by
Pakistan, Tunisia and Senegal. On 20 December 1960, this
recommendation was adopted by the General Assembly by a vote of
46 to 17 with 24 abstentions, "The General Assembly, ...
'Recognizing that the expenses involved in the United Nations
operations in the Congo for 1960 constitute 'expenses of the
Organization' within the meaning of Article 17, ...'Decides to
establish an ad hoc account for the expenses of the United Nations
in the Congo..". On 20 December 1961, the General Assembly
decided to ask the International Court of Justice for an advisory
opinion on the question: did the expenditures authorised by the
General Assembly for UNEF and ONUC constitute expenses of the
Organization within the meaning of Article 17 of the Charter? 183

3. The Advisory Opinion of the I.C.J.

In May 1962, the proceedings were held before the World
Court which, on 20 July 1962 by a nine to five majority, 184
gave an opinion that the expenditures authorised in the

182. UNGA Resolution 1583 (XV), 960th Plenary Meeting,
20 December 1960.
183. UN General Assembly, Sixteenth Session, Official Records,
Annexes, Agenda Item No.62 (1961), and UN Doc. A/PV 1086
(20 December 1961).
184. International Court of Justice. Advisory Opinion of 20 July
1962. Ibid.
General Assembly resolutions dealing with the financing of UNEF and ONUC constituted expenses of the Organization within the meaning of Article 17, paragraph 2 of the Charter, thereby confirming the authority of the General Assembly to make the controversial assessment. The Court lacked basic agreement on the legal foundations of its decision, with three of the nine majority judges writing separate opinions and one making a verbal declaration, while each of the five dissenting judges delivered a separate written opinion. This lack of consensus deprived the Court's ruling of much of its force.

The Court noted that an expenditure made for one of the purposes of the Organization could be viewed as an expense of the Organization. It declared that the UNEF had been created by the General Assembly in order to maintain peace and security in the Middle East, had been established with the consent of the states concerned, including that of the host state, Egypt, and was obviously not an enforcement force. The majority concluded that the costs of UNEF were to be regarded as expenses of the Organization within the meaning of Article 17(2). The Court pointed out also that ONUC had been authorised by the Security Council, and that it had been invited by the Congo to promote and maintain peace and security. The majority concluded that 'It is impossible to reach the conclusion that the operations in question usurped

185. Sir Percy Spender, Sir Gerald Fitzmaurice and Gaetano Morelli.
186. Judge Speropoulos.
187. President Winiarski, Jules Basdevant, V. Koretsky, Lucio M. Moreno Quintana and J.F. Bustamante.
or impinged upon the prerogatives conferred by the Charter on the Security Council. The Charter does not forbid the Security Council to act through instruments of its own choice: under Article 29 it may establish such subsidiary organs as it deems necessary for the performance of its function; under Article 98 it may entrust other functions to the Secretary-General. Therefore the Secretary-General could be authorised to carry out decisions involving the maintenance of peace and security. The majority concluded that ONUC actions did not involve enforcement measures, therefore its costs were to be regarded as expenses of the Organization. The Court affirmed the competence of the Assembly in matters of peace and security and clarified that recommendations made by the Assembly or the Council establishing subsidiary organs for peace and security purposes were not enforcement action. The Court found that the provisions of the Charter which distribute functions and powers to the Security Council and to the General Assembly give no support to the view that such distribution excludes from the powers of the General Assembly the power to finance measures designed to maintain peace and security as long as these measures are consistent with the purposes of the United Nations and outside the scope of Chapter VII. The Court noted carefully that the decision to approve the budget had a close connection with Article 17, paragraph 2, since the General Assembly was given the power to apportion the expenses among the Members and the exercise of the power of apportionment creates the obligation, specially stated in Article 17, paragraph 2, of each Member to bear the

188. International Court of Justice, ibid., pp.176-177.
share of the costs apportioned to it by the General Assembly. When these costs include expenditures for the maintenance of peace and security, it is the General Assembly which has the authority to apportion the latter amounts among the Members. However, two Judges in the minority rejected, and three others seriously questioned, the role of the Assembly in matters of peace and security, as they felt that the distinction between the General Assembly and the Security Council in this field should be maintained. To Judge Koretsky, the entire issue was political. He considered UNEF and ONUC as enforcement actions carried out in direct violation of the Charter, as there existed no obligation to form them. Judge Winiarski also denied the legality of the UNEF and ONUC resolutions. He went further by noting that if the expenditures were expenses of the Organization, no legal obligation to pay necessarily followed, since Assembly resolutions had only the status of recommendations.

