

ARTICLE 71

Table of Contents

	<u>Paragraphs</u>
Text of Article 71	
Introductory Note	1
I. General Survey	2 - 9
A. The Council Committee on Non-Governmental Organizations	4
B. The purpose of consultation	5
C. Establishment of consultative relationships	6
D. Consultation with the Council, its commissions and <u>ad hoc</u> bodies	7 - 8
E. Consultation with the Secretariat	9
II. Analytical Summary of Practice	10 - 41
A. Admission to, and review of, consultative status	10 - 11
B. Criteria of eligibility	12
C. International organizations within the meaning of Article 71. .	13
D. National organizations within the meaning of Article 71	14 - 15
E. Non-governmental organizations within the meaning of Article 71	16
F. Questions concerning consultation with the Council	17 - 35
1. The nature of consultation	17 - 21
2. The scope of consultation	22 - 23
3. Statements containing complaints against Governments. . . .	24 - 27
4. The handling of written statements from organizations . . .	28 - 29
5. Reports of the Council Committee on Non-Governmental Organizations to the Council	30 - 32
6. The power of the Council Committee on Non-Governmental Organizations with respect to items proposed for inclusion in the provisional agenda of the Council	33 - 34
7. Council action following the hearing of an organization in category B by the Committee	35
G. Attendance at public meetings of the General Assembly	36

Table of Contents (continued)

	<u>Paragraphs</u>
H. Consultation with subsidiary organs of the General Assembly . .	37 - 38
1. Consultation with the High Commissioner's Advisory Committee on Refugees	37
2. Consultation with the Executive Board of UNICEF	38
I. Calling of conferences of non-governmental organizations . . .	39
J. Relations with organizations not in consultative status	40 - 41

TEXT OF ARTICLE 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

INTRODUCTORY NOTE

1. The General Survey in the present study sets forth the general aspects of the arrangements made by the Economic and Social Council for consultation with non-governmental organizations. Temporary arrangements were provided by the Council at its second session ^{1/} in resolution 2/3. The Council, by resolution 214 E (VIII), requested its Committee on Non-Governmental Organizations (NGO Committee), on the basis of a study to be prepared by the Secretary-General, ^{2/} to make recommendations on the functioning of consultative arrangements to the Council at its tenth session. On the basis of these recommendations, ^{3/} Economic and Social Council resolution 288 B (X) was adopted. This continues to be the basic resolution governing arrangements. The Analytical Summary sets forth the chief decisions taken in implementation of Article 71 and refers to the discussions which attended them.

I. GENERAL SURVEY

2. The permissive power of the Economic and Social Council to make "suitable arrangements for consultation" with non-governmental organizations is currently exercised by the Council in accordance with resolutions 288 B (X) and 454 (XIV) and under rules 10 (2), 12, 13 14 (3) and 82-86 of its rules of procedure, and rules 6, 7, 37, 41, 74 and 75 of the rules of procedure of its functional commissions.

3. A summary of the relevant resolutions and rules of the Council follows:

A. The Council Committee on Non-Governmental Organizations

4. This Committee consists of seven members of the Council elected each year to serve for the following year. It is authorized to meet in connexion with sessions of the Council or at such other times as it may decide. It is empowered to hear and consult with non-governmental organizations, ^{4/} to make recommendations to the Council concerning the granting of consultative status, to place organizations on the register of the Secretary-General, ^{5/} to review the list of organizations having consultative

^{1/} E S C (II), 14th mtg., pp. 108-112.

^{2/} E/C.2/231 and Adds. 1-4.

^{3/} E S C (X), Annex, a.i. 30, E/1619, Corr.1 and 2, and Add.1.

^{4/} See E S C resolutions 2/3, 16 (III) and 530 (XVII) and E S C (XVIII), 829th mtg., pp. 255-259 regarding the competence and structure of the Committee.

