

ARTICLE 67

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TEXT OF ARTICLE 67

1. Each member of the Economic and Social Council shall have one vote.
2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

INTRODUCTORY NOTE

1. Article 67 governs voting in the Economic and Social Council.
2. The provision of Article 67 (1), according to which each member of the Council has one vote, is similar to those of Articles 18, 27 and 89 which concern voting in the General Assembly, the Security Council and the Trusteeship Council respectively. Article 67 (2), which provides that the decisions of the Council are to be taken by a majority of the members present and voting, is similar to the corresponding provision of Article 89 for the Trusteeship Council, but differs from the provisions applying to the General Assembly and to the Security Council.
3. The General Survey consists of two parts. The first briefly deals with the application of Article 67 (1).
4. The second reviews the rules of procedure and the practice followed by the Economic and Social Council in implementing Article 67 (2), as well as the frequency of application of the various methods of voting. No study is made of the rules of procedure applied by the Council for the conduct of business during voting or of those regarding the order of voting on separate parts of a proposal or of those where there are several proposals or amendments. These questions, which are covered by rules 63 to 66 of the rules of procedure of the Council, are referred to in this Repertory under Article 72 which covers the rules of procedure of the Council.
5. The Analytical Summary of Practice examines questions relating to Article 67 (2). It considers the meaning of the term "decision", the question of the majority required under Article 67 as qualified by the rules concerning (a) the "majority of the members present and voting", (b) the quorum, and (c) equally divided votes. It deals with the rules of procedure of the Council regarding the methods of voting and the procedure evolved by the Council to reach decisions without voting. A study is also made of the interpretation of Article 67 in connexion with proposals to introduce into the rules of procedure provisions stipulating the minimum number of affirmative votes required to reach a decision. The question of the bearing of the provisions of Article 67 upon voting rules in the subsidiary organs of the Economic and Social Council is also treated.
6. Finally, reference is made to the question of the validity of decisions of the Council which was raised in connexion with the representation of a Member State.

I. GENERAL SURVEY

A. Article 67 (1)

7. Although no question has been raised 1/ in connexion with the application of Article 67 (1), it may be noted that:

(a) The right of vote in the Council being dependent upon membership in that organ, States Members of the United Nations elected to the Council by the General Assembly enjoy their voting rights from 1 January following their election until 31 December following the election of their successors, under rule 140 of the rules of procedure of the General Assembly;

(b) Only States members of the Council have the right to vote. Article 69, which provides for the participation in the deliberations of the Council of States Members of the United Nations not members of the Council, specifies that such participation does not include the right to vote; 2/

(c) The President of the Council has no voting right in his capacity as President, 3/ but only as the representative of a member of the Council. Under rule 25, if an alternate representative participates in proceedings and votes in the Council, the President may not exercise the right to vote. 4/

B. Article 67 (2)

8. Rules 60 to 70 of the rules of procedure of the Economic and Social Council 5/ provide for the implementation of the provision of Article 67 (2). Rule 60, adopted at the eighth session of the Council, confirmed the practice of the Council in calculating the majority required to reach a decision. The rule provides that the majority is to be calculated on the basis of the affirmative and negative votes cast. Members which abstain from voting are considered as not voting. Of the 480 resolutions of the Council for which the Summary Records have specified the number of votes cast, ninety-five per cent were adopted by at least ten affirmative votes. In connexion with the remaining five per cent (twenty-three) which were adopted by less than ten affirmative votes, no question regarding the interpretation of Article 67 (2) was ever raised.

9. The Council has embodied in its rules of procedure rules regarding the methods of voting -- such as, by show of hands, roll-call, secret ballot -- which are similar to those of the General Assembly. The application of these provisions is dealt with in the Analytical Summary of Practice below; the following factors, however, indicate the frequency of their application:

(a) As laid down in rule 61, the normal method of voting in the Council is by show of hands. Only a few resolutions have been adopted by roll-call vote.

(b) According to rule 67, all elections of individuals are decided by secret ballot. A frequent exception to this rule is the election by acclamation of the President and Vice-Presidents of the Council.

1/ See also in this Repertory under Article 61 (4). The right of a representative to participate in the deliberations of the Council and to vote was questioned in connexion with the credentials of the representative of China.

