
UN Financing: Some Reflections

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Abstract

The timely and in full financing of UN's activities is — for each Member State — not only a treaty obligation, but also an expression of its commitment to the UN's purposes and objectives. Furthermore, it is clearly a good investment in global stability. The UN, to be effective, must at all times be assured the funding necessary to carry on the operations decided and entrusted to it by its Member States. Otherwise, the UN is forced to live in a self-defeating state of permanent emergency. In the present unipolar world, the US — sooner or later — has to turn to the UN, looking for legitimacy. The American strategy of using the arrears on its contributions to the UN as a political instrument is an unfortunate and endemic mistake. Coming from the country which can claim to be the backbone of the UN, it frustrates its allies and weakens its bonds of solidarity with most other countries of the world. In addition, it does not allow the US to assume a real leadership role vis à vis the international community at large.

1 Introduction

I argued, four years ago, that financing the United Nations' activities is — for each and all of its Member States — not only a treaty obligation but, in essence, a matter of commitment.¹ I still do believe it is. In addition, for the international community the issue is an important one since it involves nothing less than allowing the United Nations to be able to act as the central institution in the conduct of multilateral relations. Particularly in connection with matters having to do with the international peace and security agenda.

The present world 'new' circumstances have not made me change my views. The bipolar structure that shaped the security relations between the major powers for half a century has collapsed. It became evident with the fall of the Berlin Wall, in December 1989.

The United States immediately emerged as the sole superpower. What is now

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¹ Cárdenas, 'Financing the United Nations' Activities: A Matter of Commitment', 1 *University of Illinois Law Review* (1995) 147.

known as a new ‘unipolar world’ was thus born.² Secretary of State Madeleine Albright started subsequently referring to the United States as the ‘indispensable nation’ in the world arena.

Some scholars take the position that the present high concentration of power may in fact work for peace, but nevertheless do not expect that the clear US pre-eminence can last very long.³ They argue that such preponderance — which is a reality — is and will always be confronted by the behaviour of other states that would, instead, like to see a more balanced world evolving towards multi-polarity.

I, however, tend to agree with those who instead take the view that the present United States preponderance — unprecedented as a quantitative and qualitative concentration of power — is not only prone to peace but may well prove to be a rather durable one.

On the one hand, because the United States will try, by all means, to preserve the ongoing unipolar world by preventing the emergence of any global rival. On the other, because all of the current candidates for a multi-polar status seem to be unable to catch up with the United States quickly. Russia has steadily turned into a troubled regional power, whose main threat to international peace and security seems to be its own further disintegration. Japan continues to be stuck in a decade-long deep economic recession. China, in turn, is simply still too far behind in all of the main components of power, i.e. economically, militarily, technologically and geopolitically.

In fact, the existing power gap between the United States and the rest of the world, if anything, seems to be widening,⁴ the sole major concern being the weapons of mass destruction and, in particular, Russian behaviour in view of the probable reappraisal of its own nuclear and missileic military capabilities when confronted with the United States’ increasing overall military superiority.

Unipolarity is thus simply a reality, and not the result of carefully orchestrated institutional changes. It has, in my opinion, the potential to last several decades.

In this new scenario, the United States seems to be far more interventionist than any previous world leader. It has even undertaken humanitarian ventures. Up to now, with the sole exception of the Bush administration’s involvement in Somalia, no other US administration has undertaken this type of mission. But the lack of historical precedents for humanitarian interventions only shows that very frequently moral imperatives need moral pioneers.

There are cases, it is true, where its involvement abroad has somehow been demand driven. The trend, however, seems to be evolving towards handling the different crises it has to confront through ad hoc regional arrangements, with a frequently limited American role or presence. The main problem seems to be the fact that, very frequently, the United States — with a blood-adverse domestic public when casualties are incurred purely for the benefits of foreigners — is limited or constrained by its own

² Wohlforth, ‘The Stability of a Unipolar World’, 1 *International Security* (1999) 5.

³ Kupchan, ‘After Pax Americana: Benign Power, Regional Integration and the Sources of Stable Multipolarity’, 3 *International Security* (1998) 40.

⁴ *Supra* note 2, at 20.

domestic factors. In other words, while it has definitely responded to its new role of 'global security manager',⁵ its reaction has frequently been weakened by an open reluctance to take any major international step which could generate domestic political risks. As a consequence, the United States hegemonic position, when confronted with an individual international crisis, frequently requires actions that must be implemented with the presence or participation of other states.

