

## ARTICLE 65

### Table of Contents

	<u>Paragraphs</u>
Text of Article 65	
Introductory Note . . . . .	1
I. General Survey . . . . .	2 - 9
II. Analytical Summary of Practice . . . . .	10 - 23
A. Furnishing information to the Security Council . . . . .	10 - 14
B. Assistance requested by the Security Council . . . . .	15 - 19
C. The question of establishing a working relationship between the Economic and Social Council and the Security Council . . . . .	20 - 23



TEXT OF ARTICLE 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

INTRODUCTORY NOTE

1. An account of the procedural provisions made by the Economic and Social Council to facilitate the application of Article 65 is given in the General Survey, which also contains a brief account of the action taken by the Economic and Social Council and the Security Council under the Article. The Analytical Summary of Practice gives an account of the questions bearing on Article 65, which have arisen in connexion with (1) the consideration by the Economic and Social Council of a memorandum of the World Jewish Congress concerning the situation of the Jewish populations in certain countries; (2) the consideration by the Economic and Social Council of a request from the Security Council that it provide assistance for the relief and support of the civilian population of Korea; (3) the consideration of the question of establishing a working relationship between the Economic and Social Council and the Security Council.

I. GENERAL SURVEY

2. To facilitate the implementation of Article 65, the Economic and Social Council has incorporated in its rules of procedure 1/ several provisions governing its relationship with the Security Council. Under these rules, a special session of the Economic and Social Council may be called at the request of the Security Council; 2/ the President of the Security Council is notified of the date of each session; in the case of a special session which is called at the request of the Security Council, the period of notice for such session may be reduced from "at least twelve days" to "not less than eight days"; 3/ the provisional agenda for all sessions is communicated to the President of the Security Council 4/ and includes any item proposed by the Security Council, 5/ which also has the right to propose the inclusion of supplementary items. 6/

3. Provision was also made by the Council in the rules of procedure 7/ of its functional commissions for the inclusion in the provisional agenda of a commission of items proposed by the Security Council.

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1/ United Nations Publication, Sales No.: 1953.I.21. Similar rules were also adopted by the Economic and Social Council with reference to the General Assembly and to the Trusteeship Council.

2/ Rule 4.

3/ Rule 7.

4/ Rule 12.

5/ Rule 10.

6/ Rule 13.

7/ United Nations Publication, Sales No.: 1953.I.22, rule 6 (2).

4. The terms of reference of the Transport and Communications Commission, 8/ established by the Economic and Social Council, provided that one of the functions of the Commission should be "To assist the Security Council, if so desired by the Economic and Social Council, in accordance with Article 65 of the Charter". 9/
5. As a corollary to these procedural provisions the question of an actual working relationship between the Economic and Social Council and the Security Council was included in the agenda of the former at its fourth session, under the item: "Questions affecting Council procedure and organization", which contained a sub-item "Arrangements for conferring with Security and Trusteeship Councils". The Council decided 10/ that all sub-items under this agenda item were to be referred to a Committee of the Whole.
6. However, when the Council took up this matter again, it considered only the question of the relations with the Trusteeship Council 11/ and did not discuss the question of conferring with the Security Council.
7. At a later date, the Economic and Social Council considered a proposal for establishing a working relationship between the two Councils, but decided to delete this matter from its agenda without taking any action on the proposal. 12/
8. Provisions for furnishing information and rendering assistance to the Security Council were also included in the agreements concluded with the specialized agencies 13/ under Articles 57 and 63. 14/ Under these agreements the International Labour Organisation (ILO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Civil Aviation Organization (ICAO), the World Health Organization (WHO) and the International Refugee Organization (IRO) agreed 15/ "to co-operate with the Economic and Social Council in furnishing such information and rendering such assistance" to the Security Council as the latter might request. 16/ The agreements with the Universal Postal Union (UPU), the International Telecommunication Union (ITU) and the World Meteorological Organization (WMO) did not provide expressly for assistance to the Security Council, but for co-operation with and the rendering of all possible assistance to the United Nations and its principal and subsidiary organs. 17/ The agreements between the United Nations and the International Bank for Reconstruction and Development and the International Monetary Fund did not refer to co-operation with the Security Council, but provided that the agency concerned took note

"of the obligation assumed, under paragraph 2 of Article 48 of the United Nations Charter, by such of its Members as are also members of the United Nations, to

8/ E S C resolution 2/7.

9/ Similar provisions were made for assisting the Trusteeship Council in accordance with Article 91 (E S C resolution 2/7).

10/ E S C (IV), 78th mtg., pp. 187 and 188.

11/ E S C resolution 216 (VIII). See also in this Repertory under Article 91.

12/ See paras. 20-23 below.

13/ For texts of agreements between the United Nations and the specialized agencies, see United Nations Publications, Sales No.: 1951.X.1.

14/ For details, see in this Repertory under Article 63.

15/ Articles VI, (ILO, FAO), VIII (UNESCO), VII (ICAO, WHO, IRO) of the respective agreements.

16/ A similar provision was included in the draft agreement (article VI) with the Inter-governmental Maritime Consultative Organization (IMCO).

