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Financial Peacekeeping from IMF and IBRD Income

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FINANCING PEACEKEEPING FROM IMF AND IBRD INCOME*

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Professor Bleicher asserts that the present method of financing United Nations peacekeeping operations through annual contributions by Members is unsatisfactory. Not only can it cause a financial crisis when certain Members refuse to pay, but also it may impair the United Nations peacekeeping function. After exploring several alternatives for providing stable income for peacekeeping operations, Professor Bleicher concludes that portions of the substantial net income of the International Monetary Fund and the Bank for Reconstruction and Development should be transferred to a United Nations peacekeeping fund. He then analyzes the various methods of achieving the transfers and suggests that the three organizations concerned should enter into an agreement providing for fixed flow of funds from IMF and IBRD to the United Nations.

INTRODUCTION

In 1942, C. Wilfred Jenks spoke before the Grotius Society on the subject of financing international institutions. He pointed out the unsatisfactory experience of the League of Nations, suggested some possible sources of independent revenue, and called for detailed analysis of the problem by his colleagues. One paragraph of that speech in particular is worth repeating because of its timeliness today:[1]

> In international, as in national, affairs good administration presupposes sound finance. Unless more adequate financial resources are available to public international bodies, and the collection of a high percentage of the sums provided for in their budgets on the date on which those sums are due can be relied upon with reasonable confidence, in good times and in bad, the working of such bodies will remain, as it has thus far been, at best a precarious experiment. It is not without significance that in the evolution of all major federations the financial relationships between the federal authorities and the federated units have been of crucial importance.

The sad fact is that little progress has been made in the study of United Nations financing since that time. Not much has been written on the subject, and almost no one has attempted to set up any explicit

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[1] Jenks, *Some Legal Aspects of the Financing of International Institutions,* 28 TRANSACT. GROT. SOC'Y 88 (1942).

criteria for judging proposed solutions, or to analyze the legal problems and financial results of a particular plan in the necessary detail. It is perhaps understandable, as Jenks commented in his address, that international lawyers, schooled in concepts of state sovereignty and the consensual basis of treaties, are not greatly creative in the field of public finance. But as a result, the task of finding a satisfactory financing proposal must begin without the benefit of the kind of standards and analytical techniques which might have been developed by now had Jenks' advice been followed. The present crisis in the United Nations over the expenses of emergency forces makes analysis of the problem even more imperative today than it was 20 years ago.

I. The Inefficacy of Assessments and the Need for a Peace Fund

The record of collection of United Nations assessments clearly demonstrates that while assessment is an adequate method of paying the general expenses of the Organization, it is unsatisfactory to finance major peacekeeping operations. The Secretary General's most recent available report on the collection of contributions, which was presented to the General Assembly on November 30, 1964, showed net assessments for that year's Regular Budget of $85.2 million, of which $61.9 million had been received, and $23.3 million in current assessments were still outstanding.[2] The large amount unpaid results largely from the slowness of national legislatures in approving their budgets, and it is almost completely eliminated by the fall of the next year, as the low level of arrears shows. Arrears—unpaid contributions from previous years—amounted to $2.1 million in 1964, indicating that virtually all of the previous years' assessments had been paid by this time. These figures are representative in comparison with those of other years, and the amount of arrears since 1957 has remained less than 10 percent of total contributions.[3] The United Nations also collected $15 million in

[2] U.N. Doc. A/5822 (1964).

[3] The figures from previous years are as follows:

Year	Assessment (million $)	Balance Due (Sept.) (million $)	Arrears (Sept.) (million $)
1958	51.5	15.8	3.7
1959	57.5	19.0	3.3
1960	53.1	14.0	3.6
1961	64.1	22.2	4.0
1962	66.7	22.0	4.8
1963	82.4	35.0	5.6

U.N. Doc. A/C.5/778 (1959); U.N. Doc. A/C.5/824 (1960); U.N. Doc. A/C.5/879 (1961); U.N. Doc. A/C.5/920 (1962); U.N. Doc. A/C.5/985 (1963).

additional advances to the Working Capital Fund during 1963 and 1964 with outstanding success.[4] As of November 30, 1964, only $24,919, less than one-tenth of 1 percent, remained uncollected; and $16,000 of that sum represented current assessments of new Members.

Nevertheless, despite the good record on Regular Budget collections, since 1962 the United Nations has been in desperate financial straits because of arrears in the payment of peacekeeping expenses. The contrast between the collection records for the Regular Budget and the peacekeeping accounts is impressive. Both major peace forces were financed in essentially the same way: contributions by Members, on the basis of General Assembly assessments on a slightly different scale from that of the Regular Budget, segregated in special accounts.[5] The Secretary General's reports on contributions show the magnitude of the collection problem for the United Nations Emergency Force in Palestine (UNEF) Special Account and the United Nations Congo Operation (ONUC) Ad Hoc Account.

For 1964, the General Assembly voted an assessment for UNEF of $16.3 million. By November 30, 1964, only $11.0 million of this amount had been collected.[6] The record of arrears for UNEF demonstrates that insufficient time to appropriate the money was not the cause of the delay, as in the case of the Regular Budget. Of the $33.1 million of *arrears* in January 1964, $29.1 million remained unpaid by December. And for previous years, the situation has been the same.[7]

Year	Arrears in January (million $)	Arrears in September (million $)
1958	8.8	5.1
1959	15.4	13.2
1960	18.7	17.5
1961	21.9	21.1
1962	25.7	25.2
1963	27.6	27.2

Unlike the pattern of the Regular Budget assessments which are over 90 percent paid up by the fall of the next year, the deficit for UNEF peacekeeping operations cumulates as each year's collections fall

[4] In December 1962, an increase in the Working Capital Fund from $22 million to $40 million was approved by the General Assembly, mainly to finance the period of delay in collection of regular assessments, G.A. Res. 1863, 17 U.N. GAOR, Supp. 17, at 60, U.N. Doc. A/5217 (1962).

[5] The alteration of the scale of assessments is renewed in each resolution that authorizes funds for peacekeeping. *See, e.g.*, G.A. Res. 2115, 20 U.N. GAOR, Supp. 14, at 75, U.N. Doc. A/6014 (1965).

[6] U.N. Doc. A/5822 (1964).

[7] U.N. Doc. A/C.5/778 (1959); U.N. Doc. A/C.5/879 (1961); U.N. Doc. A/C.5/985 (1963).

below, and remain below, the assessment voted. By December 1964, only 75 percent of the 1957 UNEF assessment had been paid, and the proportion is lower for all subsequent years. Fifty-one Members owed arrears, as compared to twenty-one for the Regular Budget.

The ONUC contributions show the same pattern:

Year	Arrears in January (million $)	Arrears in September (million $)
1962	54.3	50.9
1963	76.2	71.9
1964	95.1	82.1[8]

The proportion of the ONUC assessment paid has not exceeded 66 percent for any year, and 61 Members were in arrears on November 30, 1964.

The resultant effect on United Nations finances has been disastrous. The United Nations statement of accounts for calendar 1963 showed a deficit in the General Fund, Working Capital Fund and Trust Funds of $117.9 million and a surplus for the Organization as a whole (considering all peacekeeping accounts receivable as assets) of $44.7 million.[9] At the end of 1964, the deficit in the funds had fallen to $110.6 million, but the surplus dropped to $22.7 million.[10] The money to cover the uncollected accounts receivable has come from the United Nations Bond Issue, from voluntary contributions in 1965 of $20 million by several Members,[11] and from $54 million in advance payments of assessments in 1965.[12] Nevertheless, it was necessary to postpone reimbursement of nations who assisted in peacekeeping operations, and to borrow from the account of the voluntary Special Fund to meet payroll commitments in April and May of 1965.[13]

On October 11, 1965, the Secretary General reported to the Fifth Committee:[14]

> I have estimated that an amount of approximately $100 million would be required to enable the Organization to liquidate in full the obligations

[8] Nov. 30, 1964. September statistics for 1964 are unavailable because of the delay in convening the General Assembly that year. Also, comparable figures for 1960 and 1961 are unavailable because assessments were readjusted under General Assembly Resolution 1583 (XV) and arrears for those years were combined.

[9] U.N. Doc. A/C.5/1018 (1964).

[10] U.N. Doc. A/C.5/1034 (1965).

[11] U.N. Doc. A/C.5/1037 (1965).

[12] Advance payments were requested in Resolution 2004 (XIX) to cover the depletion of the Working Capital Fund. Both the Western and Soviet blocs responded. *See* U.N. Doc. A/C.5/1032 (1965).

[13] U.N. Doc. A/5917 (1965).

[14] U.N. Doc. A/C.5/1037 (1965).

> currently outstanding against the special accounts of the United Nations Emergency Force and the United Nations operation in the Congo; to meet in full the additional obligations that will be incurred, in the case of the Emergency Force, between 1 September 1965 and such time as a decision will have to be [sic] reached at the twentieth session of the General Assembly on the future of that operation and its financing; to restore the Working Capital Fund to its authorized level of $40 million; and to cover amounts due to Member States as adjustments on assessed contributions for the costs of the two peacekeeping forces mentioned.

The United Nations deficit of $117.9 million at the end of 1963 is almost completely accounted for by the UNEF Special Account arrears of $27.2 million, the ONUC Ad Hoc Account arrears of $71.9 million, and the then current unpaid portions of the UNEF and ONUC assessments of $8.8 million and $27.7 million.[15]

The conclusion suggested by these statistics is that although annual assessment of Members is a satisfactory method of financing ordinary administrative expenses, economic development projects, and social and physical welfare programs, it is unreliable as a method of financing peacekeeping operations. If one looks beyond the bare statistics to consider whether this behavior is to be expected and is likely to continue, it becomes clear that the lesson of the past and present must be taken seriously. There is every reason to believe that United Nations Members will perform no better in the future than they have in the past.

As a general matter, peacekeeping operations are the least palatable of international activities because of the degree to which they impinge on traditional national prerogatives. Unlike most other international programs, whose demands are for the most part limited to economic resources, the underlying demand of the United Nations on its Members in relation to police operations is political disinterestedness in matters thought to be vital to national interest. The foreign policy goals of a substantial number of nations may be hampered at one time or another by the possibility of United Nations action. The immediate threat of major war or civil strife in a strategic area of the world is occasionally frightening enough to bring quarreling powers together to avoid the imminent disaster. Some nations may even expect an outcome particularly to their advantage. But when the fear that makes

[15] The surplus of unpaid assessments over the deficit apparently results from the fact that part of the expenditures for which current assessments have been approved had not yet been made at this point in the fiscal year.

peace forces possible subsides, the costs remain, and Members who are in retrospect dissatisfied may refuse to pay. Refusal to pay peacekeeping assessments is not a matter of national economics but of international politics. It is a way of expressing disapproval of programs that have already been carried out, and of discouraging their continuation or emulation.

Compounding this political problem and in part arising out of it, is the continuing controversy over the internal allocation of peacekeeping powers within the United Nations. The Soviet Union, along with France and others, argues that:[16]

> [T]he only body authorized 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 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.

Against this position, the United States, which sponsored the "Uniting for Peace" Resolution laying the groundwork for an active General Assembly role in peacekeeping, argues that the Security Council has only "*primary* responsibility" for peacekeeping.[17] When the Security Council is deadlocked, the General Assembly may call for volunteers to re-establish peace. As a corollary to this view, the United States insists that the General Assembly, under article 17, has the responsibility for apportioning peacekeeping expenses like any others.[18] The U.S.S.R., however, says that the aggressor nations should pay for United Nations police forces, and that in any case the Security Council must decide the matter.

Whatever the legal correctness of either of these positions, it is clear that the dispute aggravates doubts that future emergency programs will be any better financed than those in the past. Furthermore, nations opposed to a particular United Nations peacekeeping operation for political reasons will find the legal problem of the division of

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[16] U.N. Doc. A/C.121/2 (1965).

[17] U.N. CHARTER art. 24, para. 1. (emphasis added). It would be fascinating to see a linguistic study of the degree of exclusivity implied by the word "primary" in English, French, Spanish, Russian, and Chinese.

[18] U.N. Doc A/AC.121/3 (1965), previously issued as U.N. Doc. A/AC.113/30 (1964).

responsibility between Security Council and General Assembly a convenient lever with which to obstruct peacekeeping operations and weaken the United Nations by withholding financial support.

