

ARTICLE 18

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TEXT OF ARTICLE 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

INTRODUCTORY NOTE

1. The Table of Contents of this study reproduces all the main headings under the four sections into which the previous study of Article 18 in volume I of the Repertory was divided. The discussions and decisions of the General Assembly at its ninth and tenth sessions, which bear on the application of Article 18, are treated under the original headings.

2. Many of the sub-headings which were required for the study of eight regular sessions and two special sessions of the General Assembly dealt with questions which are now closed; they are omitted therefore, from the present study. On the other hand, several new questions arose during the period under review and the necessary headings have been added. These omissions and additions are explained below.

3. In section II, B on the practice under both paragraphs 2 and 3 of Article 18, the sub-headings under heading 3 on the various methods of making decisions have been omitted, since there was no change in the practice of the General Assembly. The applicability of Article 18 to examination by the General Assembly of reports and petitions relating to South West Africa is a new question and it has been added under heading 4.

4. In section II, C on the practice under paragraph 2 of Article 18, there is no new material for inclusion under sub-heading 1, a, relating to the procedure for application of the term "important". The cases dealt with in the Repertory, under heading 1, b, to illustrate the considerations involved in determining whether the adoption of a proposal requires a two-thirds majority have been omitted. Instead the "Report of the Special Committee on Review of Administrative Tribunal Judgements", is included since there was an important discussion on the majority required. Under the heading II, C, 2 relating to the questions enumerated in Article 18 (2), the sub-headings for each of the categories have been omitted.

5. In section II, D on the practice under paragraph 3 of Article 18, under sub-heading 3, questions which the General Assembly has determined may be decided by a majority vote, one particular case bearing on the organization and conduct of business is included under sub-heading a, 1, namely a change in the order of the final consideration of items on the agenda of a plenary meeting; a decision was taken on this, by vote at the tenth session. The original sub-headings under 3, b dealing with other "procedural questions" have been omitted.

I. GENERAL SURVEY

6. The results of the votes that were taken on resolutions during the ninth and tenth sessions in plenary meetings of the General Assembly followed and developed further the pattern of voting described in the Repertory, 1/ according to which the vast majority of the General Assembly's decisions are made by the affirmative vote of two-thirds or more of the Members, with an increasing number by unanimity and with little or no reference being made to the application of any of the provisions of this Article.

7. Thus, of the 109 resolutions 2/ adopted at the ninth session 26 were unanimous and the remaining 83 received majorities of more than two thirds of the Members present and voting. The provisions of Article 18 were mentioned, for the purpose of voting, in connexion with only four of the 109 resolutions, and in only five instances was a proposal (including parts of a resolution put to the vote separately and amendments to resolutions) rejected for having failed to obtain the required two-thirds majority.

8. Again, of the 93 resolutions 3/ adopted at the tenth session 38 were unanimous, 54 received majorities of more than two thirds of the Members present and voting and the remaining one was adopted by one vote less than the two-thirds majority. The provisions of Article 18 were mentioned in connexion with only three of the 93 resolutions and in only three instances was a proposal rejected because it had failed to obtain a two-thirds majority of the votes.

9. During the two sessions reference was made to Article 18 in seven instances, but there is little that sheds light on the application and interpretation of its provisions. The same two agenda items (namely, the question of South West Africa

1/ See in the Repertory, vol. I, under Article 18, paras. 9-15.

2/ G A (IX), Suppl. No. 21 (A/2890). The resolutions are numbered from 807 to 907; sometimes two or three separate resolutions on the same subject are under one title. See, for example, numbers 807, 808, 861, 875, 876, 889.

3/ G A (X), Suppl. No. 19 (A/3116). The resolutions are numbered from 908 to 995. Numbers 908, 910, 958 and 973, however, contain more than one resolution under the same title.

and the question of apartheid) were the subjects of four of the resolutions; since these items, together with a third, had been considered at previous sessions, reference to the voting requirements was confined in each case to a brief statement by the President to which no objection was raised (see paragraphs 23-30 below).

10. In only one case did discussion take place on the application of the provisions of Article 18 in connexion with the voting. It is dealt with in section II, C (paragraphs 19-27 below).