2/ See in this Repertory under Article 69.

3/ This principle does not apply to some of the subsidiary organs of the Council. For example, the Ad Hoc Committee on Organization and Operation of the Council and its Commissions was to be composed of "not more than eight members of the Council together with the President acting as Chairman without vote (except in case of a tie)" (E S C resolution 295 B (XI)).

4/ E S C (II), 7th mtg., p. 49.

5/ United Nations Publications, Sales No.:1953.I.21.

10. The records of the Council show that procedural or administrative decisions have usually been reached without a vote. In these cases, the very wording of the decision has sometimes been left to the President or to the Secretary-General, and the records have normally referred to these decisions as having been "approved" or "agreed upon" by the Council, rather than as having been "adopted". The records also show that resolutions on substantive matters have almost always been adopted by a vote. The only major exceptions have been the resolutions taking note of reports which have occasionally been adopted with the tacit consent of the Council.

11. Decisions may also be taken without vote under rules 3 and 4 of the rules of procedure. These rules concern respectively the change of the date of a regular session of the Council and the convocation of special sessions. They provide that a decision may be reached by agreement between the President and the Vice-Presidents, or by a procedure of consultations with the members of the Council. The latter procedure has been applied in one instance.

12. Under rule 26, the rules of procedure of the Council on voting apply to the committees set up by the Council. Moreover, the Council has embodied in the rules of procedure ^{6/} of its functional commissions provisions on voting similar to those of the Council. The regional economic commissions which, according to their terms of reference have adopted their own rules of procedure, have enacted rules on voting similar to those of the Council, with the significant exceptions mentioned in paragraphs 40-43 below.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The meaning of the term "decision"

13. The question of the interpretation of the term "decision" in Article 67 has not been raised in the Council. However, the legal study ^{7/} of this term prepared by the Secretary-General under General Assembly resolution ³⁶² (IV) contains information relevant to Article 67. The study notes that for the General Assembly "the term 'decision' refers to all types of action the General Assembly takes by a vote while performing its functions under the Charter" ... and that "the same remarks apply to decisions of the Economic and Social Council, referred to in Article 67 ...". It adds:

"These observations show that the term 'decisions' in the Charter Articles relating to voting is used in a broad sense to cover all types of action by United Nations organs. The text of the Charter, however, furnishes no specific answer to the question whether these 'decisions' are only the final decisions of these organs on matters submitted to them, or whether this term also applies to procedural decisions of these organs made prior to the adoption of final resolutions."

14. In a few instances, the Council has adopted final decisions by tacit consent. ^{8/} It appears, therefore, that Article 67 has not been interpreted as requiring that all

^{6/} Rules 54 to 57, 62 and 65 of the rules of procedure of the functional commissions (United Nations Publications, Sales No.:1953.I.22). Rule 7, however, provides that a two-thirds majority is required to include on the agenda of a commission an item submitted by a non-governmental organization in category A.

^{7/} G A (V), Annexes, a.i. 49, p. 1, A/1356, paras. 22-24.

^{8/} E S C resolutions 536 (XVIII) and 151 (VII).

decisions of the Council be taken by a vote. However, any decision, whether on procedural or on substantive matters, when taken by a vote is governed by the provisions of Article 67 (see also paras. 40-43 below). ^{9/}

B. Majority required

1. Number of affirmative votes required to take a decision

15. The question whether the validity of a decision should depend upon a minimum number of affirmative votes was raised at the seventh session of the Council. The representative of France proposed ^{10/} a revision of present rule 60 of the rules of procedure of the Council, which would have provided that:

"No decision shall be valid unless it receives at least nine votes. If a proposal does not receive at least nine votes the Council shall hold a second ballot; the latter shall not be held until at least forty-eight hours have elapsed after the first ballot. If in that ballot the proposal does not receive at least nine votes, it shall be deemed to have been rejected."

16. In making this proposal, it was stated that a number of decisions had been adopted by small or very small majorities because many members had abstained. ^{11/} The Secretary-General, in a memorandum ^{12/} on the revision of the rules of procedure, commented that this proposal was inconsistent with Article 67. When the proposal was discussed in the Committee on Procedure, ^{13/} several representatives agreed ^{14/} that the proposed rule would be contrary to Article 67 and that it had the disadvantage of restricting the freedom of delegations to abstain; the proposal was then withdrawn.