The Great Powers are becoming especially unreliable as a source of funds for peacekeeping because of another factor: the increased membership of the United Nations. The smaller Members generally want the United Nations to take more responsibility for the direction of international relations, economic development, and other matters of world concern.[19] They are more willing to alter the structure of the organization to strengthen the United Nations as a whole and to improve their position in it. The recent expansion of the Security Council and the Economic and Social Council are evidence of their political power, as were the votes taken in the closing days of the 20th General Assembly Session.[20] One result of this increased power of small nations may be a widening gap between the actions the Organization takes and the preferences of the major contributors to the United Nations budget. Peacekeeping is likely to be the area in which the small Members will be most cautious and most concerned about Great Power support. But the continued pressure in other fields for programs which the Great Powers dislike may create a general attitude of alienation from the United Nations and a decreased desire to maintain its strength. This possibility will make the financing of politically unpalatable peacekeeping operations less reliable than it has been in the past. Thus a political analysis of the relations of Members with the Organization and with each other reinforces the conclusions drawn from the historical data: Member contributions are an unsatisfactory means of supporting United Nations peacekeeping operations.

A look at the predicted future pattern of United Nations expenditures gives further reason to doubt the ability of the United Nations to support new peacekeeping operations. It has already been forced to take advantage of every available accounting device and every opportunity to appeal for Members' support in order to avoid outright insolvency, and it will almost certainly be suffering chronic shortages of funds for the foreseeable future. In 1962 Professors Henry Nau and Norman Padelford made a general study to predict United Nations

[19] J. Vincent, The Caucusing Groups of the United Nations—An Examination of Their Attitudes Toward the Organization 171-72, 190-91, 211-14 (1964).

[20] The underdeveloped nations, combining with the Communist bloc, for the first time outvoted United States and its friends on whether certain subjects are "important questions" under art. 18 of the United Nations Charter. Christian Science Monitor, Dec. 22, 1965, § 1, at 11, col. 4.

expenditures to 1975.[21] Using a method that might best be described as intelligent linear projection, they extrapolated present growth rates of various expenditures, making corrections where they felt that specific factors made that trend unlikely. The results indicate that the United Nations system will be growing very rapidly in the coming decade. The most spectacular increases will come in the voluntary programs which will grow at a rate of about 8 percent per year between now and 1975. The Specialized Agencies during this decade will almost double their present assessed budgets, while the Regular Budget will increase by almost 50 percent.[22] A comparison of these projections with 1965 and 1966 expenditures indicates that they may be conservative.[23] But if they are at all correct, the United Nations will be expanding the scope of its activities constantly, and suffering from the shortage and misallocation of funds and facilities that accompany such expansions. At the same time, it will continually find itself short of funds as a result of current delays and arrears in the payment of assessments. The same percentage of Regular Budget *arrears* in 1975 will amount to about $11 million, over 25 percent of the Working Capital Fund. Also, financing the gap between assessment and collection of current contributions will become progressively more expensive as the size of the Regular Budget grows, despite the "advance payment" plan that was begun in 1965.

Professors Nau and Padelford included in their study an estimate of the costs of peacekeeping operations. They projected a slight increase

[21] H. Nau & N. Padelford, An Analysis of United Nations Expenses with Cost Estimates to 1975 (1963).

[22] The projections are as follows:

	(in millions—actual) 1957	1960	1962	(in millions—projected) 1965	1970	1975
Regular Budget	$ 53.1	$ 65.3	$ 85.8	$108.7	$131.8	$153.0
Specialized Agency Expenditures (excluding IAEA)	48.7	59.3	80.3	113.2	153.5	195.0
Voluntary Contributions	95.5	145.0	182.0	386.5	578.6	828.0
Total	$197.3	$269.6	$358.1	$608.4	$863.9	$1176.0

[23] Expenditures in the last two years were:

	1965 (U.N. Estimate) (million)	1965 (Actual) (million)	1966 (U.N. Estimate) (million)
Regular Budget	$104.7	$108.5	$121.6
Specialized Agency Expenditures (excluding IAEA)	$116.7	$131.5	$142.8

U.N. Doc. A/C.5/1008 (1964); U.N. Doc. A/C.5/1026 (1965); G.A. Res. 2124, 20 U.N. GAOR, Supp. 14, at 81, U.N. Doc. A/2124 (1965).

in the cost of UNEF, up to $22.5 million by 1975. But only $15 million a year was included for all other peacekeeping, on the basis of the following assumption:[24]

> We are assuming that no issues as controversial as the Congo debacle will arise in the next twelve years to prolong the present financial and political disagreements or to precipitate a new financial or constitutional crisis. It is acknowledged that this is a large assumption. This may not prove to be realistic. The historical record does not warrant optimism that it will be borne out....

The artificiality of that assumption is perhaps more apparent today than when it was decided upon. Since 1962 the war in Vietnam, the conflict in Kashmir, the unilateral seizure of independence by Rhodesia, among others, have created not one but several situations in which a United Nations peace force might be needed. And the existing token forces in Cyprus and the Middle East might have to be greatly expanded at any time.[25] In these circumstances, it seems more likely that there will be several serious crises before 1975 than that peace will prevail. Just when another peacekeeping effort will be required is difficult to predict, but there is no reason to expect the next 10 years will be more peaceful than the last 20.

When the United Nations is next called upon, the result may be a financial collapse of the whole Organization. It has been able to maintain its solvency despite the costs of the Congo operation by borrowing from its various trust funds and delaying the payment of certain debts. But unless some effective means of financing future peacekeeping activities is found, it is unlikely that the Organization could survive another shock of this magnitude. Deficits in future peacekeeping operations would pose a serious danger to the solvency and viability of the United Nations as a whole.

This threat of collapse if the United Nations attempts new peacekeeping operations substantially weakens the present international position of the Organization as well. Its diplomatic effectiveness, like that of a national government, largely depends on the degree to which the nations it deals with expect that it can carry out the policy goals it has set for itself. For purposes of both negotiation and deterrence, the credibility of the implied threat of a United Nations emergency force is

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[24] NAU & PADELFORD, *supra* note 21, at I/4.
[25] This article was written before the Arab-Israeli conflict of June, 1967.—*ED.*

crucial, regardless of the Organization's moral authority as the representative of the governments of the world. An expectation of effectiveness is particularly important for the United Nations because its jurisdiction in practice depends upon the willingness of Members to bring disputes to it. If they have confidence in the Organization they will call upon it and give it the opportunity to act effectively; otherwise it will find itself increasingly peripheral to world events and ultimately irrelevant. Thus one of the most damaging effects of the United Nations financial crisis is the loss of confidence it has already engendered.

The inadequacy of annual post hoc contributions to finance peacekeeping means that a new method must be found which will not only provide the money when necessary but will be immediately recognized as a means of financing that the United Nations can rely upon when the need arises, whatever the nature of the crisis. To meet this need, it has been widely recommended that the United Nations establish a Peace Fund, in which sufficient sums to pay for future as well as past peacekeeping operations would be accumulated. In the 1963 Special Session, the General Assembly voted to have the Secretary General study the proposal,[26] but so far he has not progressed beyond the stage of canvassing the member governments for their opinions. The amounts suggested range from $25 million to $500 million. Considering the present debt of $100 million and the fact that ONUC at one point was costing over $120 million annually, it would seem essential that a credible and effective Peace Fund accumulate several hundred million dollars within a few years, and that adequate provision for replenishment be made.

The advantages of an adequate Peace Fund would be substantial. Most importantly, it would provide the necessary financial support for emergency forces when needed. In times of peace, it would stand as a tangible symbol of the ability of the United Nations to cope with any international security problem that might arise. A portion of it could be used to train officers and retain a skeleton staff of planners and administrators to keep the Organization in a state of readiness.[27] Strengthening the capability of the Organization in this way would greatly enhance its prestige and effectiveness. There is little doubt that a Peace Fund would result in a more prominent role for the United Nations and increase the power of the majority to get action. Professor

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[26] G.A. Res. 1879 (Spec. Sess. IV) (1963).
[27] Padelford, *Financing Peacekeeping: Politics and Crisis*, 19 Int'l Org. 444, 460 (1965).

John Stoessinger has pointed out the influence a Peace Fund would have on the United Nations:[28]

> [A] financially independent United Nations would be able to function on the basis of the consent of states, without requiring their active support. Mere acquiescence by a state would amount to a vote *for,* not *against,* a program. When United Nations operations are based on compulsory assessment, the middle ground of permissiveness is, in effect, eliminated . . . a United Nations that could draw on its own treasury would have no need to press indifferent states to lend active financial support and thereby risk shoving them into the ranks of the opponents of its actions.

Although his analysis may be an overstatement, it does indicate the kind of effect a Peace Fund would have on the dynamics of United Nations decision-making.

Objections have been raised, however, by both scholars and member states.[29] One is that Members who opposed a particular peacekeeping operation, if unable to thwart it through the medium of finances, would try other methods. But financial obstruction poses so serious a threat to the United Nations that the dangers from other hypothetical forms of obstruction are unlikely to be as great as the present dangers of bankruptcy and declining prestige. Effectively strengthening the Organization financially will also make it more impervious to other forms of opposition which under present circumstances could destroy it.

Another objection is that the ability to authorize peacekeeping without paying for it may encourage irresponsibility. But while cost may be the major obstacle to United Nations action in other fields, it can hardly be imagined that simply because money is available, member states, traditionally so jealous of their sovereign prerogatives, would vote for emergency forces under any but the most serious circumstances. The primary issue is still a political one, and the many complications that beset ONUC are likely to reinforce the diplomatic instinct toward caution even when financing is available. The most important obstacle to the establishment of a Peace Fund is the same problem that has plagued past United Nations peacekeeping efforts: lack of an adequate reliable source of revenue. If a satisfactory source of revenue can be found, the path may be opened for a more effective United Nations effort to "maintain international peace and security."[30]

28 J. Stoessinger, Financing the United Nations System 30 (1964).
29 *Id.* at 31-32, 268.
30 U.N. Charter, art. 1, para. 1.

II. ALTERNATIVE METHODS OF FINANCING A PEACE FUND

Over the years many suggestions, ranging from budget ceilings to general taxes, have been proposed as solutions for the problem of United Nations financing. Because intelligent evaluation depends upon the development of criteria which can be applied to any plan, it seems essential to establish some general requirements. Those that follow are only a tentative beginning, but perhaps they can be used as a foundation upon which to build an adequate and detailed set of standards. The first three deal with economic considerations, the last three with political matters.

A. Production of Adequate Revenue

Any proposal must demonstrate that it will raise a sufficient amount of revenue to pay for predictable, and to some extent even unpredictable, peacekeeping ventures. It should hold out some assurance that it will continue to function adequately in the foreseeable future, and that it will be able to grow if and as more funds are needed. From what has been said above, it is apparent that several hundred million dollars is needed in the near future, and a continuous flow of at least $30 million will be necessary for an indefinite period.

B. Minimum Cost

This criterion has two aspects: capital costs and administrative costs. A plan for revenue that might otherwise be very satisfactory may be unrealistic because the United Nations does not have the capital to invest, unless some other source of funds can be found for the purpose. For example, plans to develop the economic potential of outer space appear to require billions of dollars of investment before any revenue can be expected. If the United Nations had sufficient capital for these purposes, it could easily finance peacekeeping at the levels presently contemplated. As for administrative costs, it must be remembered that it is the net revenues to the Organization, rather than gross amount collectable, that is crucial. A plan that required constant policing of the use of the oceans or of international trade might result in costs that absorbed a relatively large portion of the revenue produced, unless Members donated these services.

C. Wide Distribution of Burden

While it would be most desirable for all Members of the Organization to contribute in proportion to their ability to do so, this matter is not crucial. But it is essential that no single country or small group of countries be put in a position to exercise a power of strangulation on the funds provided by the financing plan. The Organization must not be forced to depend on a few countries for the revenue for peacekeeping operations. It is perhaps worth noting at this point that the purpose of a new financing plan is not to alter the distribution of the burden of support. It is no criticism of a plan to say that governments will end up paying the expenses in one form or another anyway.[31] What matters is not that the same Members pay the cost, but that the funds can be efficiently collected even when some governments might be indisposed toward contribution.