II. ANALYTICAL SUMMARY OF PRACTICE

A. Practice relating to Article 18 (1)

11. No question has arisen regarding the provision contained in paragraph 1 to the effect that each Member of the General Assembly shall have one vote, nor regarding the procedure, established by the rules of procedure, whereby an applicant State acquires the rights of membership in the General Assembly immediately upon admission to the United Nations. ^{4/}

B. Practice relating to both paragraphs 2 and 3 of Article 18

1. *Meaning of the term "decision" as used in Article 18*

12. There has been no further discussion on the meaning of the term "decision" as used in Article 18. However, some discussion took place at the tenth session on the question whether a formal "decision" is in fact made by the General Assembly when it adopts the agenda of a session, regarding the order in which the items should be disposed of in plenary meeting (see paragraphs 35-38).

2. *Meaning of the expression "members present and voting"*

13. It was decided at the second session to include a definition of this phrase in the rules of procedure of the General Assembly (rule 88-rule 127 in the case of Committees); no further discussion has taken place since then. As regards the words "absolute majority of votes ..." used in Article 10 (1) of the Statute of the International Court of Justice, there has been no change in the practice according to which they are interpreted to mean the smallest number greater than half of the possible number of voters, regardless of whether they were present and voting.

3. *Methods of making decisions*

14. The General Assembly continued to make its decisions (1) by show of hand or roll-call, (2) by secret ballot, (3) by acquiescence or consent without a vote, and (4) on the postponement of the opening date of a session, by individual consultation of Members between sessions. ^{5/}

4. *Question of the applicability of Article 18 to examination by the Assembly of reports and petitions relating to South West Africa*

15. By resolution 844 (IX), the General Assembly adopted a set of special rules concerning the procedure for the examination by the Assembly of reports and petitions

^{4/} See also in the Repertory, vol. I, under Article 9.

^{5/} See also in this Supplement under Article 21.

relating to South West Africa. Special rule F on voting procedure reads as follows:

"Decisions of the General Assembly on questions relating to reports and petitions concerning the Territory of South West Africa shall be regarded as important questions within the meaning of Article 18, paragraph 2, of the Charter of the United Nations."

16. The question arose, however, whether Article 18 was applicable at all or whether another voting procedure was required. By resolution 904 (IX), the General Assembly requested the International Court of Justice to give an advisory opinion on the question whether special rule F was a correct interpretation of the advisory opinion of the Court of 11 July 1950. ^{6/} In its advisory opinion of 7 June 1955 which gave an affirmative answer to the question, the Court, referring to the limits within which the General Assembly was to exercise supervisory functions, stated: ^{7/}

"On the other hand, in marking out those limits, the Court did not need to deal with the system of voting. In recognizing that the competence of the General Assembly to exercise its supervisory functions was based on the Charter, the Court also recognized implicitly that decisions relating to the exercise of such functions must be taken in accordance with the relevant provisions of the Charter, that is, the provisions of Article 18. If the Court had intended that the limits to the degree of supervision should be understood to include the maintenance of the system of voting followed by the Council of the League of Nations, it would have been contradicting itself and running counter to the provisions of the Charter. It follows that the statement that 'The degree of supervision to be exercised by the General Assembly should not therefore exceed that which applied under the Mandates System' cannot be interpreted as extending to the voting system of the General Assembly.

"Accordingly, the Court finds that the statement in the Opinion of July 11th, 1950, that 'The degree of supervision to be exercised by the General Assembly should not therefore exceed that which applied under the Mandates System', must be interpreted as relating to substantive matters, and as not including or relating to the system of voting followed by the Council of the League of Nations."

Having distinguished between the substantive character of the statement regarding the "degree of supervision" and the procedural character of the statement regarding conformity "as far as possible to the procedure followed" by the Council of the League of Nations, the Court proceeded with the following observation: ^{8/}

"Such being the case, it follows that the General Assembly, in adopting a method of reaching decisions in respect of the annual reports and petitions concerning South-West Africa should base itself exclusively on the Charter. Article 18 of the Charter authorizes the General Assembly to decide whether decisions of this nature involve 'important questions' or 'other questions'. The General Assembly has concluded that decisions by it on questions relating to reports and petitions concerning the Territory of South-West Africa shall be regarded as decisions on important questions to which the two-thirds majority rule should apply. It is from the Charter that the General Assembly derives its competence to exercise its supervisory functions; and it is within the framework of the Charter that the

^{6/} See also in this Supplement, under Articles 80 and 96.