The Court gave its approval to both the Assembly and the Council to create peace-keeping operations, provided they are in accord with the purposes of the Charter, and arranged for their financial support. The Seventeenth General Assembly decided to accept the opinion by a large majority of 76 to 17, with eight abstentions, and by so doing affirmed that the expenditures on the Congo and the Middle East operations were expenses within the meaning of Article 17, paragraph 2, of the Charter.

189. Ibid., p.164.
190. The three Judges were: Jules Basdevant, Moreno Quintana and Bustamante.
4. **Arguments on Court's opinion**

The problem of the United Nations forces is complicated by the continued refusal of France, the Soviet Union and other members to accept the Court's opinion and consider the cost of such forces as a charge on the regular budget of the UN to be apportioned among the members of the General Assembly. The advisory opinion thus did not clear the way for a definitive solution of the financial crisis.

Two main opposing views emerged from the arguments on this issue: a Western, or rather an American view, and a Soviet view. The most explicit statement of Western policy is contained in a note by the United Kingdom and a memorandum by the United States in reply to a previous Soviet memorandum. 191

1. Article 24 of the Charter gives the Security Council 'primary responsibility for the maintenance of international peace and security', but does not give it authority. The Charter provisions set forth unequivocally the authority of the General Assembly in this regard. Article 10 authorises the General Assembly to discuss and make recommendations on any questions or matters within the scope of the Charter. Article 11, paragraph 2, authorises the Assembly to 'discuss any questions relating to the maintenance of international peace and security brought before it by any Members of the United Nations, or by the Security Council, or by a State which is not a member of the United Nations...and except as provided in Article 12, may make recommendations with regard to any such questions to the State or States concerned....Any such question on which action is necessary shall be referred

to the Security Council by the General Assembly either before or after discussion.' The word 'action' in the exception to Article 11, paragraph 2, applies, as the opinion of the majority of the I.C.J. have stated, to 'action which is solely within the province of the Security Council.' In other words, the exception to Article 11, paragraph 2, does not apply where the necessary action is not enforcement action. If the Security Council does have the sole authority, under Chapter VII, to make binding decisions, obligatory and compulsory on all Members, for coercive or enforcement action, that does not mean the General Assembly cannot make recommendations (as opposed to binding decisions) as to the preservation of the peace.

2. Few Members of the United Nations would ever agree that if the Security Council proves itself unable to act in the face of an international emergency, the General Assembly can only stand by, motionless and powerless, to take any step for the preservation of peace. Here we find a political argument, reintroducing the much debated Resolution on 'Uniting for Peace'.

3. The claimed exclusive rights of the Security Council as to peace-keeping expenses have no justification in the Charter. Actually this argument, drawn from national constitutional systems, is not relevant here. If we consider that peace-keeping forces imply a certain degree of enforcement, as the Soviet Union does consider, only Article 43 is applicable and not Article 17. Therefore the expenses of peace-keeping forces are solely within the competence of the Security Council and are not 'expenses of the Organization' under
Article 17, and cannot be included in the calculation of arrears under Article 19.

The most explicit statement of Soviet policy was contained in two memorandums dated 10 July 1964 and 11 September 1964 and transmitted to the Secretary-General of the United Nations.192

1. Under the Charter, the only body authorised to take action in the maintenance or restoration of international peace and security is the Security Council. It is likewise within the purview of the Security Council to adopt decisions in all matters relating to the establishment of the United Nations armed forces, the definition of their duties, their composition and strength, the direction of their operations, the structure of their command and the duration of their stay in the area of operation, and also matters of financing. No other United Nations body, including the General Assembly, has the right under the Charter to decide these matters.

