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FINANCING OSCE PEACE-KEEPING OPERATIONS

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Paper prepared for the conference on
"The OSCE in the maintenance of international peace and security"
Rome, 29-31 March 1996

IAI9609

ISTITUTO AFFARI INTERNAZIONALI

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I. Introduction

In the literature of peace-keeping the issue of financing has received noticeable but not comprehensive attention ⁽¹⁾. Interest in financing has focused mainly on two aspects: the financial crisis of United Nations in the early nineteen sixties related to the "Certain Expenses of the UN" case and more recently the financial difficulties arising from the dramatic increase in peace-keeping operations and their changing nature ⁽²⁾.

The need for a comprehensive approach which considers the issue of financing peace-keeping in more general terms is evident. Furthermore emerging of operations which are carried out by regional organizations requires looking at financing peace-keeping operations in contexts outside the United Nations framework.

The scope of the present work is to analyze the methods and procedures of financing peace-keeping operations carried out by international organizations. This approach will be limited both by the organizations considered and the notion of financing peace-keeping adopted.

Procedures of the United Nations and of a regional organization, the Organization for Security and Co-operation in Europe (OSCE), will be investigated.

As to the notion of financing peace-keeping operations, it is useful to make some general comments. This concept appears quite general and implies different meanings.

A distinction should be drawn between the expenses of the international organization for planning, preparing, administrating and carrying out a peace-keeping operation and the costs incurred by the troop-contributing States for their direct participation in the mission.

The first aspect has an exclusively international character. It concerns the methods and the procedures through which the organization raises funds for managing the operations and through which it allocates the relative expenses. The national contributions, both mandatory and voluntary, which each State makes to the organization for financing peace-keeping must be included in this ambit.

The second aspect is only partially relevant at the international level because it concerns the national costs of the troop-contributing countries resulting from their direct participation in the operations.

¹ For a review of the writings on the financial aspects of peace-keeping see FERMANN, G., *Bibliography on International Peacekeeping*, Dordrecht/Boston/London, 1992, pp. 173 ff., and less recently JONES, P., *Peacekeeping. An Annotated Bibliography*, Kingston, 1989.

² For a review of the status of the financial situation of the UN peace-keeping operations see the Report of the Secretary-General, *Improving the Financial Situation of the United Nations* (UN/A/50/666, 20 October 1995).

The costs of the first type generally burden all the States which are members of the concerned organization. The second type exclusively concerns the States participating with troops or materials in the operations.

Yet the two aspects, even so distinguished, are not completely separate. They are connected by reimbursement procedure through which the international organization provides compensation for the costs incurred by the participating countries. This reimbursement usually does not cover the entire amount of the expenses undertaken by the contributing countries.

The present work will examine the first aspect, the expenses of the international organization.

II. Financing UN peace-keeping

In considering the United Nations mechanisms for financing peace-keeping operations we will first examine the Charter, then the practice developed in the Organization.

II.1. The Charter of the United Nations contains very limited dispositions concerning finances. Reference is made to art. 17, budget procedure, and art. 19, failure to pay contributions. A few other rules, in particular art. 18, voting procedures in the General Assembly, and the provisions on the functions of the Secretariat of the Organization, become relevant in assessing the overall financial organization of the United Nations.

The Charter does not provide any specific rule concerning the expenses for actions in the field of peace and security. Neither are there rules on the financing of enforcement actions *ex* Chapter VII or, *a fortiori*, of any other kind of operational activity, such as peace-keeping.

During the Conference of San Francisco the subject was quite marginally dealt with by the Committee III/3. This Committee indicated only that the UN should create a sharing system in order to guarantee the "fairest possible distribution of expenses" ⁽³⁾ incurred as a result of enforcement action ⁽⁴⁾.

Two provisions of the Charter are sometimes indicated as relevant. They include art. 49:

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

And art. 50:

If preventive or enforcement measures against any State are taken by the Security Council, any other State, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Few conclusions on the issue of financing can be drawn from these two articles. The possibility for the member States to consult with the Security Council on financial difficulties arising from the undertaking measures in the field of peace and security seems more related with the moment of implementing those measures than with that of financing them ⁽⁵⁾.

³ United Nations Conference on International Organization XVII, p. 362.

⁴ See BOWETT, D.W., *United Nations Forces, A Legal Studies of United Nations Practice*, London, 1964, pp 468 ff.; GOODRICH, L.M., HAMBRO, E., SIMONS, L.M., *United Nations. Commentary and Documents*, New York/London, 1969, pp. 337 ff.; EISEMANN, P.M., *Article 49*, in COT, J.-P., PELLET, A., *La Charte des Nations Unies*, pp. 754 ff.

⁵ For a commentary of these dispositions see EISEMANN, P.M., *Article 49* and *Article 50*, in COT, J.-P., PELLET, A., *La Charte des Nations Unies*, pp. 754 ff.; BRYDE, B.-O., *Article 49* and *Article 50*, in SIMMA, B., *The Charter*

Thus, due to the lack of any ad hoc disposition, we can conclude from a textual exam of the Charter, that the issue of financing military activities decided by the Organization should be inserted in the framework of art. 17 and considered as any other expense of the Organization. One alternative would be to regulate the issue at the time of the conclusion of the agreements foreseen in Article 43 ⁽⁶⁾; however, as it is well known, that provision of the Charter has never had concrete application.

Within the framework of Art. 17 has developed a practice which after years of uncertainty now seems to be completely consolidated.

As peace-keeping developed, the problem of funding emerged haphazardly. In the early nineteen sixties the Organization underwent through a deep financial crisis connected with its peace-keeping operations in Sinai, Congo and Lebanon. The matter was dealt with in an advisory opinion of the International Court of Justice ⁽⁷⁾ which has been thoroughly studied and commented on⁽⁸⁾. The conclusions of the Court indicating funding of peace-keeping as "expenses of the Organization" within the meaning of Article 17, paragraph 2, of the Charter of the United Nations has found general acceptance in subsequent practice.

The General Assembly apportions the expenses for peace-keeping as obligatory contributions to be met by member States. The principle of collective financial responsibility has been consolidated by broad and consistent practice.