^{7/} Voting procedure on questions relating to reports and petitions concerning the Territory of South West Africa, I C J Reports, 1955, p. 74.

^{8/} Ibid., p. 76.

General Assembly must find the rules governing the making of its decisions in connection with those functions. It would be legally impossible for the General Assembly, on the one hand, to rely on the Charter in receiving and examining reports and petitions concerning South-West Africa, and, on the other hand, to reach decisions relating to these reports and petitions in accordance with a voting system entirely alien to that prescribed by the Charter."

C. Practice relating to Article 18 (2)

1. Question of the application of the term "important" to proposals without reference to the questions enumerated in Article 18 (2)

17. The general considerations advanced in the study of Article 18 in the Repertory on the question of the application of the term "important" to proposals still hold true for the voting procedure followed during the ninth and tenth sessions. There are, consequently, the same difficulties in determining which of the 202 resolutions adopted during the period under review related to "important questions", except, of course, those that fall clearly within the scope of the categories listed in paragraph 2 of the Article. In only one instance, as reviewed below, was there any significant discussion indicating the grounds on which a draft resolution was considered to be an "important question" by a Member and not so considered — within the meaning of Article 18 (2) — by other Members.

** a. PROCEDURE FOR APPLICATION

b. CONSIDERATIONS INVOLVED IN DETERMINING WHETHER THE ADOPTION OF A PROPOSAL REQUIRES A TWO-THIRDS MAJORITY

18. In the course of the procedural discussion that preceded the voting on the one item with regard to which the application of Article 18 (2) was debated during the period covered by this Supplement, a number of the questions previously dealt with under this heading in the Repertory 9/ were raised again. In addition the following questions were introduced:

- (1) Whether referring the substance of a matter to the International Court of Justice for an advisory opinion did not make that matter important;
- (2) Whether amending the Statute of the Administrative Tribunal, being a basic instrument of the United Nations, was not an important issue;
- (3) Whether a recommendation affecting the exercise of certain rights by Members and the Secretary-General did not fall within the questions enumerated in Article 18 (2);
- (4) Whether the financial consequences of a resolution did not automatically make it a budgetary question within the meaning of Article 18 (2);
- (5) Whether the establishment of a new organ with the power to make reference to the Court was not in itself an important question.

9/ See in the Repertory, vol. I, under Article 18, para. 47.

(i) Report of the Special Committee on Review of Administrative Tribunal Judgements

19. During the tenth session reference was made to the provisions of Article 18, for the purpose of voting, in connexion with the consideration in plenary meeting of the report of the Fifth Committee 10/ on the agenda item entitled "Report of the Special Committee on Review of Administrative Tribunal Judgements".

20. The draft resolution recommended in the report recalled section B of resolution 888 (IX) in which the General Assembly had decided to accept in principle the judicial review of judgements of the United Nations Administrative Tribunal, decided to amend the Statute of the Tribunal with the addition of new articles 11 and 12 and recommended that Member States and the Secretary-General should not make oral statements before the International Court of Justice under the new article 11 of the Statute.

21. Before a vote was taken on the draft resolution and on the amendments submitted thereto, the representative of India requested 11/ the President to rule whether the draft resolution, which in his view was a matter of importance, did not require a two-thirds majority for adoption. The President stated that this was a question which the General Assembly itself should decide.

