

The Statute of the International Court of Justice

A Commentary

Third Edition

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Article 55

All questions shall be decided by a majority of the judges present.

In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

1. Les décisions de la Cour sont prises à la majorité des juges présents.

2. En cas de partage des voix, la voix du Président ou de celui qui le remplace est prépondérante.

	MN
A. Historical Development	1-3
B. Analysis	4-13
I. The Rules of Court	4
II. The Resolution Concerning the Internal Judicial Practice	5-6
III. The Court's Practice	7-13
1. A Varying Number of Judges	7-9
2. Majority as Absolute Majority	10
3. 'casting vote' and 'voix prépondérante'	11-13
C. Evaluation	14

Select Bibliography

Cf. the Select Bibliography on Article 54, *supra*, p. 1499.

A. Historical Development

Article 55 in its present form is essentially identical with Article 55 of the PCIJ Statute.¹ The Informal Inter-Allied Committee ('the London Committee') had recommended in 1944: '[T]he present method for producing judgements is satisfactory and should be maintained. The majority rule for decisions should be maintained, despite the fact that it may result in decisions being given by a majority of only one.'² However, in para. 1 of the English text, the final words 'at the hearing', which had not existed in the French text of the PCIJ Statute, were deleted. In para. 2 of the English text, the expression 'the President or his deputy' was replaced by 'the President or the judge who acts in his place', again bringing the English text into line with the established French ('du Président ou de celui qui le remplace').³ As the Committee of Jurists explained in its report of 20 April 1945,

¹ For a word-by-word comparison of the two texts, cf. UNCIO XIV, p. 816.

² UNCIO XIV, p. 442. The Report of the Committee is also reproduced in *AJIL* 39 (Suppl. 1945), pp. 42-43; its influence on the drafting of the Statute is briefly assessed by Jennings/Higgins/Tomka, General Introduction, MN 2-6.

³ Cf. UNCIO XIV, p. 172: 'Sir Frederic Eggleston (Australia) called attention to the fact that the term "deputy", used in Art. 55, had not been used in Art. 45. There the term employed was "Vice-President". Judge Hudson noted that the French text of Art. 55 was clearer and, he supposed, controlling.' Cf. also 'Text of Statute: Revisions Proposed by Drafting Committee', 14 April 1945, UNCIO XIV, p. 496; 'Committee of Jurists, Summary of Tenth Meeting', 16 April 1945, UNCIO XIV, p. 210; 'Committee of Jurists, Report on