Even the prudent indications of the Special Committee on Peace-keeping Operations suggested the inclusion of the expenses of peace-keeping within the meaning of article 17, paragraph 2, of the Charter of the United Nations as the first source of financing:

The costs of peace-keeping operations authorized by the Security Council shall be considered as expenses of the Organization, to be borne by the Members in accordance with Article 17, paragraph 2, of the Charter of the United Nations (or any other methods of financing which the Security Council may decide) (unless decided otherwise) (art. 11) ⁽⁹⁾.

This practice has been confirmed by several resolutions and Secretary-General Reports ⁽¹⁰⁾. Under the agenda item "Comprehensive Review of the Whole Question of Peace-keeping Operations in All Their Aspects" the General Assembly has reaffirmed several times that the financing of peace-keeping operations is the collective responsibility of all Member States in accordance with Article 17, paragraph 2, of the Charter. For example in res. 47/71 of 14 December 1992 was affirmed:

The General Assembly,

of the United Nations. A Commentary, Oxford, 1994, pp. 656 ff.

⁶ This solution was suggested by BROWNLIE, I., *United Nations Forces. A Legal Studies of United Nations Practice*, *op. cit.*, p. 470.

⁷ *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*. Advisory Opinion of 20 July 1962: *I.C.J. Reports 1962*, pp. 151 ff.

⁸ See JENNINGS, R.Y., *International Court of Justice - Advisory Opinion of July 20, 1962: Certain Expenses of the United Nations*, *International and Comparative Law Quarterly*, 1962, pp. 1169 ff.; BOTHE, M., *Certain Expenses of the United Nations (Advisory Opinion)*, in Bernhardt, R. (ed.), *Encyclopedia of Public International Law* [Instalment 1 (1981) p. 48 ff.].

⁹ *Report of the Special Committee on Peace-keeping Operations, Eleventh Report of the Working Group* (UN Doc. A/32/394 Annex II Appendix I of 2 December 1977)

¹⁰ Recall the Reports of the Secretary General concerning the UNEF II which reversed the practice of financing solely through voluntary contributions which seemed established with the UNFICYP operation.

12. *Recalls* that the financing of peace-keeping operations is the collective responsibility of all Member States in accordance with Article 17, paragraph 2, of the Charter of the United Nations, and reiterates its call upon all Member States to pay their assessed contributions in full and on time and encourages those States which can do so to make voluntary contributions that are acceptable to the Secretary-General.

The same disposition has been reiterated in several subsequent resolutions.

Since 1993 all the peace-keeping forces have been financed under art. 17.2 of the Charter. In addition, UNFICYP financing was switched from the completely voluntary funds to the art. 17.2 procedure, at least for the costs of the Force that are not covered by voluntary contributions ⁽¹¹⁾.

Thus it is possible to conclude that the "Certain Expenses" debate has been settled. Either from a textual reading of the Charter or from an analysis of the practice of the Organization we must consider the expenses for peace-keeping as expenses of the Organization under art. 17.2 of the Charter. Therefore the General Assembly, being the organ which considers and approves the budget of the Organization as set out in Article 17, also has the authority for peace-keeping expenses.

To analyze the financing of UN peace-keeping we have to distinguish between the apportionment of the expenses among the Member States and the budget procedures. These aspects deserve to be widely treated because of the peculiarities and differences which they have regarding the financing of the ordinary activities of the Organization.

II.2. As set out in art. 17.2 of the Charter, the General Assembly apportions the expenses of the Organization. This apportionment is concretely decided through the establishment of a scale of assessments based on the 'capacity to pay'. It is reviewed every three years.

Since the first peace-keeping missions many States, in particular the developing States, raised the issue of the particular nature of the expenses for peace-keeping which would have justified an apportionment different from that decided for the regular budget. This debate led to a first decision in 1963 and then to a substantive review in 1973. Through this second resolution the General Assembly established a specific scale of assessments for peace-keeping expenses ⁽¹²⁾. That decision has been subsequently adjusted many times ⁽¹³⁾. The last review concerning the period 1995-1997 was approved in 1994 ⁽¹⁴⁾.

This ad hoc scale for the apportionment of the contributions was motivated and based on the assumption that the States which are permanent members of the Security Council have a special responsibility for financing peace-keeping operations. According to that resolution the member States are divided into the following four A, B, C, D groups:

A - the permanent members of the Security Council (liable for around 55 % of the costs) ⁽¹⁵⁾;

B - specifically named economically developed States which are not permanent members of the Security Council (liable for around 42 %);

¹¹ Res. A/47/236 of 14 September 1993.

¹² Res. A/3101 (XXVIII)

¹³ An important revision was implemented with Res. 43/232, 1 March 1989.

¹⁴ Res A/49/19/A-B, Scale of Assessments for the apportionment of the expenses of the United Nations, 29 November 1994 and 23 December 1994. For a recent analysis of the scale of assessments and the relative issues, see *Report of the Committee on Contributions* (A/50/11).

¹⁵ For example, the United States owes 25% of the regular budget and contributes around 31% to the peace-keeping budget. For more data see Schoettle, E.C.B., *Financing UN Peacekeeping*, in *Keeping the Peace in the Post-Cold War Era: Strengthening Multilateral Peacekeeping. A Report to the Trilateral Commission*, New York/Paris/Tokyo, pp. 17 ff.

C - economically less developed States (liable for around 2%);
D - economically less developed States which are specifically named (liable for less than 1 %).

The composition of the groups is reviewed and adjusted periodically ⁽¹⁶⁾ and the share of each member within its group is determined with reference to the scale of assessments established in the regular budget of the UN.

This particular apportionment of the expenses seemed for a certain period a fairly satisfactory arrangement. Its underlying *ratio* is that the permanent members have to be ready to shoulder most of the costs of a mission they decide to establish. In this sense recall par. 19 of res. A/47/71 on a "Comprehensive Review of the Whole Question of Peace-keeping Operations in All Their Aspects":

The General Assembly,

Acknowledges the competence of the General Assembly for the appropriation and apportionment of the costs of United Nations peace-keeping operations, and also acknowledges the importance of the Security Council members being informed of the cost implications of such operations.

In recent times changes have been proposed, particularly a reduction in the ceiling on the assessed contribution of any Member State ⁽¹⁷⁾.

From a procedural point of view the apportionment of the expenses of each single mission is inserted in the decision through which the expenses of the mission are appropriated and its budget passed.