^{5/} E S C resolution 288 B (X), part III.

status, ^{6/} and to make recommendations to the Council concerning the organizations in category A which should be heard by the Council or its committees, and concerning the placing of items on its provisional agenda by organizations in category A. A negative decision by the Committee concerning proposed agenda items is final.

B. The purpose of consultation

5. Consultative arrangements are designed (a) to secure information and advice from organizations having special competence in particular fields, and (b) to enable organizations which represent important elements of public opinion to express their views.

C. Establishment of consultative relationships

6. The following categories of consultative relationships have been established by the Council: (a) category A for organizations having a basic interest in most of the activities of the Council; (b) category B for organizations interested in some aspects of the work of the Council; (c) inclusion in the register of the Secretary-General for organizations which have a significant contribution to make to the work of the Council. ^{7/}

D. Consultation with the Council, its commissions and ad hoc bodies

7. Consultation consists of the following:

(a) Organizations in all three categories of relationship may send authorized representatives to sessions of the Council and its commissions, the provisional agendas of which are communicated to them in advance;

(b) Organizations in categories A and B may submit written statements to the Council and its commissions and make oral statements to the NGO Committee and to the commissions;

(c) Organizations in category A may

(i) Ask the Committee to request the Secretary-General to place an item on the provisional agenda of the Council; ^{8/}

(ii) Make oral statements to the Council on items proposed by them;

(iii) On the recommendation of the Committee, make oral statements to the Council on items not proposed by them; and

(iv) Propose items for the provisional agendas of the commissions;

(d) Organizations on the register

(i) May be invited by the Secretary-General to submit written statements to the Council or its commissions; and

(ii) On the recommendation of the Secretary-General and at the request of a commission, they may be heard by the Council;

(e) Organizations have generally been invited to consult with ad hoc committees of the Council and with conferences called by the Council and the Secretariat.

8. The Council's regional economic commissions are empowered to adopt their own rules of procedure. The Council in resolution 414 (XIII) requested these commissions to make arrangements for consultation with organizations granted status by the Council "in accordance with the principles approved by the Council for this purpose and contained in Council resolution 288 B (X)". The commissions have complied with this

^{6/} E S C resolutions 334 (XI), 453 B (XIV) and 529 B (XVII).

^{7/} As of 15 January 1955 there were 9 organizations in category A, 109 in category B, and 157 on the register.

^{8/} See paras. 22, 33 and 34 below.

request and their rules generally correspond with those of the Council though there are slight differences in detail. ^{9/}

E. Consultation with the Secretariat

9. At the request of the Secretary-General or an organization, consultation with the Secretariat may take place on matters of mutual interest or concern. For his part, the Secretary-General may request organizations to carry out specific studies or prepare specific papers, subject to the relevant financial regulations. Under General Assembly resolution 13 (I), the Department of Public Information assists national and international non-governmental organizations in spreading information about the United Nations.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Admission to, and review of, consultative status

10. The Council grants consultative status in the category it decides is appropriate, and transfers organizations from one category to another. It has also withdrawn consultative status from certain organizations. Under Council resolution 288 B (X), the Secretary-General, the Council and the Council Committee on Non-Governmental Organizations may recommend international organizations for inclusion in the register.

11. Organizations "in consultative status or similar relationship with a specialized agency" (para. 17 (b) of the same resolution) are automatically placed on the register. This is achieved through notification by a specialized agency to the Secretary-General that a formal consultative relationship has been established between it and an organization.

B. Criteria of eligibility

12. The present criteria of eligibility were established by the Council by resolution 288 B (X) and it is within the power of the Council to change them. A requirement for admission to consultative status is concern with matters falling within the competence of the Economic and Social Council, as defined in Article 62. Applications for consultative status from organizations the chief purposes and activity of which lay in the fields of competence of other United Nations organs have been rejected. Another requirement is conformity of the aims and purposes of the organization with those of the Charter, and the undertaking to support the work of the United Nations. Consultative status has been withdrawn when the record of an organization was characterized as "one of flagrant violation" of the principles stated above. ^{10/} Organizations qualifying for consultative status must be of recognized standing and represent a substantial proportion of the organized persons in their particular field. The NGO Committee has tended not to recommend status for newly-formed organizations. The above criterion has not precluded the granting of status to several organizations having similar competence and, in some cases, to rival organizations. Finally, in conformity with General Assembly resolution 39 (I), the Council decided ^{11/} that organizations having legally constituted branches in