D. Integrity of the Secretariat

Any proposal which involved extensive use of Secretariat personnel must be closely examined to guarantee that the international and nonpolitical character of the Secretariat is not compromised.[31a] A plan which puts part of the Secretariat staff *pro tanto* at the disposal of a Member may have the effect of making some Members less willing to cooperate with it, to the detriment of the United Nations as a whole. For example, if the United Nations were willing for a fee to analyze the economic strengths and weaknesses of another Member's economy, that Member would almost certainly consider its security threatened. The history of Czechoslovakia's compulsory withdrawal from the International Monetary Fund illustrates this sensitivity.

E. Operation Without Full Support

For a financing plan to be fully effective, its operation (as distinguished from its adoption) should not depend on the continuous support of every Member. Once a peacekeeping operation has been decided upon by the United Nations through the proper procedures, no Member should have a "financial veto" to add to its other voting rights. A reliable financing mechanism is one that operates precisely at the time when some Members might feel disposed to withdraw their support. If the Secretary General has direct access to funds once they have been allocated to a specific use, the danger of extralegal obstruction will be diminished.

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[31] For this argument, see STOESSINGER, *supra* note 28, at 269.

[31a] The importance of this concern is made clear by article 100, para. 1 of the charter:

> 1. In the performance of their duties the Secretary-General and the 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 Orgaanization.

F. Acceptability

Any desirable plan must necessarily be acceptable to at least a substantial majority of United Nations Members, and it is the tension between what the Organization needs and what the Members will accept that makes the problem of financing so difficult. The following three factors seem to be most relevant, but the choice is more a result of intuition than research. They are presented in the hope that they will inspire further investigation and examination of the problem:

1. Effect on Sovereignty. Both old and new nations are still very sensitive to any infringement of their sovereign rights, and any proposal which forces a substantial number of Members to abandon powers they are actively exercising would not be accepted in the present international environment regardless of its redeeming features. The most desirable plan from this standpoint would be one that was completely outside the traditional sphere of national activity, though complementary activities that paralleled but did not affect Members' powers might be acceptable. A plan that interfered with national taxation powers or regulation of imports would be less acceptable, for instance, than one which did not require any modification of national policy.

2. Danger of Overexpansion. Nothing arouses the suspicion of governments so much as a plan that lacks well-defined legal and conceptual limits. The concept of the plan must be such that no recognizable modification of it would appear dangerous either per se or as a precedent. Perhaps the greatest weakness of a proposal for a United Nations income tax is the impression it gives of "opening the door" to unlimited expansion.

3. Adverse Effect on Private Interests. A State might be willing, in the interests of international peace and security, to permit the taxation of international trade, transportation, communication, or other "commercial" activities owned and operated by the government. But where the activity affected by a financing plan is in private hands, political pressure to prevent such taxation seems inevitable. American Telephone and Telegraph, for example, could be expectd to oppose any effort to surcharge international telephone service because of its adverse effect on profits. If the private interests affected have significant influence in some of the major governments, the probability of the proposal's acceptance may be substantially reduced.[32]

These six criteria—production of adequate revenue, minimum cost,

[32] Commission to Study the Organization of Peace, Strengthening the United Nations 260-61 (1957).

wide distribution of burden, neutrality of the Secretariat, operation without full support, and acceptability—seem to be the essential standards for evaluating any proposed plan for financing United Nations peacekeeping. A criterion based on the fear among Members of the increased power of the United Nations itself is inappropriate to this inquiry. Insofar as Members fear greater United Nations power per se, as opposed to the specific limitation of their own power, no proposal will be satisfactory, nor will the present scheme work effectively. There is no purpose in discussing financing plans unless one assumes that some ideal plan, which measures up to some ideal set of criteria, would be adopted by the Members.

The proposals which have been suggested to improve the financial condition of the United Nations can be divided into three general categories. The first group includes plans[33] which are best described as "budgetary devices." Most of them, *e.g.*, putting a ceiling on the budget, tying appropriations to their corresponding resolutions, or unifying the United Nations and Specialized Agency budgets,[34] are aimed at saving rather than raising funds; some would impose new sanctions for nonpayment of assessments. Whatever the merits of these plans, none meets the first criterion for a financing plan—assured production of adequate additional revenue.

Another group of proposals deals with what might be called "nongovernmental activities" in that they would have the United Nations become an entrepreneur of one sort or another. Typical examples are development of the Antarctic or the oceans,[35] or creation of a United Nations consultant service. For the long run, many of them may hold promise. But many would require huge outlays of capital, and none would provide immediately a reliable source of income of the magnitude required.

The third group is "governmental activity"—the collection of general or special taxes, by whatever name. Although a general tax on income appears to be unacceptable in today's international climate,[36] specialized taxes on international activities seem to have some potential. One proposal is to add an extra one cent of postage on all interna-

[33] *See generally* STAFF OF SENATE COMM. ON FOREIGN RELATIONS, 83d CONG., 2d SESS., BUDGETARY AND FINANCIAL PROBLEMS OF THE UNITED NATIONS (Comm. Print 1954).

[34] CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, THE BUDGET OF THE UNITED NATIONS (United Nations Studies, No. 1, 1947).

[35] Taubenfeld & Taubenfeld, *Independent Revenue for the United Nations*, 18 INT'L ORG. 241, 243-53 (1964).

[36] C. NICHOLS, FINANCING THE UNITED NATIONS—PROBLEMS AND PROSPECTS 26 (1961).

tional mail.[37] Because over 4.7 billion international letters were mailed from the noncommunist nations, Hungary, and Yugoslavia in 1963,[38] the gross revenue from a charge on all types of international mail would probably be substantially more than the $47 million indicated by this figure. Administrative expenses would not be too great if United Nations stamps were sold directly to the national postal departments; and enforcement would be relatively easy because both the sending and receiving post offices could check compliance. The burden of such a plan would fall more heavily on small nations than large ones, and many nations might consider it an invasion of sovereignty. At present, it seems unacceptable, but with more refinement, perhaps some of the complications could be eliminated.

Another proposal is to tax the use of international canals.[39] While this plan has often been considered, the history of the Suez Canal fee charged by the United Nations to pay for its clearance operations indicates that private interests would vigorously oppose any plan of this kind.[40]

The most desirable proposal, especially in consideration of the urgent and immediate need for funds, seems to be a plan to transfer a part of the income of the International Monetary Fund (Fund) and the International Bank for Reconstruction and Development (Bank) to the United Nations.[41] The remainder of this analysis will deal with the economic and legal basis of this plan, examining in detail its features and the obstacles to its adoption.

III. The Income and Financial Structure of the Fund and the Bank

It is quite clear that the proposal satisfies some of the criteria presented, such as retaining the integrity of the Secretariat and avoiding high administrative cost. The acceptability of the proposal will not be analyzed separately, but some relevant factors will be noted in relation to other matters of concern. A proposal of this type raises an additional consideration that is not relevant to most financing plans: the adverse effect it might have on the institutions from which the funds are taken. Thorough consideration of the operation of the Fund and

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[37] Stoessinger, *supra* note 28, at 271-75.

[38] Union Postale Universelle, Statistique Reduite Des Services Postaux 1963: Traffic—Resultat Financier 12, 28 (1965).

[39] *See* note 33 *supra* at 19.

[40] J. Fried, U.N. Revenue Through Levies on International Activities 38 (mimeographed draft) (1962).

[41] Commission to Study the Organization of Peace, *supra* note 32, at 260-61.

the Bank is necessary at this point to determine whether adequate revenue could be assured, how the burden would be distributed, and what effect the plan would have on these two institutions. The problem of making the financial support independent of the continuing approval of all Members will be considered in the discussion of the various legal devices that could be used to transfer Fund and Bank revenues to the United Nations.

It will be most convenient in considering the financial condition of the Fund and the Bank to examine each one separately. The Fund began operation in 1946 and ran a deficit in every year but one through fiscal 1956.[42] During this period gross income reached a peak of $4.97 million in fiscal 1954, but was at its lowest after the first year in fiscal 1956. Meanwhile costs of operation rose steadily but at a decreasing rate from $2.07 million in the first year to $5.35 million in fiscal 1956. By then the accumulated deficit on operations exceeded $14 million.

In 1956 two great changes occurred—one planned, the other unforeseen; they have transformed the Fund's financial condition. The planned change was a step on the part of the Directors to eliminate the accumulated deficit by putting some of the Fund's gold to work. The Fund began operations with $1,344.3 million in gold, approximately 56 percent of which was on deposit in the United States. By fiscal 1956 this amount had grown steadily to $1,761.4 million as a result of payment of gold quotas and increased membership. On January 25, 1956, the Executive Board, "observing that the Fund has had and may continue to have" a deficit, decided that "it would be appropriate to raise income towards the deficit by the investment of a portion of the Fund's gold. . . ." Exercising their power under article XVIII(a), which gives the Executive Board authority to interpret the Fund Agreement, they agreed to "interpret the Articles of Agreement to permit . . . sale of a portion of the Fund's gold to the United States for the purpose of investment of the proceeds in United States Treasury bills having not more than ninety-three days to run," subject to the qualifications that the Fund could reacquire gold at any time, and that the investment would always be treated as gold, rather than United States currency.[43] The latter qualification would protect the Fund's investment against exchange restrictions or devaluation imposed by

[42] The statistics of Fund income and expenditures are taken from the IMF annual reports for various years. The fiscal year ends on April 30, so the greater portion of the transactions included in any fiscal year actually took place in the previous calendar year.

[43] IMF, SELECTED DECISIONS OF THE EXECUTIVES DIRECTORS 112 (3d ed. 1965).

the United States. The original investment was of $200 million, and in the first full year, fiscal 1957, it brought income of $4.9 million. It was expected that within a few years the deficit could be eliminated.

In subsequent years, the gold investment program has been expanded. In November 1957, when it became apparent that the deficit would be eliminated by the net operating income from that year (fiscal 1958) alone, it was decided to continue the investment (with a delicate deletion of the references to a deficit found in the previous resolution) and to place the income from this investment in a Special Reserve, which appears only as a footnote to the income statement.[44] After the Fund's gold holdings were almost doubled by an increase in quotas and repayment of some borrowings, the amount of the investment was increased to $500 million in July, 1959, and then to $800 million in November, 1960.[45] Investment in 12- and 15-month Treasury securities rather than 90-day bills was countenanced. The annual income from this investment has grown to $30.8 million in fiscal 1965, and the Special Reserve has a balance of $148.3 million.

The unexpected change that improved the Fund's financial position was the huge volume of purchases and standby arrangements in late 1956, 1957, and 1958, growing out of the Suez crisis, which dislocated trade and upset the balance of payments of several European nations. Gross income from operations jumped from $1.7 million in fiscal 1956 to $9.4 million for fiscal 1957 and $23.6 million for fiscal 1958, while costs of operation grew only to $5.7 million. Since that time, the Fund's earned income has always substantially exceeded costs. In 1958 and 1959, the Fund was wealthy enough to write off as a current expense approximately $7 million for the new building it occupies. Its lowest annual earned income was $14.6 million in fiscal 1961, its highest, $47.7 million in fiscal 1965; expenses rose to only $13.1 million in 1964 and $22.2 million in 1965. The General Reserve, which represents cumulative net income from operations, stood at $141.8 million at that time. Altogether the Fund has had an annual income from investments and operations of at least twice its expenses for each year since fiscal 1957, and it has funded reserves with a total value of $290 million, more than 12 times its highest annual expenditure of $22.2 million in fiscal 1965. A systematic presentation of the annual figures is found in appendix A.

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[44] *Id.* at 114.
[45] *Id.* at 115.

The sources of this income are such that the Fund seems certain to maintain its present state of financial strength. Although its operational income will probably continue to fluctuate to some extent, the high level of world trade and investment is likely to keep the Fund busy selling currencies to compensate for imbalances in national payments statistics. The increased use of standby arrangements will assure a more continuous flow of income than the Fund experienced in its first few years of operation.[46] In any case, operating expenses should remain relatively stable, and the wide margin between income and expenses leaves a substantial area in which fluctuation of income would be a matter of little concern. It seems inconceivable that with the present level of reserves any change in income or expenditure could threaten the Fund without a grace period of many years in which to make whatever adjustments might be necessary.