II.3. The budget procedure for financing peace-keeping operations offers many points of interest for its specificity relating to the regular budget practice.

Usually three categories of financing peace-keeping are distinguished: the mandatory contributions to the regular budget; the mandatory contributions to the peace-keeping budget; and the voluntary contributions.

The peace-keeping operations are usually financed outside the regular budget, but there are some exceptions which are worthy of mention. The United Nations General Fund covers the costs of the following operations:

- the oldest truce observation missions. Reference is made to the United Nations Supervision Organization (UNTSO) and to the United Nations Military Observer Group in India and Pakistan (UNMOGIP);

- some human rights verification operations such as the joint United Nations-Organization of American States Mission to Haiti (MICIVIH) and the Mission for the Verification of Human

¹⁶ For example some States after the breakup of the Soviet Union asked for their reclassification under the group of the less developed countries, see, e.g., Letter dated 25 September 1995 from the President of Ukraine addressed to the Secretary-General (A/50/502, 3 October 1995).

¹⁷ See the Secretary-General Statement on Financial Crisis of 6 February 1996 (SG/SM/5892 GA/9050 *Secretary-General Calls for 1996 Special Assembly Session on UN Finances in Statement to High-Level Group on UN Financial Situation*). An analogous proposal has been presented on behalf of the European Union by Italy, see *Agence Europe*, 26 January 1996, p. 3. The issue was also recently discussed within the High-level Open-ended Working Group on the Financial Situation of the United Nations, see its report to the General Assembly (UN/A/49/43).

Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA);

- some election monitoring missions such as the United Nations Observer Mission in South Africa (UNOMSA) or the United Nations Observer Mission to Verify the Referendum in Eritrea (UNOVER);

- some other field activities concerning peace and security such as early-warning and preventive diplomacy missions. Examples are the United Nations Office of the Secretary-General in Iran and Iraq (UNOSGI), and the Office of the Secretary-General in Afghanistan and Pakistan (OSGAP).

Without deciding whether these missions can or not be considered peace-keeping operations *stricto sensu* ⁽¹⁸⁾, it is sufficient to point out that their costs are inserted in the Section "Peace-keeping Operations and Special Missions" of the Part "Political Affairs" of the regular budget of the organization. The reasons for this choice lie either in the history or in the nature of each mission. Some, such as the UNTSO or the UNMOGIP were established prior to the development of any coherent practice in financing peace-keeping. Other operations, such as the MINUGUA or the UNOMSA, are field missions with an exclusive civilian component. Their nature distinguishes them from the military peace-keeping missions and their relative practice. Some have been established by the General Assembly.

The costs for the functioning of the Department of Peace-keeping Operations are part of the regular budget as well. Also part of the regular budget are the expenses for peace-keeping which are relevant to other departments or offices, such as the Department of Political Affairs ⁽¹⁹⁾.

At this point we pass to the core aspect of the procedures for financing peace-keeping operations. The financing of peace-keeping is based on the principle of the separate assessment for each operation. Each operation is separately funded through its own account. Due to the unpredictable nature of the establishment and development of these operations the recourse to the system of the single operation budget seemed the most appropriate.

We will follow this procedure in all its details. According to the practice developed in the last few years, when the Secretary-General suggests the establishment of a new peace-keeping mission, he usually makes a first estimate of the possible costs of the mission. For example in the case of the assessment of the establishment of a new peace operation in Angola (UNAVEM III) the Secretary-General attached a financial *addendum* with the estimated cost of UNAVEM III for a 12-month period ⁽²⁰⁾ to his Report to the Security Council ⁽²¹⁾. These assessments are usually not very detailed due to the difficulties of an early precise estimate ⁽²²⁾ and to a certain fear of the Secretariat that the Security Council could pare the mission in case of high costs. In any case since 1994 a standard cost manual for the equipment and materials employed in peace-keeping

¹⁸ These operations are inserted among peace-keeping activities in some United Nations documents, besides the Programme Budget. See, for example, the *Financial report and audited financial statements for the biennium ended 31 December 1993 and Report of the Board of Auditors. Volume II United Nations peace-keeping operations* (UN A/49/5), p. 7.

¹⁹ It is just the case to remind that a Support Account for Peace-keeping Operations has been established in 1990 in order to meet the need to supplement the human resources that are provided under the regular budget for the backstopping of for the various operations. (Administrative and Budgetary Aspects of the Financing of the United Nations Peace-Keeping Operations: Financing of the United Nations Peace-Keeping Operations. Support Account for Peace-Keeping Operations, Report of the Secretary-General, UN Doc. A/48/470/Add. 1, 27 May 1994).

²⁰ UN/S/1995/97/Add. 1, 6 February 1995.

²¹ UN S/1995/97, 1 February 1995.

²² On the difficulties which can be faced by the Secretary-General in this phase see SCHOETTLE, *Financing UN Peacekeeping*, *op. cit.*, p. 29.

operations has been developed in order to have standard cost parameters in the earliest stages of a mission ⁽²³⁾.

After the enabling resolution of the Security Council authorizing the establishment of the operation the Secretary-General submits a report on the financing of the mission to the General Assembly. This report is prepared by the Peace-keeping Financing Division in the Office of Programme Planning, Budget and Accounts. It is based on the resource requirements submitted by Finance Management and Support Service of the Field Administration and Logistics Division of the Department of Peace-keeping Operations.

This report is presented to the Advisory Committee on Administrative and Budgetary Questions (ACABQ), which refers to the General Assembly. During the hearings concerning the budget proposal the ACABQ can ask the Secretary-General to review of the budget and submit a modified report to the General Assembly. The report is first examined by the Fifth Committee of the General Assembly, which refers to the General Assembly proposing a draft decision. The General Assembly approves the budget by *consensus*.