^{9/} For ECE, see rules 47 and 48 (E/AC.34/12); for ECLA, see rules 49 and 50 (E/AC.34/6, E/CN.12/270 and 327); for ECAFE, see rules 48-52 (E S C (XX), Suppl. No. 5 (E/2712), annex IV).

^{10/} See E S C (XVII), 763rd mtg., para. 10.

^{11/} See also in this Repertory under Article 66 (1); E S C (II), 74th mtg.

Spain should, with certain exceptions, be barred from consultative status. Subsequent interpretations of this decision were made in Council resolutions 133 F (VI) and 214 C (VIII). The decision was revoked by Council resolution 366 (XII).

C. International organizations within the meaning of Article 71

13. The NGO Committee has established the practice of considering an organization to be international when it has affiliates in at least three countries.

D. National organizations within the meaning of Article 71

14. The Committee will not consider the application of a national organization until the Secretary-General has given assurance of the consent of the Member State concerned. Article 71 does not provide for the granting of consultative status to a national organization of a non-member State. However, because of the special position in international law of the International Committee of the Red Cross, the Council granted it consultative status 12/ in spite of the fact that its members must be of Swiss nationality. 13/

15. Paragraph 9 of Council resolution 288 B (X) reads:

"National organizations shall normally present their views through international non-governmental organizations to which they belong. It would not, save in exceptional cases, be appropriate to include national organizations which are affiliated to an international non-governmental organization covering the same subjects on an international basis. National organizations, however, may be included in the list after consultation with the Member State concerned if they cover a field which is not covered by any international organization or have special experience upon which the Council wishes to draw."

E. Non-governmental organizations within the meaning of Article 71

16. Paragraph 8 of Council resolution 288 B (X) reads:

"... Any international organization which is not established by intergovernmental agreement shall be considered as a non-governmental organization for the purposes of these arrangements."

This definition has permitted the inclusion of organizations having as members Governments, governmental departments and government officials.

F. Questions concerning consultation with the Council

1. *The nature of consultation*

17. Paragraph 12 of Council resolution 288 B (X) reads:

"A clear distinction is drawn in the Charter between participation without vote in the deliberations of the Council and the arrangements for consultation. Under Articles 69 and 70, participation is provided for only in the case of States not members of the Council, and of specialized agencies. Article 71, applying to non-governmental organizations, provides for suitable arrangements for

12/ E S C resolution 57 (IV).

13/ E/C.2/W.6, p. 15; E/C.2/SR.16, pp. 2 and 3; E/C.2/SR.17, p. 4; E/AC.19/W.2, p. 4.

consultation. This distinction, deliberately made in the Charter, is fundamental and the arrangements for consultation should not be such as to accord to non-governmental organizations the same rights of participation as are accorded to States not members of the Council and to the specialized agencies brought into relationship with the United Nations."

18. This principle had previously been stated in Council resolution 2/3 of 21 June 1946 and reaffirmed by Council resolution 95 (V) in connexion with the request of an organization in category A to be granted the right to call special sessions of the Council under the same conditions as a specialized agency. The Council rejected the request. 14/ Organizations have not been permitted formally to propose resolutions or amendments thereto although suggestions made by them have been put forward by delegations.

19. Paragraph 13 of Council resolution 288 B (X) reads:

"The arrangements should not be such as to overburden the Council or transform it from a body for co-ordination of policy and action, as contemplated in the Charter, into a general forum for discussion."

20. The initiative for consultation may come from the Council, its subordinate bodies, the Secretary-General, or the organization, except in the case of organizations on the register. An organization on the register may not formally initiate consultation.