17/ Article VI of the respective agreements.

carry out the decisions of the Security Council through their action in the appropriate specialized agencies of which they are members ..."

Furthermore, the latter agreements provided that each of these two agencies "will, in the conduct of its activities have due regard for decisions of the Security Council under Articles 41 and 42"; each also agreed to furnish to the Security Council information in accordance with the provisions 18/ in their agreements on the current exchange of information and publications of mutual interest between the United Nations and the specialized agency concerned.

9. In connexion with General Assembly resolution 377 (V), entitled "Uniting for peace", 19/ the Economic and Social Council considered 20/ the question of the specific arrangements that might be made by the specialized agencies for furnishing information and rendering assistance to the Security Council or to the General Assembly at their request, and provided 21/ for appropriate consultations on this question between the Secretary-General and the specialized agencies. 22/ The subsequent decision 23/ of the Council dealt only with the question of co-operation by the specialized agencies with the General Assembly.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Furnishing information to the Security Council 24/

10. At its eighth session, the Economic and Social Council adopted a resolution 25/ by which it noted "that the unsettled conditions in Palestine may have affected the observance of fundamental human rights in Palestine and some other areas", expressed the hope "that Governments and authorities concerned will not cease to exert whatever

18/ Articles V and VI of the respective agreements.

19/ This resolution provides that the General Assembly may make recommendations to Members for collective measures for the maintenance of international peace and security if the Security Council fails to act.

20/ E S C (XII), 468th mtg., pp. 257 and 258.

21/ E S C resolution 363 (XII).

22/ See the ninth report of the Administrative Committee on Co-ordination to the Economic and Social Council (E S C (XIII), Annexes, a.i. 39, p. 1, E/1991) in which it is stated that "The agreements of most of the specialized agencies with the United Nations specify the Security Council as the source of the requests and decisions in respect of the maintenance or restoration of peace and security to which they undertake to respond. The problem is one of devising suitable measures to bring the existing arrangements into conformity with the additional arrangements for the maintenance or restoration of peace and security adopted by the General Assembly under resolution 377 (V) ..." (para. 12).

23/ E S C resolution 402 A (XIII).

24/ It should be also noted that Mr. S. P. Lopez, appointed in a personal capacity as Rapporteur on Matters relating to Freedom of Information, suggested in his report to the Economic and Social Council that a study be made in connexion with his suggestion - in the context of the dissemination of false or distorted information involving damage or harm to international understanding - that, in cases where there was a report which the Economic and Social Council considered likely to provoke or encourage a breach of the peace or an act of aggression, the Council could furnish information to the Security Council under Article 65 (E S C (XVI), Suppl. No. 12, (E/2426), p. 19). While the Economic and Social Council took note with appreciation of the report, it took no action on this suggestion.

25/ E S C resolution 214 B (VIII).

efforts are necessary to safeguard the fundamental human rights of individuals and groups of different faiths", and requested "the Secretary-General to transmit the records to the Security Council".

11. The action of the Council arose out of a memorandum 26/ of 19 January 1948, concerning the situation of the Jewish population in the Arab countries, presented by the World Jewish Congress, a non-governmental organization in category B consultative status. In accordance with the procedure laid down for consultation with non-governmental organizations, the matter was first considered by the Committee on Arrangements for Consultation with Non-Governmental Organizations of the Council. The report 27/ of the Committee, which summarized, without making recommendations, the proposals made by the representative of the World Jewish Congress, was considered at the sixth session of the Economic and Social Council. The Council decided that the Committee should "submit to the Council at its next session whatever recommendations it may deem useful". 28/ A draft resolution 29/ recommended by the Committee for adoption by the Council was considered by the Economic and Social Council at its eighth session.

12. During the discussion 30/ on the draft resolution, it was observed that, since the Palestine question was still before the Security Council, the Economic and Social Council should give the latter some account of the action it had taken. Article 65 was not referred to during the discussion. The draft resolution recommended by the Committee was adopted by the Council with certain modifications, including the addition of the paragraph requesting the Secretary-General to transmit the records to the Security Council. 31/

13. The above-mentioned resolution did not specify the records 32/ which were to be transmitted by the Secretary-General to the Security Council. In the course of discussion it was suggested that there was no need to transmit the records because the Security Council was already aware of all aspects of the Palestine question; it was further stated that the word "records" covered all the records of the pertinent discussion in the Economic and Social Council and its Committee, including the recommendations of the Committee, its reports, and any draft resolutions and amendments.

14. The Secretary-General transmitted to the President of the Security Council the text of the resolution and the relevant documents by letter of 14 March 1949. The Secretary-General's letter was published as a Security Council document. 33/

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26/ E/C.2/75.

27/ E/710.

28/ E S C resolution 133 H (VI).

29/ E S C (VIII), Annex, pp. 23 and 24.

30/ E S C (VIII), 235th mtg., pp. 87-89 and 239th mtg., pp. 122 and 123.

31/ E S C resolution 214 B (VIII).

32/ The documents transmitted include all the records of the pertinent discussions in the Council and its Committee. For a list, see footnote 3 of resolution 214 B (VIII).

33/ S/1291.