22. The representative of India then submitted 12/ the views of his Government on why the draft resolution dealt with a matter of importance and not one of procedure. He recalled that this subject had been before the Assembly several times in the past, that the substance of it had been referred to the International Court of Justice and that a special committee had been appointed to consider it. He pointed out that the effect of the draft resolution recommended by the Fifth Committee was to amend the Statute of the Administrative Tribunal, which was a basic statute of the United Nations: there could be little doubt that to amend so important an instrument was an important issue. Moreover, in terms of the Charter this was a matter which fell under the description of "important" within the meaning of Article 18. Among the categories enumerated in that Article as requiring a two-thirds majority there were two relevant to the present issue: the suspension of the rights and privileges of membership and budgetary questions. The matter under consideration touched on both. The draft resolution contained a recommendation to the effect that Member States and the Secretary-General "should not make oral statements before the International Court of Justice in any proceedings under the new article...". These were rights resting in Member States and the Secretary-General under the Charter and if the draft resolution were adopted the Assembly would have acted to take away certain privileges of membership and to impair those that are conferred on the Secretary-General. From this point of view, therefore, the recommendation became an important question. In addition, the representative of India submitted that it was also a budgetary question. Just as it had been asserted that the very fact that a question came before the Political Committee made it a political question, so, by analogy, the very fact that this matter had been brought before the Administrative and Budgetary Committee made it a budgetary question. And there was no doubt that the application of the decisions of the Administrative Tribunal and their consequences were matters involving the budget. As far as the Charter was concerned any expenditure of money, however small, became a budgetary issue.

10/ G A (X), annexes, a.i. 49, p. 38, A/3016.

11/ G A (X), Plen., 541st mtg., paras. 121-125.

12/ G A (X), Plen., 541st mtg., paras. 126-137.

23. Citing the past history of the voting procedure in the General Assembly, 13/ the representative of India submitted that especially after the speeches that had been heard during the debate, the question was important both from a common sense point of view and from the point of view of the two provisions of the Charter which he had mentioned. It was also important, he felt, because its effect would be to amend the Statute of the Tribunal and because it involved the creation of a new body (proposed in the new article 11, paragraph 4) which would have the power to make reference to the International Court of Justice.

24. Against this contention that the draft resolution was important within the meaning or intent of rule 85 of the rules of procedure (this rule reproduces textually paragraph 2 of Article 18), certain representatives maintained 14/ that this matter clearly could not be considered as "budgetary" and equally that there was no similarity between the obvious importance of the categories of questions enumerated in Article 18 and the question raised by the draft resolution. This was an administrative, organizational question of a kind which had always been decided both in Committee and in plenary meeting by a majority vote. Rule 85 was intended to have a deeper significance and no desirable precedent could be established by applying that rule in this case. It was also stressed that this was the first time that the importance of a question of administrative procedure had ever been considered with a view to determining whether the decision to be adopted thereon should be taken in accordance with the provisions of Article 18 (2). In the past, the matters on which the Assembly had had to take a decision in this regard had been in the nature of questions of substance — those that did not fit precisely into the categories of important questions referred to in paragraph 2, and the Assembly had therefore been obliged to decide on them in accordance with paragraph 3 of this Article.

25. The Assembly was dealing on this occasion with a matter of an administrative and procedural nature concerning certain amendments to the Statute of the Tribunal, a subsidiary organ of the General Assembly. This clearly was not included in any of the categories mentioned in Article 18 (2). Since such was the case, a prior decision would be required under paragraph 3 of Article 18, on the question of principle whether the Assembly should decide to add a further category covering administrative questions to the list of categories of questions already contained in paragraph 2. Only then would it be appropriate to vote on the specific question of amending the Statute of the Tribunal. This method was suggested because it had always been the practice to regard administrative and procedural questions as not requiring a two-thirds majority. It was also pointed out that the draft resolution under consideration followed from a previous resolution, 888 (IX), in which review of judgements had been accepted in principle. It was in that resolution that the important substantive question was to be found yet the resolution had been adopted without any reference having been made to the application of the two-thirds majority rule. 15/ Since the draft resolution under consideration went no further than to recommend the procedure to be adopted for a review which had already been accepted in principle it would not be consistent to insist now on a two-thirds majority. In connexion with the "budgetary" aspect of the draft resolution, it was argued that the mere fact that the resolution had financial implications did not put it into the category of budgetary questions within the meaning of Article 18, otherwise practically any resolution passed by the General Assembly would require a two-thirds majority. Seen in its proper perspective the present draft

13/ See in the Repertory, vol. I, under Article 18, paras. 10, 101 and 126.