17. At the same session of the Council, the Secretary-General had suggested ^{15/} that consideration be given to a rule corresponding to rule 74 of the rules of procedure of the General Assembly. Such a rule would have provided that:

"When a proposal has been adopted or rejected it may not be reconsidered at the same session unless the Council, by a two-thirds majority of the members present and voting, so decides."

18. When the Committee on Procedure considered this draft rule, it was stated ^{16/} that the practice of the Council had been not to reopen a question of substance during the same session, ^{17/} and that the proposed provision was in contradiction with Article 67. The draft rule was rejected. ^{18/}

^{9/} See also in this Repertory under Article 72. The section entitled "Organization of the sessions of the Council" deals with a proposed rule of procedure, similar to rule 67 of the General Assembly. The rule would have required that a request to reopen a debate in plenary meeting on an item referred to a committee be supported by at least one third of the members of the Council (E/AC.24/SR.98, p. 7 and E/AC.24/SR.99, p. 19).

^{10/} E S C (VII), Annex, E/751, p. 330, rule 40.

^{11/} Ibid., p. 326.

^{12/} E S C (VII), Annex, E/883, p. 346, rule 40.

^{13/} Established on 21 July 1948, E S C (VII), 180th mtg.

^{14/} E/AC.28/SR.17, pp. 2-4.

^{15/} E S C (VII), Annex, E/883, p. 349, rule 46A.

^{16/} E/AC.28/SR.18, pp. 6 and 7.

^{17/} See also E S C (V), 119th mtg., pp. 263-265.

^{18/} E/AC.28/SR.18, p. 7.

19. At its thirteenth session, the Council also considered the legality of a proposed rule of procedure which would have required that a request to reopen in plenary session the discussion on an item referred to a Committee be supported by at least one third of the members of the Council. 19/

20. The provision of Article 67 (2) has been embodied in rule 60 of the rules of procedure of the Council, the first sentence of which reads: "Decisions of the Council shall be made by a majority of the members present and voting." This provision is qualified by rules 47, 60, paragraph 2, and 70 which define the majority required under Article 67.

2. Members present and voting

21. Rule 60 further states:

"For the purpose of these rules, the phrase 'members present and voting' means members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting."

22. This rule was adopted 20/ by the Council at its eighth session to conform with rule 86 of the rules of procedure of the General Assembly. It is to be noted that no question bearing on the Charter had previously been raised in the Council regarding the meaning of the expression "members present and voting".

23. Various views on the significance of abstentions were expressed in the Committee on Procedure which recommended the above-mentioned wording to the Council. One opinion was that representatives who abstained showed that they disinterested themselves in a question, a second was that abstaining representatives implicitly accepted the decision and a third that an abstention indicated an attitude of absolute neutrality. 21/

3. The quorum

24. Rule 47 regarding the quorum in the Council provides: "A majority of the members of the Council shall constitute a quorum". A decision of the Council can, therefore, be validly taken only if at least ten of the eighteen members of the Council are present. In connexion with a discussion in the Committee on Procedure on a proposed rule stipulating a minimum number of affirmative votes to ensure the validity of the decisions of the Council, the view was expressed that the quorum requirement protected the members against a surprise vote. 22/

4. An equally divided vote

25. Rule 70 states:

"If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected."

26. Rule 70 was incorporated in the rules of procedure at the eighth session of the Council and conforms with rule 134 of the rules of procedure of the General Assembly

19/ See also in this Repertory under Article 72, section entitled "Organization of the sessions of the Council".

20/ E S C resolution 217 (VIII), rule 59.

21/ E/AC.28/SR.17, pp. 3 and 4.

22/ E/AC.28/SR.17, p. 4.

regarding voting in the Committees. In the Committee on Procedure, which recommended the wording of rule 70, the opinion was expressed 23/ that, if the votes were equally divided, the proposal had not received a majority and that it had consequently not been adopted. Until the eighth session, the rule was that when a vote was equally divided, a second vote was taken at the next meeting, and if that vote also resulted in an equal division, the proposal was regarded as having been rejected.