The functioning of the mechanism can be seen through a concrete example. On August 24th, 1993, the Security Council decided to establish by its res. 858 the United Nations Observer Mission in Georgia (UNOMIG) for a period of six months. The cost of the mission, after an early assessment made by the Secretary-General in his Report of 7 July 1993 ⁽²⁴⁾, was estimated at months \$ 16,195,000 for the first six months and a monthly cost thereafter of \$ 1,950,000 ⁽²⁵⁾. Subsequently the composition of the Force was drastically reduced due to the serious disagreements which developed between the parties concerned. The costs were thoroughly reviewed. In the Secretary-General's Report to the General Assembly on the Financing of the UNOMIG they were fixed at \$ 2,198,400 gross for the period from its inception on 24 August 1993 to 31 January 1994 ⁽²⁶⁾. This report was reviewed by the ACABQ which reported to the General Assembly ⁽²⁷⁾. Within the General Assembly the issue was examined by the Fifth Committee and reported to the plenary session with the recommendation of the adoption of a resolution ⁽²⁸⁾. On that recommendation the General Assembly adopted a decision on the financing of the Force which authorized expenses for \$ 2,680,100 for the period from 24 August 1993 to 31 March 1994 ⁽²⁹⁾. In the same decision the General Assembly proceeded to the apportionment of the expenses in accordance with the procedure already mentioned.

Every time the mandate of a mission is extended the procedure is repeated. In the case of UNOMIG for example, after the decision of the Security Council to continue the mandate, the Secretary-General presented a few new reports on financing the mission ⁽³⁰⁾ and the General Assembly approved the relative resolutions ⁽³¹⁾. According to this procedure the General Assembly, and the other organs, can be called many times a year to review the budget of a peace-keeping operation, involving all the relative workload.

²³ For a more detailed exam of the content of the standard cost manual, see the Final Report on the in-depth evaluation of peace-keeping operations: start-up phase of the Office of Internal Oversight Services (UN/E/AC.51/1995/2, 17 March 1995).

²⁴ UN/S/26023/Add.1, 7 July 1993.

²⁵ UN/S/26250/Add. 1, 6 August 1993.

²⁶ UN/A/C.5/48/40, 9 December 1993.

²⁷ UN/A/48/778 and UN/A/48/781.

²⁸ UN/A/48/823, 23 December 1993.

²⁹ UN/A/48/475, 23 December 1993.

³⁰ See for example the UN/A/48/699/Add. 1, 24 March 1994. In this type of report the Secretary-General also recognizes the status of contributions to the mission.

³¹ UN/RES/A/49/231, 23 December 1994.

Facing this problem the General Assembly recently approved a budget cycle reform ⁽³²⁾ according to which the budget of those operations which are not subject to fluctuation will be considered for approval once a year. The other operation budget estimates will be considered and approved twice a year. This new regime, which introduces an annual budget cycle, has to be fully operational not later than 1 July 1996. Other changes and improvements in the standardization of the budget process and format were also introduced ⁽³³⁾.

A particular problem is posed by the financing of the "start-up or expansion phase" of each operation. The need of a rapid deployment and the unforeseeable developments on the field do not conform to the slow procedure just described. In many cases the Secretary-General has been called to establish an operation without the backing financial commitments of the General Assembly and with a very limited independent financial authority. Examples are the beginning of the peace-keeping operations in Cambodia and Yugoslavia in 1992.

This issue poses two problems: the short-time availability of financial resources and the financial authority to appropriate them.

The General Assembly decided to establish with a Peace-keeping Reserve Fund with its resolution 47/217 of 23 December 1992. The Fund, effective since 1 January 1993, is placed under the authority of the Secretary-General and is designed to work as a cash-flow mechanism to ensure the Organization's rapid response to the needs for peace-keeping operations. The level of the Fund was set at 150 million US dollars which were collected from surpluses both in the regular budget and in the budgets of some peace-keeping operations. A misuse of the Fund due to the borrowing from its resources to meet cash shortages in ongoing peace-keeping operations prevented its proper working. A recent Secretary-General proposal of increasing the level of the Fund to \$ 800 million has been rejected by the General Assembly which has maintained the Fund at its present level ⁽³⁴⁾.

With regard to the second aspect, i.e. the financial authority in the "start-up or expansion phase", the General Assembly recently authorized the Secretary-General to enter into commitments not to exceed 50 million US dollars per decision of the Security Council relating to peace-keeping operations. This financial authority is limited by the rule that the cumulative total of outstanding commitment authority must not exceed 150 million dollars at any one time. If the Secretary-General were called on to enter into commitments exceeding \$ 50 million per decision or a total of \$ 150 million, the matter would have to be examined by the General Assembly.

III. Financing OSCE peace-keeping operations

The methods of financing peace operations by the Organization for Security and Cooperation in Europe present features which are very different from those just described. An attempt to sketch the framework of the OSCE peace operations and their funding requires a look at the peculiar legal nature of this Organization. While it is not possible in this context to assess

³² UN/RES/A/49/233, 23 December 1994 (*Administrative and Budgetary Aspects of the Financing of the United Nations Peace-keeping Operations*).

³³ A mock-up budget for a single operation which reflects the modification requested by the General Assembly was presented by the Secretary-General on 1 August 1995 (UN/A/50/319).

³⁴ UN/RES/A/49/233, 23 December 1994 (*Administrative and Budgetary Aspects of the Financing of the United Nations Peace-keeping Operations*).

the legal value of the OSCE arrangements ⁽³⁵⁾, some conclusions will be drawn at the end of this section.

The regular budget of the OSCE will be considered first, then the special provisions concerning funding of field activities, particularly peace-keeping operations carried out by the Organization.

The not yet completely institutionalized character of the Organization, the elementary management of its financial resources and its recent involvement in field activities suggest a preliminary examination of the Organization's regular budget. This will give a more complete picture of the financial framework in which the field activities are carried out ⁽³⁶⁾.

III.1. Until 1990 the Conference on Security and Cooperation in Europe lacked any institutional apparatus. It worked as a diplomatic conference whose subsequent sessions were pragmatically decided at the end of each meeting. During this period the need for a real institutional budget never emerged. The only expenses were of an organizational nature. Financial arrangements only of a very limited scope were made.

The issue of financing the Conference was dealt with in the 1972-73 Multilateral Preparatory Talks for the Conference of Helsinki. The work of the Committee was formalized in a "Blue Book" ⁽³⁷⁾, which set the blueprint and the procedural aspects of the Helsinki Conference. This text also governed the subsequent follow-up meetings.

According to these regulations a very simple system of financing was established. The necessary expenses were to be covered in advance by the country which was hosting the Conference and subsequently reimbursed by the participating States as allocated by a cost-sharing scale (rules 92-96). This scale of distribution divided the participating States into 7 groups, contributing from a maximum of 8.80 per cent of the budget to a minimum of 0.20 per cent (rules 89-91) ⁽³⁸⁾.