Unipolarity does not always lead towards unilateral action, i.e. towards US involvement minimizing, and whenever possibly excluding, the participation of governments or organizations. Much to the contrary, it involves United States' leadership to be followed by action by those willing to cooperate with it, in each specific case.

Some even suggest that there may be a growing 'division of labour' between the United States and its allies, vis à vis peace and security. America leads on the military side, and its major allies have the responsibility in foreign assistance and post-conflict measures.

No other nation or region has the fighting capabilities nor the defence-related research and development spending of America. Nevertheless, the United States is confronted with major domestic constraints on spending for international programmes which are not of a clear military nature (including diplomacy, foreign assistance and democracy building and promotion). This picture will probably change, because conflict prevention and economic development will both become serious challenges as we move into the new millennium. But it could take some time.⁶

Against such a background, the United States and the United Nations, in matters of international peace and security, will have to continue to work together, notwithstanding the fact that there might be humanitarian circumstances — like the recent Kosovo crisis — where unilateral action could become unavoidable. Sooner or later, the United States does turn to the United Nations looking for legitimacy for its actions, even *ex post facto*, particularly in the so-called humanitarian wars which require means that are inherently contradictory to ends.⁷

2 Unilateral 'Pick and Pay' Approaches

While there is wide public support amongst most Americans for the work of the United Nations and while, in fact, US contributions to all agencies of the United Nations system total just US\$7 per capita, per year, the United States seems to have frequently resented, distributed or feared the possibility of not dominating the will of

⁵ Richard N. Haas, *The Reluctant Sheriff* (1997).

⁶ See Yost and Solomon, 'Burden-Sharing that America Shoul'n't Want', *The Herald Tribune*, 22 July 1999.

⁷ See Fernando R. Tesón, *Humanitarian Intervention: An Inquiry into Law and Morality*, 2d ed. (1997); Richard N. Haas, *Intervention* (1994) 132, *et seq.*; Antonio Tausa, *Foreign Armed Intervention in Internal Conflict* (1993) 111 *et seq.*; Anthony Clark Arend and Robert J. Beck, *International Law and the Use of Force* (1993) 112 *et seq.*

the United Nations. This is, probably, the main reason why it began withholding, in the late 1970s, some of its assessed contributions related to various organs of the United Nations system.

First, it strongly resisted a proposal to establish an office to help protect the ‘rights of the Palestinian People’. When, in 1980, the General Assembly decided, nevertheless, to establish such an office, the United States branded the respective expenses as an ‘illegitimate’ one and began deducting its proportional share of the cost from the respective assessed contribution.

As stated by Jeffrey Laurenti, Washington also toyed with using the withholding policy on a larger scale, as leverage to pressure other Member States on major policy issues when their views were different from the American ones, generating a concern in the United States about possibly being outvoted.⁸

Critics recall the insistence, in the early 1960s, of the United States vis à vis the Soviet bloc on the need that they pay its assessments and warning that the policy of withholding contributions for political purposes could push the UN down a slippery road of massive non-payments, since any state in fact could find something objectionable in the United Nations budget. They also argued at that time that all Member States, including the United States, have a fundamental overriding interest in strengthening the rule of law and meeting all their commitments on contributions.

In the 1980s the American strategy of using withholdings on financial contributions as a political instrument unfortunately became endemic. The issues in Namibia and those related to the United Nations Office on the Law on the Sea generated new confrontations and withholdings.

Subsequently, in 1985, the United States Congress voted to withhold an amount calculated as its share of cost of living adjustments decided for United Nations employees, on the ground that such adjustments exceeded the inflation adjustments made domestically for federal employees.

Also in 1985, deepening its strategy, the United States conditioned the payment of its contribution to the United Nations to the adoption by the United Nations General Assembly of a system of voting weighted in proportion to each voting member’s budgetary contribution. Otherwise, it threatened to hold back a fifth of its dues. The Charter never included such a criterion. The reaction by other Member States to the above conditioning was obvious, arguing simply that there is a clear obligation under international law to pay the United Nations assessments, especially and particularly when a United Nations Member State has veto power in the Security Council of the Organization.

The unilateral withholding policy adopted by Washington soon brought the United Nations to the brink of insolvency. Reserve and capital accounts were rapidly depleted to pay current expenses. Reimbursements to peace-keeping contributors were simply delayed. From time to time, the United States in a spasmodic manner paid off some of

⁸ Jeffrey Laurenti, *National Tax Payers, International Organizations. Sharing the Burden of Financing the United Nations* (1995) 7.

its arrears, never since the early 1980s becoming current again on an across-the-board basis.