27. Rule 70 does not apply to elections of individuals by secret ballot which are governed by rules 68 and 69. These rules provide that, in case of equally divided votes, further ballots are held. Rule 68 also includes a provision under which the President decides between candidates by drawing lots. 24/

C. Methods of taking decisions

28. The Council has embodied in its rules of procedure provisions regarding the methods of taking a decision.

1. Voting by show of hands or by roll-call

29. Rule 61 of the rules of procedure provides:

"Subject to rule 67, the Council shall normally vote by show of hands, except that any representative may request a roll-call, which shall then be taken in the English alphabetical order of the names of the members, beginning with the member whose name is drawn by lot by the President."

30. This rule has not raised any question regarding the interpretation or application of Article 67.

2. Voting by secret ballot

31. Rule 67 lays down that:

"All elections of individuals shall be decided by secret ballot."

32. The Council has applied this rule to most elections. However, as noted above, 25/ the President and the Vice-Presidents have normally been elected without a vote. On one occasion the President 26/ and on another occasion the Second Vice-President 27/ were elected by secret ballot. At the sixth session, in connexion with the election of the first Vice-President, two representatives on the Council stated that they would abstain from voting for the candidate. No secret ballot was held, however, the President declaring that the Vice-President was elected "without opposition and with no other candidate competing" and that the abstentions of the two representatives would be mentioned in the record of the meeting. 28/

23/ E/AC.28/SR.18, pp. 5 and 6.

24/ Rule 68 states that in the case of election of one person or member only "If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots."

25/ See para. 9 above.

26/ E S C (XII), 437th mtg., p. 3.

27/ E S C (XV), 672nd mtg., p. 3.

28/ E S C (VI), 122nd mtg., p. 4.

33. The question of the validity of a vote was raised at the thirteenth session in connexion with the election by secret ballot 29/ of five members of the Statistical Commission. The President declared after the vote that he did not consider that all the votes were valid since three of them had been cast for a Government which was not a Member of the United Nations. A member of the Council disagreed with this interpretation. The validity of the ballots containing invalid votes, however, was not questioned, and the other votes on these ballots were taken into account in establishing the result of the election. 30/

3. Taking of decisions by acquiescence

34. It has been the practice of the Council to take a decision on some proposals without a formal vote. Thus, officers of the Council have usually been elected "by acclamation". Procedural questions have frequently been decided at the suggestion of the President and with the tacit consent of the members of the Council. This has always been the practice, for example, in the case of the invitations extended by the Council under Article 69 to States Members of the United Nations not members of the Council, to participate in its deliberations. 31/ The establishment of sessional committees, 32/ working parties 33/ or drafting committees 34/ has frequently been decided with the tacit approbation of the members of the Council. Administrative matters such as the programme of conferences for the following year, the order of business, the financial implications of the decisions of the Council and the arrangements regarding the report of the Council to the General Assembly have normally also been decided without a vote in the Council. 35/

35. With the exception of a few resolutions taking note of reports 36/ or transmitting a report, 37/ all resolutions on substantive matters have been adopted by a vote.

4. Taking of decisions by consultation of members

36. Rule 3 concerns the changing of the date of a regular session of the Council. The rule provides that any member of the Council or the Secretary-General may make a request to that effect, which is to be communicated by the President, through the Secretary-General, to the other members of the Council. If within eight days a

29/ The practice of the Council has been to elect members of functional commissions by secret ballot. See E S C (VII), 195th mtg., pp. 336-339.

30/ E S C (XIII), 562nd mtg., p. 776.

31/ See also in this Repertory under Article 69.

32/ Establishment of sessional committees, E S C (VI), 133rd mtg., pp. 94 and 95, and establishment of a Committee on Matters relating to Co-ordination (later called the Co-ordination Committee), E S C (VI), 145th mtg., p. 181.

33/ Working party on election of members of the Permanent Central Opium Board, E S C (XIV), 658th mtg., p. 673 and 662nd mtg., p. 697;

Working party on rules of procedure, E S C (XIV), 571st mtg., p. 3.

34/ Drafting Committee to recommend a draft resolution on the report of the Economic Commission for Europe, E S C (VII), 187th mtg., p. 182;

Drafting Committee set up to recommend a draft resolution on the Report of the Economic Commission for Asia and the Far East, E S C (VII), 190th mtg., p. 250.