14/ For texts of relevant statements, see G A (X), Plen., 541st mtg., Canada, paras. 131-141; Cuba, paras. 142-148; United Kingdom, paras. 149-155.

15/ See item 27 (b), under para. 30 below. There, it was indicated that the President had made a statement on this matter before putting the resolution to the vote.

resolution would only add a possible new step which might occasionally be used in a procedure for determining disputes relating to staff contracts. While not intending to minimize the importance of the faithful fulfilment by the United Nations of all its obligations towards staff members, it could not be considered that this measure was such as to merit the application of the two-thirds majority rule. It had been said that every question that the Assembly discussed was important. In a sense, of course, the matter under discussion was important. It was more important to some Members than to others and it might become important to some individuals but it was not important when considered with other issues such as the maintenance of international peace and security, the admission of new Members etc., which were the concern of the Organization.

26. The General Assembly decided 16/ by roll-call vote of 34 votes to 22, with 3 abstentions to reject the proposal that the draft resolution recommended by the Fifth Committee required a two-thirds majority of the Members present and voting for adoption.

27. The amendments which had been submitted were withdrawn and the draft resolution was adopted 17/ by a roll-call vote of 33 to 17, with 9 abstentions as General Assembly resolution 957 (X).

c. CASES IN WHICH A QUESTION HAS BEEN DETERMINED "IMPORTANT"

28. During the ninth and tenth sessions the General Assembly determined by assent to a statement by the President, regarding the application of Article 18, that a question was "important" under the following agenda items:

(a) Question of South West Africa; 18/

(b) The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa. 19/

29. In its resolution 844 (IX), the General Assembly declared that decisions of the General Assembly on questions relating to reports and petitions concerning the Territory of South West Africa should be regarded as important questions within the meaning of Article 18 (2) (see also paragraph 15 above).

d. CASES IN WHICH THE TWO-THIRDS MAJORITY RULE HAS BEEN APPLIED WITHOUT REFERENCE TO THE "IMPORTANCE" OF THE QUESTION

30. Statements to which no objections were raised were made by the President on the application of the two-thirds majority rule without express reference to the "importance" of the proposal in question, in connexion with the following agenda items:

(a) The question of West Irian (West New Guinea); 20/

(b) Awards of compensation made by the United Nations Administrative Tribunal. 21/

16/ G A (X), Plen., 541st mtg., paras. 156 and 157.

17/ Ibid., para. 162.

18/ G A (IX), Plen., 494th mtg., paras. 64 and 67 (by reference to rule 85 of the rules of procedure of the General Assembly).

19/ G A (IX), Plen., 511th mtg., para. 125; G A (X), Plen., 551st mtg., para. 38.

20/ G A (IX), Plen., 509th mtg., para. 294.

21/ G A (IX), Plen., 515th mtg., para. 94

2. Practice relating to questions specifically enumerated in Article 18 (2)

31. As already noted, of the 202 resolutions adopted at the ninth and tenth sessions all but one received the affirmative votes of two-thirds or more of the Members present and voting and only in seven cases was the two-thirds majority rule mentioned at all. With respect to the questions specifically enumerated in Article 18 (2), except for the references contained in paragraphs 22 and 23 above in connexion with the judgements of the Administrative Tribunal, no issue arose during the period under review concerning the interpretation of these provisions nor was their application, for the purpose of voting, raised in relation to any other item.

3. Majority required for the adoption of amendments to proposals or parts of proposals relating to important questions

32. The practice of the Assembly has conformed without controversy with the provisions of rule 86 according to which decisions on amendments to proposals relating to important questions and on parts of such proposals put to the vote separately are made by a two-thirds majority of the Members present and voting.

D. Practice relating to Article 18 (3)

1. Determination of the majority required for the adoption of a proposal

33. Following the procedure described in the study of Article 18 in the Repertory, the Assembly applied the general provisions of paragraph 3 relating to "decisions on other questions" once during the period under review in order to determine, as a prior question, the majority required for adoption of a proposal (see paragraph 26 above).