21. Consultation which is irrelevant, obsolete or beyond the competence of an organization is not permitted. Mere endorsements of United Nations actions or, unless requested, accounts of the activities of organizations clearly in accordance with decisions already taken by United Nations bodies are discouraged. Statements addressed by organizations to their national affiliates asking them to support or co-operate with United Nations activities are not circulated.

2. The scope of consultation

22. There was discussion at both parts of the first session of the General Assembly concerning the status which might be granted to non-governmental organizations under Article 71. Communications requesting "participation in the work of the Economic and Social Council, in an advisory capacity," under this Article, were received from five organizations. 15/ A number of them proposed that they should be accorded full participation in the work of the Council with the right to vote. It was pointed out that this would constitute an amendment of the Charter. 16/ At its 33rd meeting 17/ the General Assembly decided to refer the problem to the Council with the recommendation that it should establish appropriate arrangements as soon as possible. Accordingly, the Council adopted 18/ resolution 2/3 of 21 June 1946 which inaugurated the arrangements. Subsequently, at the second part of the first session of the General Assembly, the Joint Second and Third Committee 19/ considered a request from

14/ E S C (V), 121st mtg., pp. 283-288.

15/ G A (I/1), General Com., p. 33, annex 2; pp. 40-45, annex 2 b (A/BUR/9), annex 2 c (A/BUR/11), annex 2 d (A/BUR/12) and A/BUR/10.

16/ G A (I/1), General Com., p. 47, annex 2 f (A/BUR/13); G A (I/1), Plen., pp. 578-581, annex 5 (A/21).

17/ G A (I/1), Plen., 33rd mtg., pp. 501-535 and G A resolution 4 (I).

18/ E S C (II), 14th mtg., pp. 108-112.

19/ G A (I/2), Joint 2nd and 3rd Com., 1st-6th mtgs., pp. 1-38; 11th mtg., pp. 78 and 79.

the World Federation of Trade Unions that it should be granted (a) the right to submit to the Council items for inclusion in the provisional agenda in accordance with the procedure now applicable to specialized agencies, 20/ and (b) the right to present written and verbal statements to the Council on all matters of concern to the Federation. The NGO Committee approved 21/ the first part of the request, but rejected the second.

23. At its 66th meeting the General Assembly endorsed 22/ this action, adding that all organizations granted category A status should receive equal treatment in respect of consultative arrangements with the Council. The Council gave effect to this resolution of the General Assembly by modifying its rules of procedure. 23/

3. *Statements containing complaints against Governments*

24. Written statements from organizations in consultative status charging violations of human rights are dealt with under Council resolution 75 (V), as amended; those containing complaints concerning status of women, under Council resolution 76 (V) as amended; and those alleging violations of trade-union rights, under Council resolution 277 (X). 24/

25. The Commission on the Status of Women presented a draft resolution in its report 25/ to the Council at its ninth session which observed that certain statements submitted by organizations did not "depict a true picture of the conditions prevailing in Member States" and called upon the Council to reconsider its procedure in this connexion. The Council, by resolution 242 G (IX), referred the matter to the NGO Committee, which reported 26/ "that any remedy which might be proposed would constitute a form of censorship more objectionable than the ill which it sought to cure" and, therefore, felt unable to make any proposal. Accordingly, the Council took no action at that time.

26. Complaints against Governments concerning matters in fields other than human rights are circulated under Council resolution 454 (XIV) which provides Governments with the opportunity to have a reply circulated simultaneously. By that resolution 27/ the Council, approving a report of the Committee on the subject, provided that statements handled under the resolution must deal with questions within the competence of the Council and of the organization concerned. There has been no occasion for invoking the provisions of this part of the resolution.

27. There is no provision prohibiting representatives of non-governmental organizations from making oral statements which contain complaints against Governments or other matter that might appear objectionable. However, presiding officers have called representatives of organizations to order and members of Council organs have raised points of order in this connexion during oral statements.

