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Fifth Session

SUMMARY RECORD OF THE FIFTIETH MEETING

Held at Headquarters, New York,
on Thursday, 22 March 1951, at 10 a.m.

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Chairman:

Mr. OYEVAAR

Netherlands

Members:

Mr. SCHVETSOV

Byelorussian Soviet Socialist
Republic

Mr. PLAZA

Chile

Mr. HSIAO

China

Mr. FARID

Egypt

Mr. GOURSAT

France

Mr. SUKTHANKAR

India

Mr. FOIEN

Norway

Mr. KHALIL

Pakistan

Mr. SZYMANOWSKI

Poland

Mr. SUYAZOV

Union of Soviet Socialist
Republics

Sir Osborne MANCE

United Kingdom of Great Britain
and Northern Ireland

Mr. KENNY)

United States of America

Mr. BAKER)

Representatives of specialized agencies:

Mr. DAWSON

International Labour Organisation
(ILO)

Mr. HUTCHISON

International Civil Aviation
Organization (ICA)

Mr. WURNIG

International Bank for
Reconstruction and Development

Representatives of non-governmental organizations:

Mr. BASNE

(President of the
Association of
Marine Underwriters
of the United States

International Chamber of
Commerce (ICC)

Miss SANSOM

Mr. GAVIGAN

World Touring and Automobile
Organization (OTA)

Secretariat:

Mr. LUKAC

Director of the Transport and
Communications Division

DISCRIMINATION IN TRANSPORT INSURANCE (ITEM SUBMITTED BY THE INTERNATIONAL CHAMBER OF COMMERCE, A NON-GOVERNMENTAL ORGANIZATION IN CATEGORY A CONSULTATIVE STATUS): ITEM 11 OF THE AGENDA (E/CN.2/NGO/5, E/CN.2/115)

The CHAIRMAN, in order to supplement the information on page 3 of document E/CN.2/115 concerning discussions on the subject within the Organization for European Economic Co-operation (OEEC), stated that the Marine Transport Committee of the OEEC had dealt with the tendency to monopolize insurance but had considered itself incompetent to deal with it and had referred it to the Trade and Payments Committee of OEEC for advice on the insurance aspects.

He asked Mr. Byrne, of the International Chamber of Commerce, President of the Association of Marine Underwriters of the United States, to present his statement on transport insurance.

Mr. BYRNE (International Chamber of Commerce) made a statement (E/CN.2/NGO/9) emphasizing the trend toward restrictive practices compelling the purchase of insurance in certain markets, such as requirements that goods being exported or imported must be insured nationally, discontinuance of coverage by unauthorized insurance after goods had landed, and currency restrictions apparently intended to foster the national market by refusing to grant foreign exchange for the purchase of foreign marine insurance. The International Chamber of Commerce requested the Commission to recommend the adoption by governments of the principle that they permit buyers and sellers to negotiate freely in the placing of transport insurance in world markets, when they rescind any existing restrictions on such free negotiation, and that they permit buyers and sellers to negotiate transactions on either an f.o.b. or c.i.f. basis at their option.

Mr. FOIEN (Norway) drew attention to a memorandum submitted for the further study of the Secretariat, by the Nordic Marine Insurance Association advocating that shipping and transport insurance should be free from all restrictions. Argentine legislation governing transport insurance stipulated that Argentine underwriters must supply the insurance in trade operations between Argentina and the Scandinavian countries, thus creating a serious barrier to free trade. Measures should be taken to remove such barriers; the problem might be brought before IMCO as soon as it was created.

/Mr. BYRNE

Mr. BYRNE (International Chamber of Commerce) remarked that Norway and Argentina had recently concluded a trade agreement with regard to insurance protection for Norwegian merchant buyers and sellers.

The CHAIRMAN observed that various countries had concluded trade agreements embodying discriminatory provisions regarding transport insurance. Under pressure of difficult financial conditions, they had been forced to agree to such clauses. The Commission might well urge governments not to enter into trade agreements containing similar restrictions.