2. These provisions form the only basis on which it is possible to ensure that the United Nations armed forces may not be used in the narrow unilateral interest of any individual States or groups of States to the detriment of the interests of other States. The Soviet memorandum added, 'this basis is the agreement of the permanent members of the Security Council on all fundamental matters relating to the establishment, utilization and financing of United Nations armed forces in each particular case.' Therefore, the establishment of UNEF under Resolution 998(ES-1) of 4 November 1956, and Resolution

1000(ES-1) of 5 November 1956 was carried out in violation of the United Nations Charter. As for the ONUC case, the Secretary-General 'bypassing the Security Council, himself determined the group of States which were invited to take part.' Furthermore 'the provisions of the Charter were not observed in relation to the direction of the United Nations operations in the Congo.'

3. It is natural, therefore, that financial obligations for the Members of the United Nations can arise only out of such actions of the United Nations as conform to its Charter. As to expenses connected with actions which do not conform to the Charter, such actions cannot give rise to obligations for Member States with regard to the payment of expenses.

With regard to Article 17 of the Charter it is obvious that the phrase 'expenses of the Organization' does not by any means signify 'all the expenses of the Organization' but only the expenses under the budget, i.e. the 'normal' expenses of the United Nations. Expenditure for United Nations armed forces and other matters connected with the establishment and operations of such forces are governed by provisions of Chapter VII of the Charter and fall within the competence of the Security Council. Accordingly, there can be no question of applying Article 19 of the Charter not only in connection with the cost of maintaining the Emergency Force in the Middle East and the armed forces in the Congo, but also in cases where United Nations armed forces are created and employed in accordance with the United Nations Charter.

The confrontation between the superpowers over the application of Article 19 of the Charter ended before the opening of the XXth Session of the General Assembly when the
United States dropped its request to deprive the Soviet Union of its right to vote in the General Assembly. On 16 August 1965, Ambassador Arthur J. Goldberg of the United States announced that 'the United States regretfully accepted the simple and inescapable fact of life that a majority of 114 Member States was unready to apply Article 19.'

The desire of the members to resolve the financial crisis was reflected in the General Assembly decision to establish the Special Committee on Peace-keeping Operations with the task of conducting a comprehensive review of peace-keeping operations in all their aspects, including ways of overcoming the financial difficulties of the Organization.

The Committee reached a consensus on the present financial crisis of the United Nations:

a) that the General Assembly will carry on its work normally in accordance with its rules of procedure.

b) that the question of the applicability of Article 19 will not be raised with regard to the United Nations Emergency Force and the United Nations Operations in the Congo.

c) that the financial difficulties of the Organization should be solved through voluntary contributions by member states, with the highly developed countries making substantial contributions.


195. UN Chronicle, August-September 1965, p.17.
Although the Committee had provided a forum for frank expression, and a number of new ideas and proposals had emerged from the discussions, it had failed in the most important task assigned to it, i.e. to reach agreement on rules and guidelines to govern future peace-keeping operations, especially with regard to the establishment, composition, command, control, and financing of the forces.

Actually it is extremely difficult in the present circumstances to reach any substantial agreement on future peace-keeping operations. The crucial problem which confronts members is neither financial nor even constitutional, but political. Each of the two superpowers want to be sure of having an advantageous position with regard to future operations; or at least they want to ensure that peace-keeping forces may not be used in the unilateral interest of any superpowers.