The funds were mainly devoted to the costs of the Executive Secretary, the embryonic but non-permanent administrative body of the Conference. The Executive Secretary was assigned the tasks of organizing the administrative and technical services of the Conference and recruiting the necessary staff. He was also responsible for the financial administration of the Conference, as indicated by rule (76):

The Executive Secretaries will work under the authority of the Conference and report on their activities to the appropriate body of each stage of the Conference, especially on financial matters.

These provisions also governed the Follow-up Meetings of the CSCE and in particular the Meetings of Belgrade (1977-1978), Madrid (1980-1983), Vienna (1986-1989) ⁽³⁹⁾ and the summit-level Conference in Paris (1990) ⁽⁴⁰⁾.

³³ See CONDORELLI, L., *Diritto e non diritto nella CSCE*, in BARBERINI, G., RONZITTI, N., *La nuova Europa della CSCE*, Milano, 1994, pp. 47 ff.

³⁶ The issue of the financial aspects of the CSCE/OSCE does not seem to have received attention in the literature except for some very short remarks in the general presentations of the Conference.

³⁷ See *Final Recommendations of the Helsinki Consultations*, Helsinki, 8 June 1973, reproduced in Bloed, A. (ed.), *From Helsinki to Vienna: Basic Documents of the Helsinki Process*, Dordrecht/Boston/London, 1990, pp. 39 ff.

³⁸ For the negotiating history of this arrangement see FERRARIS, L.V., *Testimonianze di un negoziato*. Helsinki - Ginevra - Helsinki 1972 - 75, Padova, 1977, pp. 211 ff.

³⁹ A particular scale of assessment was established in the Vienna Meeting for the framework on Conventional Armed Forces in Europe among the States participating in this negotiation.

⁴⁰ See for example the 1980 Purple Book on the organization of the Madrid Follow-up Meeting, reproduced in

An important development which was a turning point in the history of the Conference occurred during the Paris Conference ⁽⁴¹⁾. In Paris the organization and the structure of the Conference were thoroughly examined. For the first time in the CSCE process permanent offices and centres were created, institutionalizing their functions.

The establishment of these structures raised the issue of funding and of recruiting personnel. To maintain the intergovernmental character of the Conference and its agile structure and to reduce costs, it was agreed that most of the personnel, particularly all the professional officers, would be seconded by national governments ⁽⁴²⁾. The introduction of a more sophisticated system of financial management became necessary and a budgetary procedure was established. A cost-sharing arrangement divided expenses among the seconding countries; the country hosting the concerned institution; and the Conference itself ⁽⁴³⁾. An up-to-date scale of distribution was also approved ⁽⁴⁴⁾.

Afterwards the Prague Meeting of January 1992 and the Helsinki Summit of July 1992 introduced changes in the organization of the CSCE, adding more structure and wider articulation of its offices and institutions ⁽⁴⁵⁾. These developments had important ramifications for the financial organization of the Conference. In the Conference of Helsinki for the first time an entire section of the final document was devoted to the administrative and financial arrangements ⁽⁴⁶⁾. This document dealt with the following aspects:

- the establishment of a new scale of distribution;
- the structuring of a budget for the permanent offices of the Conference;
- the organization of a budget procedure for the CSCE meetings.

These provisions with slight amendments, constitute the framework for the current financial system of the Organization for Security and Cooperation in Europe.

During the process of institutionalization a group with financial competence was established: the Financial Committee of Experts. This Informal Committee is called upon "to deal, inter alia, with the issues of budgets, cost savings and staffing". The Informal Financial Committee of Experts reports to the Committee of Senior Officials (CSO). The Financial Committee meets quarterly, in conjunction with but prior to the meetings of the Committee of Senior Officials ⁽⁴⁷⁾.

The next issue to be resolved was a review of the scale of assessment. The need for a new scale of distribution was triggered by the enlargement of the Conference when new States emerged from the political developments in Central and Eastern Europe. The new cost-sharing distribution

SIZOO, J., JURRIENS, R. Th. (eds.), CSCE Decision-Making: the Madrid Experience, The Hague/Boston/Lancaster, 1984, pp. 290 ff.

⁴¹ For the developments introduced with the Paris Summit see LEHNE, S., *The CSCE in the 1990s. Common European House or Potemkin Village?*, Wien, 1991.

See *Charter of Paris for a New Europe. Supplementary Document to Give Effect to Certain Provisions Contained in the Charter of Paris for a New Europe*, Section I.H. (Procedures and Modalities Concerning CSCE Institutions), reproduced in *International Legal Materials*, 1991, pp. 215 ff.

⁴³ Ibidem.

⁴⁴ Ibidem, Section III (Financial Arrangements of the CSCE and Cost-Effectiveness).

⁴⁵ On the new organization see RONZITTI, N., *The Conference on Security and Cooperation in Europe and its Institutions*, in *The International Spectator*, 1993, pp. 31 ff.

⁴⁶ We refer to Section XII (Administrative Decision) of the Helsinki Summit Decisions, reproduced in *International Legal Materials*, 1992, pp. 1419 ff.

⁴⁷ Ibidem par. 1.

(⁴⁸) envisages a group of six States (France, Germany, Italy, Russian Federation, United Kingdom, United States), each contributing 9% of the budget for a total 54% of the budget. The remaining 46 States were divided into 13 different contributing groups with a minimum of 0.15% of the budget for the micro-States. Each time a new State is admitted to the Organization, the scale of distribution is adjusted by a decision of the Permanent Council (⁴⁹).

The Helsinki Summit had important consequences for the finances of the Conference. The Conference's reshaped organizational structure resulted in the creation of new institutions such as the High Commissioner for National Minorities (HCNM) and the Secretary-General. Other institutions created in the Paris Summit and its aftermath were consolidated, as the Office for Democratic Institutions and Human Rights (ODIHR), the Conflict Prevention Centre (CPC) and the CSCE Secretariat.

In this regard a distinction emerged between funding the permanent offices and centres, and funding the expenses for the organization of meetings and *ad hoc* conferences.