Sir Osborne MANCE (United Kingdom) stressed the disadvantages of discrimination in insurance, which, in particular, made it impossible to dispose of the cargo en route; which was, under normal conditions, ^{a common} practice. He strongly urged the Commission to record a protest against such discriminatory practices in a resolution ultimately to be adopted by the Economic and Social Council. The text might read as follows:

"The Transport and Communications Commission,

"Having taken note of the statement regarding discrimination in transport insurance submitted by the International Chamber of Commerce,

"Considering that measures requiring the insurance of goods in transit to be placed in particular countries interfere with the free flow of international transport and encourage the growth of retaliatory practices,

"Urges governments to refrain from imposing discriminatory restrictions on the transport insurance business and to permit the placing of that business in accordance with unrestricted commercial considerations."

Observing that currency questions were frequently invoked as a pretext for discrimination, Sir Osborne noted that Lloyds of London was prepared to operate in other countries, and to receive premiums and pay claims in the local currency of those countries.

Mr. BAKER (United States) hesitated to endorse the United Kingdom draft resolution until the Secretariat had determined whether sufficient concern

/for international

for international action had been manifested by Member States to warrant its adoption. Accordingly the operative paragraph might be revised to read:

"Requests the Secretary-General to determine whether enough interest in international action in the field exists among Member States to warrant further action in this connexion."

Mr. SUKTHANKAR (India) agreed that a study should be made of the extent of restrictive practices before any recommendation was put forward. Referring to the last two sentences of the Swedish delegation's memorandum concerning discrimination in the field of transport insurance (E/CN.2/115), he noted that the International Chamber of Commerce would in fact condemn restrictions on terms of delivery by governments concerned to assist their own insurance market. The United Kingdom draft resolution was too strongly worded; in view of the embryonic state of development of the shipping industry in many countries and the financial difficulties which compelled States to save their foreign exchange, it would be unfair to condemn governments without further investigation for what merely appeared to be unwarranted restrictions. The question might be considered by IMCO.

Mr. KHALIL (Pakistan) also felt that a more extensive study should be made of the reasons advanced by countries alleged to be practising discrimination in insurance. Pakistan was not one of those countries. It must be borne in mind, however, that, particularly in under-developed countries, problems of balance of payments, a depressed standard of living and rudimentary economic development strongly influenced insurance practices. In the circumstances, action on the draft resolution submitted by the member for the United Kingdom should be deferred.

Mr. SUYAZOV (Union of Soviet Socialist Republics) stated that the question of insurance was governed by domestic regulations within each country and was exclusively within the jurisdiction of that country. Any proposal to alter those regulations would constitute an interference in internal affairs. The USSR delegation would therefore vote against the United Kingdom draft resolution.

Mr. SOUVETSOV (Byelorussian Soviet Socialist Republic) shared the USSR view.

/Mr. GOURSAT

Mr. GOURSAT (France) thought there should be a preliminary study by the Secretariat and that a resolution on the substance of the question should be deferred. The Commission should have full information regarding the basis for regulations resulting in discrimination. There were two principal reasons which prompted the imposition of the restrictions in question. The first was the desire of a nation to retain its market for transport insurance, and the second was the necessity of avoiding currency difficulties. France, for example, in the case of export goods shipped through the port of Antwerp, had had been compelled to institute restrictive regulations for foreign exchange reasons.

The CHAIRMAN, speaking as the representative of the Netherlands, supported the United Kingdom draft resolution on the basis of available data regarding restrictive practices in transport insurance. The monopolization or nationalization of maritime insurance was clearly a disadvantage for shipping and world trade. The sooner and the more strongly that trend was discouraged, the easier it would be to achieve the free flow of goods at the lowest cost.

A further provision might be inserted in the United Kingdom draft resolution urging governments to refrain from entering into trade agreements containing clauses reserving insurance business to companies situated in the countries of the two contracting parties.

Mr. FOIEN (Norway) also favoured the United Kingdom draft resolution.

Sir Osborne MANCE (United Kingdom) emphasized that his proposal dealt with the subject of restrictive practices, which were in themselves objectionable and which governments should be urged to refrain from applying. At the same time, the information on the subject assembled by the Secretariat would be valuable and a study should be undertaken. Nevertheless, it was important for the Commission to assume a definite position against discriminatory insurance for it was a serious obstacle to international trade and affected all countries.

In order to meet the Chairman's suggestion, the draft resolution might include the following sentence:

"Notes with regret that restrictions on insurance are sometimes embodied in trade agreements."