35/ E S C (XVIII), 830th mtg., p. 263.

36/ E S C resolution 536 (XVIII); E S C (XVIII), 793rd mtg., p. 4.

37/ E S C resolution 151 (VII); E S C (VII), 218th mtg., p. 701.

majority of the members explicitly concurs in the request, the President will convene the Council accordingly.

37. This procedure was followed in connexion with a request of the representative of the United Kingdom under rule 3 to postpone the opening date of the sixteenth session of the Council. 38/ Since the proposal did not receive the concurrence of the majority of the members of the Council, the session opened on the date previously scheduled. 39/

38. Rule 4 concerns the convocation of special sessions of the Council and provides that a special session may be held if the President and the two Vice-Presidents of the Council agree to a request presented by the Trusteeship Council, by any Member of the United Nations or by a specialized agency. If the officers concerned have not given their agreement within four days of the receipt of the request, the President informs the members of the Council, through the Secretary-General, of that request. If, within eight days thereafter, a majority of the members of the Council explicitly concur in the request, the President convenes the Council accordingly.

39. This part of rule 4 has never been applied by the Council, since the only special session 40/ which the Council has held was requested by the General Assembly under resolution 549 (VI). Rule 4 also provides that, when the request is made by the General Assembly or by the Security Council, the Economic and Social Council shall hold a special session and there is therefore no need for a separate decision of the Council on the matter.

D. Questions of the application of Article 67 to voting rules in the subsidiary bodies of the Council

40. The question of the application of Article 67 to the rules governing voting in the functional commissions of the Council was raised before the Committee on Procedure, 41/ reconstituted at the eighth session of the Council to make recommendations regarding the revision of the rules of procedure of the functional commissions. In connexion with the rule governing the voting in the commissions, the Committee received a proposal submitted by the representative of France under which "any proposal which does not receive the affirmative votes of at least one third of the members of the Commission shall be deemed to have been rejected". This proposal was opposed by other members of the Committee. In particular, one representative considered that, since Article 67 (2) specified that the decisions of the Council should be taken by a simple majority, the proposed text was contrary to that Article. The sponsor of the draft rule contended 42/ that Article 67 applied to the Council only, and did not concern functional commissions. In the legal opinion 43/ requested from the Secretary-General, it was stated that Article 67 governed the Council itself. Its commissions were governed by Article 68 which did not stipulate the form which their voting procedure should take. The Council might therefore adopt for its commissions such voting procedure as it saw fit. The legal opinion, however, pointed out the

38/ Note verbale of 8 June 1953 from the Permanent Representative of the United Kingdom to the Secretary-General.

39/ In a previous case, when the Council postponed its fourteenth session in order to hold one session only in 1952, the decision was voted upon at a meeting of the resumed thirteenth session (E S C (XIII (Resumed)), 567th mtg., p. 15 and 568th mtg., p. 828).

40/ E S C (S-1), 569th (only) mtg.

41/ E S C resolution 219 (VIII).

42/ E/AC.28/SR.39, p. 2.

43/ E/AC.28/SR.39, p. 3 and E/AC.28/I.13, p. 2.

inadvisability of adopting for the commissions voting rules more stringent than those applying to the Council. This legal interpretation of Article 67 was contested by two members of the Committee. The question was not further pursued. ^{44/} At a subsequent meeting, the Committee adopted ^{45/} the voting provisions for the functional commissions which had been suggested by the Secretary-General and which were identical with those applying to the Council; these provisions now constitute rule 55 ^{46/} of the rules of procedure of the functional commissions. The proposal submitted by France was not put to the vote.

41. When the Council, at its tenth session, reviewed its consultative arrangements with non-governmental organizations, it adopted without constitutional discussion rule 7 of the rules of procedure of the functional commissions which provides, inter alia, that any agenda item proposed by a non-governmental organization in category A "shall be included in the agenda of the commission if it is adopted by a two-thirds majority of those present and voting." ^{47/}

42. A similar provision also appears in the rules of procedure of the Economic Commission for Latin America (ECLA). ^{48/}

43. Moreover, rule 10 of the rules of procedure of ECLA, which relates to the exclusion of items from the agenda if the documentation is not available in sufficient time, includes the following proviso:

"if, when an item is submitted for consideration by the Commission, three-quarters or more of the members accredited to attend a given session insist that it should nevertheless be discussed, that majority decision will prevail."