This financial crisis was in reality a political crisis over the proper role which the United Nations should play in the national policies of its Member States, particularly the superpowers. Thus it becomes unlikely that the United Nations would again venture into massive peace-keeping operations without the consent of the superpowers. The first peace-keeping operation which was created after that was when the Security Council deployed a UN emergency force between Egyptian and Israeli forces, after the October 1973 war. The Council agreed that the costs of the force should be considered as expenses of the Organization, to be borne by Members as apportioned by the General Assembly. In December 1973, the
Assembly approved a plan\textsuperscript{196} to appropriate the sum of $30 million for the operation from 25 October 1973 to 24 April 1974. An amount of $18,945,000 was to be apportioned among the permanent members of the Security Council in the proportions determined by the scale of assessments for 1974-1976,\textsuperscript{197} $10,434,000 among the economically developed Member States which are not permanent members of the Security Council in the proportions determined by the scale of assessments for 1974-1976, $606,000 to be apportioned among the economically less-developed Member States and $15,000 to be apportioned to the following countries among the economically less-developed Member States in the proportions determined by the scale of assessments for 1974-1976: Afghanistan, Bhutan, Botswana, Burundi, Chad, Dahomey, Democratic Yemen, Ethiopia, Guinea, Haiti, Laos, Lesotho, Malawi, Maldives, Mali, Nepal, Niger, Rwanda, Senegal, Somalia, Sudan, Uganda, United Republic of Tanzania, Upper Volta and Yemen. By the above-mentioned resolution the General Assembly provided a forum for frank expression that the financial difficulties of peace-keeping operations should be solved through voluntary contributions by member states, with the highly developed countries making substantial contributions.

\textsuperscript{196} GA Res. 3101 (XXVIII) of 11 December 1973.
\textsuperscript{197} GA Res. 3062 (XXVIII).
Chapter 6

Conclusion

The United Nations is not a static body, but a living organism which adjusts itself to the shifting needs of the time. It will keep developing in accordance with the evolution of the international environment. The development and strengthening of the United Nations as an effective instrument for the preservation and maintenance of international peace and security was regarded as a necessity. As the system of collective security became deadlocked, this vital function was performed through an alternative device, i.e. UN peace-keeping operations. The aim was, therefore, to replace the improvisations of the past by accepted procedures and methods, defined responsibilities and improved organisation in the whole field of authorisation, control and financing of peace-keeping operations. Also a reserve of men, material, transport and funds was thought to be required, which could be mobilised whenever a crisis threatened international peace. This task was assigned to a special committee on peace-keeping operations, composed of 33 members. It has to undertake a comprehensive review of the whole question of peace-keeping operations in all their aspects, including ways of overcoming the financial difficulties of the Organization. 198

Although the Committee had provided a forum for frank expression, and a number of new ideas and proposals had emerged from the discussions, it had failed in the most important task assigned to it, i.e. to reach agreement on rules

198. GA Res. 2006 (XIX), 8 February 1965.
and guidelines to govern future peace-keeping operations, especially with regard to the establishment, composition, command, control, and financing of the forces. Actually it seems extremely difficult in present circumstances to reach any substantial agreement on future peace-keeping operations. Any attempt to lay down rules and technical details on organisation and administration of future peace-keeping operations would be neither necessary nor realistic. The Security Council and the General Assembly would take their decisions in the future, as they had done in the past, in the light of the circumstances of the moment. There is little to compel these organs to make their decisions precise as to the mode of implementation. It is not advisable therefore to undertake advance planning except for very broad general guidelines which will be subject to different implementations.

1. General Principles.

In reviewing the United Nations Peace-Keeping Operations it is possible to draw some general conclusions:

(1) As to the scope of peace-keeping operations we can distinguish two main categories, namely observer operations (UNTSO, UNMOGIP, UNOGIL, UNYOM) and operations involving the deployment of relatively large armed forces (UNEF, ONUC, UNTEA, UNFICYP). But in both categories we can distinguish several varieties. In the first category, the mandates of the various observer operations have varied widely, ranging from the observation and maintenance of a truce agreement (UNTSO and UNMOGIP) to a much more limited task of reporting, as in the case of UNOGIL AND UNYOM. Also the mandates of the various forces (the second category of cases) have varied greatly.
UNEF operated on the Armistice Demarcation Line in Gaza and the international Frontier in Sinai, covering a distance of about 450 kilometres, while ONUC, with its more complex mandate including assistance to the Government of the Congo, was far more involved with events of all kinds within the boundaries of the Congo.

Moreover, the distinction between the two categories is not as clear-cut as it may seem. There is overlapping between the two. In some of the situations, as for example in Kashmir, Palestine, Lebanon and Cyprus, fighting was actually going on when the United Nations operation was undertaken. In most of them, outbreaks of violence have been a continuous possibility, and actual incidents involving the use of armed forces have been regular occurrences, for example, throughout the existence of UNTSO and UNMogip. It is needless to say that the variety of the situations involved had influenced to a great extent the size, the methods of recruitment, the methods of action and the financing of UN peace-keeping operations. All of them were ad hoc pragmatic operations adapted specifically to each situation.