B. Assistance requested by the Security Council 34/

15. On 31 July 1950, the Security Council adopted a resolution 35/ on assistance for the civilian population of Korea by which it requested, under Article 65, the assistance of the Economic and Social Council. This resolution was placed before the Economic and Social Council at its eleventh session. On 2 August 1950, the Council decided 36/ to add to its agenda the item "Assistance for the civil population of Korea". 37/

16. By its resolution of 31 July 1950, the Security Council requested

"the Secretary-General, the Economic and Social Council in accordance with Article 65 of the Charter, other appropriate United Nations principal and subsidiary organs, the specialized agencies in accordance with the terms of their respective agreements with the United Nations, and appropriate non-governmental organizations, to provide such assistance as the Unified Command may request for the relief and support of the civilian population of Korea, and as appropriate in connexion with the responsibilities being carried out by the Unified Command on behalf of the Security Council." 38/

17. On 14 August 1950, 39/ the Economic and Social Council considered a draft resolution submitted by the President of the Council on behalf of all members present. The draft resolution was adopted unanimously and became resolution 323 (XI). In submitting the draft resolution, the President referred to the will of the Council to co-operate with the Security Council and to the obligations of the Council under Article 65.

18. By this resolution, entitled "Assistance for the civil population of Korea", the Economic and Social Council declared its readiness to provide for such assistance as the Unified Command might request and, in turn, requested the support of the specialized agencies and appropriate subsidiary bodies of the United Nations, of Governments Members of the United Nations, of the Secretary-General and appropriate non-governmental organizations, particularly those in consultative status with the Economic and Social Council, and set out certain measures designed to implement the request of the Security Council. 40/

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34/ It should be also noted that, at its 354th meeting on 19 August 1948, the Security Council adopted without vote a proposal to transmit to the Economic and Social Council and to the International Refugee Organization "for any action that they may be able to take," the record of the discussion of the Council on the subject of refugees in Palestine. (See United Nations Publications, Sales No.: 1954.VII.1 p. 227, part II, case 20.)

35/ S C, 5th yr., No. 21, 479th mtg., p. 3, S/1652.

36/ E S C (XI), 399th mtg., p. 213.

37/ It should be noted that the rules of procedure of the Economic and Social Council governing its relationship with the Security Council described in paragraph 2 above were not referred to by either Council in connexion with this agenda item.

38/ See paragraph 8 above with respect to the reference in this resolution to the agreements with the specialized agencies.

39/ E S C (XI), 411th mtg., pp. 311-313.

40/ The account of the response to this resolution is given in the progress reports of the Secretary-General to the Economic and Social Council (E/1851/Rev.1, E S C (XII) Annexes, a.i. 21, pp. 1-9, E/1913 and Add.1, and E/2032).

19. The Economic and Social Council also decided, by the same resolution, "not to close the present session when the Council has disposed of the present agenda but to adjourn it temporarily", and authorized the President, in consultation with the Secretary-General "to re-convene the Council at United Nations Headquarters whenever necessary in connexion with matters requiring action under this resolution".

C. The question of establishing a working relationship between the Economic and Social Council and the Security Council

20. In the Joint Second and Third Committee of the General Assembly, at the first part of its third session, the representative of Lebanon raised the question of the application of Article 65 with a view to establishing a working relationship between the two Councils. A draft resolution 41/ submitted to the Committee on the subject was withdrawn 42/ and the question was subsequently included 43/ in the agenda of the eighth session of the Economic and Social Council. In the course of discussion in the Council, it was pointed out by the representative of Lebanon that, according to the English text of Article 65, the Article permitted the Economic and Social Council, first, to provide information to the Security Council, and, secondly, it required the Economic and Social Council to assist the Security Council upon request. The French text 44/ of the Article, however, seemed to suggest that the Economic and Social Council was under no obligation to assist the Security Council. It appeared desirable, therefore, that the Secretary-General should study the question of the implementation of Article 65 and submit his observations to the Economic and Social Council for consideration.

21. Other representatives considered that the Charter gave a clear definition of the responsibilities of the two Councils and that a discussion of a working relationship between them would lead to interference in matters arising under Articles 34, 39 and 41, which were solely under the jurisdiction of the Security Council. It was further argued that no other United Nations organ was authorized to deal with questions of which the Security Council was seized and which fell within its competence in accordance with Article 12, and that the entire question should, therefore, be removed from the agenda of the Council.

22. The view was also expressed that the Council should confine itself to suggesting that the discrepancy between the English and French texts of Article 65 should be removed and to affirming the readiness of the Council to assist the Security Council upon request.

23. The Council then adopted a proposal to remove from its agenda the item on the application of Article 65.

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41/ G A (III/1), Joint 2nd and 3rd Com., Annexes, p. 13, A/C.2 and 3/86 and Corr.1.

42/ *Ibid.*, p. 15, A/C.2 and 3/87 and Corr.1.

43/ E S C (VIII), 282nd mtg., pp. 665-671.

44/ The French text of Article 65 reads as follows: "Le Conseil Economique et Social peut fournir des informations au Conseil de Sécurité et l'assister si celui-ci le demande".