Furthermore, the investment income of the Fund, which every year since 1959 has exceeded the operating expenses of that year, has grown in the stable manner expected of government bonds, and could be increased still further in the future. The decision in the spring of 1965 to increase the quotas of all Fund members by 25 percent, with the alternative of greater increases for certain members,[47] will raise by $200 million the dollar amount of gold holdings that could be invested without increasing the percentage of gold invested. And now that the feasibility and efficacy of these investments has been shown for almost 10 years, it would certainly be possible to increase the percentage amount to raise additional funds for a worthwhile purpose.

Before concluding this analysis of the income of the Fund, possible uses of the money for purposes other than peacekeeping that the Member nations might prefer should be considered. It is instructive that so far this money has not been put to use. There is little opportunity for its use by the Fund in its present operations, because the income is insignificantly small in relation to the $20,000 million in gold and Member currencies held by the Fund. The Fund has used some of this money for technical assistance and training programs, but these costs are already included in its expenses. Between 1950 and 1964, 339 people, or an average of 24 per year, participated in Fund

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[46] A standby arrangement allows a nation, for a fee of one-fourth of 1 percent, to agree with the Fund to set aside an appropriate sum for withdrawal at will during the next 6 months. It is often used to bolster the "image" of a currency to offset rumors of impending devaluation. The fee is subject to rebate in case of early cancellation and is credited against the drawing fee if the funds are actually withdrawn.

[47] Board of Governors Res. Nos. 20-6, 20-7 in 1965 IMF ANN. REP. 124.

training programs.[48] A program of this magnitude is unlikely ever to cost many millions of dollars. Even the expanded program of the new IMF Institute would not use a perceptible fraction of the Fund's accumulated income.

New fields of activity are also unlikely. The Fund is a very specialized institution, carefully designed to deal with a particular set of problems, and it is improbable that a high level of income would or should be made the basis for very different kinds of activity on its part. Fund income cannot be significantly reduced by cutting the interest rates[49] or service charges of the Fund, because their purpose is largely deterrent.[50] This fact is apparent from the schedule of charges, which is graduated in 6-month intervals from a 2 percent charge in the first period to 5 percent in the ninth. When the rate paid by a Member exceeds 4 percent, it must consult with the Fund on methods of dealings with its balance-of-payments difficulties. Repurchase by the Member of its own currency within 3 to 5 years is required.[51] The service charge of one-half of 1 percent is already at the minimum allowed under the Fund articles.[52] It appears, therefore, that the Fund has and will continue to have a substantial and growing net income from both investments and operations, which have no readily apparent alternative use and could amply finance a United Nations Peace Fund.

The Bank, unlike the Fund, has had a very stable and satisfactory financial record from the beginning.[53] Only in its first year did it have a net deficit, with earnings of $1.2 million and expenses of $2.1 million. The next year gross income jumped to $18.7 million while total expenses amounted to $10.4 million, leaving a profit which more than compensated for the previous deficit. Since then gross income has risen every year, to $267.6 million in fiscal 1965,[54] while total expendi-

[48] Kroc, *The Financial Structure of the Fund*, 2 FINANCE & DEVELOPMENT 46 (1965).

[49] The level of charges was slightly altered in May 1963, to the benefit of those whose drawings exceeded their quotas by more than 75 percent but less than 100 percent. H. AUFRICHT, THE INTERNATIONAL MONETARY FUND: LEGAL BASES, STRUCTURE, FUNCTION 60-61 (1964).

[50] Kroc, *supra* note 48, at 58.

[51] *See* 1 FINANCE & DEVELOPMENT 8 (1964).

[52] IMF ARTICLES OF AGREEMENT, art. V, § 8, T.I.A.S. No. 1501 (1945) (hereinafter cited as IMF ARTICLES).

[53] Bank income and expenditures are taken from: IBRD, THE WORLD BANK, IFC AND IDA, POLICIES AND OPERATIONS (1962); IBRD annual reports for various years; and IBRD Press Release No. 65/36 (Aug. 11, 1965).

[54] The fiscal year begins on July 1 of the previous year, and ends June 30 of the year named.

tures have risen evenly to $129.9 million, largely for interest on Bank borrowings.

The net income of the Bank, until 1964, was allocated to either a Special Reserve or a Supplemental Reserve, depending on its source. The Bank's Articles of Agreement require that all income resulting from "commissions received by the Bank under Sections 4 and 5 of this Article shall be set aside as a special reserve, which shall be available for meeting liabilities of the Bank. . . ."[55] The next section of the agreement, section 7(b) of article IV, provides that this Reserve shall be the first drawee in case of a default on a loan. Commissions have grown over the years from $3.1 million in fiscal 1948 to $33.2 million in fiscal 1964. There have apparently been no defaults on loans in the history of the Bank,[56] and over the years the Special Reserve has grown to $289.0 million. The average Bank loan is $20 million, only about one-fifteenth of the size of the Special Reserve. Recognizing that the purposes of the Special Reserve were well met by this amount, the Executive Directors, by means of a functional, if historically inaccurate, interpretation of the Bank Agreement, determined that the sums which had up to now been treated as commissions under the article quoted above would no longer be so treated, and would be considered ordinary income, with some minor exceptions.[57] As a result, "commissions" fell from $33.2 million in fiscal 1964 to $.8 million in fiscal 1965, and other income increased in a corresponding amount.

Net income from sources other than those referred to above has been regularly allocated to the Supplemental Reserve created by the Executive Directors in July, 1950.[58] The only charges that have been made against this reserve are losses or gains resulting from devaluation or revaluation of currencies acquired by the Bank from third parties; *i.e.*, not as part of a Member's capital subscription or repayment by it of an IBRD loan in its own currency.[59] Up to fiscal 1964, these losses of $4.3 million had been largely offset by gains of $3.3 million. As a

[55] INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ARTICLES OF AGREEMENT, art. IV, § 6, T.I.A.S. No. 1502 (1945) (hereinafter cited as IBRD ARTICLES).

[56] There is an explicit statement to this effect in IBRD, THE WORLD BANK, IFC AND IDA, POLICIES AND OPERATIONS 61 (1962), and subsequent annual reports reveal no trace of any defaults.

[57] IBRD Press Release No. 64/30 (Aug. 11, 1964).

[58] IBRD, FIFTH ANN. REP. 38 (1951).

[59] IBRD ARTICLES, *supra* note 55, art. II, § 9 protects against other types of devaluation. The only type of situation in which the Bank itself takes the loss is where Member *A* pays the Bank in Member *B*'s currency, and *B* devalues while the Bank is still holding that money.

result, the Supplemental Reserve stood at $667.9 million in June, 1965, not including total contributions of $125 million out of net income in fiscal 1964 and 1965 to the International Development Association (IDA). In short, the Bank has never had an operating loss since the first year, and it now has funded Reserves of $956.9 million, which have been drawn on only to the extent of $1.0 million as a result of currency devaluations.[60] A complete summary of the Bank's income and expenses is given in appendix B.

An analysis of the sources of Bank income indicates that it can be expected to continue its record of growing profits. The income of the Bank is raised in several different ways. One is investment of money which it has not yet loaned or which it is holding in its Reserves. In fiscal 1965 these items totaled $1,284.5 million, and produced interest of $61.4 million, or almost 20 percent of the gross income for the year, at presumably a very modest cost to the Bank. A second source of income is what are called commitment charges—a fee on loaned funds as yet undispersed, of which the Bank had $1,662.6 million in 1965. In fiscal 1965 these fees dropped to $5.7 million from the $10.2 million of the previous year because of a cut in the rate from three-fourths of 1 percent to three-eighths of 1 percent at the beginning of fiscal 1965.

The major source of income is, of course, interest on loans guaranteed by the Member governments, to public and private concerns. The Bank had loaned a total $8,954.6 million by the end of fiscal 1965, of which $2,984.0 million had been repaid, cancelled, or assigned to other creditors, and $489.9 million was not yet realized. The other $5,480.6 million was held by the Bank, but $1,662.6 million was still undisbursed. Of the remaining $3,818.1 million, $2,724.0 million has been borrowed by the Bank itself at an interest cost of $105.5 million in 1965, and loaned out at slightly higher rates. The income from these "commissions," combined with the income of the Bank on lendings of its own money, produced $192.9 million in fiscal 1965, almost three-fourths of the Bank's total income.

It is important to note that of the $3,818 million outstanding, only $1,094.1 million represents the Bank's own capital, despite the fact that its subscribed capital exceeds $21,669 million. This situation results from the fact that the original capital shares (totalling $10,000 million) were payable in United States dollars or gold only up to 2

[60] These reserve balances are larger than those given officially by the Bank because they include current income allocated to reserves. *See* appendix B, note 3.

percent of their value. A further 18 percent was paid in in the Member's own currency, and its use must be approved by the Member. The remaining 80 percent is merely "on call."[61] When the subscriptions of all Members were doubled in December, 1958,[62] it was decided that none of the newly-subscribed shares would be called.[63] Since then, whenever a new Member is allotted its shares,[64] or a particular Member's quota is increased,[65] half of the shares are 2 percent and 18 percent called, and the other half are uncalled.

The reason for this huge capital subscription, of which only 10 percent may be loaned either with or without permission, is that these callable shares are intended as a surety for the Bank when it borrows money from private lending institutions, rather than as a basis for lending of the Bank's own funds. The subscriptions are more than sufficient for this purpose, because the United States share alone is more than twice the total of private borrowings. The income of the Bank could be greatly increased if a greater percentage of the money it loaned were its own, rather than money borrowed from private sources on which interest of about 4 percent is being paid. It should be possible to utilize existing subscriptions for this purpose, either by calling the 2 percent portion of the uncalled shares or by inducing Members to release the 18 percent portions for Bank use.[66] But even with its present mode of operation the Bank is making very handsome profits on its investments and on loans to stable public authorities.[67] There is every reason to expect that the continued emphasis on economic development and the recent independence of many African and Asian nations will create a far greater demand for Bank loans in the future, with the same profitable results.

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[61] IBRD ARTICLES, *supra* note 55, art. II, §§ 5, 7.

[62] Board of Governors Res. No. 128, in 1959 IBRD SUMMARY PROCEEDINGS (hereinafter cited as IBRD PROCEEDINGS).

[63] *Id.* Res. No. 129.

[64] 1964 IBRD PROCEEDINGS, Res. No. 209.

[65] *E.g., id.* Res. No. 210.

[66] It may be that private financial interests would be opposed to an expansion of Bank operating capital as a threat to their profits from continued lending to the Bank. But it seems reasonable to suppose that the proportion of lending based on borrowed funds could be substantially diminished over several years without decreasing the absolute amount borrowed as the volume of Bank loans increases.

[67] Although the Bank very often makes loans to private corporations, it is required by art. III, § 4(i) of the Bank Agreement to get a guarantee from the Member government. These Guarantee Agreements bind the government "as primary obligor and not as surety merely" for all of the obligations of the borrower. *See, e.g.,* Guarantee Agreements with Chile, Loan Number 5 CH, Mar. 23, 1949, and with Ethiopia, Loan Number 441, ET, Dec. 28, 1965.

The possible alternative uses for the income of the Bank present a more serious objection to its use for peacekeeping than they did in the case of the Fund.[68] There are several possible uses for the Bank's income: it could be loaned to Members, or used to lower interest charges on presently outstanding loans, or to provide grace periods before repayment must begin.[69] Some of these avenues are being pursued by the Bank at the present time through the medium of the IDA, to which the Bank has allocated $125 million, over half of its net income for each of the last 2 years. The IDA is an affiliate of the Bank which makes loans on much better terms than the Bank—no interest, three-fourths of 1 percent service charge, no principal payments for 10 years, 50 years to repay—for projects like water supply systems and technical training, for which the Bank rarely lends money, as well as for power, transportation, and agriculture.[70] The Bank already has a training and technical assistance program which has "expanded rapidly," but its *cumulative* cost in the 4 years since 1961 is less than $10 million.[71]

There can be no statistically demonstrable answer to the question of whether the world would be better served by a greater United Nations peacekeeping capacity as opposed to an equivalent amount of investment in economic development. However, a strong argument can be made that an extra dollar's worth of peacekeeping would be far more valuable in today's world. The amount of money necessary for an adequate Peace Fund represents less than 3 percent of the present level of annual capital investment in underdeveloped areas.[72] Therefore, its use for that purpose would hardly have a perceptible effect.