(2) The second basic characteristic of the UN peace-keeping operations is their voluntary nature. Not only is the consent of a Member nation necessary for the United Nations to use its military personnel on its territory, there is also another point of principle which arises in relation to the question of consent and it refers to the composition of UN military elements. The general principle adopted vis-a-vis this problem is that while the United Nations must reserve for itself the authority to decide on the composition of such elements, it is obvious that the host country, in giving its
consent, cannot be indifferent to the composition of these elements. The United Nations should therefore take fully into account the viewpoint of the host Government as one of the most serious factors which should guide the recruitment of the personnel.

With the exception of the United Kingdom forces serving in UNFICYP, the national contingents made available to the United Nations peace-keeping forces have been made available from small powers. We noticed that Dag Hammarskjöld thought that to decrease a conflict's threat to international peace, the troops of the Great Powers or the states which had a special interest in the crisis must be excluded from the forces.\footnote{199} This view was given support by U Thant.\footnote{200} The concept behind these views was that of limiting the possibilities of introducing the Cold War into peace-keeping operations. However, in cases where the permanent members agree that a dispute which threatens international peace and security should be contained, it is quite possible that their contributions to the field service by civilians and technicians might assist in achieving that goal. The proposal to establish a 200-men American civilian surveillance team in the new buffer zone in the Middle East is of some practical significance. By it the United States will be effectively locked into formal supervision of the peace in the Middle East. It is possible

\footnote{199. Summary Report on the UNEF, UN Doc. A/3943, 9 October 1958, para 160.}
\footnote{200. Speech by U Thant "Strengthening of the United Nations" given at the University of Denver, 3 April 1964.}
to conceive of units of Great Powers' military forces working side by side to preserve the peace. They have to be considered within the enforcement actions subject to Chapter VII of the Charter. Although operations of this nature appear unlikely at present this does not mean that they must be ruled out for all of the future.

The principle of consent has another implication. It is obvious that the nations contributing contingents must be given assurance that the forces will not be used in a manner contrary to their vital interests. This seems to have been one obstacle to establishing permanent UN forces. Even the simple earmarking of national forces for UN peace-keeping operations does not mean that those forces are automatically dispatched to missions at the request of the United Nations. The Scandinavian countries which earmarked troops for UN service had made it clear that the actual participation of these troops in UN peace-keeping operations required their explicit consent and agreement.

(3) A third basic characteristic of UN peace-keeping operations is that the object is to stop the fighting, or to maintain law and order to provide an opportunity for negotiated settlement. This is why the military force has been associated in most cases with a UN mediatory and conciliatory presence. But this does not mean that the UN peace-keeping operations had achieved this ultimate objective. There is no settlement after many years in Kashmir or in Palestine. There is a danger that UN peace-keeping operations may be an important factor in freezing a situation, and not a device for its solution.
(4) A fourth basic characteristic of UN peace-keeping operations is the use of military force. Peace-keeping is the use of military force in order to keep a tense situation between States or intra-States under such control that substantial violence for the time being does not take place.

(5) Finally, what is crucial in peace-keeping operations is not the composition of the force or its terms of reference but the control of it. This raises important constitutional and political problems which are the real leverage behind any peace-keeping operation. The problem of control is two-fold - first, the control by the organ authorising the operation, and secondly, and more important, the control of the Secretary-General over the operation as the chief administrative officer of the Organization. But this problem of control, with all the political and constitutional issues related to it, is better understood through the analysis of the financial crisis of the United Nations.

2. The Authorisation Issue.

It is evident that no solution was reached in the Charter as to the command of armed forces to be placed at the disposal of the Security Council; the provision was simply included that this question was to be worked out subsequently. Since the agreements called for by Article 43 have not been concluded, the question of command has remained suspended. The failure to implement Chapter VII of the Charter has made it necessary for the United Nations to create its resources for maintenance of peace by the establishment of special peace-keeping forces such as UNEF and ONUC. The UN has demonstrated on several occasions a capacity to conduct effective
peace-keeping operations to maintain international peace and security in areas of hostilities where other forces would not have been welcome. Past experience has taught that peace-keeping operations were made possible by the peculiar circumstances existing at the time each of the operations was initiated.