20/ See in this Repertory under Article 70 and rules 78-81 of the rules of procedure of the Council (United Nations Publication, Sales No.: 1953.I.21).

21/ G A (I/2), Joint 2nd and 3rd Com., pp. 97-100, annex 3 e (A/C.2 & 3/39).

22/ G A resolutions 49 B and C (I).

23/ E S C resolutions 57 (IV) and 95 III (V).

24/ See in this Repertory under Article 62 (2).

25/ E S C (IX), Suppl. No. 5 (E/1316), p. 24, draft resolution H.

26/ E S C (X), annex, a.i. 30, E/1619.

27/ E S C resolution 454 (XIV); E S C (XIV), 662nd mtg.

4. *The handling of written statements from organizations*

28. Written statements from organizations must be "submitted in sufficient time for appropriate consultation to take place between the Secretary-General and the organization before circulation" (para. 23 (b) of Council resolution 288 B (X)) and the organization must "give due consideration to any comments which the Secretary-General may make in the course of such consultation" (para. 23 (c) of the same resolution). "Sufficient time" has been interpreted as the time required for a representative to forward a comment by the Secretariat to the international headquarters of his organization and to receive a reply.

29. Some difficulty had arisen concerning the circulation of written statements of non-governmental organizations which contained complaints against Governments. In accordance with paragraph 35 (g) of Council resolution 288 B (X), which provides that "the Committee shall consult with the Secretary-General, as appropriate, on matters affecting the consultative arrangements under Article 71 of the Charter and arising therefrom", the Secretary-General brought the matter to the attention of the NGO Committee, and requested guidance as to how those communications were to be handled. The Committee recommended procedure 28/ for handling communications containing complaints concerning human rights, status of women and other matters, which was approved by the Council in resolution 454 (XIV).

5. *Reports of the Council Committee on Non-Governmental Organizations to the Council*

30. Paragraph 24 (a) of Council resolution 288 B (X) reads in part:

"The Committee shall report to the Council as it may consider appropriate regarding such consultations."

The NGO Committee has adopted the practice of notifying the Council of consultations held with organizations. With rare exceptions the hearings are held in open meetings of the Committee. The reports of such hearings are not placed on the agenda of the Council and are not discussed by it unless a delegation raises a question, but members do refer in their speeches to points made in hearings before the Committee.

31. The reports refer to the summary records of the hearings and the meetings at which the recommendations are made. Questions concerning hearings or recommendations may be raised by a member of the Council and are answered by the Chairman of the Committee.

32. The Committee does not include in its written reports to the Council the reasons for its recommendations or expressions of minority views. This practice of the Committee has been criticized by members who believe that the Committee should give these in written form and in advance of the discussion of reports in the Council. This criticism has arisen, in part, from the fact that the Committee formulates its recommendations in closed meeting, the records of which are not available to the public.

6. *The power of the Council Committee on Non-Governmental Organizations with respect to items proposed for inclusion in the provisional agenda of the Council*

33. Under rule 10 of the rules of procedure of the Council, any decision by the NGO Committee not to accept an item proposed by an organization in category A for inclusion

28/ See paras. 24 and 26 above.

in the provisional agenda of the Council shall be final. In the course of debate, this rule was interpreted variously to mean, on the one hand, that the NGO Committee's negative decision was binding upon the Council and could not be reversed and, on the other hand, that the Council retained the right to choose the items for its agenda and could accordingly amend or reverse the decision of its subsidiary body. Those supporting the first interpretation argued that for the Council to overrule the NGO Committee would be tantamount to a suspension of the relevant rule of procedure and a waiver of the corresponding provision of resolution 288 B (X). Those challenging that interpretation maintained that this rule merely barred the non-governmental organization from appealing the NGO Committee's decision, but did not bind the Council. 29/

34. The Committee has decided that the documentation presented by an organization in category A in support of its request to add an item to the agenda should be classified "Restricted" until the Committee decided otherwise. 30/ Therefore, the Committee, in accordance with the general practice of the United Nations that documents referred to in open meeting become unrestricted, hears the representatives of organizations making such requests in closed meeting.