Furthermore, an effective Peace Fund would protect and encourage economic development, both by creating a better climate for private investment, and by freeing public funds presently used for military purposes. For example, the Indo-Pakistani war in the summer of

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[68] The Bank has recently made provision to assist private investment in underdeveloped countries by amending its articles to allow loans of its capital and borrowed funds to its affiliate, the International Finance Corporation (IFC). The loans to the IFC need not be made from the Bank's income, however, so they would not be affected by the use of some Bank income to support peacekeeping. For the text of the amendment, see 1964 IBRD PROCEEDINGS at 55.

[69] Wilson, *World Bank Operations*, 1 FINANCE & DEVELOPMENT 24 (1964).

[70] IBRD, THE WORLD BANK, IFC AND IDA, POLICIES AND OPERATIONS 103-08 (1962).

[71] Gordon, *Charting the Channels for Development Capital*, 2 FINANCE & DEVELOPMENT 86 (1965).

[72] About $9 billion is invested each year in the less developed areas of the world. N.Y. Times, April 1, 1966, at 11, col. 1.

1965 substantially injured the economic development of both nations, and their continuing expenditure on armaments had diverted billions of dollars from productive economic use.[73] If by 1954 the United Nations had developed a sufficient peacekeeping capacity to enforce the Geneva agreements on Indochina, the two billion dollars which the United States alone is spending each month[74] might have been saved. And there is no reason to believe that analogous events in future years would not be affected to any equally crucial degree by a stronger United Nations. In other words, the choice in the long run is not really between peacekeeping and economic development, but between the miniscule expenditure on international peacekeeping and the much larger costs of competitively preparing for war. The Fund and the Bank can provide the resources necessary for international peacekeeping without affecting their primary functions. Both organizations have large net incomes, substantial reserves, and every expectation of steadily expanding net income in the future. Investment of a portion of this excess in peacekeeping would be remunerative to the world as a whole, and would free other funds for economic development.

If it is agreed that the Fund and the Bank have sufficient net income to finance a United Nations Peace Fund, the next question is who will bear the burden of this financing. There are many ways of answering it. From a legal standpoint, the burden is borne by those nations who would otherwise have the right to the funds being transferred to the United Nations. The income of the two Organizations is a return on capital shares subscribed by the Members; hence the contribution can be thought of as being apportioned according to Members' quotas. The United States would be contributing 26 percent of the Fund income and 29 percent of the Bank income, as contrasted to its United Nations Regular Budget share of 32 percent. The United Kingdom would be responsible for about 12 percent of each rather than the 7 percent which it contributes to the Regular Budget; France would give slightly less than its present United Nations share and China slightly more. None of the Communist countries (except Yugoslavia) would make any contribution at all, although they are assessed for over

[73] Although little damage was done to capital equipment or infrastructure in either country, the costs of mobilization and replacement of destroyed military equipment were substantial for both nations. N.Y. Times, Jan. 24, 1966, at 37, col. 6, and 48, col. 1.

[74] Statement of Senator Richard B. Russell, Chairman of the Defense Subcommittee of the Senate Appropriations Committee, in answer to a question of Senator Clark. 113 CONG. REC. 2572 (daily ed. Feb. 24, 1967).

21 percent of the United Nations budget. On the other hand, the Federal Republic of Germany, which is not a Member of the United Nations, would contribute about 5 percent of this proposed Peace Fund.[75] The share of the smaller nations, because of the lower United States share and the absence of the Soviet Union and Eastern Europe, would be almost uniformly slightly higher than their United Nations assessments. A complete comparison of United Nations contributions and Fund and Bank subscriptions in percentage terms is presented in appendix C.

The Fund and Bank Agreements, however, do not provide for distribution of dividends precisely in proportion to capital contributions. Article XII, section 6(b) of the Fund Agreement provides:

> If any distribution is made, there shall first be distributed a two percent non-cumulative payment to each member on the amount by which seventy-five percent of its quota exceeded the Fund's average holdings of its currency during that year. The balance shall be paid to all members in proportion to their quotas. Payments to each member shall be made in its own currency.

In other words, before distributing income according to capital shares, the Fund will in effect pay 2 percent interest on the average amount of a Member's currency that the Fund has actually sold to other Members that year. It is impossible to predict how this would affect the distribution from year to year. Generally, countries with stable, freely-convertible currencies and with a favorable balance of payments would receive greater dividends, and would in effect be paying more for the Peace Fund. It would perhaps be appropriate that those who are gaining most from a stable world environment do slightly more to protect it.

The Bank's dividend provision, though originally copied from that of the Fund,[76] is slightly different:

> (b) If any part is distributed, up to two percent non-cumulative shall be paid, as a first charge against the distribution for any year, to each

[75] West Germany is already contributing to United Nations peacekeeping. It has pledged $3.5 million, the third largest share, to the emergency force in Cyprus this year. N.Y. Times, Jan. 31, 1966, § 1, at 4, col. 4. It also contributes to other United Nations activities in which it participates. See U.N. Doc. A/6202 (1965).

[76] The Fund Agreement was so closely copied that the first draft of the Bank Agreement referred to the percentage of Fund holdings rather than to the percentage of Bank lending. PROCEEDINGS AND DOCUMENTS OF UNITED NATIONS MONETARY AND FINANCIAL CONFERENCE, BRETTON WOODS, N.H., JULY 1-22, 1944.

> member on the basis of the average amount of loans outstanding during the year made under Article IV, Section 1(a)(i), out of currency corresponding to its subscription. If two percent is paid as a first charge, any balance remaining to be distributed shall be paid to all members in proportion to their shares....

Here again, the first 2 percent is payable like interest on the basis of the amount of that Member's currency (the 9 percent of capital subscriptions paid in) which is actually loaned out. Because it is impossible to know in advance whose currency will be loaned, it is impossible to predict precisely how the dividends would be paid, and therefore what contribution each Member would in effect be making to the Peace Fund.

From a functional standpoint, however, it is somewhat unrealistic to say that nations are contributing in proportion to dividends receivable, because neither the Fund nor the Bank has declared a single dividend in their 20-year histories. In one sense therefore it could be said that no nation pays, because the plan could be effected without altering the obligations or available resources of any Member of the Bank, the Fund, or the United Nations. On the other hand, if certain alternative uses for these funds are considered, one can view the burden as falling on the underdeveloped nations, at least so far as the Bank income is concerned. But the argument presented above indicates that using this money for effective peacekeeping might actually make more funds available for economic development by improving the international environment. It should also be recognized that the use of these funds for United Nations peacekeeping can be expected to improve the international situation far more concretely than would many other possible uses. The marginal utility of a United Nations Peace Fund would seem to be much more valuable to the world, for example, than the addition of $200 million to the loanable funds of the Bank or IDA. In general, the distribution of the burden of financing the Peace Fund by this method would be equitable except for the exclusion of the communist nations, and perhaps some sort of ad hoc arrangement could be worked out with any communist Members who are interested. The more serious problems of avoiding direct control by a small group of nations and of assuring the appropriate balance of flexibility and certainty will be explored below in relation to the available legal techniques for transferring this income to a Peace Fund.

IV. Alternative Methods of Arranging the Transfer of a Portion of Fund and Bank Revenues

To evaluate properly the alternative systems of transfer that might be used, it is necessary to survey the present legal structure within which the plan must operate and the procedural requirements for altering this framework. The United Nations Charter contains several relevant provisions. Article 17(2) provides that "The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly." The practice of the United Nations indicates general agreement that the provision does not require all expenses to be paid by member contributions; income from the Gift Shop and other independent sources of revenue have established this principle.[77] Furthermore, Professors Goodrich and Hambro state in their commentary on the charter that article 49 rather than this section covers the financing of enforcement actions,[78] but this theory has never been tested. One alternate holding of the Advisory Opinion on Certain Expenses of the United Nations of the International Court of Justice[79] was that the United Nations has not yet financed an enforcement action, because both UNEF and ONUC were invited to the nations on whose territory they operated and were not formed precisely for the purpose of coercing any government into obeying the charter or a United Nations resolution. But, the decision also concluded that, however the United Nations incurs an obligation, article 17 governs its apportionment.

Articles 57 and 63 provide that the United Nations shall establish relationships with the Specialized Agencies by means of agreements negotiated by the Economic and Social Council and approved by the General Assembly. A majority vote is sufficient, and neither Great Power unanimity nor ratification by Members is necessary. Of course the Specialized Agency must also approve the agreement by appropriate procedures. The purpose of these agreements is to facilitate coordination among these Agencies and between the Agencies and the United Nations under articles 58, 63 and 64. Article 17(3) allows the General Assembly to examine the budgets of Specialized Agencies, but it gives no power to alter them or mingle funds; and none of these

[77] Commission to Study the Organization of Peace, *supra* note 32 at 256-57.
[78] L. Goodrich & E. Hambro, Charter of the United Nations 184 n.90, 295-96 (2d ed. 1949).
[79] [1962] I.C.J. Rep. 155.

articles gives the United Nations power to force the Specialized Agencies to take any action or give it any assistance.[80]

Article 103 provides that the charter shall prevail over any other international agreement when a Member faces a conflict of obligations. The wording of the article makes it apply to both prior and subsequent agreements, but it is argued by the Rapporteur on the Law of Treaties of the International Law Commission, Sir Humphrey Waldock, that the draftsmen had only prior treaties in mind. He claims that the drafting committee relied on article 2(2), requiring fulfillment of charter obligations in good faith, to prevent Members from making subsequent inconsistent treaties.[81] In either case, the charter has priority over all conflicting treaty obligations of Members. Amendment of the charter under article 108 requires adoption by two-thirds of the General Assembly and ratification by two-thirds of the Members including all permanent Members of the Security Council. The effect of this stringent rule is to make amendment impossible unless virtually all of the Members can be persuaded to assent and ratify.

Many provisions of the Fund and Bank Agreements are important to the present inquiry. The allocation of any dividends distributed has been described above. In both organizations the decision to distribute income is solely in the hands of the Board of Governors and cannot be delegated to the Executive Directors.[82] The same is true of making arrangements, other than "informal arrangements of a temporary or administrative character," with other international organizations.[83] Each agreement also has a provision regulating relations with other international organizations, promising general cooperation, with the following limitation: "Any arrangements for such cooperation which would involve a modification of this Agreement may be effected only after amendment to this Agreement under [the article on amendment]."[84] It may be assumed that only an ordinary majority is required to approve such an agreement if it does not conflict with the Fund and Bank Agreements, because if a sufficient majority for amendment were required, the provision quoted would be academic. The

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80 GOODRICH & HAMBRO, *supra* note 78, at 380.

81 U.N. Doc. A/CN.4/156 at 58 (1963).

82 IMF ARTICLES, *supra* note 52, art. XII, § 2(b); IBRD ARTICLES, *supra* note 55, art. V, § 2(b).

83 *Id.*

84 IMF ARTICLES, *supra* note 52, art. X; IBRD ARTICLES, *supra* note 55, art. V, § 8.

Bank Agreement prohibits loans of capital owned or borrowed by the Bank to other international organizations, except for its affiliate, IFC.[85] Similarly the Fund can make "sales" only to Members.

Members of the Fund and the Bank are given 250 votes each, plus one for each $100,000 of quota or share of stock, respectively, with some relatively minor special weighting arrangements in the Fund for certain actions.[86] The result is a weighted voting system in which votes are almost equal to the amount committed, and the seven largest contributors to the Fund and the six largest stockholders in the Bank constitute majorities. Except where specially provided, a majority of votes cast will pass a resolution in either organization. In both, amendment of the articles requires three-fifths of the Members holding four-fifths of the votes to accept after approval by the Board of Governors.[87] Under the Fund and Bank Agreements, the Executive Directors have the power to interpret the Articles of Agreement, and the only right of appeal is to the Board of Governors.[88]

The Fund is completely immune from the judicial process of the courts of member nations, and its "property and assets" are "immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action" anywhere. Immunity from taxation is also specifically provided.[89] The Bank has much less protection. Its property and assets have the same immunity from seizure, etc. and from taxation. However, the Bank may be served with process and its assets levied upon after judgment, *except* "by members or persons acting for or deriving claims from members."[90] The provision is clearly designed for the benefit of holders of Bank securities, thus making the securities more marketable.