In each instance the United Nations force was created through action of an appropriate United Nations organ, either the Security Council or the General Assembly. Both organs acted within the range of their authority as set out in the Charter. One significant distinction between the Security Council and the General Assembly provides that the Security Council's decisions are binding on the member states, whereas the General Assembly is limited to recommendations. This is correct with reference to enforcement actions. However, enforcement actions initiated by the Security Council under the provisions of Chapter VII were not in question in peace-keeping operations. The measures adopted in peace-keeping operations were more comparable to the provisional actions contained in Article 40 of the Charter than to the enforcement measures as set forth in Articles 41 and 42. Both the Security Council and the General Assembly have competent powers to order such measures in dealing with disputes. The Security Council authority is contained in Article 40; the authority of the General Assembly is broadly based within the general Charter provisions. The United Nations forces could have been created by either of these two organs. If the Security Council is unable to act, the matter could then be referred to the General Assembly under the "Uniting for Peace" resolution
provisions. With the adoption of the "Uniting for Peace" resolution, a new channel for safeguarding the peace was opened, in which the General Assembly could exert a positive influence when the Security Council was unable to act. Great Power agreement has to be initiated before any effective collective measures could be achieved. Otherwise one of the Great Powers could plan to hinder the United Nations attempts to restore peace and security. There was a temporary decline in the role of the Security Council, but soon after the detente this organ regained its primary responsibility for the maintenance of international peace and security. The role of the Security Council in ending the October War between the Arab States and Israel re-emphasised the importance of that organ.

It is not possible for the Security Council or the General Assembly to exercise control over all the detailed aspects of a particular operation. Neither of the organs has the administrative facilities to provide day-to-day supervision of a peace-keeping operation. Such facilities are available in the Secretariat. The Security Council and the General Assembly may under the provisions of Article 98 of the Charter request the Secretary-General to establish a peace-keeping force "and shall perform such other functions as are entrusted to him by these organs." The appropriate United Nations organ maintains control of the force while the Secretary-General acts as its executive agent. The Secretary-General, with his staff and technicians, has the capacity to supervise the operations. Therefore, the Secretary-General has been asked by the responsible United Nations organ to direct the force.
It is difficult to envisage how a peace-keeping operation could have been directed without such assistance being available to the Secretary-General. The Secretary-General assumed a significant role in the direction of the operations particularly during Hammarskjöld's term of office. In fact, the peace-keeping concept is associated with Dag Hammarskjöld. In his capacity as Secretary-General in 1956 and again in 1960, he played a leading role in organising and directing UNEF and ONUC. He was also the guiding force behind other efforts to take peace-keeping action on behalf of the international community.

No complete consideration of United Nations peace-keeping can ignore the complicated question of financing. This subject dominated the stage during the crisis surrounding the Nineteenth General Assembly. Because of the division of opinion, the Special Committee on Peace-Keeping Operations (Committee of 33) was set up by a General Assembly resolution in 1965, to undertake a comprehensive review of the whole question of peace-keeping operations in all their aspects, but has so far failed to agree on proposals for improving the machinery and procedural system for conducting them. This problem has had a significant effect on the attitudes of member states towards the intervention of international forces in conflict situations, with the result that there has often been total inaction by the Security Council at times when international peace and security have been in danger. Any resolution to solve the financial crisis must be accompanied by some form of political agreement on all aspects of peace-keeping operations. The
initial method adopted to pay for United Nations peace operations was the relatively simple and direct procedure of including these expenses in the regular United Nations budget. It was the procedure followed in paying the costs associated with most UN operations. The expenses of UNEF and ONUC were set forth in a Special Account, to be paid by the member states on a scale of assessments similar to that used for the regular budget. The additional costs had to be made up by relying on voluntary contributions. Another method of financing was first utilised in West New Guinea. In this case the participants directly concerned bore the costs. The expenditures of peace-keeping operations should be considered the responsibility of the entire membership. This position was supported by the decision of the International Court of Justice, (20 July 1962).

