

Article 27(3) and Parties to a Dispute: An Abridged History

Article 27(3) of the UN Charter establishes the only limitation to a Council member participating in a vote in the Security Council: “in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.” Although this limitation applies in equal measure to all Council members, it is interesting that the very article that enshrines the veto also institutes the only restriction to its use.

Abstentions under Article 27(3) are mandatory only if all of the following conditions apply: the decision falls under Chapter VI or Article 52(3) of Chapter VIII; the issue is considered a dispute; a Council member is considered a party to the dispute; and the decision is not procedural in nature. To date, implicitly or explicitly, there have been 12 cases of Article 27(3) abstentions (*see cases 1-12 below*), as well as at least 14 other relevant instances (*see cases 1-14 to the right*) in which the question of abstentions was either raised or considered without success.

The practice of the Security Council, and its members, has been inconsistent since 1946, and basically in-existent since 2000 (S/PV.4128), as the question whether a Council member was/is a party to a dispute has not been publicly raised since then. The apparent desuetude of Article 27(3) abstentions is surprising considering that the Security Council can decide, with at least nine affirmative votes, to consider a dispute even though one or more Council members, who are also parties to the dispute, are opposed to consideration by the Council.

Security Council Votes with Article 27(3) Abstentions

Situation	Security Council Meeting(s)	Member(s)	Security Council Outcome
Case 1 Lebanon and Syria	S/PV.19 (14 February 1946) S/PV.23 (16 February 1946)	France, UK	France and UK abstained from voting on three proposals which failed adoption indicating they were doing so “with-out prejudice to the question whether a dispute exists”.
Case 2 Corfu Channel Question	S/PV.122 (25 March 1947)	UK	UK abstained from voting on draft resolution (S/PV.122) which failed adoption due to veto by the USSR.
Case 3 Corfu Channel Question	S/PV.127 (9 April 1947)	UK	UK abstained from voting on resolution 22 (1947).
Case 4 Egyptian Question	S/PV.198 (28 August 1947) S/PV.200 (29 August 1947) S/PV.201 (10 September 1947)	UK	UK abstained from voting on draft resolutions (S/507, S/530 and S/567 and their amendments) which failed adoption.
Case 5 India-Pakistan Question	S/PV.470 (14 March 1950) S/PV.471 (12 April 1950)	India	India abstained from voting on decision, explicitly referencing Article 27(3), and abstained from voting on resolution 80 (1950).
Case 6 Palestine Question	S/PV.524 (17 November 1950)	Egypt	Egypt abstained from voting on resolution 89 (1950), explicitly referencing Article 27(3).
Case 7 India-Pakistan Question	S/PV.539 (30 March 1951)	India	India abstained from voting on resolution 91 (1951), explicitly referencing Article 27(3).
Case 8 India-Pakistan Question	S/PV.543 (30 April 1951)	India	India abstained from voting on decision, explicitly referencing Article 27(3).
Case 9 India-Pakistan Question	S/PV.548 (29 May 1951)	India	India abstained from voting on decision, explicitly referencing Article 27(3).
Case 10 India-Pakistan Question	S/PV.566 (10 November 1951)	India	India abstained from voting on resolution 96 (1951).
Case 11 India-Pakistan Question	S/PV.611 (23 December 1952)	Pakistan	Pakistan abstained from voting on resolution 98 (1952).
Case 12 Complaint by Argentina (Eichmann Question)	S/PV.865 (22 June 1960) S/PV.866 (22 June 1960) S/PV.868 (23 June 1960)	Argentina	Argentina abstained from voting on resolution 138 (1960), explicitly referencing Article 27(3).

Other Security Council Instances of Relevance to Article 27(3) Abstentions

Situation	Security Council Meeting(s)	Member(s)	Security Council Outcome
Case 1 Iran-USSR	S/PV.3 (28 January 1946) S/PV.5 (30 January 1946)	USSR	Resolution 2 (1946) was adopted unanimously with the USSR participating in the vote.
Case 2 Greek Question	S/PV.7 (4 February 1946) S/PV.8 (5 February 1946) S/PV.10 (6 February 1946)	UK	Draft resolution (S/PV.7) failed adoption with the UK participating in the vote. The Netherlands inquired as to the applicability of Article 27(3) but did not pursue the issue further.
Case 3 Czechoslovak Question	S/PV.303 (24 May 1948)	USSR	Draft resolution (S/PV.303) failed adoption due to veto by the USSR. Chile called the veto an “abuse” as Article 27(3) seeks “to prevent a member of the Council from acting as judge in its own case and participating in the decision that may be taken against it.”
Case 4 Palestine Question	S/PV.553 (16 August 1951) S/PV.555 (27 August 1951) S/PV.556 (29 August 1951) S/PV.558 (1 September 1951)	France, UK, Netherlands, Turkey, US	A draft resolution submitted by non-Council member Egypt for an advisory opinion from the International Court of Justice on Article 27(3) was not sponsored by any Council member.
Case 5 UN and South Africa	S/PV.1801 (24 October 1974)		Madagascar raised the issue of whether the provision of substantial diplomatic, political or military support to a state in a dispute may constitute grounds for the supporting state to become a party subject to Article 27(3).
Case 6 Situation in Comoros	S/PV.1888 (6 February 1976)	France	Draft resolution S/11967 failed adoption due to veto by France. Article 27(3) was only raised after the vote.
Case 7 Socialist Republic of Viet Nam UN Membership Application	S/PV.1970 (12 November 1976) S/PV.1972 (15 November 1976)	US	Draft resolution S/12226 failed adoption due to veto by the US. Article 27(3) was raised by Cuba.
Case 8 Middle East	S/PV.2147 (12 June 1979)	Kuwait	Article 27(3) was raised by non-Council member Israel.
Case 9 Falklands (Malvinas)	S/PV.2350 (3 April 1982)	UK	Resolution 502 (1982) was adopted with the UK participating in the vote as it fell under Chapter VII. Article 27(3) was raised by Panama.
Case 10 Situation between Iran-Iraq	S/15448 (4 October 1982)	Egypt, Jordan	Article 27(3) was raised by non-Council member Iran regarding adoption of resolution 522 (1982).
Case 11 Complaint by Libya (Chad)	S/PV.2466 (12 August 1983)	France, US	Article 27(3) was raised by Iran.
Case 12 Arab Occupied Territories	S/PV.2949 (24 October 1990)	US	Resolution 673 (1990) was adopted unanimously with the US participating in the vote. Article 27(3) was raised by Cuba.
Case 13 Situation in Libya	S/PV.3033 (21 January 1992) S/PV.3063 (31 March 1992) S/PV.3864 (20 March 1998)	France, UK, US	Resolution 731 (1992) was adopted unanimously with France, UK and US participating. Article 27(3) was raised by non-Council member Libya.
Case 14 The role of the Security Council in the Pacific Settlements of Disputes	S/PV.4753 (13 May 2003)		Nabil Elaraby (Judge of the ICJ), speaking in his personal capacity, said that the Council should consider the strict and faithful application of Article 27(3).