/Mr. BAKER

Mr. BAKER (United States of America) was not questioning the undesirability of discrimination with regard to free exchange of goods internationally. It would be premature, however to adopt so far-reaching a recommendation as that contained in the United Kingdom draft resolution. The subject should be given further study before any action was taken.

The CHAIRMAN suggested that the divergent views expressed might be reconciled and a revised draft of the United Kingdom proposal prepared for a later meeting.

It was so decided.

Mr. HUTCHISON (International Civil Aviation Organization) informed the Commission of resolution A2-20, passed at the second session of the ICAO Assembly, which recommended that each member State should permit air lines to obtain insurance covering aircraft engaged in international operations within its boundaries from any insurer with financial responsibility domiciled in any country and able to pay indemnities in the currency of such member State. Although that resolution applied to aircraft rather than to goods in international trade, he explained it as it had been mentioned in document E/CN.2/NGO.5 presented by the ICC.

INTERNATIONAL ROAD TRANSPORT: ITEM 4 (a) OF THE AGENDA (continued) FOR
LICENSING OF MOTOR VEHICLE DRIVERS: DRAFT RESOLUTION PROPOSED BY THE MEMBER /THE
UNITED STATES OF AMERICA (Conference Room Paper No. 3)

Mr. KELLY (United States of America), replying to a query from the representative of Chile, explained that motor traffic control had the greatest effect on domestic operations, as a relatively small percentage of vehicles was engaged in international traffic. The object of the draft resolution was to obtain advice for individual countries in dealing with their domestic traffic problems and to explore the possibility of assistance from an international organization.

The 1949 Convention on Road Traffic provided reciprocal recognition of domestic driving licences but did not ensure uniformity in the issuance of licences internationally. A paragraph (5) might be added to the preamble of the draft resolution to read as follows:

"The need for a greater degree of international uniformity in order to facilitate implementation of the provisions of the 1949 Convention on Road Traffic authorizing reciprocal recognition of drivers' permits among the contracting States;"

He also suggested that "of guidance by" in the first line of paragraph (3) of the preamble should be changed to "of giving guidance to" and that paragraphs (1) to (5) of the operative part of the resolution should be changed to (a) to (e) for the sake of clarity.

Mr. GOURSAT (France) generally supported the draft resolution, but suggested that paragraph (4) of the preamble should be amended to read as follows:

"The steadily increasing volume of street and highway traffic by motor vehicles of all kinds, and the increasing risk of accidents resulting therefrom;"

Mr. KELLY (United States of America) accepted that amendment.

Mr. SZYMANOWSKI (Poland) would have difficulty in voting for the draft resolution, not because it contained anything particularly objectionable but because it was platitudinous and did not appear to serve any useful purpose. He wondered whether the suggested amendments introduced any material changes.

Mr. KELLY (United States of America) explained that the draft resolution was a logical outgrowth of the Commission's work on the 1949 Convention on Road Traffic. While the Convention laid down a number of requirements for motor vehicles, its sole provision concerning drivers in international traffic was that they must be over eighteen years of age. By recommending some uniformity in the issuing of drivers' permits, the draft resolution would promote action in order to fill a gap in the Convention.

/ Sir Osborne MANCE

Sir Osborne MANCE (United Kingdom) remarked that conditions in different parts of the world varied so much that complete uniformity in the licensing of drivers was hardly possible; nevertheless, a greater degree of uniformity than at present existed was certainly desirable.

Mr. SUYAZOV (Union of Soviet Socialist Republics) thought that the draft resolution was unnecessary; moreover it touched on matters which lay wholly within the internal jurisdiction of States.

Mr. KHALIL (Pakistan) pointed out that the proposed committee of experts should be asked to advise the Commission not only whether the establishment of uniform regulations for the licensing of drivers was desirable, but to what extent it was possible. Since the committee of experts would no doubt request all the Governments concerned for information before advising the Commission, it would be in an excellent position to judge the possibility of establishing uniformity in such regulations. Such preliminary work by the committee of experts would greatly facilitate the Commission's own task. He therefore proposed that, in paragraph (b) of the operative part, the words "and how far possible" should be inserted after the word "desirable". In that case, the succeeding phrase, "and if found desirable", should be replaced by "and on the basis of their findings".

The CHAIRMAN suggested that the words in paragraph (c), "for submission to Governments", should be deleted, as they appeared to conflict with the following paragraph:

Mr. KELLY (United States of America) accepted those amendments.