In 1947, the Economic and Social Council negotiated and the General Assembly approved virtually identical agreements with the Fund and the Bank, although they provided for so little substantive cooperation

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[85] *See* note 67 *supra.*

[86] IMF Articles, *supra* note 52, art. XII, § 5; IBRD Articles, *supra* note 55, art. V, § 3.

[87] IMF Articles, *supra* note 52, art. XVII; IBRD Aritcles, *supra* note 55, art. VIII.

[88] IMF Articles, *supra* note 52, art. XVIII(a), (b); IBRD Articles, *supra* note 55, art. IX.

[89] IMF Articles, *supra* note 52, art. IX, §§ 3, 4, 9.

[90] IBRD Articles, *supra* note 55, art. VII, §§ 3, 4, 9. It is a nice question whether a United States court could be persuaded to allow service of process under the quoted language in an action by the United Nations to collect a duly authorized debt. The language would seem to allow it, but it certainly was not the intent of the drafters.

that their adoption by the United Nations was widely disapproved.[91] The agreements were adopted by the Fund and the Bank on September 17, 1947, and September 16, 1947, respectively.[92] There is no indication of the size of the vote given or required, and the only recorded discussion was the suggestion by the Yugoslavian delegate that the agreements should provide for closer cooperation. It is perhaps significant that nothing in the agreements resulted in a concession which would require amendment of the Fund or Bank Articles. The agreements provide for reciprocal representation, consultation, coordination of statistical services, and exchange of certain kinds of information. Article X of each agreement provides for "Administrative Relationships," which in the area of finance requires nothing more than submission of the quarterly and annual reports. Section 3 of article X concludes with the following sentence:

> The United Nations agrees that in the interpretation of paragraph 3 of Article 17 of the United Nations Charter it will take into consideration that the Fund [Bank] does not rely for its annual budget upon contributions from its members, and that the appropriate authorities of the Fund [Bank] enjoy full autonomy in deciding the form and content of such budget.

Neither budget is included with those of the United Nations and the Specialized Agencies in the annual review by the Fifth Committee of the General Assembly. Under article XIII, section 3, both agreements are subject to revision at any time by a subsequent agreement.

With this background in mind, alternative solutions to the legal problem of transferring a portion of Fund and Bank net income to the United Nations may be considered. There are four general lines of legal theory upon which an adequate arrangement might be based: tax, voluntary contribution, agreement, and loan. All of these methods are equally satisfactory insofar as some of the basic criteria are concerned; viz., the wide distribution of the burden, the minimal cost of transferring the funds, and the neutrality of the Secretariat will be unaffected by the choice of legal scheme. Satisfaction of other requirements does depend on the choice, however; and a balance may have to be struck which may not fully meet all of the tests. The acceptability

[91] GOODRICH & HAMBRO, *supra* note 75 at 349; see, *e.g.*, THE BUDGET OF THE UNITED NATIONS, *supra* note 34, at 37, which suggested that informal relations for several years might lead to a better long-run result.

[92] IMF BOARD OF GOVERNORS 1947 SUMMARY PROCEEDINGS 36; 1947 IBRD PROCEEDINGS 16.

of any method is of course crucial (though it is not completely independent of the degree to which the particular technique fulfills the other requirements). Evaluation in this regard will necessitate consideration of the amount of support, and therefore the legal procedures, required for adoption. Protection of the interests of the Fund and the Bank, as well as the United Nations, may demand some flexibility in determining the amount of funds transferred from year to year; this interest must be balanced against the need indicated earlier for the certainty which can generate confidence in the United Nations. Similarly, the need for certainty requires that the power to cut off all support does not fall into the hands of a few nations, who might use that power in an undesirable way. All of these factors must be weighed in evaluating these alternative legal mechanisms.

The most radical alternative would be United Nations taxation of the net income of the Fund and the Bank. This step would completely reverse the originally intended relationship between the United Nations and the Specialized Agencies. The League of Nations Covenant provided in article 24, section 1, that all international bureaus created after the League, and any other international organization that was willing, would be "under the direction of the League." Section 3 of that article provided for a unified budget, and such an arrangement actually existed with the International Labor Organization. With a completely unified budget, it can be assumed that if a subordinate bureau earned more than its expenses, the excess would have been automatically added to the general revenues of the League. Thus under the system envisaged by the League of Nations Covenants, the question of a tax on specialized organizations would have been academic.

But the draftsmen of the United Nations Charter, aware of the difficulties that the League's problems created for closely-related organizations, felt that the Specialized Agencies could function more effectively if they were insulated from politics by greater autonomy.[93] Consequently, the relationships between the United Nations and the Specialized Agencies are regulated by negotiated agreements provided for in articles 57, 58 and 63. Nothing in the charter as it now exists provides any basis for the imposition of a tax. There is no unified budget, and the Agency budgets are presented to the General Assembly for examination but not alteration. The underlying concept of subor-

[93] GOODRICH & HAMBRO, *supra* note 75, at 186. For a description of how the League Council's control over economic and social programs inhibited their operations in the 1930's see WALTERS, A HISTORY OF THE LEAGUE OF NATIONS 756-62 (1952).

dination found in the League Covenant has been replaced by a concept of cooperation among equals.

As a result, several legal obstacles must be removed before such a tax could be imposed. Amendment of the charter would be necessary. The requirement of ratification by two-thirds of the Members, including the five Great Powers, makes any charter amendment slow, and the outcome doubtful. An amendment of this nature would take years. Furthermore, charter amendment alone would be insufficient for two reasons. First, the "supremacy clause" of the charter speaks only of conflicting obligations of Members, which is an inadequate basis for the assertion of authority over an international organization as such. It might be argued that after voting for such an amendment of the charter, Members would be bound by article 103 and article 2(2) to act in good faith to make the Fund and Bank comply. However, this commitment would not insure the desired result because the different membership and voting requirements enable charter amendment[94] without the support of all of the nations needed to amend the Fund and Bank Agreements.

Second, the terms of the Fund and Bank Articles of Agreement, which explicitly require specific, formal amendment to alter their substance, imply an abandonment of capacity by Fund and Bank Members to reach a subsequent agreement affecting these institutions through other procedures, such as United Nations Charter amendment, according to the analysis of the Rapporteur of the International Law Commission on the Law of Treaties.[95] Thus even if the "supremacy clause" could be effectively invoked by the United Nations, United Nations Members who are also Fund and Bank Members are legally obligated under those agreements not to vote in favor of overriding the Agreements by charter amendment. If by amending the United Nations Charter the Fund and Bank Agreements could be changed, the voting rights of certain Members of the Fund and Bank could be nullified because of the differences in membership and voting power between the United Nations and the Fund and Bank indicated above. Establishment of a legally effective tax power would therefore require the support of enough nations to satisfy the amendment pro-

[94] A charter amendment supported by the Soviet bloc, the Great Powers, and enough other Members to comprise just two-thirds would succeed, while support from these same Nations in the Fund or the Bank would not amount to three-fifths of their Members.

[95] U.N. Doc. A/CN.4/156 at 53 (1963).

cedures of both the United Nations Charter and the Fund and Bank Agreements. A single document amending all three could be used, but in any case the difficulty of getting enough ratifications to meet all the amendment requirements would be formidable.

The content of such an amendment to the charter should reflect decisions on whether a maximum percentage of net income which could be taken should be stipulated, and what methods of enforcement could be used. If the tax is approved, enforcement is unlikely to be a problem because an amendment would require the support of the permanent Members of the Security Council, and they control by themselves almost 42 percent of the votes in the Fund and almost 45 percent of the votes in the Bank. However, governments change their views, and an adequate procedure for enforcement should be provided. The power to levy on the assets of the Fund or the Bank by order of municipal courts seems to be the most reasonable solution, but it would be novel to give national courts the power to act on behalf of the United Nations against international organizations. The reluctance of national courts to enmesh themselves in international affairs is well known, and even in the absence of statutory prohibitions, national courts have been unwilling to attempt any action against an international organization.[96]

If a taxing power of this kind were to be given, it might be worthwhile to consider whether or not it should cover all Specialized Agencies, or only the Fund and the Bank. Including the other organizations would produce a negligible income because none have substantial independent revenues at the present time. But it might be wise to extend any charter amendment to make room for new developments and to take a step in the direction of greater unity among all of the Specialized Agencies and the United Nations. The constitutional provisions of the other Specialized Agencies would have to be examined to determine whether or not their inclusion would substantially increase the number of ratifications required to adopt the tax proposal.

General Assembly resolutions implementing an amendment of this type could be used to fix the actual level of the tax, the details of

[96] Without either treaty or statutory protection the Pan American Union was given immunity by the Municipal Court of the District of Columbia. See 20 Am. J. Int'l L. 257 (1926). In Schmidlin v. International Labor Office and the League of Nations, 47 Sem. Jud.: J. Trib. 248-52 (Geneva, 1925), the League of Nations voluntarily appeared as defendant. The Swiss court, holding for the League on other grounds, commented, "Though the League has voluntarily agreed to appear before Geneva judges, one could contend that these judges should refuse *ex officio* to pronounce a judgment against the League."

enforcement, and the accounting techniques to be used in determining net income. Preferably by this means, but possibly in the amendment itself, provision should be made for the maintenance of an adequate level of reserves for both the Fund and the Bank. This protection could be assured by any one of several formulas: *e.g.*, exemption of a fixed sum annually, exemption of a percentage of income if it is actually placed in reserves, or exemption of sufficient funds to maintain reserves at a certain percentage of the value of loans outstanding. The last of these seems most appropriate. However, because the percentage of income taken is likely to be relatively low, and reserves are already quite substantial, the remaining income may be more than enough to satisfy this need without special provision.

Giving the United Nations the authority to tax the independent income of the Fund and the Bank would have the advantage of providing a guaranteed flow of income to the Peace Fund which could be adjusted at the unilateral discretion of the General Assembly to take account of Fund and Bank net income and the needs of all three organizations. It would also set a precedent for mutual support which seems essential if the United Nations system is to grow to meet the world's need for international order. The experience of the last 20 years indicates that the attempt to insulate the Specialized Agencies from politics had failed,[97] and increased coordination would strengthen the United Nations system as a whole.

Against these advantages certain very serious disadvantages must be weighed. Most important is the difficulty of amending the United Nations Charter. Neither France nor the Soviet Union is likely to be friendly toward this revolutionary proposal, which would strengthen the United Nations and undermine their financial protest against certain General Assembly policies; and their support is essential. Furthermore, representatives of the Specialized Agencies might oppose a plan which made such serious inroads into their independence, thus dividing those who normally favor the strengthening of international organizations. The problem of enforceability might also be serious if the Fund or Bank refused to submit to the authority of the United Nations. It may well be true that if these three Organizations had been unified at their inception, the financial problems of the United Nations would not exist today; nevertheless, a proposal of the kind outlined

[97] For examples of the use of participation in specialized agencies as a political weapon, see Sohn, *Expulsion or Forced Withdrawal From an International Organization*, 77 HARV. L. REV. 1381, 1401-16 (1964).

above would appear to be too revolutionary for many nations. Other less disruptive alternatives must be considered.

Structurally at the opposite extreme from the tax proposal would be a decision by the Board of Governors of the Fund and the Bank to make annual voluntary contributions to the United Nations Peace Fund of a certain fixed percentage of their net incomes. The Governors have no explicit power to give contributions of Fund or Bank income, however. The only power found in the articles of the two institutions is to distribute dividends; before 1964 it might well have been argued that the Governors' only alternatives were to distribute income as dividends or to allocate it to reserves. The Executive Directors of the Bank, however, in a report dated July 30, 1964, recommended to the Board of Governors that they transfer $50 million of the Bank's $97.5 million 1964 net income to IDA.[98] Included in the report was the following proposed Statement of Policy:

> Any transfers to the Association will be made only out of net income which (i) accrued during the fiscal year in respect of which the transfer is made and (ii) is not needed for allocation to reserves or otherwise required to be retained in the Bank's business and, accordingly, could prudently be distributed as dividends.

Attached to this report was a document called Decision of the Executive Directors of the Bank on Question of Interpretation of Articles of Agreement.[99] The first six paragraphs describe the financial circumstances which gave rise to the proposal to give $50 million to IDA. The remainder of the decision reads as follows:

> 7. Whereas the Executive Director for the United Kingdom has requested that, before taking action on this proposal, the Executive Directors decide, in accordance with Article IX of the Articles of Agreement of the Bank, the question whether, if the Board of Governors shares the views of the Executive Directors in the third, fourth and fifth clauses hereof, the Board of Governors may, consistently with the Articles of Agreement of the Bank, make the proposed transfer of $50,000,000 to the Association;
>
> Now therefore, the Executive Directors, having considered the question of interpretation, hereby decide it in the affirmative.