In addition to the above, the United States has always sought to lower its assessments, resisting since 1946 the apportionment decided by the General Assembly with the advice of the United Nations Committee on Contributions. It did so irrespective of the fact that there were clear rules that had been set — on a uniform basis — for all of the Member States. It unilaterally insisted that it should pay no more than a quarter of total expenses, suggesting a permanent ceiling of 25 per cent, as a cap applicable to any Member State contribution to regular expenses.

Several compromises were struck over the years in this connection by the United States and the other Member States of the United Nations, in each case only after hard bargaining. The United States' contribution was first fixed at 39.89 per cent and subsequently lowered by the General Assembly to 33.33 per cent in 1954. In 1955, when Italy and Japan were allowed into the United Nations, the United States unilaterally insisted on once again lowering its individual assessment, unsuccessfully requesting to be granted a 30 per cent ceiling. Nevertheless, by the early 1970s, its contribution to the international organization was of only 31.52 per cent.

The present United States Permanent Representative to the United Nations, Richard Holbrooke, has just pledged to the Senate Foreign Relations Committee that he would work to have his country's assessments reduced from the present 25 per cent to 20 per cent. I do not, however, believe he has a chance to achieve such a goal under the present circumstances, when the international community sees no reason for it and feels 'fatigue' on the subject.

Another problem arose again, in early 1995, when the United States House of Representatives decided to establish new restrictions, including massive new withholdings on future dues and a provision to bring down the United States peace-keeping cap to 20 per cent, again on a unilateral basis. Such a decision, as with most previous ones, seemed not to be too concerned with distorting the equity of the general scale of contributions and with unfairly transferring to citizens of smaller countries around the world a financial burden that the United States is perfectly capable of paying.

In terms of equity and of the normal functioning of the uniform apportionment formula, all requested caps contravene the United Nations principle of 'capacity to pay', granting to the United States — again and again — an effective burden which has been lower in relative terms than the one corresponding to all other Member States.

3 An Old Problem

All of the above actions have pushed the United Nations to a very precarious financial position. As a result, it has been required to operate with a constant shortage of resources. However, the financial difficulties seem to conceal, in fact, a much deeper

question, i.e. how much are its Member States committed to the goals and efforts of the Organization, as they are stated in its Charter?

Financing the United Nations is by definition a shared responsibility and honouring the respective treaty commitments is fundamental to create and maintain a sense of community. Withholding assessed contributions — unless there are clear legal grounds for such an attitude, which should obviously be narrowly interpreted and construed — is definitely not permissible under the Charter and further, as pointed out by Francesco Francioni, is a breach of the duty to contribute to the finances of the Organization. Particularly when the respective withholding, be it selective or not, is motivated by national interests.

Unless its Member States restore a minimum soundness to its financial structure, the effectiveness of the United Nations will always be surrounded by a major question mark. The mere fact that it has been forced to delay its reimbursements to peace-keeping contributing countries has had an adverse impact on finding Members States willing either to start or to continue collaborating in such ventures.

Member States which behave as good citizens and which — notwithstanding the ongoing crisis — generously provide troops and equipment to the United Nations peace-keeping operations, are simply indirectly financing those countries which do not honour their respective financial commitments as they should, like it or not.

But the problem is, unfortunately, not a new one. In 1954, i.e. 45 years ago, when the United Nations was still very young, a staff study then conducted by the United States Senate Subcommittee on the United Nations Charter stated:

Financing the United Nations is somewhat like the job of providing for an unusually large and desperate family on a very modest income. Some worthy projects may have to be side-tracked; a portion of the funds available may be wasted; it is difficult to get each member of the family to accept his share of responsibility; and there will be a constant concern over whether both ends will meet. It is often said that the veto is the greatest single problem facing the United Nations. But money is the lifeblood of any organization. And the financial problems the United Nations has encountered, although less spectacular, have proved almost as difficult and, in some ways, even more complex than the veto.⁹

Up until now, unfortunately, the United States, as a whole, has shown only a limited interest in solving the United Nations' financial distress attributable to its arrears. In the meantime, its rapidly expanding missions and mandates in the field of peace and security have unavoidably compounded its financial difficulties. As of 30 June 1999, a date published by the United Nations, in looking at the report on the status of contributions, the United States is by far the largest debtor.¹⁰

⁹ See Staff of Senate Sub-Committee on the United Nations Charter, *Staff Study Nr. 6 on Budgetary and Financial Problems of the United Nations* (1954).