E. Question of the validity of decisions of the Council, raised in connexion with the representation of a member State ^{49/}

44. The question of the validity of decisions of the Council was raised by the representatives of the USSR, Poland and Czechoslovakia at the tenth session of the Council in connexion with the representation of China. After the Council had rejected a draft resolution submitted by the USSR proposing to exclude "the representative of the Kuomintang group" from the Economic and Social Council, the representatives of the

^{44/} E/AC.28/SR.39, pp. 4 and 5.

^{45/} E/AC.28/SR.42, p. 13.

^{46/} Rule 55 of the rules of procedure of the functional commissions reads:

"Decisions of the commission shall be made by a majority of the members present and voting.

"For the purpose of these rules, the phrase 'members present and voting' means members casting an affirmative or negative vote. Members who abstain from voting are considered as not voting."

^{47/} The provision which appeared in an amendment submitted by the representative of India (E S C (X), Annexes, a.i. 30, p. 11, E/L.27) to the report of the Council N G O Committee (ibid., p. 1, E/1619) was adopted at the 365th meeting of the Council and was incorporated in resolution 288 (X). The text of rule 7 was adopted as rule 6-A at the 394th meeting of the Council and incorporated in resolution 289 (X).

^{48/} E S C (XVI), Suppl. No. 3 (E/2405).

^{49/} See also in this Repertory under Article 61, page 17, Question of the credentials of the representative of China; also under Article 68, II, 7, Question of the representation of a Member State in the subsidiary organs of the Council.

USSR, Poland and Czechoslovakia stated 50/ that their delegations would refrain from participating in the work of the Council and that their Governments would not recognize as valid any decisions taken in their absence with the participation of "the Kuomintang group".

45. The same position was adopted by the representative of Poland in the Agenda Committee, which met before the eleventh session of the Council. Other members of the Committee stated 51/ that the Council and its commissions had been within their competence in taking decisions in the absence of certain members, and that these decisions were legal and valid.

46. At the eleventh session of the Council, from which the USSR, Poland and Czechoslovakia were absent, a representative stated that, on the basis of Article 67, he had no doubt as to the legal validity of the work of the Council. 52/ Another representative declared 53/ that he agreed that the decisions of the Council were valid, although he considered that the rightful representative of China should be the representative of the Government in power in China.

47. The validity of the decisions taken by the Council at its tenth and eleventh sessions was also questioned before the Joint Second and Third Committee at the fifth session of the General Assembly by the representatives of the USSR, Czechoslovakia and the Byelorussian SSR. They contended 54/ that the composition of the Council at that time had been illegal, and that they could not recognize as valid any decision which had been taken at those sessions.

48. At the twelfth session of the Council, 55/ the representative of Poland stated that the consultative status granted to a non-governmental organization was not valid in view of the composition of the Council at the time the decision had been taken; it had been taken without the participation of the representatives of the USSR, Poland or Czechoslovakia or of a qualified representative of China. Two other representatives associated themselves with these remarks. The representative of China, on the other hand, stated that the validity of a decision was not affected by the absence of any member of the Council, provided that there was a quorum. 56/

50/ E S C (X), 344th mtg., paras. 32 and 33.

51/ E/C.3/SR.18, pp. 5-9, statements by Poland, Canada, Belgium, India;
E/C.3/SR.19, pp. 4-6, statements by Poland, Canada, India.

52/ E S C (XI), 375th mtg., p. 3, statement by Belgium.

53/ E S C (XI), 376th mtg., p. 7, statement by India.

54/ G A (V), Joint 2nd and 3rd Com., 46th mtg., p. 11; 47th mtg., p. 17; 52nd mtg., pp. 47-50.

55/ E S C (XII), 459th mtg., pp. 183 and 184, paras. 5-8.

56/ On other occasions, the validity of the decisions taken by the Council at its tenth and eleventh sessions has been questioned. See, for example, E S C (XIV), 570th mtg., statement by the USSR.