

Force undertaken in pursuance of General Assembly resolutions 997 (ES-I) of 2 November 1956, 998 (ES-I) and 999 (ES-I) of 4 November 1956, 1000 (ES-I) of 5 November 1956, 1001 (ES-I) of 7 November 1956, 1121 (XI) of 24 November 1956 and 1263 (XIII) of 14 November 1958, constitute "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter of the United Nations.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twentieth day of July, one thousand nine hundred and sixty-two, in two copies, one of which will be placed in the archives of the Court and the other transmitted to the Secretary-General of the United Nations.

(Signed) B. WINIARSKI,
President.

(Signed) GARNIER-COIGNET,
Registrar.

Judge SPIROPOULOS makes the following declaration:

While accepting the Court's conclusion, I cannot agree with all the views put forward in the Advisory Opinion. In particular, I consider that the affirmative reply to the request for an opinion is justified by the argument that the resolutions of the General Assembly authorizing the financing of the United Nations operations in the Congo and the Middle East, being resolutions designed to meet expenditure concerned with the fulfilment of the purposes of the United Nations, which were adopted by two-thirds of the Members of the General Assembly present and voting, create obligations for the Members of the United Nations.

I express no opinion as to the conformity with the Charter of the resolutions relating to the United Nations operations in the Congo and the Middle East, for the following reasons:

The French delegation had proposed to the General Assembly the acceptance of an amendment to the text, finally adopted by it, according to which amendment the question put to the Court would have become: "Were the expenditures authorized, etc. ... decided on in conformity with the provisions of the Charter and, if so, do they constitute 'expenses of the Organization' within the meaning of Article 17, paragraph 2, of the Charter of the United Nations?"

On 20 December 1961, in the course of the meeting of the General Assembly, this amendment was accompanied by a statement by the

French delegation justifying the submission of the French amendment and which, among other things, said:

“In the opinion of the French delegation, the question put to the Court does not enable the latter to give a clear-cut opinion on the juridical basis for the financial obligations of Member States. The Court cannot, in fact, appraise the scope of those resolutions without determining what obligations they may create for Member States under the Charter.

It is for this reason that the French delegation is submitting to the Assembly an amendment [A/L. 378] the adoption of which would enable the Court to determine whether or not the Assembly resolutions concerning the financial implications of the United Nations operations in the Congo and the Middle East are in conformity with the Charter. Only thus, if the matter is referred to the Court, will it be done in such a way as to take into account the scope and nature of the problems raised in the proposal to request an opinion.”

The French amendment was rejected.

The rejection of the French amendment by the General Assembly seems to me to show the desire of the Assembly that the conformity or non-conformity of the decisions of the Assembly and of the Security Council concerning the United Nations operations in the Congo and the Middle East should not be examined by the Court. It seems natural, indeed, that the General Assembly should not have wished that the Court should pronounce on the validity of resolutions which have been applied for several years. In these circumstances, I have felt bound to refrain from pronouncing on the conformity with the Charter of the resolutions relating to the United Nations operations in the Congo and the Middle East.

Judges Sir Percy SPENDER, Sir Gerald FITZMAURICE and MORELLI append to the Opinion of the Court statements of their Separate Opinions.

President WINIARSKI and Judges BASDEVANT, MORENO QUINTANA, KORETSKY and BUSTAMANTE Y RIVERO append to the Opinion of the Court statements of their Dissenting Opinions.

(Initialed) B. W.

(Initialed) G.-C.