¹⁰ The respective figures are the following: (i) to the regular budget: \$620.100.216 (out of a total outstanding figure of \$915.215.293); (ii) to UNEF and UNDOF: \$7.220.080 (out of a total outstanding figure of \$16.899.799); (iii) to the UN force in Lebanon: \$45.167.536 (out of a total outstanding figure of \$108.204.480); (iv) to the Iran-Iraq Military Observer Group: \$0; (v) to the Angola missions: \$88.093.634 (out of a total outstanding figure of \$132.315.085); (vi) to UNTAG: \$0; (vii) to the Iraq-Kuwait Observation Mission: \$5.031.841 (out of a total outstanding figure of \$11.179.101); (viii) to the Western Sahara Mission: \$49.846.892 (out of a total outstanding figure of \$57.648.357); (ix) to

With its attitude, it has hamstrung the Administration's ability to have an impact in the re-shaping of the Organization. Other Member States are understandably frustrated. 'They resent us deeply because we are not paying, and we are the backbone of the UN', said Secretary of State Madeleine K. Albright, adding, 'I feel it is very difficult for the US to assume a leadership role as long as we don't pay our bills.'¹¹ She is absolutely right.

4 The Provisions of the Charter

The United Nations Charter deals with financial matters in three, and only three, of its provisions: Articles 17, 18 and 19. I fully agree with Francesco Francioni when he maintains that Article 43 of the Charter has nothing to do with financial contributions. In addition, I also share the view that it is just untenable to argue that no payments are due when they do not serve the specific national interest of a particular Member State.

Under Article 17, the General Assembly is granted the power of considering and approving the Organization's budget. It provides that 'the expenses of the Organization shall be borne by the members as apportioned by the General Assembly'. The purse is thus squarely placed in the hands of the General Assembly.

Under Article 18 of the Charter, decisions on important matters are to be passed with a two-thirds majority. All budgetary issues require such majority approval. Article 19, in turn, specifies that if a Member State is in arrears in the payments of its financial contributions and should the amount of such arrears be equal to or exceed the amount of the contributions due from the Member for the preceding two full years, then the Member shall be denied the right to vote in the General Assembly.

Under the ongoing interpretation of Article 19, its contents are understood to mean

the Mission in El Salvador: \$0; (x) to the Missions in Cambodia: \$11.465.637 (out of a total outstanding figure of: \$46.616.238); (xi) to UNPROFOR, in the former Yugoslavia: \$544.091.897 (out of a total outstanding figure of \$673.209.957); (xii) to the Operation in Somalia: \$114.344.910 (out of a total outstanding figure of \$284.176.650); (xiii) to the Operation in Mozambique: \$6.680.111 (out of a total outstanding figure of \$15.086.771); (xiv) to the Force in Cyprus: \$12.337.052 (out of a total outstanding figure of \$17.381.941); (xv) to the Mission in Georgia: \$5.838.097 (out of a total outstanding figure of: \$7.985.323); (xvi) to the Mission in Haiti: \$0; (xvii) to the Mission in Liberia: \$3.623.431 (out of a total outstanding figure of: \$5.881.727); (xviii) to the Missions in Rwanda: \$12.671.117 (out of a total outstanding figure of: \$25.679.983); (xix) to the Mission in Tajikistan: \$2.317.054 (out of a total outstanding figure of: \$3.116.731); (xx) to the International Tribunal in Yugoslavia: \$4.533.812 (out of a total outstanding figure of: \$38.980.568); (xxi) to the International Tribunal in Rwanda: \$3.174.997 (out of a total outstanding figure of \$26.578.382); (xxii) to the Mission in Bosnia-Herzegovina: \$30.483.021 (out of a total outstanding figure of: \$37.923.063); (xxiii) to the Mission in Eastern Slavonia: \$28.395.306 (out of a total outstanding figure of: \$36.232.159); (xxiv) to UNPREDEP: \$9.732.213 (out of a total outstanding figure of \$12.013.850); (xxv) to the Police Missions in Haiti: \$15.251.982 (out of a total outstanding figure of: \$21.230.349); (xxvi) to the Mission in Guatemala: \$234.494 dollars (out of a total outstanding figure of \$295.117 dollars); (xxvii) to the Mission in the Central African Republic: \$14.553.721 (out of a total outstanding figure of \$15.323.273); (xxviii) to the Mission in Sierra Leone: \$2.398.310 (out of a total outstanding figure of: \$4.516.320).

¹¹ *New York Times*, international ed., 23 September 1999, at A13.

that no Member State is to be considered in arrears unless it equals or exceeds the amount of the contributions due for the preceding two full years, without counting the current year. This interpretation unwisely stretches the specific criteria contained in the Charter. It is time to revisit it, with the purpose of providing a stricter interpretation, leaving less room for late payments.