2. Determination of additional categories of questions to be decided by a two-thirds majority of the Members present and voting

34. The General Assembly made no decision during this period to add to the categories of questions specifically enumerated in paragraph 2 of Article 18.

3. Questions which the General Assembly has determined may be decided by a majority vote of the Members present and voting

a. MATTERS RELATING TO ORGANIZATION AND CONDUCT OF BUSINESS

(i) Change in the order of final consideration of items on the agenda of a plenary meeting

35. During the tenth session, there was some discussion 22/ on a proposal which was submitted after a series of inconclusive ballots had been held on the election of three non-permanent members of the Security Council, as follows:

"that further balloting in the Security Council election shall be adjourned to a future meeting and that the General Assembly shall proceed today with the elections to the Economic and Social Council and the Trusteeship Council...".

36. The proposal was voted by parts. 23/ The first, relating to the adjournment of further balloting on the Security Council election, was adopted unanimously. Before

22/ For relevant statements see G A (X), Plen., 535th mtg., paras. 13-114.

23/ G A (X), Plen., 535th mtg., paras. 84-115.

a vote was taken on the second part, some representatives maintained that to proceed with the elections to the Economic and Social Council and Trusteeship Council before the election to the Security Council had been completed constituted a change in the order of discussion of items which the Assembly itself had determined. It would, therefore, have to be adopted by a two-thirds majority vote in accordance with rule 83 of the rules of procedure which deals with the reconsideration of decisions. In support of this view, it was held that at the time when the General Assembly adopted the recommendations of the General Committee regarding the agenda of the session, it also determined the order in which certain items, namely, elections to the Councils, should be dealt with. This was confirmed by the numerical order in which these particular items appeared not only on the agenda of the session but also on the agenda of the day's meeting. As regards the precedents concerning a change of this kind when a series of ballots had proved inconclusive, it should be remembered that on previous occasions there had been no divergences of views and that the decision was taken unanimously. Also, in supporting the view that under the circumstances a reconsideration was involved, it was maintained that in drawing up the agenda of the day's meeting the President was merely implementing a previous decision of the Assembly itself.

37. On the other hand, there were representatives who did not agree that the Assembly had made any formal decision on the order in which the items should be disposed of at the time when it adopted the recommendations of the General Committee. The de facto situation facing the Assembly was regrettable, but there was, in principle, nothing in the Charter to prevent it from proceeding immediately to the other elections. Moreover, when the Assembly accepted the General Committee's proposals with regard to the inclusion and allocation of items, it reserved the right to determine its own order of priorities. In fact, as a rule, it was not even the Assembly which chose the items for consideration at any particular plenary meeting; the President was free to arrange the agenda of each meeting and to include such items as might be ready for discussion.

38. Before proceeding to the vote the President stated 24/ that he did not feel that rule 83 should apply. He pointed out that the agenda of each plenary meeting, which was published in the Journal, was drawn up by the Chair. On that point there was no decision by the General Assembly and, consequently, it could not be the subject of a reconsideration in the terms of rule 83. Interpreting the opposing views as a challenge to his ruling, the President put the ruling to the vote. His ruling was upheld 25/ by 37 votes to 6, with 6 abstentions.

****b. OTHER "PROCEDURAL QUESTIONS"**

**c. OTHER CASES IN WHICH THE GENERAL ASSEMBLY HAS ADOPTED
RESOLUTIONS BY A MAJORITY VOTE**

39. In view of the very large majorities by which the resolutions were adopted during the ninth and tenth sessions, there was, again, almost no clear indication of the type of decisions — other than purely procedural — which the Assembly considered might be made by a majority vote. For the period under review there is in fact only one question which the Assembly decided 26/ was not "important" within the meaning of paragraph 2 of Article 18, namely, the procedure for review of United Nations Administrative Tribunal judgements: amendments to the Statute of the Administrative Tribunal (resolution 957 (X)).

24/ G A (X), Plen., 535th mtg., para. 98.

25/ Ibid., para. 103.

26/ G A (X), Plen., 541st mtg., paras. 156 and 157.