Concerning the former, the permanent offices were financed through the assessed contribution of the participating States, except for the seconded personnel which remained the financial responsibility of the national governments. A very simple budget procedure was set up. The budget numbers from the various offices of the Organization are first reviewed by the aforementioned informal Financial Committee of Experts. Then the Senior Committee evaluates and approves the budget during its end of the year session (⁵⁰). During the financial year the budget is usually revised through a decision of the Permanent Council (⁵¹).

The 1995 budget serves as an example. The 1995 budget proposals were presented by the Secretary General, through the Office of Administration and Budget of the Secretariat, on 13 September 1994 (⁵²) and subsequently on 11 October 1994 (⁵³). After the review of the informal Financial Committee this budget was approved by the Committee of Senior Officials in its meeting of 18 November 1994 (⁵⁴) and afterwards revised during the first months of 1995 consistent with the outcome of the Budapest Summit. It was adopted by the Permanent Committee in its revised version at its meeting of 6 April 1995 (⁵⁵). A further review was completed in July (⁵⁶).

For 1995 the total proposed budget except for the missions was 196,079,387 Austrian Shillings, divided into four main funds:

- the General Fund: the CSCE Secretariat;
- the Office for Democratic Institutions and Human Rights (ODIHR);
- the High Commissioner on National Minorities; and
- the Funds Relating to the Conflict in Nagorno-Karabakh.

To these funds must be added the mission funds, amounting to around 117,000,000 Austrian Shillings, for a total budget of over 312,000,000.

The expenses for the organization of meetings and *ad hoc* conferences are addressed in the Helsinki 2 Document. A detailed procedure was created to approve and appropriate their costs.

⁴⁸ Ibidem parr. 3-4.

⁴⁹ See, for example, Decision No. 82 of the Permanent Council of 2 November 1995, PC Journal No. 42.

⁵⁰ The regular budget of the CSCE is very limited, for example, in 1993 it amounted to around 150.000.000 Austrian Shillings (around 13 million US Dollars).

⁵¹ These aspects and all the technical details of the budget procedure are governed by the Financial Regulations of the Organization.

⁵² Document 705/94 of the Secretary General of 13 September 1994.

⁵³ Document *The 1995 Budget Proposals* of the Secretariat of 11 October 1994.

⁵⁴ See 29-CSO/Journal, 18 November 1994.

⁵⁵ See PC/Journal No. 15, 6 April 1995.

⁵⁶ See OSCE Mid-Year Review 1995, PC.DEC/64, Annex, 25 July 1995.

This financial mechanism is not to be followed for the CSCE meetings organized in the framework of the Secretariat, or for ODIHR activities whose costs are covered by their relative institutional budgets. This procedure is based on the system of an advance by the governments which host the meeting and reimbursement by the participating States. According to the Helsinki 2 Decisions, the procedure must be characterized by the principles of cost-effectiveness and transparency (⁵⁷).

III.2. We will now examine the funding of the missions carried out in the framework of the OSCE.

Since 1992 the CSCE has entered a new phase of its history. From the Helsinki Summit forward, the tasks and activities of preventive diplomacy, crisis management and conflict resolution have become the primary focus of the Conference (⁵⁸). Its relative competence and powers were codified in Chapter III ("Early Warning, Conflict Prevention and Rapporteur Missions and CSCE Peacekeeping") of the Helsinki Decisions of 1992.

The CSCE developed a wide range of missions in the field following its first 1991-1992 actions in Albania and other newly admitted States (⁵⁹). The Conference assumed a strong operational role which had been extraneous to its history and practice up to that point.

These missions may be distinguished here by their funding (⁶⁰). From this perspective three kinds of missions emerge:

- i) the short-term missions;
- ii) the long-term missions;
- iii) the peace-keeping missions.

The principle of collective financial responsibility of the participating States is generally valid for each type of mission. Differences occur in the mechanisms, procedures and importance of the funding.

i) According to the Guidelines for financing CSCE missions adopted by the Committee of Senior Officials in September 1992 (⁶¹), the short-term missions include both the fact-finding and rapporteur missions under paragraphs (12) - (16) of Chapter III of the Helsinki Document (⁶²) and the urgent missions undertaken at the request of the Chairman-in-Office. The former missions are financed from the budgets of the appropriate institutions. The expenses of the urgent missions of the Chairman-in-Office are covered by the CSCE Secretariat. The costs which have been pre-paid by one participating State will be refunded (⁶³). The expenses of a mission to be covered collectively include the following categories of costs: travel costs to and from the mission area

⁵⁷ Section XII (Administrative Decision) of the Helsinki Summit Decisions, parr. 4-12, cit.

⁵⁸ See, for example, ROTFELD, A. D., *In Search of a Political Settlement. The Case of the Conflict in Moldova, in The Challenge of Preventive Diplomacy. The Experience of the CSCE*, Stockholm, 1994, p. 104.

⁵⁹ On these missions, see HÖYNCK, W., *CSCE Missions in the Field as an Instrument of Preventive Diplomacy - Their Origin and Development*, in *Ibidem*, pp. 56 ff.

⁶⁰ For an examination of these mission see, in this volume, ROSAS, A., *OSCE Long-Term Missions*.

⁶¹ See 16-CSO/Journal No. 3, Annex 3.

⁶² For these missions in the Helsinki Decisions (Section III.16) an explicit reference is made to the principle of collective responsibility: Except where provided on a voluntary basis, the expenses of fact-finding and rapporteur missions will be borne by all participating States in accordance with the scale of distribution.

⁶³ A peculiar cost-sharing arrangement has been agreed on for the rapporteur missions under the Moscow Mechanism. The funds which are advanced by the ODIHR are subsequently refunded by the participating State or States that have requested the establishment of the mission. In case of the appointment of experts or rapporteurs pursuant to a decision of the Senior Council, the expenses are covered by all the States in accordance with the usual OSCE scale of distribution of expenses (See Chapter I.14 of the Document of the Moscow Meeting on the Human Dimension, Emphasizing Respect for Human Rights, Pluralistic Democracy, the Rule of Law, and Procedures for Fact-Finding, Moscow, 3 October 1991, reproduced in *International Legal Materials*, 1991, pp. 1676 ff.).

and within the mission area, communication charges, board and lodging, fees for independent experts, insurance, interpretation and other additional expenses ⁽⁶⁴⁾.

ii) The long-term missions such as those to Skopje, Georgia, Estonia, Moldova, are a flexible instrument which can accomplish a wide range of tasks. These missions, strictly speaking, are not provided for in the framework of the Helsinki Decision on Early Warning, Conflict Prevention and Crisis Management, Peaceful Settlement of Disputes. Thus there are no general express provisions concerning their funding ⁽⁶⁵⁾. The practice of the Organization has been to cover the costs of these missions on a case by case financial appropriation. Each time a mission is established, an *ad hoc* budget is approved.