But how should the expenses be apportioned among the membership? There has been much sympathy for the so-called Irish proposal to establish a special scale of assessments for peace-keeping based on ability to pay. The first peace-keeping operation which was created under the new conception took place when the Security Council deployed a UNEF after the October 1973 War. This operation had to be seen in a completely new light, because of the direct role of superpowers.

3. The Role of the Detente.

The role of the United Nations in keeping the peace is much more important today than it was previously. The principal reason for this has been the 'Detente'.

The detente made it possible for the Security Council to act with reasonable speed in the last Middle East crisis. It

* 20 August 1962.
has proved possible for the superpowers to assert responsibility because they seem to be in agreement on the basic objective of implementing Security Council Resolution 242 of November 1967. After the United States and the Soviet Union had at last got their lines uncrossed, the role of the Security Council in maintaining peace and security became easier. The Council was able to end the October 1973 War between the Arab States and Israel, and to deploy UN emergency forces between the belligerents on both the Egyptian and Syrian fronts.

The Middle East war of October 1973 and the emergence of UNEFII, followed by UNDOF, is bound to encourage a more positive reaction by governments to the contribution that international forces can make to the peaceful settlement of disputes. Moreover, it gives the Security Council a new opportunity to review the machinery and political procedures for creating peace-keeping operations.

Because of prejudices and misunderstanding of the function of peace-keeping forces, and of the limitations on their objectives, they have tended to become the target of criticism. Because of this, their undeniable potential has been ignored.

The lack of political initiative coinciding with the peace-keeping presence renders the single instrument of peace-keeping indefinite and in certain instances counter-productive in the settlement of the dispute, despite the undeniable success of the operation itself. This lack of understanding has done much to damage the image of peace-keeping machinery, and to cause its capability as a contribution to conflict control to be underestimated.
It is significant that after a vacuum of nearly ten years in which no new UN peace-keeping operations were undertaken, the United Nations is once more in the peace-keeping business.

Because of their implications in terms of future peace-keeping prospects and possibilities, the influences and considerations that created UNEF II are worth noting. The climate of the detente affects many relationships in this regard. The progress of events in the Middle East war of October 1973 showed the strength of the detente. No peace initiative emerged because of a lack of consensus among the Council's membership during the first days of the War. The United Nations appeared to be achieving nothing. In the meantime, US Secretary of State, Henry Kissinger, had been holding an almost non-stop dialogue with Anatoly Dobrynin, the Soviet Ambassador in Washington, which led to direct communication between President Nixon and Mr Brezhnev. Even so, both superpowers moved, Russia indicated its preparedness to send troops to the area, and America reacted by placing its force on alert. These moves threatened to destroy the detente and with it any chance of peace in the Middle East.

The urgent invitation to Dr Kissinger to go to Moscow on 20 October 1973 seemed to indicate concern to maintain the detente, and especially to use it as a basis for joint crisis-management. After the visit came the first joint action. The Security Council adopted its resolution 338 of 22 October 1973. A number of factors may have influenced the superpowers to act in harmony. It seems that the primary consideration was that both had recognised that they were on an undesired collision course which could lead to a direct confrontation between them.
The consequences could have been catastrophic and to avoid them they had to act together through the United Nations.

The most important aspect of the crisis began with the Israeli breach of the first cease-fire from about 23 October to 26 October 1973. When Egypt asked that a joint Soviet-American force should be sent to the Middle East, Dr Kissinger, at a press conference (25 October 1973), rejected the proposal. And therefore it seemed to him that the political purposes would be best served if any international force that were introduced were composed of countries that have themselves no possibility of being drawn into rivalry as a result of being there.

UNEF II was created (SC Res.340, 25 October 1973) by drawing on the peace force already in Cyprus and the first troops to arrive in the Canal Zone were the Austrian, Finnish and Swedish contingents from UNFICYP, followed soon after by the Irish. Later this force was strengthened by the arrival of contingents from Canada, Ghana, Indonesia, Nepal, Panama, Peru, Poland and Senegal.