This report was approved and the income allocated to IDA at the next annual meeting of the Board of Governors.[100] In 1965, $75 million was given to IDA on the same basis.

[98] 1964 IBRD PROCEEDINGS 46-48.
[99] *Id.* at 48-49.
[100] *Id.* Res. No. 208.

Whatever the rationale of the decision, its holding is clear: the Board of Governors does have the power to give away the income of the Bank, at least within the limits of the Statement of Policy. The "affiliate" relationship between the Bank and IDA would seem to be irrelevant because the Bank has in any case irrevocably abandoned its ownership of the funds. Similarly, the overlapping character of the two institutions is not relevant to the question of the legal power of the board, as distinct from the acceptability of its action. Because the Fund Board of Governors has the same explicit powers in this respect as the Bank Board, it is reasonable to assume that it too could make voluntary contributions. Contributions to a United Nations Peace Fund would seem to fall clearly within the powers recognized by the Resolution, so no amendment of the Articles of Agreement of either institution would be needed.

If outright contribution seemed too bold a step to take, the Fund and Bank could treat the payments to the Peace Fund as expenses, in the nature of insurance. The following rationale would apply: The peacekeeping efforts of the United Nations help to maintain unrestricted international currency exchange and guard Bank investments. Because increased United Nations capacity to maintain peace would further protect Fund and Bank interests, they would be insuring their financial and political well-being by transferring a part of what would otherwise be net income to the United Nations Peace Fund. Both the Fund and Bank Agreements implicitly permit payment of expenses incurred for goods or services, whether from an international organization or otherwise, so no amendments would be necessary.

This approach may be unorthodox, but it aptly recognizes the value of peace. A major war between India and Pakistan, for example, would endanger approximately $2,094 million in Bank loans and IDA credits to those two countries, which represents over 20 percent of their combined total lending. Furthermore, it is unlikely that either India or Pakistan would be able for long to avoid imposing foreign exchange restrictions which would violate the spirit and letter of their obligations under the Fund Articles.[101] Private financial institutions have long recognized the value of buying protection, directly or through taxes, in the form of watchmen, police, and armies. And banks often buy life insurance on their debtors' lives. It would not be unreasonable for the Fund and the Bank to contribute to the Peace Fund and treat it as an expense of operation.

[101] *See* IMF ARTICLES, arts. I, VIII, XIV.

A slightly different legal approach to voluntary contribution would be to have the Fund and Bank declare dividends of the appropriate total amount and contribute it to the Peace Fund on behalf of the Members of the Fund and Bank. The money would come formally from the Members themselves rather than from the two institutions. But if this theory is pursued, there is no defense to the claim of a particular Member of the Fund or Bank to take its dividend in cash. The result would be that the independence sought through this means of financing would disappear, and the unreliability of Member contributions for peacekeeping would remain as an obstacle to the strength of the United Nations. But it could be overcome if Members were willing to make some very substantial lump-sum contributions, of perhaps $100 million or more, in each of the first few years. Then the Peace Fund would have sufficient resources to finance an Emergency Force even if a certain percentage of the subsequent contributions were cut off by an opposing Member. Regular or irregular additions to the Peace Fund could replenish it when necessary, and when the international climate would make it least controversial.

The one great advantage of using Fund and Bank voluntary contributions to finance a Peace Fund is procedural simplicity; no amendment of either the United Nations Charter or the Fund and Bank Articles would be required. The approach retains maximum flexibility in the hands of the Fund and Bank Governors, thus insuring that those institutions would not suffer from a depletion of their resources. This flexibility is a weakness, however, from the point of view of the United Nations. In the first years, before a pattern of contributions is established, the absence of a guarantee of continuing contributions would weaken the credibility of United Nations peacekeeping as compared to a more binding commitment of funds. A more serious danger of this arrangement, even after a regular pattern of contribution developed, would be the inherent possibility that in a serious crisis Members of the Fund and Bank might vote to cut off the funds. So long as a large number of nations thought this likely, the United Nations would be deterred from taking any serious step that would offend large Fund and Bank Members. The political effects of this limitation on United Nations action would lessen the Organization's ability to deal with any crises involving certain major powers and might result in an inequitable use of United Nations power. On the other hand, once a pattern of contributions was well established, it might be very difficult from a diplomatic standpoint for a few nations to cut it off arbitrarily. If so, this device might grow into a stable, reliable method of financing a Peace Fund that preserved substantial flexibility.

A third alternative is to base the transfer of funds on an amendment to the agreements between the United Nations and the Fund and the Bank. Such a provision would provide for annual payment of a percentage of net income and establishment of auditing procedures which would insure fair compliance. It should explicitly provide that the United Nations is to have unfettered discretion over the use of the Peace Fund, just as the present agreement with the Bank provides that it need not consider suggestions of the United Nations in its operations.[102] A provision to maintain the adequacy of Fund and Bank reserves could be included if it were thought necessary, using one of the formulas described above. The procedure for amending agreements between the United Nations and the two institutions is less stringent than for amending the United Nations Charter or the Fund and Bank Articles because only a majority of the General Assembly and a majority of Fund and Bank votes are sufficient, and no ratification by Members is required.

Amendment of the United Nations Charter would be unnecessary because the articles dealing with relations with Specialized Agencies do not prevent this kind of cooperation, although it was probably not contemplated by the draftsmen of these provisions. Whether the Fund and Bank articles would need amendment is a more difficult question. If this plan is thought of as a contractual obligation to make annual contributions of a portion of net income by the Fund and the Bank per se it is difficult to find any authority in the present agreements for the action. While a power to give away a portion of each year's income has been read into the agreements, accepting a permanent obligation to pay out a percentage of income would appear to lie outside that power. Describing the obligation as a commitment by the Members to give a portion of their dividends every year to the Peace Fund is also unsatisfactory because it would imply an authority to make agreements that bind Members, and it might be unwise for other reasons to read such a potentially unlimited power into the articles. The most expedient approach is to treat the payments as expenses of the two institutions, as suggested above, which would avoid

[102] Agreement between the United Nations and the International Bank for Reconstruction and Development, art. IV, § 3.

the need for amendments. The amendments to the agreements with the United Nations would then be in effect a contract for professional services, to be exercised in the sole discretion of the United Nations, much as the manager of a "mutual fund" has complete control over the disposition of the assets entrusted to him.

Even if amendment of the Fund and Bank Agreements were necessary, this plan would provide the major advantage of the outright tax—certainty—without the necessity of amending the United Nations Charter. The agreement approach also reflects most accurately the process that would undoubtedly take place in arranging such a transfer because there would necessarily be a great deal of negotiation and consultation between the United Nations, the Fund, the Bank, and the Members of each before any steps were taken. If the parties to the plan are going to negotiate more or less as equals at the planning stage, it would seem somewhat artificial to end up with so unequal a relationship as a tax, which would constitute a perpetual abandonment of power by the Fund and Bank.

The inflexibility of this plan might well be greater than the tax, however, because of the division of authority to alter the system. To a substantial extent this difficulty can be avoided by regular consultation between the United Nations and the Fund and Bank on the efficacy of the plan over the years. But where interests conflict, the original agreement may be "frozen in" because one party or the other is unwilling to diminish its rights. Careful drafting to anticipate the possible dangers, financial or otherwise, that might develop will help, and in a serious emergency changes are always possible. But it is easier to preserve a good agreement than to amend a bad one. An explicit, detailed allocation of authority, which at the same time preserves a maximum of flexibility, is essential.

A final alternative, which is really a variation of the agreement approach, is to loan the income to the United Nations rather than transfer it outright.[103] To serve the purpose of adequately financing a Peace Fund, however, the terms would have to be low or no interest and a long period provided for repayment. Even then there would be an additional strain on the United Nations. Dissatisfied Members might refuse to pay their share, just as the Soviet Union has opposed amortization of United Nations Bonds through the Regular Budget as

[103] A. Pollis, Financing the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association and the International Finance Corporation 20 (mimeographed draft, 1962).

a protest against the "underlying illegality" of the expenses incurred. It seems likely that even if the transaction were described as a loan, before long it would in effect become a permanent transfer through periodic refinancing. However, if this intermediate step is necessary to make the basic plan acceptable, it would be worth doing in any case.

The best overall approach to transferring Fund and Bank revenues appears to be a two-part agreement to provide for a continuing flow of funds, augmented by a few large payments to clear past debts and to provide an immediate reserve. For the long run, the agreement would provide a guaranteed flow of a relatively small amount, on the order of $40 million a year, or about 20 percent of the present net income of the Fund and Bank, which would continue indefinitely unless altered with the consent of two-thirds of the General Assembly. An arrangement between the Fund and the Bank could allot the shares between them annually, or each could be separately obligated. At the same time, it would avoid the major legal obstacle to a tax proposal, amendment of the United Nations Charter. If carefully tailored to this particular purpose, the agreement would fully protect the interests of both the United Nations and the Fund and Bank. In addition, to solve the immediate crisis it would provide for supplementary payments, totalling perhaps $200 million over 4 years, apportioned between the Fund and the Bank as they think fit. Additional sums could be given as contributions if necessary in the light of circumstances at that time. These contributions would be based on the needs of the United Nations Peace Fund, the level of Fund and Bank reserves, and the other uses to which the income might be put. This type of plan would give the United Nations an assurance that over the long run its debts for past and future peacekeeping would be liquidated, and at the same time it would assure the Fund and Bank that most of their net income would be at their disposal for whatever purposes they desired. The advantages of a balance of certainty and flexibility, independence from national control, and relative ease of adoption indicate that this kind of agreement would be the most acceptable and most desirable legal means of effecting the transfer of revenue to a United Nations Peace Fund.

V. Conclusion

The historical record clearly demonstrates that annual contribution by Members is an inadequate method of financing peacekeeping operations. The statistics of nonpayment take on added meaning when consideration of legal and political issues demonstrates that the disputes over financing will continue into the foreseeable future, exaggerated by major nations who are reluctant to relinquish their power either outside or within the United Nations structure. The result is a crisis for the United Nations because of its actual and perceived unreliability as an agent for peace. The problem of financing must be solved so convincingly that it is apparent to all nations that the United Nations has the financial capacity to preserve the peace. This result can only be reached if a funded reserve is established in advance to finance any emergency force that might be needed.

The most desirable means of financing a United Nations Peace Fund would be to transfer to it a portion of the net income of the International Monetary Fund and the International Bank for Reconstruction and Development. These public institutions had a combined net income of $193 million in fiscal 1965, and there is every reason to believe that these incomes will grow steadily. Furthermore, each has means by which it could substantially raise its income if it were desirable, without any structural alterations. Such a plan would not in any way threaten the integrity of the Secretariat or the operations of the Fund and Bank. The cost of administration would be negligible, and the burden of support would be widely spread. With a proper legal framework, no nation would have the unilateral power to terminate the flow of funds. The proposal should be acceptable to any nation which is seriously interested in strengthening the United Nations.

The transfer of these funds could be provided by a United Nations tax on the Fund and Bank, by voluntary contributions, by a modification of the agreements between the United Nations and these two institutions, or by some combination of these approaches, either outright or as a loan. The best general solution would appear to be an agreement to guarantee a relatively small amount of income, supplemented by a few large payments immediately, and subsequent voluntary contributions over the years, keyed to the needs of the Fund and the Bank as well as the needs of the United Nations Peace Fund. It would provide the certainty of a continuing flow of funds to the United Nations, while retaining for the Fund and Bank the power to dispose of most of their net income as they choose. This approach would require the approval of a majority of the General Assembly, and perhaps an amendment of the Fund and Bank Agreements. Neither of these would be as difficult to obtain as a United Nations Charter amendment, however, and with a sincere effort by the major Western powers, a program of this kind could easily win the necessary approval. The result would be a stronger United Nations in the most crucial field of all—the maintenance of international peace and security.