Here the budget procedure requires the Head of the Mission, in close co-operation with the Secretariat, to prepare a financial proposal based on estimated costs to be submitted to the Informal Financial Committee. After the review of the Financial Committee, the proposal is submitted to the relevant OSCE body for approval ⁽⁶⁶⁾.

The peculiar structure of the OSCE envisages the parallel existence of three bodies, the Ministerial Council, the Senior Council and the Permanent Council, which in a "Chinese box" style have very similar competences. This structure implies that all three organs may establish a mission and approve its budget. In the practice of the Organization, the establishment of a long-term OSCE presence is usually approved by the Ministerial Council or by the Senior Council ⁽⁶⁷⁾. These organs can proceed either to approve the budget directly or to delegate its elaboration and approval to the Permanent Council. This forum, due to its permanent nature, seems the most suitable organ to conduct the review of all the administrative and financial aspects of a mission.

There are examples of these procedures. In the Mission to the Republic of Moldova the Senior Council, which at that time was still named Committee of Senior Officials, after having established the mandate of the mission, acted thus:

The Committee of Senior Officials,

...

4. Further requested the CSO Vienna Group ⁽⁶⁸⁾ to elaborate and approve by 15 March 1993, on a preliminary basis, the terms of reference and budget for the Mission, taking into account the recommendations of the Personal Representative of the Chairman-in-Office. The terms of reference and budget will be submitted to the CSO for final approval at its next Meeting ⁽⁶⁹⁾.

A similar decision was recently made when the OSCE Mission to Bosnia and Herzegovina was established. In this case the Ministerial Council after considering a draft budget directed "the Permanent Council to agree before 15 January 1996 on a budget... ⁽⁷⁰⁾".

⁶⁴ See Guidelines for cost-sharing relating to short-term CSCE missions, in 24-CSO/Journal No. 3, Annex 5.

⁶⁵ See *ultra* in this volume, ROSAS, A., OSCE Long-Term Missions.

⁶⁶ See Guidelines for cost-sharing relating to long-term CSCE missions, in 24-CSO/Journal No. 3, Annex 4.

⁶⁷) For example, the Chechnya Assistance Group was established by the Permanent Council (see OSCE Press Release, No. 24/95).

⁶⁸) The Permanent Council did not exist at that time and the CSO Vienna Group performed analogous functions.

⁶⁹) CSCE/19-CSO/Journal No. 3.

⁷⁰ Decision No. 1, OSCE Action for Peace, Democracy and Stability in Bosnia and Herzegovina, OSCE Ministerial Council, Budapest 1995, MC (5) Journal No. 2.

Once the budget is approved the OSCE Secretariat notifies the participating States of their assessed share of the total costs for each mission based on the scale of distribution, and requests payment.

The costs which are usually covered are both establishment costs for vehicles, communication and office equipment, and operational costs for travel, office rents, board and lodging and salaries for locally hired personnel.

The Osce missions as the United Nations peace-keeping missions present a start-up funding problem. The solution is fairly similar. A separate budget item for initial costs for long-term missions has been established in the regular budget of the Conflict Prevention Centre ⁽⁷¹⁾. In 1994 and 1995 this Fund was set at 3,000,000 Austrian Shillings. Financial authority is given to the Secretary General of the Organization for expenses in the star-up phase. The Mission to Bosnia and Herzegovina was thus provided for:

Before the budget is agreed, the Secretary General is authorized to engage the OSCE on urgent procurement orders and contracts concerning premises for the Mission up to 20% of the above-mentioned cost estimate ⁽⁷²⁾.

In 1995 the budget for these missions, including the Sanctions Co-ordinator and Sanction Assistance Missions, was over 117,000,000 Austrian Shillings ⁽⁷³⁾, around 38% of the total budget.

iii) Close attention is paid to the funding of peace-keeping operations in the Helsinki Document.

The organization, the deployment and the operational activities of a peace-keeping force imply high costs. The wider number of personnel involved, the presence of a predominant military component with weapons and logistics, the usually long-term schedule make the costs of a peace-keeping operation much higher than those of any other mission carried out by the OSCE.

The matter of funding peace-keeping emerged in recent years as one of the most sensitive issues. Considering the United Nations' negative experience, the CSCE's concern is that an uncertain financial basis could endanger the peace-keeping activities of the Organization. A general provision on funding peace-keeping was thought necessary and it was introduced in the Helsinki Document:

Peacekeeping operations require a sound financial basis and must be planned with maximum efficiency and cost-effectiveness on the basis of clear cost projections ⁽⁷⁴⁾.

The Helsinki Document reiterates the principle of collective financial responsibility and establishes an annual budget cycle:

Costs of CSCE peacekeeping activities will be borne by all CSCE participating States. At the beginning of each calendar year, the CSO will establish a reasonable ceiling for the cost of peacekeeping operations to which the CSCE scale of distribution will be applied. Beyond that

⁷¹ The budget for the Conflict Prevention Activities are part of the General Fund.

⁷² *Ibidem*.

⁷³ See Revised 1995 Budget, Permanent Council, Journal No. 15, 6 April 1995, Annex 1.

⁷⁴ Par. 46, Section III (Early Warning, Conflict

Prevention and Crisis Management (Including Fact-Finding and Rapporteur Missions and CSCE Peacekeeping), Peaceful Settlement of Disputes) of the Helsinki Summit Decisions, cit.

limit, other special arrangements will be negotiated and agreed to by consensus. Full and timely payments will be required ⁽⁷⁵⁾.

In this way the Organization establishes an annual budget process for peace-keeping through the projection of the financial implications that such operations would have for the OSCE. This measure is accompanied by the establishment a start-up fund:

A start-up fund will, if appropriate, be established to cover the initial costs of an operation. Contributions by a participating State to the start-up fund will be deducted from that State's regular assessed share of the costs relating to the operation ⁽⁷⁶⁾.