7. Council action following the hearing of an organization in category B by the Committee

35. The World Jewish Congress was heard by the Committee on a matter concerning the implementation of human rights which was referred 31/ to the Council together with a draft resolution and resulted in the adoption of Council resolutions 133 (VI) and 214 B (VIII) concerning the observance of human rights in Palestine and some other areas. 32/ This is the sole example of formal Council action after receiving a report from the Committee on the hearing of an organization in category B.

G. Attendance at public meetings of the General Assembly

36. Under General Assembly resolution 606 (VI) and Council resolution 455 (XIV) the Secretary-General is authorized to invite representatives of organizations in categories A and B to attend public meetings of the General Assembly at which economic and social matters within their competence are discussed. 33/

H. Consultation with subsidiary organs of the General Assembly

1. Consultation with the High Commissioner's Advisory Committee on Refugees

37. Organizations granted consultative status by the Council and the member organizations of the Standing Conference of Voluntary Organizations Working for Refugees, an organization on the register, may submit oral and written statements to the High Commissioner's Advisory Committee on Refugees in accordance with rules 10 and 11 of the rules of procedure of that Committee. 34/ The Statute of the Office of the United Nations High Commissioner for Refugees 35/ provides that he shall, in protecting refugees, establish contact with, and facilitate the co-ordination of the activities of,

29/ E S C (XV), 703rd and 704th mtgs.

30/ E/C.2/SR.98.

31/ E/940, p. 3.

32/ See also in this Repertory under Articles 62 (2) and 65.

33/ See also in this Repertory under Articles 104 and 105.

34/ A/AC.36/3/Rev.1.

35/ G A resolution 428 (V), annex, paras. 3 (h) and (i), and 10.

competent private organizations and administer funds, public or private, which he may receive for their assistance. He may distribute funds to both official and private organizations.

2. Consultation with the Executive Board of UNICEF

38. The Board, at its 95th meeting on 24 April 1953, approved the granting of consultative status to the members of the NGO Committee on UNICEF. ^{36/} This Committee was originally established in the summer of 1949 under the name of UNICEF Advisory Committee of Non-Governmental Organizations to advise the Administration of UNICEF on fund-raising and other matters. All organizations in consultative relationship with the Council desiring to enter into relationship with the Board are eligible to participate; fifty organizations are members. Representatives of the Committee or its members may address the Board and may submit written statements to it.

I. Calling of conferences of non-governmental organizations ^{37/}

39. On the basis of General Assembly resolution 367 (IV) and Council resolution 335 (XI), the General Assembly, by resolution 479 (V), approved rules for the calling of conferences of non-governmental organizations by the Council. It may be noted that rule 2 of these rules refers to Article 71 and states: "National organizations without consultative status may be invited only after consultation with the Member of the United Nations concerned".

J. Relations with organizations not in consultative status

40. The Council has requested the Secretary-General to obtain information from or the views of organizations not in consultative status when, in its view, these might prove helpful to it. ^{38/} The Secretary-General, in preparing studies and reports, consults at his discretion with, and receives information from, organizations not in consultative status.

41. The General Assembly has appealed to non-governmental organizations to co-operate in the implementation of its resolutions without reference to whether they had consultative status or not. ^{39/}

^{36/} E S C (XIV), Suppl. No. 7 (E/2214), para. 696.

^{37/} See in this Repertory under Article 62 (4).

^{38/} For example, E S C resolution 240 B (IX) provides for consultation with information enterprises and associations "through such channels of communications and in accordance with such procedure for consultation as may be approved by the Member State concerned". It may be noted that the Council has subsequently authorized consultation with information enterprises and professional associations without laying down conditions or specifying channels and methods of consultation. (E S C resolutions 306 E (XI), 442 B (XIV), 442 C (XIV) and 522 A (XVII)).

^{39/} See, for example, G A resolution 639 (VII).