The draft resolution, as amended, was adopted by 10 votes to 3, with no abstentions.

APPLICATION OF CERTAIN NON-GOVERNMENTAL ORGANIZATIONS FOR CONSULTATIVE STATUS:
ITEM 9 OF THE AGENDA (continued): DRAFT RESOLUTION (Conference Room Paper No. 5)

Mr. SZYMANOWSKI (Poland) requested that parts I and II of the draft resolution might be regarded as separate resolutions and put to the vote separately.

It was so decided.

/Mr. BAKER

Mr. BAKER (United States of America) said that it would be more appropriate for the second paragraph of the draft resolution contained in part I to begin with the words "Decides to recommend postponement of further consideration".

That amendment was adopted.

The draft resolution contained in part I was adopted unanimously.

Mr. KHALIL (Pakistan) said that he would abstain in the vote on the resolution contained in part II because he had received no instructions from his Government.

Mr. SCHVETSOV (Byelorussian Soviet Socialist Republics) said that he would vote against the draft resolution because, whether or not the Economic and Social Council reconsidered its decision with respect to the International Union of Marine Insurance, the Byelorussian delegation was still opposed to granting that organization consultative status.

Mr. SUKTHANKAR (India) said that he would abstain because, while he had no strong views in the matter, he had received no instructions from his Government and because he felt that as a matter of principle the number of organizations having consultative status should be small. He did not intend by his vote to cast any reflection on the organizations involved in the present case.

The CHAIRMAN, speaking as the Netherlands representative, said that he too would abstain because, although he had no objection to the Inter-American Federation of Automobile Clubs, he could not vote in favour of granting consultative status to the International Union of Marine Insurance.

The draft resolution contained in part II was adopted by 6 votes to 3, with 4 abstentions.

/CO-ORDINATION OF

CO-ORDINATION OF INLAND TRANSPORT: ITEM 6 OF THE AGENDA: DRAFT RESOLUTION
PROPOSED BY THE MEMBER FOR THE NETHERLANDS (Conference Room Paper No. 1/Rev.1)
(continued)

Mr. SUKPHANKAR (India) suggested that the beginning of paragraph (a) of the operative part should read, "to make available to all the regional bodies concerned", and that the words "the other regional bodies" in the same paragraph should be replaced by the words "any of the regional bodies".

That amendment was adopted.

Mr. KHALIL (Pakistan) feared that paragraph (b) of the draft resolution failed to make it clear that the Inland Transport Committee of the Economic Commission for Asia and the Far East should be the pivotal body of that region and should give the deciding opinion on what matters required the Commission's attention.

Mr. BAKER (United States of America) thought that the point might be met by inserting in paragraph (b), after the word "which", the phrase "within the framework of paragraphs 1, 2 and 3 above".

Mr. KHALIL (Pakistan) was satisfied with that amendment.

That amendment was adopted.

Mr. SZYMANOWSKI (Poland) explained that he would vote against the draft resolution because, as the USSR representative had pointed out earlier, it dealt with matters which were of primarily national interest and would therefore constitute interference in domestic jurisdiction. It was for that reason that his delegation had opposed the inclusion of the item in the Commission's agenda.

The draft resolution, as amended, was adopted by 10 votes to 3, with no abstentions.

Mr. SUYAZOV (Union of Soviet Socialist Republics) stated that he had voted against the resolution for reasons given at the previous meeting.

/REPORT ON

REPORT ON THE PAST AND FUTURE WORK OF THE COMMISSION: ITEM 12 (a) OF THE AGENDA:
DRAFT CHAPTER FOR INCLUSION IN THE COMMISSION'S REPORT (Conference Room Paper No. 4)

Mr. SUKTHANKAR (India), Chairman of the Drafting Committee, introduced that Committee's report (Conference Room Paper No. 4). The report, framed as a draft chapter for inclusion in the Commission's report to the Council, was very brief and dealt with only three topics: what the Commission had accomplished so far; functions which remained to be performed in future; and general comments. The Committee had endeavoured to make its report as objective and factual as possible; it had refrained from making any specific recommendations with regard to the Commission's future, feeling that to do so would not be in keeping with the Commission's dignity.

The meeting rose at 12.40 p.m.

2/4 a.m.