Certain aspects of United Nations operations could be improved by advance planning, among them the difficulties experienced in integrating national contingents and the headquarters staff, lack of suitable technical personnel, logistics and language problems, the need for special training for UN forces, particularly that the force should be capable of self-defence in conventional and guerrilla warfare, crowd control and observation duties. The United Nations should establish, together with the contributing countries, a planning staff.
Obviously there are many things that might be done to improve future capabilities of the United Nations' peacekeeping forces through a planning staff. One of the first steps that might be taken would be to encourage the earmarking of national force contingents for peace-keeping service. The immediate availability of qualified national contingents is very important particularly during the early stages of a crisis, to ensure that field operations undertaken by these contingents have a greater chance for success. Peace-keeping requires a broad range of professional skills and techniques.

Perhaps some sort of arrangements could be agreed upon for providing professional military advice, as required, to the Secretary-General for operations with which he is charged by the Security Council.

There is no UN handbook or guide to peace-keeping, nor has it ever been the policy of the Secretariat to publish evaluations or commentaries based on past experience of peace-keeping operations and missions. Clearly, some kind of handbook is necessary, consolidating in one manual the essence of the information required, the peace-keeping provisions of the Charter, the peace-keeping machinery within the organs of the UN, the legal and broad political aspects of the Status of the Force, the mounting and functioning of forces, standing operating procedures and the use of force, as well as aids to preparation and training.

There is a growing unanimity among permanent and non-permanent members of the Security Council that it should not only act to stop wars, but that it should be the instrument through which initiatives towards this end should be taken.
There is an urgent need to improve the procedures for developing peace-keeping techniques and the operational skills required in their practical application. This does not require revision of the Charter; it means using the Charter with greater flexibility. For example, a reactivation of the Military Staff Committee to a more positive and broadly based role in its relationship with the Security Council, a multi-professional advisory group including political, diplomatic, military, legal, economic and research members whose advice to the Secretary-General could be of some significant value in the preparation and conduct of peace-keeping operations.

The essence of peace-keeping is not only to separate the disputants and keep them apart, but ultimately to bring them together. Peace-keeping must be closely linked to an overall peace effort.

If the United Nations became strong enough to provide reliable peace-keeping, many countries might give less attention to military security and divert financial resources to much-needed economic development. Nations, in the nuclear age, can no longer afford to protect their interests through the traditional use of force without risking their own destruction. They need special peace-keeping forces which can do for them what they can no longer afford to do themselves.

The UN forces can and should be a substitute for superpower military involvement in certain circumstances. Both the United States and the Soviet Union are aware that under the cover of collective responsibility UN peace-keeping permits action without committing the vital interests of either power.
Many of the member states of the United Nations attach the highest importance to the concept of international peace-keeping, and in general support the particular forms it has taken. The Soviet bloc, France and a few other countries have generally been opposed to peace-keeping when authorised by the General Assembly and have been reluctant to countenance the use of peace-keeping forces, even under Security Council authorisation, when that did not involve immediate and continuous supervision by the Security Council. Obviously, the future of the United Nations peace-keeping operations will depend on the collective attitudes of the member states, particularly the superpowers.

In reviewing the above-mentioned record of peace-keeping activities, we have noticed that large peace-keeping operations posed major problems which cannot be solved without a political consensus that includes the Great Powers. In fact, it is difficult to conceive any peace-keeping operation being created without the consent of the superpowers.

Once the concept of the role of the United Nations is acknowledged, military matters, financing, and legal questions may be resolved. Despite the financial crisis and the subsequent difficulties faced in attempting to resolve some of the pressing problems concerning the future of peace-keeping operations, the majority of member states are willing to accept the United Nations' role in peace-keeping operations. That is why it is appropriate to assume that the United Nations will continue to play its role in peace-keeping operations. The new experience in creating UNEF II and UNDOF
has revived hope that it might still be possible to get general agreement on peace-keeping machinery and procedures that would increase international confidence in the UN's capacity to meet its obligations under Chapter VII of the Charter.
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