Given the lack of practice of the Organization in this field, it is difficult to assess the application of these rules. In any case the "Guidelines for cost-sharing relating to long-term CSCE missions" seem to be fully applicable also to the peace-keeping operations ⁽⁷⁷⁾. Thus with regard to the budget procedure it is possible to refer to the mechanisms already described for the long-term missions. In the Helsinki Decisions it is just indicated that "financial accountability will be ensured by the Chairman-in-Office through regular reports to the participating States" ⁽⁷⁸⁾.

There has not yet been a true peace-keeping practice in the Organization. It is, however, of interest to review the proposals and the activities carried out by the Organization in the OSCE action in relation to the Nagorno-Karabakh conflict.

In the Budapest Summit of 1994 the Conference considered the possible deployment of a multinational peace-keeping force whether a peace settlement would have been reached in the Nagorno-Karabakh conflict. To this aim a High Level Planning Group was established to make recommendations on "the size and characteristics of the force, command and control, logistics, allocation of units and resources, rules of engagement and arrangements with contributing States" ⁽⁷⁹⁾.

The High Level Planning Group (HLPG) was formed on the 20th of December 1994 and began working a few months later ⁽⁸⁰⁾. A considerable amount of finances was allocated for operating of the HLPG ⁽⁸¹⁾ and for supporting of the diplomatic activities of the OSCE in the region ⁽⁸²⁾.

⁷⁵ Par. 47, *ibidem*.

⁷⁶ Par. 50, *ibidem*.

⁷⁷ Cit.

⁷⁸ Par. 49, Section III (Early Warning, Conflict Prevention and Crisis Management (Including Fact-Finding and Rapporteur Missions and CSCE Peacekeeping), Peaceful Settlement of Disputes) of the Helsinki Summit Decisions, *cit*.

⁷⁹ See Decisions (II. Regional Issues - Intensification of CSCE action in relation to Nagorno-Karabakh conflict) of the Budapest Summit, 6 December 1994, reproduced in *International Legal Materials*, 1995, pp. 764 ff.

⁸⁰ For the involvement of the OSCE in the Nagorno-Karabakh conflict and on the activity of the High Level Planning Group see VILEN, H., KARIE, M., Preparations of a Peace-keeping Mission for the Nagorno-Karabakh Conflict by the OSCE's High Level Planning Group, in *International Peacekeeping*, 1995, pp. 106 ff.; GRECO, E., *L'Europa senza muri: le sfide della pace fredda. Un anno di Presidenza italiana della CSCE*, Milano 1995, pp. 147 ff. and pp. 220 ff.

⁸¹ In the meeting of 9 March 1995 the Permanent Council approved the budget for the HLPG (staff costs, travel costs, language services...) for the period of 1 January to 31 August 1995 at the level of ATS 6,485,714 (see PC Journal No. 11, 9 March 1995).

⁸² In 1995 the budget allocated for the Minsk Process and the Field Representatives was more than ATS 24,000,000 (see OSCE Mid-Year Review 1995, PC.DEC/64, Annex, 25 July 1995).

The HLPG prepared different options of involvement of the Organization in the Nagorno-Karabakh region. In any case most of the different models proposed foresaw a deep involvement of the Organization. The most suitable option would comprehend a planned force between 3.000 and 4.000 military and civilian personnel. It would imply very high costs for the Organization. They have been estimated from 93.000.000 to 150,000,000 US Dollars a year according to the strength of the Force ⁽⁸³⁾.

These high costs constitute a matter of deep concern for the Organization, which was clearly expressed by the Chairman-in-Office. In the meeting of the Senior Council of 31 March 1995 the issue was debated and the following statement was recorded:

The Chairman-in-Office called upon the participating States to make concrete commitments of personnel and financial resources and to ascertain the financing of the operation ⁽⁸⁴⁾. The same concern was expressed by the single delegations:

A number of delegations noted the importance of the credibility of OSCE action and support for OSCE activities, and the willingness of participating States to contribute resources. Participating States were urged to ensure that their resource commitments allow the OSCE to fulfil the role and functions set forth by Heads of State or Government in Budapest ⁽⁸⁵⁾.

In the following months the work of the HLPG continued. In any case due to the political situation on the region and the absence of any definitive agreement among the parties, conditions which would allow the deployment of such a force were still lacking ⁽⁸⁶⁾.

IV. Conclusion

The exam of the entire financial organization of the OSCE is characterized by the peculiar nature of the Organization. It is not possible in this work to examine the general legal value of the OSCE acts. The soft law nature and the soft international organization character of the OSCE have been largely discussed.

In this context the financial arrangements made in the framework of the Organization present a particular problem. Many authors wondered if these commitments also should be considered of non-binding nature.

There is not a clear answer to the problem. A short appraisal of the possible different thesis seems necessary.

On one side an argument would consider the financial arrangements having the same non-legal binding nature of any other OSCE instruments. On the other side, it does not seem possible to fund activities, mechanisms and procedures of organs, offices and missions through financial arrangements which are not legally binding. The process of institutionalization that invested the

⁸³ It is worthy of being stressed that this budget is much higher than the whole annual OSCE budget, which for 1995 was equivalent to some 30.6 million US Dollars. The costs planned for the OSCE Mission is comparable to those of a UN peace-keeping operation of similar strength.

⁸⁴ SC/Journal No. 2, 31 March 1995.

⁸⁵ Ibidem.

⁸⁶ This evaluation was made in the OSCE Ministerial Council of December 1995, see MC(5) Journal No. 2, 8 December 1995. See more recently "OSCE Chairman-in-Office Travels to Baku and Erewan", Press Release No. 10/96, 28 February 1996.

Organization and the new activism showed with the field missions by the Organization imply stable financial foundations.

In this sense some authors refer to the notion of a "mixture" of legal and non-legal commitments in the OSCE process (⁸⁷). In particular they consider all the financial and organizational engagements of the Organization as legal commitments in support of non-binding legal instruments.

This thesis seems particularly appropriate with regard to the financial matters. In a review of the wording

⁸⁷ See CONDORELLI, L., *Diritto e non diritto nella CSCE*, op. cit., pp. 54 ff.