[Appendix begins on next page]

APPENDIX A

Financial History of the International Monetary Fund[1]

Year	1 Gold Holdings	2 Gold Invested in U.S. Securities[2]	3 Income From Gold Investments[3]	4 Gross Operating Income	5 Expenses	6 Net Operating Income (Col. 4 — Col. 5)	7 Total Net Income (Col. 3 + Col. 6)	8 Balance in Reserve Accounts
	(Million $)	(Million $)	(Thousand $)	(Thousand $)	(Thousand $)	(Thousand $)	(Thousand $)	(Thousand $)
1947	1,344.2			465.5	2,071.5	(1,606.0)	(1,606.0)	
1948	1,362.6			4,185.7	2,626.6	1,559.0	1,559.0	
1949	1,439.3			1,801.0	3,814.7	(2,014.0)	(2,014.0)	
1950	1,459.5			2,321.0	3,965.8	(1,644.7)	(1,644.7)	
1951	1,495.0			2,671.9	4,598.0	(1,926.0)	(1,926.0)	
1952	1,531.6			3,252.2	4,770.5	(1,518.3)	(1,518.3)	
1953	1,692.6			4,162.7	4,886.5	(723.7)	(723.7)	
1954	1,718.5			4,970.5	5,010.0	(24.8)	(24.8)	
1955	1,744.4			2,346.4	4,990.7	(2,644.3)	(2,644.3)	
1956	1,761.4			1,675.3	5,350.0	(3,674.7)	(3,674.7)	
1957	1,439.3	200.0	4,904.2	8,385.2	5,383.6	3,001.6	7,905.8	
1958	1,237.7	200.0	6,165.3	20,250.6	11,343.6[5]	8,907.0	15,072.3	8,760.6
1959	1,352.1	200.0	4,108.5	27,173.2	7,602.5	19,570.7	23,697.2	32,957.8
1960	2,494.6	500.0	15,359.7	21,002.3	6,878.4	14,124.0	29,483.7	61,941.5
1961	2,476.4	800.0	19,886.1	14,551.0	7,356.5	7,194.5	27,080.6	89,122.1
1962	2,099.2	800.0	22,779.5	33,106.8	8,155.8	24,950.9	47,730.4	136,852.5
1963	2,228.3	800.0	25,094.2	31,044.4	9,569.7	21,474.7	46,568.9	183,421.4
1964	2,334.0	800.0	27,485.4	36,352.0	13,120.5	23,231.5	50,716.9	234,138.3
1965	2,217.3	800.0	30,750.4	47,749.0	22,204.3	25,544.7	56,295.1	290,433.4

[1] Taken from IMF Ann. Reps.
[2] These gold holdings are additional to those listed in column 1.
[3] This income, after payment of accumulated operating losses in 1957 and 1958, has been transferred to the Special-Reserve Account.
[4] This income is transferred to the General Reserve Account.
[5] $5,618 thousand of this amount represents the cost of land and building for the Fund.

APPENDIX B

Financial History of the International Bank for Reconstruction and Development[1]
(Million $)

	1	2	3	4	5	6	7	8	9	10
			Expenses							
Year	Gross Income	Commissions Allocated to Special Reserve	Interest and Other	Admin. & Services	Total Expenses	Net Income[2] Col.1 minus Cols. 2 & 5	Income Allocated to Supplemental Reserve	Income Transferred to IDA	Total Income Allocated to Reserve (Col. 2 + Col. 7)	Balance in Reserve Accounts[3]
1947	1.23	.03		2.08	2.08	(.88)			.03	
1948	18.70	3.05	6.34	4.05	10.39	5.26	5.26		8.31	7.46
1949	26.57	4.99	6.98	4.07	11.05	10.53	10.53		15.52	22.98
1950	31.13	5.66	8.14	4.37	12.51	12.95	12.95		18.61	41.59
1951	34.59	6.39	7.25	4.84	12.09	16.11	16.11		22.50	64.09
1952	42.75	7.56	11.90	5.14	17.04	18.12	18.12		25.68	89.77
1953	52.39	9.55	16.55	5.72	22.27	20.57	20.57		30.12	119.89
1954	62.26	11.71	21.36	5.97	27.33	23.22	23.22		34.93	154.82
1955	71.85	13.31	27.01	6.65	33.66	24.88	24.88		38.19	193.01
1956	78.63	14.75	27.86	7.43	35.29	28.59	28.59		43.34	236.35
1957	90.64	16.73	30.41	7.56	37.97	35.94	35.94		52.67	289.02
1958	118.82	20.16	48.32	8.26	56.58	42.08	42.08		62.24	350.75*
1959	146.17	24.00	65.95	9.75	75.70	46.47	46.47		70.47	420.44*
1960	177.95	26.96	81.30	10.14	91.44	59.55	59.55		86.51	506.95
1961	195.40	28.81	91.37	12.00	103.37	63.22	63.22		92.03	602.30*
1962	218.33	29.99	105.31	12.71	118.02	70.31	70.31		100.30	699.82*
1963	235.19	31.30	107.76	13.58	121.23	82.66	82.66		113.96	813.54*
1964	252.30	33.18	107.10	14.59	121.69	97.43	47.43	50.00	80.61	894.15
1965	267.62	.85	112.04	17.81	129.85	136.92	61.92	75.00	62.77	956.92

[1] Taken from IBRD ANN. REPS.
[2] This figure is what the Bank shows as its net income each year.
[3] This balance including the portion of current income allocated to the Supplemental Reserve. Official bank statements usually cite the balance before the addition; *i.e.*, the amount shown here as the previous year's total.
* The discrepancy between this year's balance and the sum of this year's allocation and the previous balance arises from changes in currency values, which are charged to the Supplemental Reserve. *See* text *supra* at 33.

APPENDIX C

Comparative Contributions and Voting:
United Nations, Fund, and Bank

Country	United Nations Assessment (1966-67)	Fund Quota (1963)	Bank Subscription (1965)	Fund Voting Share (1963)	Bank Voting Share (1965)
U. S. A.	31.91	26.53	29.30	22.93	26.32
U. S. S. R.	14.92	....	....	....	. .
U. K.	7.21	12.54	12.00	10.91	10.84
France	6.09	5.07	4.84	4.49	4.44
Germany (F.R.)	..... .	5.07	4.84	4.49	4.44
China	4.25	3.54	3.46	3.18	3.20
Canada	3.17	3.54	3.46	3.18	3.20
Japan	2.77	3.22	3.07	2.90	2.85
Italy	2.54	1.74	3.07	1.63	2.85
Ukrainian S.S.R.	1.97	....	....	....	.... ..
India	1.85	3.86	3.69	3.45	3.41
Australia	1.58	2.57	2.46	2.35	2.30
Poland	1.45	....	....	....	....
Sweden	1.26	.96	.92	.97	.93
Belgium	1.15	2.17	2.08	2.00	1.96
Czechoslovakia	1.11	....	....	....	.... ..
Netherlands	1.11	2.65	2.54	2.42	2.37
Brazil	.95	1.80	1.72	1.69	1.64
Argentina	.92	1.80	1.72	1.69	1.64
Mexico	.81	1.16	.80	1.13	.82
Spain	.73	.96	.92	.97	.93
South Africa	.73	.96	.92	.97	.93
Denmark	.62	.84	.80	.86	.82
Hungary	.56	....	....	....	....
Austria	.53	.48	.46	.555	.52
Byelorussian S.S.R.	.52	....	....	....	....
Venezuela	.50	.96	.65	.97	.68
Indonesia	(.45)*	1.06	1.01	1.05	1.01
Norway	.44	.64	.61	.69	.65
Finland	.43	.37	.35	.45	.42
New Zealand	.38	.80	.77	.83	.79
Pakistan	.37	.96	.92	.97	.93
Yugoslavia	.36	.77	.49	.80	.54
Philippines	.35	.48	.46	.55	.52
Romania	.35	....	....	....	....
Turkey	.35	.55	.53	.61	.58
Chile	.27	.64	.43	.69	.49
Greece	.25	.39	.23	.47	.31
Columbia	.23	.64	.43	.69	.49
U.A.R.	.23	.58	.66	.64	.69
Cuba	.20	....	....	....	. ..
Iran	.20	.45	.42	.52	.47

APPENDIX C—Continued

Country	United Nations Assessment (1966-67)	Fund Quota (1963)	Bank Subscription (1965)	Fund Voting Share (1963)	Bank Voting Share (1965)
Bulgaria	.17	....	....	....	....
Nigeria	.17	.32	.31	.41	.38
Ireland	.16	.29	.28	.39	.35
Israel	.16	.16	.31	.28	.38
Portugal	.15	.39	.37	.47	.43
Thailand	.14	.29	.28	.39	.35
Malasia	.12	.23	.61	.33	.65
Morocco	.11	.34	.32	.43	.39
Algeria	.10	.39	.37	.47	.43
Uruguay	.10	.19	.05	.30	.15
Peru	.09	.24	.16	.35	.25
Ceylon	.08	.29	.28	.39	.35
Ghana	.08	.23	.21	.33	.30
Iraq	.08	.10	.07	.22	.17
Saudi Arabia	.07	.35	.34	.44	.40
Burma	.06	.19	.18	.30	.27
Kuwait	.06	.32	.31	.41	.38
Sudan	.06	.10	.28	.22	.35
Afganistan	.05	.14	.14	.26	.23
Congo (L)	.05	.29	.28	.39	.35
Equador	.05	.10	.08	.22	.17
Jamaica	.05	.13	.12	.25	.21
Lebanon	.05	.04	.04	.18	.14
Luxembourg	.05	.09	.09	.22	.19
Syria	.05	.10	.15	.22	.24
Tunisia	.05	.13	.14	.25	.23
Albania	.04	....	....	....	....
Bolivia	.04	.14	.10	.26	.19
Burundi	.04	.07	.07	.20	.17
Cambodia	.04	....	....	....	....
Cameroon	.04	.10	.09	.22	.19
C.A.R.	.04	.05	.05	.18	.14
Chad	.04	.05	.05	.18	.14
Congo (B)	.04	.05	.05	.18	.14
Costa Rica	.04	.10	.05	.22	.15
Cyprus	.04	.07	.07	.20	.17
Dahomey	.04	.05	.05	.18	.14
El Salvador	.04	.07	.05	.20	.15
Ethiopia	.04	.10	.05	.22	.17
Gabon	.04	.05	.05	.18	.14
Gambia	.04	....	....	....	....
Guatemala	.04	.10	.04	.22	.13
Guinea	.04	.10	.09	.22	.19
Haiti	.04	.07	.07	.20	.17
Honduras	.04	.10	.04	.22	.13

APPENDIX C—Continued

Country	United Nations Assessment (1966-67)	Fund Quota (1963)	Bank Subscription (1965)	Fund Voting Share (1963)	Bank Voting Share (1965)
Iceland	.04	.07	.07	.20	.17
Ivory Coast	.04	.10	.09	.22	.19
Jordan	.04	.06	.07	.19	.17
Kenya	.04	....	.15	....	.24
Korea (S.)	....	.12	.12	.24	.21
Laos	.04	.05	.05	.18	.14
Liberia	.04	.07	.07	.20	.17
Libya	.04	.10	.09	.22	.19
Madagascar	.04	.10	.09	.22	.19
Malawi	.04	....	....	....	....
Maldive Is.	.04	....	....	....	....
Mali	.04	.08	.08	.21	.17
Malta	.04	....	....	....	....
Mauritania	.04	.05	.05	.18	.14
Mongolia	.04	....	....	....	....
Nepal	.04	.05	.05	.18	.14
Nicaragua	.04	.07	.03	.20	.13
Niger	.04	.05	.05	.18	.14
Panama	.04	.01	.04	.14	.14
Paraguay	.04	.07	.03	.20	.13
Rwanda	.04	.07	.07	.20	.17
Senegal	.04	.16	.15	.28	.24
Sierra Leona	.04	.07	.07	.20	.17
Singapore	.04	....	....	....	....
Somalia	.04	.07	.07	.20	.17
Togo	.04	.07	.07	.20	.17
Trinidad and Tobago	.04	.13	.12	.25	.21
Uganda	.04	.16	.15	.28	.24
U. R. Tanzania	.04	.16	.15	.28	.24
Upper Volta	.04	.05	.05	.18	.14
Vietnam (S.)	....	.13	.14	.25	.23
Yemen	.04	....	....	....	....
Zambia	.04	....	....	....	....

* Because of Indonesia's ambiguous status, no United Nations assessment was assigned to her at the 1965 session.