Since 1946, the criterion for apportioning expenses has been broadly based in the concept of the Member States' 'capacity to pay'. This criterion does not normally change significantly from one year to the next, providing a high level of predictability for the assessment mechanism.

For peace-keeping operations, the five Permanent Members of the Security Council bear a 'special' responsibility, which requires them to pick up premiums or surcharges absorbing discounts granted to less developed countries with low capacity to pay. Such responsibility arises from their privilege of being entitled to 'veto' rights.

The United Nations assessment mechanism is not only an effective one. It is also a very predictable and stable system. The amount each Member State must contribute is calculated through a predetermined formula applicable to all Member States in the same fashion and for a specific time period. The formula incorporates various factors, but its central component is 'per capita gross national product', moderated by the size of the respective country's population and by the share of its foreign trade, measured in gross national product terms. Each country's 'capacity to pay' is, in turn, determined by the General Assembly, following the prior opinion issued by a 'Committee on Contributions'.

Although the levels of the Member States' contributions do change over time, the fact that the base periods used for calculation purposes are built on multiple years means that changes come smoothly and gradually. As a rule then, a Member's 'capacity to pay' should not vary significantly from one year to the next.

5 Conclusions

The credibility of the United Nations depends, in large measure, on the effectiveness of its management, the quality of its staff and the structure of its administration. But the United Nations must also be assured of the timely availability of funds to meet all the obligations placed on it by its Member States.

In principle, all countries — with no exception — must pay their regular and peace-keeping assessed dues on time and in full. This responsibility is particularly great for the large contributors. It is, certainly, both a legal obligation and a basic requirement of membership.

As stated by a Report of the Independent Advisory Group on UN Financing, 'withholding contributions for any reason, even to force changes in the United Nations administrative and budgetary practices, simply cannot be justified, specially now that the General Assembly adopts budgets by consensus. If governments are not willing to uphold their most basic contractual obligations under the Charter, they will

inevitably undermine the role of the United Nations as a credible and effective guardian of lawful international order'.¹²

All Member States must confront the seriousness of the United Nations financial situation without further delay. The Organization has been recently forced to live in a state of permanent and chronic financial emergency with an unpredictable cash flow and — worse — without reserves, thus unable to react as it should, when confronted with crisis. It is time to show — with deeds — a commitment to the United Nations' purposes and objectives. What is needed is an overdue partnership approach and action with solidarity. The amounts involved are comparatively modest. Nevertheless, the United Nations can generally do no more than its Members allow it to do.

In the United Nations the world has an instrument with familiar and proved techniques, as well as a legal structure which is the only one which can legitimize actions involving sanctions or the use of force taken in the field of international peace and security.¹³ Providing it with all the required financial resources entails not only investing in global stability, but also keeping the promises which were freely made at the time of joining it.

For each of the Permanent Members of the United Nations Security Council which, on a real 'cascade basis' is present, overwhelmingly and everywhere, in every corner and position of the United Nations system, the need to meet its financial commitments has a different dimension. It is a stricter one. One must remember, for example, that even if there is no statutory requirement to this effect, Permanent Members of the Security Council have always had a seat at the International Court of Justice and have crowded out most of the General Assembly organs and committees, as well as the boards of the International Atomic Energy Agency, the International Civil Aviation Organization, the International Maritime Organization, the World Health Organization, UNICEF, the UNDP, the High Commissioner for Refugees, etc.¹⁴ In conclusion, irrespective of the fact of whether the world is or is not a uni- or multi-polar one, the global society in which we now live is, as was once said by Boutros Boutros-Ghali, 'fraught with many dangers, including that of destroying traditional bonds of solidarity or marginalizing countries or even whole regions of the earth'.

Given such a scenario, the United Nations has an increasingly difficult task: trying to instil some order in an international society which is simultaneously becoming both globalized and fragmented. If it is to play its crucial role as the servant of peace, it is more than ever urgent to solve its deep financial crisis, providing it with all the necessary resources its complex duties require.

¹² Shjuro Ogata and Paul Volcker, *Financing an Effective United Nations* (1993).

¹³ See Richard Falk, *Predatory Globalization. A Critique* (1999) 122.

¹⁴ See United Nations, GA, Doc. A/49/965, at 46–62, which contains an exhibit prepared in due course by the Argentine delegation to the UN, detailing the 'cascade effect', privileges and consequences, which spread out all over the Organization, falling from the condition of Permanent Member of the Security Council.